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SECTION 7.

REEL No.

5

KENYA NATIONAL ARCHIVES

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KENYA GOVERNMENT ARCHIVES
PHOTOGRAPHIC SERVICE

SECTION 7.

CONTINUED FROM
REEL No.

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MONDAY, 21st JULY, 1930.

The Council assembled at 9.30 a.m. at Government House, Mombasa, on Monday, 21st July, 1930, His Excellency the Governor (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 18th July, 1930, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

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

The Prisons Department Annual Report, 1929.

ORAL ANSWERS TO QUESTIONS.

CARPENTER INSTRUCTOR, MOMBASA PRISON.

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

When may the return to the Mombasa prison of the Carpenter Instructor whom as stated was temporarily transferred in January last be expected?

THE HON. THE COLONIAL SECRETARY: Owing to the reduction from six to four in the number of European Technical Instructors, to the absence of Instructors on leave, and to the prison building programme now being carried out at certain up-country stations, the Indian Master Carpenter will be busily engaged in Nairobi for a considerable time to come. The present programme of work enables the Master Carpenter to be much more usefully employed in Nairobi, where he superintends a larger number of convicts and has more extensive workshop accommodation, than would be the case if he were at Mombasa.

SCHOOL TEXT BOOKS.

THE HON. A. H. MALIK asked:

Is the hon. the Director of Education aware that text books have not been made available to scholars of the Indian Government School, Mombasa, during the first term and the second term to date? What is the reason for this delay? When is it hoped to supply the necessary books?

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT) : Text books have not yet been made available for all the pupils save in the upper classes of this school. The delay is due to the steps taken by the Department in the latter half of last year to secure a greater degree of uniformity in the books used in Government schools. This standardisation took longer than was anticipated, but the indents for the books were despatched some months ago. Those which have not been supplied are expected almost at once.

WHEAT POOL.

LEUT.-COL. THE HON. LORD FRANCIS SCOTT asked :

In view of the Attorney General's statement in Legislative Council on May 30th that "a full statement of the Government's intentions with regard to the wheat pool will be made at an early date," and His Excellency the Governor's statement on May 31st that "it is just possible that it may be necessary to summon another emergency meeting of Council before July 10th to deal with the wheat pool," will the Colonial Secretary now inform Council what decision Government have arrived at with regard to a wheat pool and the prohibition of the importation of wheat flour, and what action they propose to take?

THE HON. THE COLONIAL SECRETARY : The whole question of the establishment of a wheat pool and cognate subjects has been closely examined by Government. It is evident that if the chief milling interests could see their way clear to enter into an operating agreement the main objects sought would be achieved without any delay and intervention by legislation would be unnecessary. Government is advised that it is impracticable to operate such legislation before the forthcoming crop is marketed. The opportunity therefore remains of introducing legislation in due time if it is considered desirable to do so. Government has held its hand by request in view of certain negotiations which are proceeding. It will be prepared to do anything within its power to bring them to a successful conclusion. If these negotiations fail, Government will give a further consideration to the desirability of introducing legislation controlling the sale and distribution of wheat and wheat flour for local consumption. Government has taken a great deal of evidence on the subject of the advisability of prohibiting the importation of wheat flour, and will announce its decision shortly.

CAPT. THE HON. E. M. V. KENNELLY : Arising out of that answer, may we know, Sir, since we are told that this question was delayed by request, from whom the request came: what interests, rather, the request represented?

THE HON. THE COLONIAL SECRETARY : Your Excellency, those negotiations were given to the Government in confidence and without Your Excellency's permission I am not at liberty to divulge them.

HIS EXCELLENCY : I may say perhaps that it is not a question of my permission only but also of those who made the request.

SUBSIDY ON CEREALS COMMITTEE.

HIS EXCELLENCY : I undertook on Friday to announce the terms of reference to the Committee which is enquiring into the need for further assistance to grain growers. The terms are as follows:—

"To enquire whether any emergency form of assistance, other than that afforded through the Agricultural Advances Ordinance, 1929, and the Chattels Transfer Ordinance, 1930, is immediately necessary to carry grain growers through the present crisis, and if so to recommend in what form such assistance may most effectively be given."

The Committee has sat and held two preliminary meetings already but the two up-country members who were asked to serve upon it have not yet replied.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THIRD SUPPLEMENTARY ESTIMATES, 1929.

THE HON. THE COLONIAL SECRETARY : Your Excellency, I beg to move the motion standing in my name:

"That the Report of the Select Committee appointed to consider the Third Supplementary Estimates, 1929, be approved."

As the items in these Supplementary Estimates have been fully discussed in Select Committee I do not propose to make any further detailed statement on the subject.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) : Your Excellency, I beg to second the motion.

HIS EXCELLENCY : The question is:

"That the Report of the Select Committee appointed to consider the Third Supplementary Estimates, 1929, be approved."

CAPT. THE HON. E. M. V. KEMBA: Your Excellency, there is just one matter which I think requires a little further consideration and discussion, and that is a matter dealing under "Miscellaneous Services Extraordinary," with the loss of public money at Tanza. There were two persons apparently concerned in this loss, and the person who suffers is the person that Government is in a position most easily to make suffer. I am not concerned with protecting the other individual, who apparently was equally implicated in responsibility, but it appears to be that Government's action in this matter has been arbitrary and harsh. I wish merely to draw attention to this fact, Sir.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I went fully into the question of this loss and the action taken by Government in Select Committee, and I therefore do not think unofficial Members opposite will wish me to take up their time further by going over the points again. I should, however, like to say most emphatically that the suggestion that Government has taken action over one officer because they were in a position to make him suffer and not in the case of the other is quite incorrect and quite unrelated to the facts. Both of those officers were temporary officers—one happened to be on a temporary agreement, the other happened to be on a temporary agreement on a month to month basis—and it was quite possible for an officer on a temporary agreement to have given the Government notice under his agreement of termination of service and so escape the necessity of refunding the money for which he had been found responsible. In one case the officer recognized and admitted his responsibility, was desirous of remaining in the service and accepted the punishment Government placed upon him; in the other case the officer elected to sever his connexion with the Government.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Third Supplementary Estimates, 1929, be approved."

The question was put and carried.

REFUND OF GRADING AND INSPECTION CHARGES.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. ALEX.

HOLD) Your Excellency, the motion standing in my name is an expression of the desire of Government to give substantial relief to maize and wheat growers in the present plight in which they unfortunately find themselves. Apart from the heavy slump in world prices of grain, the need for relief of the

kind indicated in the motion has arisen because the seasonal conditions in Kenya have been quite exceptional. Crops did not ripen in the ordinary way. They did not become sufficiently dry for export, and during the succeeding months after harvest when normally they could be dried in cribs and barns the weather was so wet that such drying process did not occur. The position in that connexion, Sir, is this, that whereas in a normal season 10 to 12 per cent of the maize passes through the conditioning plant and about 30 per cent of the wheat for export, during this season between 30 and 40 per cent of the maize had to be conditioned at the port and over 70 per cent of the wheat.

This question of remitting part of the conditioning fees, Sir, has received consideration for some months past. The view was held and expressed that it would be undesirable to give effect to it because it might encourage grain growers to send wet grain to the port for export and further increase the state of congestion at the port. The position is that the great bulk of the wheat and maize to be exported from the Colony this year has already passed through the port. Such encouragement, therefore, does not now exist.

The motion, it will be noticed, Sir, refers to the present season's crop. I should like to make it clear that that has reference to the crop which was for all practical purposes planted in 1929 and is handled for export in the 1929-30 season. The motion further states that Government has to be satisfied that such refunds will be passed on to the growers. Having regard to the records, which are kept very carefully and in detail in respect of export of wheat and maize, I would inform the House that it is considered that cases will be very rare indeed in which Government will be unable to pass the whole of the relief indicated in the motion on to the growers.

It might be helpful and of interest to the House if I quoted a few figures which have a direct bearing upon the motion, figures which also indicate what the relief proposed amounts to. Figures have been taken for the year ending 30th June last, but inasmuch as only a few hundred bags of grain were exported between July and December last year the figures which I quote apply for all practical purposes to this present season's crop and for the period from 1st January to 30th June of this year.

There were graded 978,515 bags of maize and wheat and the revenue derived therefrom was £3,580. There were conditioned 228,654 bags of wheat and the revenue derived from them was £9,833. It is estimated that from the 1st July onwards until the present season's crop is exported a further

quantity of approximately 400,000 bags of wheat and maize will be handled for grading and conditioning purposes, and of that quantity approximately 100,000 bags will require to be conditioned. On the basis of a four-fifths reduction, as indicated in the motion, relief to the extent of £2,065 would be granted in respect of grading fees and approximately £5,460 in respect of conditioning fees for the quantity handled until the end of June last.

In respect of the quantity which it is estimated will be handled from 1st July onwards to the end of the season, the position in respect of grading is calculated at a figure of £808 and in respect of conditioning services at £2,380. That gives a total relief in respect of grading and conditioning charges of approximately £10,800 for the present season's crop.

When Government sanctioned an expenditure of about £11,000 on conditioning plant about the end of 1921, the condition was laid down and accepted that profits derived from grading and conditioning services should accrue to cover interest and sinking fund charges on this capital expenditure, and that matter has received the careful consideration of the maize and wheat sub-committee and of the Department which I represent, and up to the period ending 30th June, 1929, there had accumulated balances representing profits of approximately £1,150; for the year 1929-30 and ending 30th June last further profits have accrued of slightly over £4,000, bringing the total profits from grading and conditioning services from the beginning to a figure of approximately £8,200. Hon. Members will note, therefore, that this proposal before the House absorbs the whole of these profits which were intended to be set aside for interest and sinking fund charges on the capital expenditure.

I should like to take this opportunity of explaining the position in regard to storage charges levied by the Railways and Harbours Administration. The matter came before the Port Advisory Board at a recent meeting. That Board realised the abnormal conditions which existed during this season and recommended to Your Excellency as High Commissioner for Transport that the storage charges levied under the Harbours Regulations should be remitted to the extent of four-fifths of the charge levied. I should like, if I may, to express appreciation, not only to Your Excellency as High Commissioner, but to the Port Advisory Board, for the sympathetic consideration which they gave to the representations made to them in this regard.

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

THE HON. THE DIRECTOR OF AGRICULTURE: My friend the hon. the Acting General Manager informs me that the remitting of four-fifths of the storage charges will amount to between £5,000 and £6,000, so that between the two—between the reduction in the grading and conditioning fees and refunds in respect of storage charges—relief to the extent of approximately £16,000—anyway, more than £15,000—will be given. That represents, Sir, a reduction in the charges on export wheat and maize for the whole quantity calculated to be exported for the whole season of approximately 23 cents a bag, and in respect of grading and conditioning fees alone of approximately 52 cent a bag for the grain which has been graded and conditioned.

I think it would be fitting, Sir, if I took this opportunity, before closing, of paying a tribute to that organization in this Colony which has been so closely concerned with this export of grain. I refer to the Kenya Farmers' Association. Being in close connexion with the operations of that association and mindful of the help which it rendered to the Food Control Board during a difficult period last year, I am well acquainted with the influence which this Association exercises, and it is not too much to say, I think, Sir, that the Kenya Farmers' Association has rendered services of the most valuable kind to this Colony during this period of difficulty, during a period when ordinary grain merchants and shippers of grain have not been able to function in the ordinary way because of the difficulties of the market; and I have no hesitation in saying that had it not been that this co-operative organization exists in this Colony to-day, the difficulties of wheat and grain growers would have been very much increased. It is a very fine illustration, Sir, in these times, of the value of co-operative work.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:

"That this Council approves of the refund of four-fifths of the grading and inspection charges and the reconditioning charges levied under Government Notices Nos. 791 and 792 dated December 28th, 1929, and No. 22 dated January 8th, 1930, in respect of the present season's crop of maize and wheat provided that the Government is satisfied that such refunds will be passed on to the growers."

THE HON. COSWAY HARVEY: Your Excellency, as one of its oldest members and a past chairman of the Kenya Farmers' Association, I should like to express the very deep appreciation of that body for the kind things said about it by the Director. With its 850 odd members, Sir, there is no doubt whatever that that co-operative organization does exercise a profound influence on the agricultural development of Kenya.

Now, Sir, I am quite sure that no one will cavil at the present Government proposals indicated in this motion. It was always quite clearly contemplated, Sir, when this service was originally inaugurated, that a refund would be made of any charges paid for grading, inspection and reconditioning which were in excess of the actual cost of that service, and it is at the same time important, I think, to emphasize the point which was made by the Director that the general taxpayer is, in this case, not being called upon to carry to any extent the cereal growers. It is merely a refund of money which they have already paid for a service in excess of the actual cost of that service.

There is just one point, Sir, which is not quite clear and perhaps the hon. gentleman will elaborate it slightly in his reply. He stated that the present proposal relates only to the crop planted in the year 1929. While it is quite certain, Your Excellency, that a considerable quantity of the crop planted in 1930 will find its way to the coast before a great deal of that which was planted in 1929, that does introduce a minor complication, possibly not of a very serious character, but it should be borne in mind as it is an undoubted fact.

I support the motion, Your Excellency.

THE HON. E. POWYS COBB: Your Excellency, I too desire to support the motion, and I am very glad to hear what the hon. the Director of Agriculture has to say about the Kenya Farmers' Association. I entirely agree with his remarks: I believe it is a body which year by year is doing a more and more useful service to the cereal industry of the Colony.

There are one or two points which arise from the motion and the speech of the hon. the Director of Agriculture on which I should like further information.

He points out that the accumulated balance of profit on the grading and conditioning system stands at a figure of approximately £8,200. I should be very glad, Sir, if he could say what is the actual net profit of that institution, and I hope very much that before long he will be in a position to furnish accounts showing what is the actual position of this activity of his Department.

I am sorry to see that he is holding on to one-fifth of the grading and conditioning charges. I should have thought, Sir, that since Government has taken this liberal line that it possibly would have paid better and been a more practical method to have remitted these charges for the time being altogether; particularly in view of the profits which have been made in the past. I suggest to the hon. the Director that the collecting of the very small odd figures which the one-fifth of the charges retained will amount to may possibly cost more than they are worth. Further, the matter is complicated by having to refund a part of the money so collected.

Another point I am not clear about in his motion and which I should like information on is the wording of the third line of his motion, which reads: "the reconditioning charges levied under Government Notices . . ." I suggest that the intention of the motion would be clearer if he would be good enough to accept after the word "levied" the words "and to be levied," thereby making perfectly clear that it is the intention of his motion to apply these remittances of charges to the whole of the 1929/1930 crop which is about to reach the port and which has not reached it. I hope he will be able to accept that alteration because I do think that by doing so his own intention will be made very much clearer.

Although perhaps not directly relevant, I must follow him into the discussion which he raised on the remission of the storage charges by the Railway of four-fifths. Naturally, agriculturalists will be extremely glad of this remission, and I am perfectly certain that they will receive it with gratitude, but may I be allowed to point out that this remission is not quite what it appears to be at first sight. The Mombasa storage charges, after this remission has taken place, will still be considerably higher than those of South African ports. They will still stand roughly at a figure of Sh. 2/43 a ton per month, which is higher than the South African charge which is Sh. 1/06 per ton per month. So in this remission the Railway in fact is being so good as to remove by far the larger part of the actual penal charge which had been set upon the storage of grain at Kilindiini.

That, Sir, is all I have to say, but I should like to know, when the hon. Member replies, as to whether he would accept that small verbal amendment.

COT. THE HON. W. K. TREKKA: Your Excellency, I do not desire to comment on the references to the Kenya Farmers' Association except in that they do connote a sympathy with that body in the unprecedented burden they

are asked to carry and will have to carry for some considerable time. From that point of view I desire to note what has been said with very deep gratitude.

I wish to raise two very small points, Sir, which are raised I assume you in no ungracious spirit but merely to get the issue clearer. I would request through you, Sir, that the hon. the Director in his reply should restate that this 23 cents per bag remitted in respect of storage and 52 cents per bag in respect of grading is in respect of the bags that have passed through the port. I only mention that because it is so easy in this country to be under a misapprehension and it might be thought by those who have not read his speech too carefully that there was in fact relief to the extent of about 85 cents on all bags produced in the country. That is my first point, Sir.

The second one: this £8,200 which this motion is granting to the industry and which the Director describes as accumulated money to cover depreciation and capital sunk in the plant is. I think the House will agree with me, an extremely large amount to accumulate on £11,000 capital expenditure over a matter of four or five years.

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

COL. THE HON. W. K. TUCKER: The grain growers of this country have paid that sum and it has only been a matter of accident that a good deal of it has not been repaid to them before.

The last point, Sir, has reference to the remission which Your Excellency as High Commissioner, is prepared to consider in regard to storage charges. I think this House and the country should understand that that amount of money does not represent out of pockets in respect of the Port or the Railway. It was simply this, that the late General Manager of Railways, in his last public act in 1928, was so conscious of the way the twenty-one days' storage was used that he asked a very representative maize conference to agree to reduce this period to twelve days in normal times, and the spirit of that discussion and agreement was that when abnormal times arose it was fully understood that something by the grain growers without these grain growers being penalised, bearing in mind that these sheds were being that in no shape or form would extra expense be incurred.

Those are the three points I wish to make, Sir, and I need only add how grateful are not only the Elected Members, but the grain growers of the Colony for the spirit in which this motion has been received.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, as this motion may be taken as a definite admission on the part of Government that the maize industry is in need of assistance now, I strongly support it and congratulate Government.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, it is my intention to support this motion, but with some honest criticism. In the first place I would remind the hon. mover that when speaking at our last meeting on the subsidy motion he made some reference to doles and indicated that it was not desirable for Government to dole out money to our primary industry to benefit settlers and producers. I should like to know whether he has changed his mind or not, or whether he thinks this is not a dole but conscience money—money that has been extracted from the producer through his misfortune in having his produce held up at the Coast instead of getting immediate shipment—and money which has been accumulated, derived from funds derived from the conditioning plant, again some of the misfortunes which the producer has to deal with in this Colony.

I support the motion. It is at least a slice off the loaf, but it is not going to have an immediate application in the form of a subsidy. It will take some considerable time to arrive at the figures. I understand the situation calls for more or less immediate assistance, not delayed action. The figure mentioned, £25,000, cannot be considered as "relief," to use the word of the hon. mover.

I should like to take this opportunity, Sir to point out that in this motion we have some reference to the moisture content of Mombasa. It has been stated that the Elected Members on their arrival here brought the rain, and it was inferred that on their return up-country it would be desirable for them to take it back with them. It is quite possible that the extra reconditioning plant which the Government have erected at the Port—that the two combined, operating together, have had an effect on the atmosphere and caused the dampness complained of which has been attributed to the arrival of the Elected Members in Mombasa.

I support the motion, Sir, and I hope that the enquiries and investigations and refunds will take place at the earliest possible date.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I welcome this belated action by Government—because after all it is a little belated and appears to be far more so than it really is. Government has made a great point of their three

measures in relief of agriculture, but I think Government could have expressed themselves in a more dignified manner had they introduced this relief in the form of new rates being proposed instead of a refund of existing rates; because I think the country is entitled, and has been entitled for a long time past, to a new rate being imposed, and although this action is a belated one, in recognizing that I think we should be very gracious and really approve of Government's action in this matter.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I shall endeavour to give hon. Members the information it is desired to obtain. First, in regard to the point raised by the hon. Member for the Lake, I do not anticipate much, if any, difficulty in actual practice, because persons skilled in the handling of grain can detect whether the grain is of a new crop or an old crop. I expect that he has in mind the overlap in the ordinary average season which occurs in each district, but we shall do our best to interpret the intentions of Government on this motion when we are dealing with particular cases of that kind.

The hon. Member for the Rift Valley made an enquiry in regard to the accounts and asked whether they would be prepared in a manner indicating the net profit. I am not quite clear as to what he has in mind, but I assume he wishes that the credit balances which have accumulated in respect of the grading and conditioning fees should be brought forward, also the interest which presumably has accrued to Government on these balances, and which Government has held for a period of two or three years. I would assure the hon. Member that that information will be submitted, not only to the Joint Maize and Wheat Consulting Committee at an early meeting—which is normally held after the season's accounts are ready—but also to the Board of Agriculture. I will take this opportunity of informing him that I discussed the position with the hon. the Treasurer, and immediately afterwards there arose this question of refunds to be made, which would entirely alter the basis of these accounts in respect of the balances which have accrued.

I regret I am unable to accede to his wish that the additional words should be introduced in the motion "or to be levied," for the reason that in my judgment, and in that of my hon. friend the Attorney General, the motion as it stands is quite clear. These charges are levied under the Wheat Grading Rules and the Maize Grading Rules. They will stand to be levied under those rules and the remission will take place afterwards. I considered that aspect of the matter, whether it was better to amend the Rules or let the

Rules stand and make the remission, and I have come to the conclusion—I hope wisely—that it would be better to let the Rules stand and make the remission of four-fifths.

With regard to his observations on storage charges, I regret that my hon. friend the Acting General Manager of the Railways is not present in the House this morning; it would have been better for him to have dealt with the matter, but I would indicate to the House that in fact those storage charges do not arise in the motion, though I took the opportunity of informing the House of what Your Excellency, as High Commissioner, and the Port Advisory Board, had been prepared to do in the matter.

With regard to the remarks of the hon. Member for Nairobi North, I would inform the House that the accumulated balances on grading and conditioning accounts until the end of June, 1930, are £1,150. They are slightly in arrear of the amount contemplated for that period of about five years during which the conditioning plant has been in operation. I am ready to admit, Sir, that the profits derived from the handling of this season's crop are much greater than was ever contemplated either by the Maize and Wheat Committee or by the Department. These profits have arisen in two ways. There is first the volume of grain handled far in excess of anything for which the plant was originally designed and, if I may say so, I think there is evidence to show that the greatest economy has been exercised in doing the work. In connexion with these charges and on the point raised by the hon. Member for West Kenya with regard to the reduction of the rates themselves in the future, I would inform the House that the grading fees in this Colony are only a decimal point higher than the grading fees in South Africa, where they handle millions of bags and where they therefore have the opportunity of doing it at the lowest possible cost; and the charges in respect of conditioning are very much lower than the charges levied at Beira for the same service for the same kind of plant.

With regard to the criticisms of the hon. Member for Plateau North, I would remind him that in speaking in this House a day or two ago I expressed no opinion whatsoever as to the use of the term "dole"; I was merely quoting expressions of opinion by authorities elsewhere on the subject, and I expressed none of my own.

I think, Sir, that covers the points raised in the debate on the motion before the House.

His EXCELLENCY: The question is:

"That this Council approves of the refund of four-fifths of the grading and inspection charges levied under Government Notices Nos. 791 and 792 dated December 25th, 1929, and No. 22 dated January 8th, 1930, in respect of the present season's crop of maize and wheat provided that the Government is satisfied that such refund will be passed on to the growers."

The question was put and carried.

COMPASSIONATE PENSION.

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

"In consideration of sub-foreman Salig Ram's twenty-four years' satisfactory service in the Public Works Department this Council is pleased to award him a special pension at the rate of Sh. 1,920/60 a year (which is equivalent to the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz. the 1st of June, 1930, inclusive."

A memorandum has already been circulated for the information of hon. Members explaining the circumstances in which this resolution is put forward. I do not therefore intend to take up the time of the House further by dealing with the matter in detail.

I would, however, like just to mention a couple of points. One is that although his service is stated here as twenty-four years, and that is all the service which under Government regulations can definitely be taken into account, this man has been doing Government work for something much more like thirty-four years. He came out originally doing certain work for the Railway, and after doing work of that sort, he went back for a bit and joined the Public Works Department. It has been impossible to trace from his history sheet that that service has been continuous; therefore, for the purposes of a pension only twenty-four years can be taken, but I would like just to bring to the notice of hon. Members that this officer has put in in Government service a very long period of good and faithful work.

The other point is this, that the post which he is occupying is one of the posts which it has been suggested should normally be pensionable, but in accordance with the agreement made that pending further decision on the general question of pensions no additional pensionable posts should be made, this

post has not been made pensionable; but then I suggest that in view of all the circumstances this House would be prepared now, on his retirement, to treat him as though he had been throughout in the occupation of a pensionable office.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

His EXCELLENCY: The question is:—

"In consideration of sub-foreman Salig Ram's twenty-four years' satisfactory service in the Public Works Department this Council is pleased to award him a special pension at the rate of Sh. 1,920/60 a year (which is equivalent to the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz. the 1st of June, 1930, inclusive."

THE HON. CONWAY HARVEY: Your Excellency, I am not satisfied that this is a fair charge on public funds. In my humble opinion, Sir, it is establishing a very dangerous precedent, and to my mind the knowledge that he is likely to get this sort of pension at the end of his service tends to make a man extravagant and improvident. In what I say, Sir, there is no racial discrimination. It applies quite equally to Europeans, Africans or Asiatics. Everybody knows, Sir, that those who are on a non-pensionable status, by reason of that fact, draw a higher pay than those who have a pension to look forward to. I do suggest in all seriousness, Sir, that the principle of establishing old age pensions for Government employees is absolutely wrong. I do not see that they are entitled to special consideration of this character any more than other members of society, and for some considerable time, Your Excellency, the public of Kenya have expressed themselves as very definitely opposed to any increases whatever in the pension establishment of the service. If Government wishes to meet the situation and deal effectively with what is a legitimate grievance in many directions, I suggest the proper course is to get busy at once and start a contributory pensions scheme. For these reasons I intend to vote against this motion, and I shall continue to vote against all similar motions, unless a very special case of a totally different character is put up for consideration of an individual.

THE HON. E. POWYS COTT: Your Excellency, I too intend to vote against this motion, largely on the grounds and on the arguments made by the hon. the Member for the Lake. I think that perhaps the strongest of all the arguments

His Excellency: The question is:

"That this Council approves of the refund of four-fifths of the grading and inspection charges levied under Government Notices Nos. 791 and 792 dated December 28th, 1929, and No. 22 dated January 8th, 1930, in respect of the present season's crop of maize and wheat provided that the Government is satisfied that such refunds will be passed on to the growers."

The question was put and carried.

COMPASSIONATE PENSION.

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

"In consideration of sub-foreman Salig Ram's twenty-four years' satisfactory service in the Public Works Department this Council is pleased to award him a special pension at the rate of Sh. 1,920/60 a year (which is equivalent to the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz. the 1st of June, 1930, inclusive."

A memorandum has already been circulated for the information of hon. Members explaining the circumstances in which this resolution is put forward. I do not therefore intend to take up the time of the House further by dealing with the matter in detail.

I would, however, like just to mention a couple of points. One is that although his service is stated here as twenty-four years, and that is all the service which under Government regulations can definitely be taken into account, this man has been doing Government work for something much more like thirty-four years. He came out originally doing certain work for the Railway, and after doing work of that sort, he went back for a bit and joined the Public Works Department. It has been impossible to trace from his history sheet that that service has been continuous; therefore, for the purposes of a pension only twenty-four years can be taken, but I would like just to bring to the notice of hon. Members that this officer has put in in Government service a very long period of good and faithful work.

The other point is this, that the post which he is occupying is one of the posts which it has been suggested should normally be pensionable, but in accordance with the agreement made that pending further decision on the general question of pensions no additional pensionable posts should be made, this

post has not been made pensionable; but then I suggest that in view of all the circumstances this House would be prepared now, on his retirement, to treat him as though he had been throughout in the occupation of a pensionable office."

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

His Excellency: The question is:—

"In consideration of sub-foreman Salig Ram's twenty-four years' satisfactory service in the Public Works Department this Council is pleased to award him a special pension at the rate of Sh. 1,920/60 a year (which is equivalent to the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz. the 1st of June, 1930, inclusive."

THE HON. CONWAY HARVEY: Your Excellency, I am not satisfied that this is a fair charge on public funds. In my humble opinion, Sir, it is establishing a very dangerous precedent, and to my mind the knowledge that he is likely to get this sort of pension at the end of his service tends to make a man extravagant and improvident. In what I say, Sir, there is no racial discrimination. It applies quite equally to Europeans, Africans or Asians. Everybody knows, Sir, that those who are on a non-pensionable status, by reason of that fact, draw a higher pay than those who have a pension to look forward to. I do suggest in all seriousness, Sir, that the principle of establishing old age pensions for Government employees is absolutely wrong. I do not see that they are entitled to special consideration of this character any more than other members of society, and for some considerable time. Your Excellency, the public of Kenya have expressed themselves as very definitely opposed to any increase whatever in the pension establishment of the service. If Government wishes to meet the situation and deal effectively with what is a legitimate grievance in many directions, I suggest the proper course is to get busy at once and start a contributory pensions scheme. For these reasons I intend to vote against this motion, and I shall continue to vote against all similar motions, unless a very special case of a totally different character is put up for consideration of an individual.

THE HON. E. POWERS CONN: Your Excellency, I too intend to vote against this motion, largely on the grounds and on the arguments made by the hon. the Member for the Lake. I think that perhaps the strongest of all the arguments

in support of the Asian case made out is the argument of long service, but against that it must be remembered that people who are not on the pensionable list are drawing higher rates of pay. The memorandum before the House says that this particular sub-foreman was drawing pay at the rate of £25 a month. I submit that that is, for a person of his attainments, a very high rate of pay, and a higher rate than he would have drawn had he been on the pensionable list; and compared with rates of pay outside Government employment for similar work I submit that it is well above the average market rate. A sub-foreman drawing that high rate of pay for a number of years has undoubtedly had ample opportunity to effect savings for his old age, and I do agree myself strongly that if this sort of treatment is going to be meted out it is going to lead to a lack of thriftiness, and I think it is exceedingly hard on people who are on the pensionable list and drawing lower rates of pay because their pensions are taken into consideration. Furthermore, Sir, I think that the very great difference between the value of the gratuity due and the pension proposed is altogether too great—in the one case a gratuity of £111 and in the other case a pension of £96 5s. On these grounds, Sir, I intend to vote against this motion.

LEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am opposed to the motion, and generally I agree with the two previous speakers.

I notice that in paragraph 4 of the memorandum submitted it states that after careful consideration and in view of the circumstances of the case Government came to the conclusion that a gratuity was not an adequate recompense for the long and meritorious service rendered. Now, Sir, if that is a correct statement of the case, then further action by Government is necessary, but not along these lines. It should be along the lines of enquiring into the pensions system and whether it is desirable, in the case of such persons serving under the conditions of this old and faithful servant of Government, that their posts should be made pensionable.

In paragraph 4 of the memorandum it says a recommendation was made to the Secretary of State which has been approved. Again, Sir, I do not agree with the policy which has been followed. The decision has been come to by Government, the Secretary of State's permission has been granted and under the circumstances I can see no object in Government putting this motion to the House for consideration as they will put the motion through by the steam-roller. That being so, I have no intention of further occupying the time of the House.

THE HON. A. H. MALIK: Your Excellency, I have not had an opportunity of seeing this memorandum which has been mentioned on this side of the House, but I am very surprised, Sir, to hear the comments made by hon. Members. We are aware, as is everybody else in the country, that the Asian servants, or the majority of them, are not enjoying the privileges that are enjoyed by the European employees of the Government. The pension system does not apply to the Asian servants and the Goans employed, and there are many posts which, if they were filled by a member of another community, would be pensionable but would be not so in the case of Asians and Goans.

A sub-foreman who has put in twenty-four years' satisfactory service naturally must have exercised all the economy that he was capable of, and if at this period—if the circumstances of this particular employee of Government are such that the Government think that his case is not met by a gratuity—and it is only fitting that this man should have been in a pensionable post, which unfortunately he was not—and if the Government have now decided to award him a special pension—if the circumstances are as pointed out, Your Excellency, every just man should have welcomed a proposal of this kind.

It has been pointed out, Sir, that the man was drawing £25 a month, and that he has worked to the satisfaction of the Government for the long period of twenty-four years. I do not know absolutely the circumstances of the case. I do not know what his age may be now and what family he has had to support on £25, but I dare say he was not able to accumulate any very great wealth; and as regards the remark that the salary is higher than he would have been able to get outside, I am afraid I cannot agree with that suggestion. I know people doing similar work with private contractors drawing a higher salary than this, although I will admit they are not on any pension scheme as was not this man.

Under these circumstances, Your Excellency, I would urge members on this side of the House to reconsider their view and when the motion is put for voting that they will vote in favour.

LEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, with reference to the remarks of the last speaker, I should like to make it quite clear that the opposition on this side of the House is not in any way related to the personality of Mr. Salig Ram or the fact that he is an Asian. It is merely on the question of the principle that, if people are on a definite agreement which carries either a pension or does

not carry a pension, for the purpose of looking after the finances of the country those agreements should be strictly adhered to unless there are very abnormal circumstances.

In this particular case, Mr. Salig Ram—I am sure we are all very sorry for him—apparently became debilitated and was unable to keep the post he was holding, for which naturally we must all be sorry for him, but I do not see that that is sufficient reason to change the whole of the terms of his service. I know, Sir, that these questions of pensions are dealt with in a much more hardhearted way in Great Britain, as I know to my cost—for the foolishness of getting in the way of a bullet I was mulcted of £30 a year.

REV. CANON THE HON. H. LEANEY: Your Excellency, I cannot conceive that the hon. the Director of Public Works, or whoever was responsible for having first of all made this suggestion that this man should have this special pension, would have done so unless he knew the circumstances and was quite sure that it was a specially hard case and that the man, through being put on some work, has had really bad luck. I cannot conceive that it would be brought before us otherwise. I consider as a principle much that has been said on this side of the House with regard to pensions for these posts which are recognized as non-pensionable is rather a dangerous one, but, Sir, I feel sure that those who do know this man think he really deserves a special pension.

I myself shall vote that the pension be given him.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS (MR. S. C. BENNETT): Your Excellency, I think the phrase "special pension" has been used inasmuch as the posts of sub-foremen in the Public Works Department are not pensionable at the present time. I think I should like to go a bit further than that and say that I personally am of the opinion that sub-foremen in the Public Works Department, sub-draughtsmen and sub-surveyors, should most certainly be made pensionable and be employed on much the same terms of service as the clerical non-European staff. The point with regard to this matter and also to these sub-foremen is that their maximum salary is not higher than the maximum salary of the clerical staff; the clerical staff go up to Sh. 510 per month, and they are definitely pensionable at the present time and are entitled to pensions when they become old and debilitated, such as Mr. Salig Ram at the present time.

I therefore wish to support this motion.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I find some difficulty in replying to the remarks made by hon. Members opposite owing to the different lines of attack which have been developed against the motion now before the House. On the one hand opposition has been based on matters of principle, and again on the other, on personal grounds, that an officer of this sort should not get the pay he now gets and also be pensionable.

Let me first of all deal with the point made by the hon. Member for the Lake. He said that he was opposed to anything which would lead to our starting a system of old age pensions of this sort and that the motion now before the House made a dangerous precedent. I regret that owing to the absence of the Treasurer on account of illness it was impossible for him to sponsor this motion which originally stood in his name, but I think, speaking from memory, it is within my own recollection of the proceedings of this House that precisely similar motions have been put forward asking on good grounds shown for pensions to be voted to officers who were not otherwise pensionable, and such resolutions have been acceded to. I therefore feel that on the grounds of creating a precedent the fears of the hon. Member are ill-founded.

The other point made is that hon. Members are on principle opposed to making any additions to the pensionable establishment of the Colony until the general question of pensions is settled. That, I agree with hon. Members, is a perfectly logical attitude to adopt; but I should like to point out that there is no intention whatsoever in this motion of adding any pensionable post to the establishment of the Colony. There are at the moment twelve sub-foremen in the Public Works Department, which appear in the Estimates which are put before hon. Members, and their salaries voted every year; none of those posts are starred as pensionable. The proposal in this case is merely that, as a personal matter, this officer should be voted a pension, and I hoped that the memorandum which has been circulated and the statements which you have heard from the Acting Director of Public Works and myself would have been sufficient to convince you that in this case the proposal was not unreasonable. It is primarily based on the point that, as stated in the memorandum, the inter-departmental committee which dealt with terms of service in 1925 for Asians other than clerks definitely recommended that four posts of sub-foremen—presumably out of the twelve in the Estimates—should be made pensionable if and when this general bugbear of pensions was settled and got out of the way. That larger question unfortunately has not been settled; therefore those posts,

quite regardless of their holders, have not been declared pensionable. Government does submit that inasmuch as this officer is holding one of these posts which, had this question been settled, would, on the recommendations of that committee, have been made pensionable, and in view of the fact that he has had a long and meritorious service, it is only reasonable to give him the pension which otherwise he would have been entitled to.

I do therefore trust that after this explanation of the position hon. Members will not think it necessary on principle to vote against this resolution.

HIS EXCELLENCY: The question is:—

"In consideration of sub-foreman Salig Rami's twenty-four years' satisfactory service in the Public Works Department this Council is pleased to award him a special pension at the rate of Sh. 1,929/60 a year (which is equivalent to the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz. the 1st of June, 1930, inclusive."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE KING'S AFRICAN RIFLES BILL.

COL. THE HON. R. WILKINSON (OFFICER COMMANDING NORTHERN BRIGADE): Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the King's African Rifles Bill be approved."

I should also, Your Excellency, like to ask the leave of Council to move a slight amendment to the Report. This amendment is the inclusion of the words "native officer, non-commissioned officer" between the words "officer" and "or" in line 3 of the amendment in paragraph 1 of the Report. It was merely left out by a clerical error, Sir.

This Report of the Select Committee is somewhat lengthy; that was due to the fact that after the original Bill had been produced a committee sat on the reorganization of the King's African Rifles and to the fact that a new Criminal Code had been introduced. Those two factors made it necessary to introduce a great number of alterations or amendments in the original Bill. Most of them are only a question of words. There is, however, one particular amendment which I should like to refer to and that is on the question of the terms of service. The Select Committee have recommended that the terms of service should be altered so that a man

enlists for service with the Colours and with the Reserve, as at home. The effect of that amendment is that the King's African Rifles automatically retains a Reserve. At the present moment the Reserve of the King's African Rifles is secured by enlisting men when they have left the Colours. Soldiers, as a great number of people know, as soon as they have finished their job, are not inclined to take on Reserve service. By the new method we shall automatically have a Reserve and after a certain number of years we shall have a number of men in the Reserve. We want a Reserve; it is the cheapest form of military service.

There is one other point I should like to refer to and that is the question of pensions, gratuities and hut tax. The sections dealing with those points have not been detailed. The whole of the question of pensions, gratuities and hut tax is under consideration and it was thought simpler that when it is decided what the policy shall be an amending Bill should afterwards be passed. I beg to move the motion standing in my name.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as a member of the Select Committee which dealt with this matter I wish to support the general Report, the majority Report of this Bill. But I do, Sir, wish very strongly to emphasize the minority Report put in by my hon. and gallant friend the Member for Kikuyu and myself. This appears in the form of a minority Report though I believe it represents the views of a large majority of the people in Eastern Africa who have to deal with the King's African Rifles in all three Territories.

To take it in two parts, Sir, the first part has to deal with corporal punishment. Now, Sir, I understand that Government have definite instructions from home and therefore would be unable to accept an amendment on these lines. For that reason, Sir, I have not moved any definite amendment, which one might have done, to section 46 (1) (a), sub-section (g), to delete certain sections. What I hope, Sir, is that as I understand it this Bill is common to several Territories and I believe what we do here has to be circulated to other Governments, and, as the hon. and gallant mover of this motion has said, the second part of this minority Report is under consideration and has to be considered by other Governments, I do most earnestly trust that the Government will see their way to have this minority Report circulated at the same time to the other Governments and get the views

of the people who are directly concerned with the King's African Rifles, who are responsible for the discipline of these troops and who have had practical experience of the best method of maintaining discipline. There is no question, Sir, that if one talks to any officer in the King's African Rifles, they one and all agree with the question of corporal punishment. Its retention is undoubtedly in the interest of the troops and in the discipline of those troops. The reason it has been cut out can only be the result of the sickly sentimentality of certain people at home. It was agreed the other day, Sir, on both sides of this House, in discussing another Bill, that such punishment was a wholesome one. Now, Sir, it seems that no reasons have been given to show that corporal punishment has had any detrimental effect on recruitment, re-engagement or in any other way. On the other hand, one does hear at times that it is the only form of punishment that is effective. I was told, Sir, not very long ago of a case of a man in the King's African Rifles who was punished for some form of insubordination. He was put in the cells but refused to do anything which he was told to do. He had to be brought up again before his Commanding Officer. He was given additional punishment, further cells, and still it had no effect. He was then taken out and given corporal punishment and he gave no more trouble and finished his punishment in due course and afterwards became a better soldier. It is a punishment which is simple, economical and wholesome. It is a punishment the soldiers understand, a punishment which, so far as I know, has never been abused by the officers who have had to administer it and it does seem, a thousand pities that merely for a question of sickly sentimentality such a very efficacious means towards the maintenance of discipline should be abandoned, except in one case. Sir, on the line of march against the personal property of the inhabitants of the country.

On the second point, I think there is general agreement that it is far better when soldiers leave the regiment that they should be put on a system of pension rather than be given a lump sum down, which they probably go and spend in the form of riotous living, and I do trust that the second Bill will be very carefully considered and, as was foreshadowed by the hon. and gallant Member, that an amending Bill will be introduced which will be incorporated in the system of administration of the King's African Rifles.

LECT. COL. THE HON. C. G. DURHAM: Your Excellency, I entirely wish to support my hon. friend the Noble Lord. During my nine years' service with the King's African Rifles I never came across a single instance where corporal punishment was abused. I think we are spelling for a fall in

discipline if we cut this clause out of the Bill. Sir, may I put a point very largely affecting this Bill, and that is that if you have a junior officer on safari with a very small patrol, two or three of his patrol might commit a small offence and he is debarred from flogging them straight away, the only punishment they can possibly understand or appreciate. What happens if he has a patrol of ten men and two men commit offences? He is compelled to have six men to guard them and the patrol vanishes. It becomes simply a patrol of prisoners and prisoners' guards and nothing else. I submit if this clause stands you are going to have an ill-disciplined force.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I wish to support entirely the analysis that this has been subjected to by the last speaker. I maintain, Sir, that flogging is essential to discipline in Africa. It is the opinion of every soldier in Africa who has had the handling of native troops that it is necessary, but the soldiers who have that opinion are rendered mute through an instruction from home in regard to corporal punishment. It is an utter absurdity to impose restrictions upon a man which make it impossible for him effectively to carry out his duty.

I cannot accept this Report entirely in other ways. Sir, because I think it requires further amendment. Can I ask, Sir, if we are going to take this clause by clause later? If we are not, Sir, then I shall have to propose amendments to the Report.

The first amendment to the Report I should propose is this one, Sir, that in the definition there is no definition of "active service." Active service conveys a definite meaning to a soldier but it does not to a civilian, and I think it is essential there should be a definition of active service. That is one of the omissions in this Report.

In clause 5 (2), Sir, there is a very material danger introduced inasmuch as it enables a man to injure and imperil the safety or use of his arms without any penalty, and so I move definitely, Sir, that in clause 5 (2) between "away" and "his" on page 3 of the Bill—it is only mentioned as a number in the Report—the words "injures or imperils the safety or use of" be interpolated.

In clause 6 (5)—which is also the subject only of a number and not of a detailed analysis—I propose the elision of the word "unnecessary" in the third line. It is not normal in the British Army to recognize alarm or despondency in any degree.

HIS EXCELLENCY: What particular clause is the hon. and gallant Member referring to?

CAPT. THE HON. E. M. V. KENEALY: In the Bill, page 3, line 48, Sir. In the Select Committee's Report, page 1, number 6.

It is a little undignified to recognize any degree of alarm as "unnecessary" in the British Army. After all, Sir, this Bill is no doubt one which is applicable to all the Territories, but we, being the dominant Territory in East Africa, should see that it applies directly to ourselves, and therefore it would probably apply directly to the other Territories as well.

In clause 16 (2), page 7, Sir, I propose the addition of the words "or dismissed" after the word "relieved" in the penultimate line.

HIS EXCELLENCY: The hon. and gallant Member, I understand, wishes to insert the words "or dismissed" after the word "relieved."

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

In clause 13 (2)—which again is only the subject of a number in the Report—I think it is dangerous to recognize that any step will exonerate a man from further responsibility. I think if he is cognizant of a desertion or intended desertion he should take every step and he should not be exonerated merely because he has taken only one step, which may be a totally inadequate one, to convey the information to his superior officer.

HIS EXCELLENCY: The hon. and gallant Member wishes to move that in clause 15 (2), line 46 of the Bill, the words "every step" be substituted for the words "any steps."

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

COL. THE HON. R. WILKINSON: On a point of explanation, Your Excellency, with regard to all these amendments which are now being suggested, I would like to point out that this is word for word the Army Act, which has stood the test of hundreds of years; such as the suggestion of cutting out the word "unnecessary" in clause 6. It is simply the Army Act and it has stood the test of time.

HIS EXCELLENCY: The hon. and gallant Member, the Officer Commanding Northern Brigade, has anticipated the course which I proposed to take, and that was to ask either him or the Attorney General to explain the general effect of

these amendments to the hon. and gallant Member before deciding whether they could all be moved in detail. If they are to be moved in detail they must be moved as additions to the Select Committee's Report. I think perhaps it is simpler to get all the amendments first; has the hon. and gallant Member any more amendments to propose?

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

In clause 19 (3), page 8—it is merely a numerical reference in the Report—"hospital or otherwise." I think that the word "elsewhere" is meant and I propose the substitution of the word "elsewhere" for "otherwise."

Page 9, clause 22 (2), Sir—which again is the subject of a numerical reference only—in the penultimate and last lines "accompanied by any account he may have received." If that means "statement," Sir, I move that the word "statement" be used there. I should like to have an expert opinion as to that amendment first, Sir.

In clause 42, proviso (b): I do not think it should be left to a competent civil court but if the Ordinance means that he should have the right to appeal to a competent civil court then, Sir, it should say so: "he may be tried and shall be so tried if he so elects to be."

In 41 (6), for the word "Governor" substitute the words "Commander-in-Chief," because he does not function in his capacity as Governor when he is functioning as Commander-in-Chief, or should not.

In 45 (3), Sir, there is the interpolation of the word "that" between "notwithstanding" and "the," because that is what it means—"notwithstanding that the person giving the order." Otherwise it does not make sense.

In reply to the point made, Sir, by the Officer Commanding Northern Brigade that this is a reprint to a certain extent of the Army Act, the Army Act, Sir, is being interfered with by persons who wish to mitigate the degree of disciplinary control that we have over our African soldiers; and although in the past it has been able to effect that control, with these manipulations which we are now being subjected to, the Army Act is not a good one to base our subsequent legislation upon, so I hope that argument will not be urged.

THE HON. THE ATTORNEY GENERAL: May I appeal to the better nature of the hon. and gallant Member who has just spoken, Your Excellency, not to press those amendments at this stage. As the hon. the Officer Commanding the Northern Brigade has pointed out, the whole of the first 62 clauses of

this Bill—the penal provisions—are taken verbatim from the Army Act. That is not merely accident, Sir, nor is it mere laziness. It is deliberate and designed, chiefly for two reasons, Sir. One is that when the status of the King's African Rifles is altered by the outbreak of hostilities, when they are going on active service, they become automatically subject to the Army Act and the Regulations controlling the Army apply *in toto*, and so, unless we follow the Army Act closely, there will be two systems of law applicable to the force, a state of things bad enough in itself, Sir, but infinitely worse when one bears in mind that these two systems have to be applied, Sir, by laymen.

The officers of the King's African Rifles are recruited from His Majesty's Army; they are accustomed to working under the Army Act, King's Regulations and the Articles of War, and it is manifestly very much simpler, that they should come out to these Territories, and find in force a system with which they are acquainted, a system in which every word can be interpreted with the aid of the volumes which they are accustomed to use, the only volumes which are at their disposal. If we go altering the provisions now, Sir, I would not like to say what the effect would be; it would leave subalterns without any guidance whatever, whereas at present they have ample and sufficient guidance, Sir, and many years' practical experience of the administration of these provisions.

HIS EXCELLENCY: Does the hon. and gallant Member, in view of that explanation, wish to press his amendments?

CAPT. THE HON. E. M. V. KENEALY: Well, Sir, it would be purposeless to press the amendments, but I wish to dissociate myself from the passing of this Bill in its present form. I do not know if other Elected Members also wish to dissociate themselves but I think it is highly probable. The policy of allowing for a minor punishment, Sir...

HIS EXCELLENCY: I cannot allow the hon. and gallant Member to make another speech unless he moves another amendment and speaks to that amendment.

CAPT. THE HON. E. M. V. KENEALY: I propose another amendment, Sir, by the deletion of the words "less punishment" mentioned on page 4, clause 7 (2), because, Sir, that clause enables a man to be punished for treason by a minor punishment, such as two days' C.B. I think it is ridiculous that it should be suggested that in an Act of this kind treason or sedition should be punished by a sentence less than the legitimate one. We have to consider the special circumstances

in Kenya Colony and Eastern Africa generally, and if we are going to tolerate such acts then we shall be neglecting our interests and neglecting our duty.

HIS EXCELLENCY: Perhaps the hon. Member will give me his amendment.

CAPT. THE HON. E. M. V. KENEALY: It is a principle, Sir, and appears in a dozen places.

HIS EXCELLENCY: The hon. Member is only entitled to speak to a definite amendment now. If he will give me the definite amendment the debate can proceed.

CAPT. THE HON. E. M. V. KENEALY: The excision of the words "or such less punishment as is in this Ordinance mentioned" at the bottom of page 4. Do you wish me to move the amendment formally, Sir.

HIS EXCELLENCY: You are only entitled to move the amendment. You are not entitled to discuss principles at this stage.

CAPT. THE HON. E. M. V. KENEALY: I am not going to waste the time of the House moving these amendments because Government is evidently going to oppose them.

HIS EXCELLENCY: Will the Officer Commanding the Northern Brigade kindly move the amendment which he mentioned in his opening speech?

COL. THE HON. R. WILKINSON: Your Excellency, I beg to move an amendment to paragraph 1 of the Select Committee's Report, that the words "native officer, non-commissioned officer" be inserted between "officer" and "or" in line 3 of paragraph 1 of the Report.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

The question was put and carried.

HIS EXCELLENCY: Does the Officer Commanding the Northern Brigade wish to reply to the debate?

COL. THE HON. R. WILKINSON: Your Excellency, there are only one or two points which I should like to reply to. I quite agree with the remarks made by the hon. Member for Ukamba on the question of pensions. The military opinion, of course, is that a gratuity is a bad form of giving something

to a soldier. There is no doubt whatsoever that in ninety-nine cases out of a hundred, if you give a soldier a gratuity he goes and spends it at once, unless somebody relieves him of it who is cleverer than him-self; and the idea is that as regards hut tax, gratuity and pension, they should all be brought down to one common basis of a pension.

As regards the question of corporal punishment, I do not think it is quite fair to say that it is due to sickly sentimentality. There is a certain amount of truth of course in that, but we cannot get over the fact that corporal punishment has been abolished in the North West African Force and so far there has been no ill effect on the discipline.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee on the King's African Rifles Bill as amended by this Council, be adopted."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE BANKRUPTCY BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Bankruptcy Bill be approved."

As hon. Members will see the Select Committee recommended that the Bill be adopted without amendment, thereby agreeing with the terms of the resolution moved by the Associated Chambers of Commerce who were also greatly interested in this measure. In these circumstances, there is nothing for me to do but formally to move the adoption of the Report.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Bankruptcy Bill be approved."

COL. THE HON. W. K. TYCKER: Your Excellency, in the case of several of the business Bills brought before this House I understand that we have lagged behind Tanganyika and Uganda, whereas in this case I understand that the Bill only has to go through and we are ahead, certainly ahead of Uganda, and my object in rising is on behalf of the commercial body which the hon. and learned gentleman has just referred to, to

urge the desirability of representing to the Uganda Government to proceed with their legislation as soon as possible, and similarly to represent to the Zanzibar Government, whereby the very real and vital effects of reciprocity may be put into operation within the whole of the territories.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Bankruptcy Bill be approved."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE SALE OF GOODS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Sale of Goods Bill be approved."

The position here is exactly the same. Both the Associated Chambers and the Select Committee of this Council are satisfied with the Bill as it stands. I formally move that the Report be adopted.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Sale of Goods Bill be approved."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE ARBITRATION (FOREIGN AWARDS) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Arbitration (Foreign Awards) Bill be approved."

That Report also, Sir, recommends the adoption of the Bill without amendment.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Arbitration (Foreign Awards) Bill be approved."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE TRADE MARKS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Trade Marks Bill be approved."

In this case, Sir, there is one minor amendment—the extension of the period of four months given for the reciprocal registration of trade marks between reciprocating parts of the Empire to six months. That is necessitated, Sir, by the desire for reciprocity between the territories. The Tanganyika Territory has adhered to the 1925 Hague Convention on the protection of industrial property which fixes the period at six months. With this slight amendment we shall be in exact accord with the legislation of Tanganyika Territory on this subject.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Trade Marks Bill be approved."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE NATIVE LIQUOR BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Native Liquor Bill be approved subject to the deletion of the recommendations in paragraphs 3 and 6 of the Report."

The whole Report consists of only seven recommendations. Sir, and the two, the deletion of which is now moved, are the only two that would have called for any comment, so that I think all that is necessary from me at this moment, Sir, is a very short explanation of the reasons that prompt me in moving the deletion of those two recommendations which were made by a Committee over which I presided.

The recommendations were originally inserted, Sir, on the suggestion and in accordance with the expressed wish and argument of the Native Affairs Committee of the Nairobi Municipality, their arguments being that it was better to give limited facilities for women to drink during certain hours and under control than to allow the drinking which at present goes on as a result of illicit brewing. Since the Report was laid on the Table of this House, Sir, the Native Affairs Committee

have reconsidered the whole matter, and they now report that illicit brewing will continue whether these facilities are or are not granted because to a large extent illicit brewing is undertaken by women of a certain class in the native locations in Nairobi as a means of making money. They state further that the new housing policy of the Nairobi Municipal Council will very shortly get rid of that class of lodging-house keeper which at present distils native liquor and that the evil will be remedied in that way. Therefore in their opinion there is no necessity for giving any facilities for drinking by women who at present are not allowed to obtain native liquor lawfully. They add, Sir, that even if these provisions were made, and if the law enabled the Municipality to set aside licensed premises for use by women, the Nairobi Municipality would not feel that they were justified in availing themselves of those facilities. In other words, that portion of the law would in fact be a dead letter.

The other points in the majority Report call for no comment. They are entirely matters of detail.

Hon. Members will see that attached to the Report there are two reservations, two minority Reports, of an entirely different nature; the one in the name of the hon. Member for the Rift Valley urges an extension of the principles of the measure to enable farmers to give a free issue of beer at harvest time and at other times to labour which is working overtime; the other, signed by the hon. Member representing native interests and by the Member who recently represented Mombasa, urges prohibition and protests against those recommendation the deletion of which I have just moved, and suggests that on licensed premises there should be no treating and that only one drink should be supplied to each customer at any one visit. I do not propose to deal with those matters at present, Sir. I have no doubt the hon. Members will put their views before this Council and I shall have an opportunity of dealing with them when the time comes to reply.

I beg to move, Sir, that the Report be adopted as amended.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the Native Liquor Bill be approved subject to the deletion of the recommendations in paragraphs 3 and 6 of the Report."

THE HON. E. POWYS COBB: Your Excellency, I will support the motion. I am in full agreement with the amendments which the hon. the Attorney General has just moved.

It, as he has pointed out, the reasons which prompted the Select Committee to make those amendments have ceased, there is no reason in adhering to those sections of the Report of the Committee.

I should, Sir, however, like to urge on this House the adoption of the suggestion contained in the reservation which I have attached to the Report. The position is this. As the law will now stand it will be perfectly possible for the object I wish to attain to be carried out in a roundabout manner. It is quite possible for any farmer to obtain a general license authority from the district commissioner, which enables him to give permits to natives living on his farm. He can then make arrangements with one of these natives, who will brew the beer which he may desire to use as an extra ration during periods of extra pressure of work. It seems to me, Sir, that that is a most roundabout and unsatisfactory way of doing things. It seems illogical to permit a farmer to authorize a native to brew beer for free distribution when he himself cannot undertake that brewing, and it seems to me, Sir, that it serves no useful purpose, and on the other hand it probably is directly detrimental. Suppose the brewing is definitely in the hands of the farmer. He will see that the brew is properly made, that it is fresh, and therefore not intoxicating, and that it is made in a cleanly manner. If, on the other hand, he has to depend on a native on his farm to do the work for him under permission all those safeguards disappear.

That I am not making any unreasonable proposal is clearly shown by the fact that this kind of thing which I am asking for has been and is in force in Southern Rhodesia. There the brewing of Kaffir beer for this purpose has been in force for a long time and has proved very satisfactory, and I believe that if my suggestion were accepted it would have a definitely beneficial effect on the natives working on the farm.

There is no doubt that at the present time farming is hampered greatly by drunkenness on the part of the native employees. That drunkenness arises largely from the liquor which they brew being of a highly intoxicating nature and in many cases it is brewed in a very dirty and disgusting manner. If a more wholesome and less intoxicating drink could be established I think it would go a long way towards meeting the objection to native drinks as now used. On the ground therefore that it is altogether illogical, I recommend the reservation which I have made to the favourable consideration of this House.

THE REV. CANON THE HON. H. LEAKY: Your Excellency, I am very glad to find that Government is now prepared to

recommend the deletion of clauses 5 and 6 from the majority Report and I am grateful to them for the consideration given to the minority in this way.

In regard to the whole Bill, I have no intention of delaying the House further than to say that I adhere entirely to what I said on the second reading in regard to the matter, which has been embodied in the minority Report.

THE HON. THE ATTORNEY GENERAL: I do not know if it is necessary for me to say anything, Sir. No formal amendment has been moved by the hon. Member for the Rift Valley. I understand that he proposes to do so now, Sir, but I would remind him that he failed to get any support in a Select Committee of eight.

THE HON. E. POWYS COBB: May I formally move an amendment in the sense in which I have already spoken? The Attorney General has kindly prepared one, extracted I think from Southern Rhodesian legislation, and he has the correct wording which I have not got.

HIS EXCELLENCY: The hon. Member has actually forfeited his right by sitting down, but I daresay Council will agree to grant him a licence in this matter as he wished to consult the Attorney General. But he is actually out of order; he can only move his amendment with the permission of Council. I think that inasmuch as he has forfeited his right perhaps I can appeal to him, as I do not think he is likely to get very much support, not to take up the time of the Council any further in the matter.

THE HON. E. POWYS COBB: Very well.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee appointed to consider the Native Liquor Bill be approved subject to the deletion of the recommendations in paragraphs 5 and 6 of the Report.”

The question was put and carried.

BILL.

SECOND READING.

THE 1929 SUPPLEMENTARY APPROPRIATION BILL.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move the second reading of a Bill to Apply a Further Sum of Money for the Service of the Year ended 31st December, 1929.

This, Sir, is a purely formal measure to give legislative sanction to the figures of expenditure as finally closed for the year 1929. Hon. Members will see by comparing the figures in the Schedule with those shown in the Treasurer's Report for the year which has been laid on the Table that the figures tally and the matter is purely a formal one.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

The question was put and carried.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that the House resolve itself into Committee of the whole Council to consider the 1929 Supplementary Appropriation Bill, clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

The question was put and carried.

Council went into Committee.

In Committee:

THE 1929 SUPPLEMENTARY APPROPRIATION BILL.

The Bill was considered clause by clause.

THE HON. THE COLONIAL SECRETARY: I beg to move, Sir, that the Bill be referred back to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that a Bill entitled a Bill to Apply a Further Sum of Money for the Service of the year ended 31st December, 1929, has been considered in Committee of the whole Council and reported to Council without amendment.

THIRD READINGS.

THE 1929 SUPPLEMENTARY APPROPRIATION BILL.

THE HON. THE COLONIAL SECRETARY: I beg to move that the 1929 Supplementary Appropriation Bill 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.

THE KING'S AFRICAN RIFLES BILL.

GOL. THE HON. R. WILKINSON: Your Excellency, I beg to move that the King's African Rifles Bill 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.

THE BANKRUPTCY BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bankruptcy Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE SALE OF GOODS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Sale of Goods Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE ARBITRATION (FOREIGN AWARDS) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Arbitration (Foreign Awards) Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE TRADE MARKS BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Trade Marks Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE NATIVE LIQUOR BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Native Liquor Bill be read a third time.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this Bill be recommitted in order to consider an amendment which appears in my name on the Order of the Day.

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

The question was put and carried.

The House went into Committee.

In Committee:

Clause 19. Hours of Sale of Native Intoxicating Liquor in Municipalities and Townships.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that clause 19 (D) of the Bill be amended by the insertion of the words "subject to the approval of the Governor in Council" after the word "prescribed" in line 51.

Very little explanation is necessary, I think, Sir. The clause provides that the hours during which native intoxicating liquor may be sold, whether in municipalities, in townships or other areas in the country, may be fixed by the local authority or by the District Commissioner. It is thought prudent to provide that where the prescribed statutory hours are departed from the approval of the Governor in Council to that departure should be obtained. That is the object of the amendment.

The question was put and carried.

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

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Native Liquor Bill has been considered on recomittal by a Committee of the whole Council and has been reported with amendment to Council.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Native Liquor Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

*Council adjourned to 9.30 a.m. on Tuesday,
22nd July, 1930.*

TUESDAY, 22nd JULY, 1930.

The Council assembled at Government House, Mombasa, on Tuesday, 22nd July, 1930, at 9.30 a.m., the Hon. the Colonial Secretary (Mr. HENRY MONCK-MASON MOORE, C.M.G.) presiding.

The President opened the Council with prayer.

COMMUNICATION FROM THE CHAIR.

His Excellency has asked me to state on his behalf that owing to certain urgent letters that he had to get off by this morning's mail he has asked me to preside in his absence.

He has further authorized me to state that he understands that if by agreement—which I understand hon. Members are willing to give—suspension of Standing Rules and Orders takes place to-morrow, we ought to be able to complete our business here in Mombasa to-morrow; and if that is agreeable he proposes so to do.

MINUTES.

The Minutes of the meeting of 21st July, 1930, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

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

Report of Select Committee on the Prisons Bill.

ORAL ANSWERS TO QUESTIONS.

CHANGAMWE RESERVOIR.

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

Whether the enquiry as stated was being held into the Changamwe Reservoir breakdown is now completed and if so will it be laid on the Table or a statement made?

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS (MR. S. C. BENNETT): The enquiry into the breakdown of the Changamwe Reservoir has been completed and the report submitted to Government. The report deals largely with technical details and it is felt that no useful purpose would be served by laying it, but it is open for inspection by hon. Members if they so desire. The substance of the report is to the effect that the failure was due to faulty design on the

part of the officers of the Public Works Department responsible for its preparation, a finding which is not disputed by the Department concerned.

CAPT. THE HON. E. M. V. KENEALY : Mr. President, arising out of that answer, may the House be informed what the monetary loss is which the country has suffered through this fault, and whether the country itself or individuals will be held responsible for making good that loss?

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS : Mr. President, the estimated cost of repairing the damage is at present £3,300. In view of the fact that of the two officers responsible for the design of this reservoir one is dead and the other one has left the Service, Government came to the conclusion that it could not hold anybody personally responsible, and they have decided to meet the cost from Government funds.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, Mr. President, may we be told whether this sum will be added to Mombasa's commitments or will it be accepted as a liability on the central Government?

THE PRESIDENT : I may say that it will form part of the general charge on the Mombasa Water Supply when it comes to be adjusted.

THE HON. CONWAY HARVEY : Arising out of that answer, may we be informed precisely what technical authority is responsible for examining the plans in connexion with these major engineering works?

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS : Mr. President, the system of the Public Works Department at present in vogue—as it has been since 1937, when the superintending engineer of buildings, the road engineer and the hydraulic engineer were appointed—is that the responsibility for all technical work is delegated to the Branch head. The plans in this particular instance, I will admit, were not signed by the Director of Public Works. It would have been a pure formality if he had signed them, in view of the fact that that responsibility had been delegated to the engineer in charge of the Branch head, namely the hydraulic engineer, who signed these plans on behalf of the Director of Public Works, and was held by the Director entirely responsible for that work; but unfortunately he has now left the Service.

THE PRESIDENT : For the information of hon. Members I might state that the Acting Director of Public Works is in rather a difficult position in this matter in that the attitude taken up by Government is this. We informed the Director of Public Works officially that in the view of Government this incident reflected serious discredit on the Department. Whatever may be the Departmental arrangements for the devolution of responsibility, it is considered that, at any rate in the case of works of magnitude, the Director of Public Works should himself countersign plans and specifications, since it is impossible for the Director to divest himself of his ultimate responsibility in matters of this nature.

DEATH DUTIES.

LIEUT.-COL. THE HON. C. G. DURHAM asked :—

Will Government in framing the Budget, consider the abolition of Death Duties?

THE HON. THE ATTORNEY GENERAL : This question has engaged the serious consideration of Government since the question was raised in connexion with the 1930 Estimates. In view of the present financial position the Government regrets that it sees no possibility of facing the resultant loss of revenue which would accrue, were the duties to be abolished in 1931.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT : Arising out of that answer, is it not a fact that the Chambers of Commerce have put up some proposition by which a similar amount of revenue would accrue, and on which it was agreed, I believe, in the last Select Committee on Estimates, that if such proposals were forthcoming Death Duties would be abolished.

THE HON. THE ATTORNEY GENERAL : No, Sir. The Association of Chambers of Commerce of Eastern Africa have stated that in their opinion they are able to put forward proposals which will bring in at least as much additional revenue as that obtained from Death Duties. No concrete proposals, however, have as yet been received.

CAPTAIN THE HON. E. M. V. KENEALY : Arising out of that answer, is it suggested that Government will view favourably the suggestion that they should decrease the cost of dying and increase the cost of living?

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT : Arising out of the hon. the Attorney General's reply to my question, if the Associated Chambers do put up definite propositions which meet what is required, will Government then abolish these Death Duties?

THE HON. THE ATTORNEY GENERAL: I am afraid I am not in a position to pledge Government in that or any other direction at the moment.

LIEUT.-COL. THE HON. C. G. DURHAM: Have Government invited the Chambers of Commerce to put up proposals?

THE HON. THE ATTORNEY GENERAL: The proposal, Sir, originated at a conference which the executive of the Association had with myself. The suggestion was then made. It has been slightly elaborated in the course of further discussions, but nothing concrete has yet been received.

BILL.

SECOND READING.

THE MENTAL DISORDERS BILL.

THE HON. THE ATTORNEY GENERAL: Mr. President, I beg to move the second reading of a Bill to Consolidate and Amend the Law relating to the Detention, Removal and Treatment of Mentally Disordered and Defective Persons and to Make Provision as to Institutions in which such Persons may be Received, Detained and Treated.

It is a curious fact, Sir, that the law relating to the mentally defective in this Colony dates back as far as 1858, just about the time when Dickens was pointing out so forcibly the defects which existed in England in the same respect. From that day to this no change whatever has been made in the local legislation; it is the more striking, the more noticeable, because there is perhaps no branch of medical science in which greater strides have been made in the period that has intervened since that date.

It is an extremely important subject as the liberty of the subject is nowhere in greater danger perhaps than it is if a slipshod and easy method of certification or adjudication as a lunatic is permitted, and so, Sir, I have no hesitation in saying that every Member of this House must agree that some measure of more up-to-date control of institutions for the mentally defective and of the methods of adjudication and reception of such people is overdue.

The Bill is a lengthy one, Sir, and I am bound to say is a very highly contentious and difficult one. It consists of twelve parts, of which perhaps the first is the most important. Mentally disordered and defective people are classified under the Bill in clause 5 according to the most modern classification, and the provisions as to reception are extremely detailed, extremely elaborate, for the simple reason, as I have already

stated, that it is of paramount importance that it should be made as difficult as possible to place anyone under restraint under the pretext that he is mentally disordered.

The new machinery, Sir, provides that any person may apply for a reception order to a magistrate, provided always that that person has seen the mental defective within seven days before the date of the application. On receipt of that application the magistrate has got personally to see the patient, has to have two medical certificates as to the mental deficiency of the patient, and no certificate can be given either by the medical officer in charge of any institution for the reception of mental defectives or by any person related in any way to the patient. If the magistrate is satisfied, a reception order is issued for the detention of the patient in an institution, but that does not end it, Sir. The magistrate has forthwith to send all papers, all evidence taken, all medical certificates to the *curator ad litem*, who is the Attorney General. He in turn has to scrutinize those papers; if satisfied that they are all completely in order he again has to forward them to a judge of the Supreme Court sitting in chambers, and it is only when the judge in turn is satisfied that it is a proper case for detention that an order, a permanent order for detention in an institution, can be made. Those are very elaborate safeguards, Sir, but I am sure hon. Members will admit that they are not a bit more elaborate than the circumstances of the case justify and necessitate.

There are, of course, provisions made for dealing with urgency cases, but the detention of an urgency case on a certificate of urgency cannot extend beyond the period of ten days, and the procedure in such a case is exactly the same as it is in any other case: two independent medical certificates are requisite, the approval of the *curator ad litem*, and in turn the approval of a judge of the Supreme Court sitting in chambers. All proceedings, needless to say, it is provided shall take place *in camera*.

Those are the main provisions, Sir, of Part I of the Bill.

Part II calls for little or no comment. It does little more than repeat what is the present law on the subject of criminal lunatics.

Parts III, IV and V deal with a subject that does not at the moment exist in the Colony so far as I am aware—the detention of mental defectives in private houses and in private institutions. It is provided that such institutions have to be licensed and that no person, under a severe penalty, may for remuneration or reward take charge of any mental defective

without reporting to the Commissioner for Mental Hygiene, another new appointment made under the Bill, an office the duties of which will be discharged by the Director of Medical and Sanitary Services, and in turn the Board of Mental Hygiene.

Similarly in Part VI, Sir, provision is made for temporary detention with a view to the treatment of mentally defective persons in a hospital or other institution for the care of the sick.

Then, Sir, we come to Part VII, to the appointment of the new office of Commissioner of Mental Hygiene (the Director of Medical and Sanitary Services) and the constitution of the medical hospital boards. Their duties are to visit all institutions at least once in every two months, and their powers to discharge patients from institutions.

As a natural corollary to the power to order detention of the person of anyone who is mentally defective, it is of course necessary to have equally elaborate provisions for the care of the property of such persons. These provisions hon. Members will find in Part VIII of the Bill. All I would say on that is that great though the powers of the *curator bonis* under that Part are they have all to be exercised in strict conformity with the directions and orders of the Supreme Court.

When we come to Parts IX and X, Sir, a very welcome change is made indeed. At the present moment a European who is mentally defective and is detained in an institution has either got to spend the rest of his life, subject of course to his being discharged as cured, in the Colony under circumstances which unfortunately do not always predispose to his chances of recovery, or he can be sent under the European Lunatics Removal Ordinance to South Africa. There is no power to send any person to any other part of the world except to South Africa. Under these provisions of the Bill, Sir, it will now be possible to send such a person, to send any mentally defective person, to any part of the Empire to which he belongs, and if he comes from a foreign country it will be equally possible to send a native of a foreign country back to his country provided that he and his relatives agree to that being done.

Equally under Part X, Sir, one of the present practical difficulties which we experience is overcome. It will be possible under the provisions of that Part to take into an institution within the Colony persons who are patients, who are certified to be mentally defective in another part of the Empire.

I daresay hon. Members are aware that at the present moment there is no institution in the Protectorate of Uganda which can possibly accommodate Europeans who are mentally defective and great practical difficulty has been experienced in getting such persons into institutions in this Colony. Under this Bill a simple procedure is laid down whereby they can be admitted and detained temporarily under a warrant lawfully issued in that other territory, but they are, of course, subjected to examination and certification within a very short time after reaching this Colony. If, of course, this certificate is not forthcoming—if the court is not satisfied that it is a proper case for detention—then of course the person is at once discharged; but the practical difficulty is overcome by the provisions of Part X.

Parts XI and XII—Part XI of course deals with offences, a subject which is always cropping up in new legislation, and Part XII deals with supplementary matters—call for no comment. I think it is only right, Sir, to say that though this Part has been very carefully and lengthily considered in England by the Ministry of Health, after full consideration of the provisions of the Bill, only two very minor amendments were suggested by the Ministry of Health, both of which have been accepted and have been embodied in the Bill.

In spite of that, I think it is only fair that I should say that from the point of view of practical administration the Bill does present certain considerable difficulties. Further, Sir, the Bill has not been received exactly with acclamation by the local Medical Association, and I understand, Sir, that a petition from that body against certain provisions of the Bill has been received. I therefore suggest, Sir, that this is a suitable Bill and a fitting subject for reference to a Select Committee of this Council, which will be able to take evidence from those who are expert in the subject, from those who have experienced the practical working of such measures, and from those who have practical objections to advance to the detailed provisions of the Bill.

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

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKES): I beg to second the motion.

THE PRESIDENT: The question is that the Mental Disorders Bill be read a second time.

CAPT. THE HON. E. M. V. KENYALU: Mr. President, I am happy to welcome this Bill, which I think has been required in this country for a long time. I do not believe, Sir, that "patient" has been defined in this Bill, nor do I consider,

Sir, that the patient's right to appeal against his description by a court, a doctor or a magistrate, or his own relatives has been sufficiently created. There does not appear to be adequate provision for him to appeal against a decision that he is insane either before he has been declared insane, and I think that part of the Bill requires further consideration.

Then, Sir, the State recognizes that the children of mentally defective persons whose parents have not come under the control of the State will be allowed to keep their own children in their own houses, and possibly at State expense. That appears to indicate the State's acquiescence in the breeding of children by one or both mentally inefficient parents, and I think that is a matter that requires consideration too.

Then, Sir, in regard to clause 45—cruelty or neglect of patients, especially if those patients happen to be children, I do not believe that the provision made is adequate to ensure against cruelty or neglect. In clause 45, Sir, the Commissioner has a limited right of entry for purposes of inspection and investigation; and I do not quite see how clauses 45 and 90 are complementary to one another or whether they are antagonistic to one another. They appear to overlap and I think these two clauses require further investigation in relation to one another. I do not think the State is taking powers sufficient to protect persons against neglect or cruelty.

In 47, Sir, although there are conditions laid down for the detention of patients, there is no provision to make it obligatory on the State or the institution to inform the patients as to what their rights are and I think a definite clause should be embodied in this Ordinance making it obligatory for the State or the institution or the magistrates to inform these persons fully as to what their rights are under the Ordinance; or they should be given the opportunity of examining the Ordinance on these points if they have the capacity to do so.

Then, Sir, there is a danger in this as it mentions "registered medical practitioner" but it does not stipulate that it should be a qualified medical practitioner. It may be possible for a practitioner who is not a qualified medical practitioner to become registered. It is unlikely but it is not impossible.

I see that the hon. the Director of Medical and Sanitary Services disagrees. Well, Sir, if there is no such possibility, then there will be no difficulty whatever.

In regard to the control of property of persons detained under this Ordinance, Sir, it may be quite likely that an individual would have the capacity at any rate to participate

in the control of his property although he might not have the necessary capacity to control himself. He might be suicidal or homicidal and yet be a keen business man. One has known kink managers and persons of that type who have qualities which indicate that they are slightly divorced from sanity, and yet they seem to have a certain capacity in the control of property.

I think, Sir, the question of the degree of liability, monetary liability, by the State should be definitely stated. After all, in a country such as Kenya, where there are very few mentally defective persons, it would be impossible to thrust the whole burden of their control upon their numbers. The State has got to make some definite contribution, because we are establishing an elaborate and expensive organization for their control and it would not be fair to thrust the whole burden on a computation basis and divide it amongst those persons who would benefit, and also would suffer under this particular legislation.

I support the Bill with the reservations I have made, Sir.

REV. CANON THE HON. H. LEAKEY: I endorse what has been said by the hon. the Attorney General with regard to the need for revision of the existing law with regard to lunacy. It has come to my observation in one or two cases where the medical officer or someone in charge has been unquestionably hindered in the work he wished to do to help certain cases through the law. I feel that it would be a very good thing that it should be thoroughly overhauled, and I agree with what has been said that it should be done very carefully and should go to a committee so as to make absolutely sure that it will meet all the special requirements of this Colony.

I certainly support the motion.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Mr. President, I am in sympathy with the Bill and intend voting for it.

In the first paragraph of the Objects and Reasons it states that the Bill is prepared on the instructions of the Secretary of State, and therefore I presume it is looked upon as a model Ordinance. In Part IX of the Objects and Reasons it states:

"Power is taken to order a patient, who is a British subject, not being a native of the Colony, to be removed in safe custody to the United Kingdom or to any British dominion: Provided that the place to which the patient shall be removed shall be the British dominion from which the patient derives his British nationality."

Reading that, Sir, I have also noted that there is no reference in the Bill to immigrants, so it still seems hopeful that while we remain immigrants we will remain sane and it is not necessary to deal with it under this Bill.

I notice, Sir, in clause 5, Class I, it states:—

"A person mentally infirm, that is to say, a person who through mental infirmity arising from age or the decay of his faculties is incapable of managing himself or his affairs."

I presume, Sir, that this is a model Ordinance and that that was probably copied from an Ordinance at home. I would like to know from the hon. the Attorney General in his reply whether that is so or not; and if so, whether the person responsible for the English Act has made any attempt to apply it to the Colonial Office or to His Majesty's Cabinet.

THE PRESIDENT: If no other hon. Member wishes to address the House I will call upon the Attorney General to reply.

THE HON. THE ATTORNEY GENERAL: There is little, Sir, I think I am called upon to say in reply.

I would like to deal with one or two points raised by the hon. and gallant Member for West Kenya because, as so often happens, I find myself in complete disagreement with him here. As a typical instance I would take, Sir, the fact that the hon. and gallant Member began by alleging that there was no definition of the word "patient," and after that by stating that there was no provision made whereby either a patient or his relatives might appeal. If the hon. and gallant Member...

CAPT. THE HON. E. M. V. KENEALY: On a point of order, Sir, I think that my statement has been distorted. I do not believe that I said there was no provision; I said that I considered the provision inadequate, which is rather different.

THE PRESIDENT: I take it that your interruption was on a point of personal explanation. My recollection was that you stated there was no definition of the term "patient" in the Ordinance.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir, I admit that, but I am referring to the appeal. I said I did not consider the possibilities of appeal were adequate. I admit that I said I could find no definition of the word "patient."

THE HON. THE ATTORNEY GENERAL: I accept that explanation, Sir, but I would refer to clause 4 where the word "patient" is defined, and to clauses 21 and 22 which provide that any patient against whom an order of detention is made may apply to the court, directly or through the official *curator ad litem*, for an enquiry into the cause and grounds of the detention; and the same power under clause 22 is given to his relatives. What greater measure of appeal one can give than an appeal to the Supreme Court I find myself at a loss to imagine.

There is only one other point that I should like to clear up, that raised by the hon. and gallant Member on the question of the registered medical practitioner. The words "medical practitioner" are also defined. They are defined as: "any medical practitioner duly registered under the Medical Practitioners and Dentists Ordinance." If the hon. and gallant Member will refer to that Ordinance he will see that it is impossible to get registration under it unless the person seeking registration has proper qualifications, so that a registered medical practitioner must be a qualified medical practitioner.

The hon. Member for Plateau North, Sir, mentioned the matter of immigrants. It is quite unnecessary to make provision in this Bill for immigrants as under the Immigration Restriction Ordinance an idiot or insane person is *ipso facto* a prohibited immigrant.

THE PRESIDENT: The question is that the Mental Disorders Bill be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: I beg to move, Sir, that the Mental Disorders Bill be referred to a Select Committee of this Council consisting of:—

The Hon. the Director of Medical and Sanitary Services,

The Hon. the Chief Native Commissioner,

The Hon. the Solicitor General,

The Hon. Member for the Lake,

The Hon. Member for Kikuyu,

The Hon. Member for Nairobi South,

with myself as Chairman.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES: I beg to second, Sir.

The question was put and carried.

The Council adjourned to 9.30 a.m. on Wednesday, the 23rd July, 1930.

WEDNESDAY, 23rd JULY, 1930.

The Council assembled at 9.30 a.m. at Government House, Mombasa, on Wednesday, 23rd 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.

MINUTES.

The minutes of the meeting of 22nd 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 the Committee on Government Housing Policy.

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

Report of Select Committee on the Deeds of Arrangement Bill.

Report of Select Committee on the Native Tribunals Bill.

SUSPENSION OF STANDING ORDERS.

HIS EXCELLENCY: I understand that hon. Members on that side of the House desire an opportunity of discussing the reconditioning of the Kamasia Reserve somewhat further in Select Committee. I propose therefore that Standing Rules and Orders shall be suspended in order to take the business of the morning, but when we reach the First Supplementary Estimates I propose to adjourn Council in order that the Select Committee may go into that item, and reassemble afterwards. I hope that will meet the convenience of Members; I understand that it will.

THE HON. THE ATTORNEY GENERAL: With your leave, Sir, I beg to move that Standing Rules and Orders be suspended in order to enable the motions, notices of which appear for the first time on the Order Paper to-day, to be taken without due notice.

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

The question was put and carried.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE PRISONS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Prisons Bill be approved."

This Report also, Sir, I am happy to say, is an extremely short one. It consists apparently of five recommendations, but actually of only four, as the fifth deals with nothing more than a clerical error in the original Bill. Of those recommendations there is none that calls for specific mention from me. I therefore, Sir, formally move that the Report be adopted.

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

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE DEEDS OF ARRANGEMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Deeds of Arrangement Bill be approved."

In this case there are only two recommendations. The first one merely avoids legislation by reference, setting out the definition of property *in extenso* instead of by reference to the Bankruptcy Ordinance, 1930. The second one extends the period during which a creditor who is not a party to a Deed of Arrangement may elect to take bankruptcy proceedings from one month to two months. That alteration is manifestly necessary in the interests of creditors in Great Britain or in any other part of the world.

I beg to move, Sir, that the Report be adopted.

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

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE NATIVE TRIBUNALS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the Native Tribunals Bill be approved."

This is a somewhat more lengthy document, Sir, but I am very happy to say that proceedings in Select Committee were of an extremely amicable nature, and I do not think there is really very much that is extremely contentious left in the matter. There are, however, one or two amendments suggested to which attention must, I think, be drawn.

In the Bill as printed the definition of "native" included not only Swahilis but Somalis. The feeling of the Members of the Select Committee, Sir, was that there was no justification for making Somalis, as suggested, subject to the jurisdiction of all native tribunals. The Committee has therefore recommended, Sir, that the definition of "native" follow the usual form which that definition takes, the form for instance which it has in the Interpretation Ordinance, and that at the end of clause 8 there be added as a further proviso a provision authorising the establishment of native tribunals constituted in whole or in part of Somalis; with the further provision that those tribunals shall have jurisdiction over Somalis as well as other natives. That provision, Sir, in the opinion of my hon. friends, the Chief Native Commissioner and the Provincial Commissioners present, will enable the Somali question to be quite adequately dealt with, while it will avoid the possibility of Somalis being made subject to the jurisdiction of native tribunals on which they as a race have no representation whatever.

The third recommendation, Sir, corrects what is manifestly an omission in the Bill as printed. There was no provision whereby imprisonment could be awarded for non-payment of a fine. That is corrected in the third of the recommendations.

The all-important matter, Sir, is dealt with in the fourteenth of the recommendations. As outlined in my speech on the second reading of this Bill, Sir, Government was prepared to meet the wishes of Elected Members by providing for recourse to the Supreme Court in certain cases. Substantial agreement has now been reached, Sir, in Select Committee, on that very important matter, and the suggested provision, Sir, is this: that appeals in ordinary cases should not go beyond the Provincial Commissioner, but that there should be recourse to the Supreme Court by way of a stated case in certain cases. Those cases, Sir, are where the Provincial Commissioner has confirmed a sentence involving a term of imprisonment for four months or more, or a fine of £15 or more, or in civil matters other than cases in connexion with marriage or in connexion with inheritance or relating to immovable property where the judgment, excluding costs, amounts to £50 or more. The result of that will be, Sir, that

the Supreme Court will not have any jurisdiction in minor criminal matters or in any case arising out of marriage, inheritance or land disputes.

Recommendation 17 adds a provision which exists in the Courts Ordinance at this moment. Sir, but which was inadvertently omitted from the Bill, empowering subordinate courts to take steps to execute the process and to carry out the judgments and orders of native tribunals. The procedure will be for the order of the native tribunal to be transmitted to the district commissioner, who is by this provision empowered to endorse that order to a subordinate court in another jurisdiction with a request that the order be enforced, and in that case the subordinate court will be empowered to do so.

Those, I think, are the only references, Sir, to which specific reference need be made. There are, as hon. Members will see, two minority reports attached to this report. With those I do not propose at the moment to deal. I shall have an opportunity, should occasion justify my doing so, to deal with any representations which may be made on these when the time comes to reply. At the moment I shall content myself with formally moving that the Report be adopted.

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

HIS EXCELLENCY: The question is:

"That the Report of the Select Committee appointed to consider the Native Tribunals Bill be approved."

CAPT. THE HON. E. M. V. KENYAL: Your Excellency, because this Report does not recognise—in fact, definitely excludes from its purview a principle which has been accepted throughout the world—anyhow, throughout the civilised world—of sex disqualification, I mean to oppose it.

In this Report, Sir, "elders" refers solely and wholly to men and not to women. I think that is an iniquitous provision because it definitely maintains in their inferior status the native women of this country and definitely thereby prevents their development on the lines of civilisation.

The Report, Sir, is retrogressive. It maintains ancient and often objectionable customs at the expense of the development of the native towards modern practice and civilisation.

Where tradition has so much sway inertia is a very difficult thing to overcome, and I consider it wrong that any Government should assist by the provision of obstacles towards

the overcoming of that inertia, and I maintain that this Report, and the legislation with which this Report deals, will have the effect of preventing development.

The legislation with which the body of this Report is concerned, Sir, is based upon the theory that the native character should be politically developed, and that it should be politically developed at the expense of efficiency, and justice and economy. A new principle is introduced, and that is that Kenya should pay for this kind of retrogressive legislation.

The political development of the native should not be the first consideration of this House. We are concerned with the prosperity and welfare and happiness of our native population, and I sincerely maintain, Sir, that, if this Report is adopted and legislation is enacted upon its recommendations, we shall be injuring the native, because we shall be thrusting him back when we have already agreed that our policy is to enable him to develop towards civilisation.

While I oppose the legislation proposed, Sir, I recognize that Government has attempted to meet the Elected Members' points to a certain extent, but Government has not gone far enough, and I trust that Government will see the inadvisability of this attitude. It has been suggested, and Government has maintained, Sir, that this legislation does not postulate any departure from principles already accepted by this House. If that is so, Sir, how comes it that we find that this Ordinance shall apply only till 1933 and that it shall then be subjected to analysis as to whether it is advisable to prolong or alter the terms of it? The only conclusion we can come to on this side of the House—a portion of this House—perhaps only one or two rooms of it—is that a direct departure is being made by the enactment of this legislation—a departure from the policy previously in vogue in Kenya. I do not think that can be contested; otherwise no such time limit would be imposed.

I feel convinced, Sir, that Government will find that this departure—which, I think, is a very clean cut departure from the past—will prove to be a failure, and I hope that in three years' time, when this matter comes up for revision, this legislation will be abolished.

I oppose the adoption of the Report, Sir.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, I wish to speak very shortly upon the third paragraph of the minority report, which, Sir, speaks of the change of the final appeal to the Supreme Court; and understood the hon. the Attorney General to say that Government was willing to meet the wish of the Elected Members. I do not know

whether he included me among the Unofficial Members. I do not know. I have made enquiries myself and had it in writing from the Senior Commissioners, and all the Senior Commissioners agree entirely that it is so. It do not think it is quite correct to attach to me the wishes of the Elected Members or the Unofficial Members, but I understood there was a strong feeling in the Select Committee that this amendment was for the good. That is merely the explanation I wish to make.

MAJOR THE HON. R. W. B. ROBERTSON-ETSTACE: Your Excellency, there is one point I am not quite clear about. In section 14 it says "civil proceedings other than cases in connexion with marriage or inheritance or relating to immovable property." If a man is to appeal, who settles his appeal if he does not go to the courts?

LT.-COL. THE HON. LORD FRANCIS SCOTT: There are just one or two points in this Bill, Sir. I do not know that the rights of people such as the Arabs and the Somalis are made quite clear, Sir. I hope it will be realised that in regard to the Arabs there has been only one word, I think, put in to make it clear that Arabs only come under this provision if they want to—they cannot be forced under it. Nor does it apply to any of the Coast areas, which are not in the form of Native Reserves.

With regard to Somalis, I am very glad that Government has accepted the alteration, and I think the present proviso makes it quite clear that they can only come under tribunals which are either entirely or partially formed by Somalis.

Sir, with regard to the minority report which I signed, I have agreed with the majority report because I believe what has been done has improved the Bill—has made it as workable as it can be made. But I do trust that Government will take a word of warning, and that is that when this comes to be reconsidered, that any people who try to urge on and thrust too much responsibility in the way of legal jurisdiction on the native tribes will pause and give serious thought before they follow any such procedure, as I think there is no question but that the only way in which these courts can function fairly and for the benefit of the native peoples concerned is by very strict supervision by the administrative officers in the what Canon Leakey describes, Sir, as "uncivilised pagans." I do think supervision is very necessary, Sir, and I do trust that in future people will go slow in development along these lines.

THE HON. E. POWYS COOM: Your Excellency, I have taken the line set out in the minority report because primarily I am very uneasy on the whole question of indirect rule, and I cannot help regarding the transfer of the administration of justice to natives as perhaps that side, that aspect, of indirect rule which is fraught with the greatest amount of danger.

I should like to emphasise the point made by the hon. Member for Ukamba that I think the only hope of these courts being a success is by administrative officers maintaining the closest possible touch with them and the closest possible supervision. I think that in dealing with primitive peoples there is no phase of our life in this country which is more valuable and must be guarded more carefully than the ability of those peoples to obtain justice at the hands of English administrative officers. I believe, Sir, that on that depends, more than anything else, the successful working of this Bill.

I too, Sir, feel that as these courts are in existence it is right to support the majority report of the Committee because I think this Bill, together with its amendment, is going to put the courts on a sounder footing than they were before. Therefore, if this is to have a fair trial it is only reasonable to adopt this report because it is going to give the courts the best possible chance of carrying that out satisfactorily.

I am further encouraged in taking the line I have because the last clause of the Bill does provide for reconsideration of the whole of this question at a later date—1933.

On those grounds, Sir, I support the report of the Committee as varied by the minority report which I have signed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the hon. Member for the Coast has asked a question as to the fate of appeals in matters connected with marriage and inheritance. The position I thought was quite clear, Sir. In those cases—marriage cases, inheritance cases and land cases—there will be no appeal beyond the Provincial Commissioner. There will, of course, be the right of appeal to a native court of appeal; from that to the district commissioner; and from him in turn to the Provincial Commissioner. Beyond the Provincial Commissioner there will be no appeal in those particular cases.

I should also, Sir, like to give an assurance to the Noble Lord, the hon. Member for Ukamba. The position about Arabs was, I thought, clear before the Select Committee sat; it is certainly abundantly clear now. No native tribunal can attempt to assert jurisdiction over any Arab except with the consent of that Arab. Furthermore, no native tribunal has the right to call an Arab before it as a witness or in any other

capacity. An Arab has the right to make use of the courts if he desires to do so, but unless he expresses that desire, Sir, the courts have no jurisdiction whatever.

I should like to say one word more. I am quite unable to see what bearing this measure has on the question of indirect rule at all. We are not conferring on the native population any rights that they have not at present. An enormous number of cases are, in fact, dealt with by Councils of Elders to-day, and that system we are continuing. There is no innovation in that respect in this measure at all, and I am entirely unable to see what bearing this measure could have on the question of indirect rule.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee appointed to consider the Native Tribunals Bill be approved.”

The question was put and carried.

ADJOURNMENT.

HIS EXCELLENCY: I will now call upon the Colonial Secretary to move that Council be adjourned for the purpose of allowing the Select Committee to consider the amendment to the First Supplementary Estimates, 1930, and thereafter resume.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that Council do now adjourn for the purpose of considering in Select Committee the proposed amendment to the First Supplementary Estimates, 1930, and thereafter it resume.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that Council be adjourned for the purpose of allowing the Select Committee to consider the amendment to the First Supplementary Estimates, 1930, and thereafter resume.

† CAPT. THE HON. E. M. V. KENYALU: Your Excellency, in this matter arises a matter of policy and a matter of principle which I think should not be discussed in Select Committee. Since it involves a financial commitment and embraces the introduction of a new policy I feel that it should not be discussed in Select Committee but should be primarily discussed in this House. I am opposed to the action proposed that so important a matter as this should be referred to a Select Committee primarily.

HIS EXCELLENCY: The hon. Member has every opportunity of discussing the matter afterwards in the debate on the approval of the Select Committee's Report.

The question is that Council be adjourned for the purpose of allowing the Select Committee to consider the amendment to the First Supplementary Estimates, 1930, and thereafter resume.

The question was put and carried.

Council adjourned.

On resuming.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE FIRST SUPPLEMENTARY ESTIMATES, 1930.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I call upon the Clerk to read the text of the additional Report of the Select Committee on the First Supplementary Estimates, 1930.

HIS EXCELLENCY: I think it will be for the convenience of Council and a simplification of procedure if that is taken as an addition to the Report of the Select Committee which has already been laid on the Table of this House.

(The Clerk read the addition to the Report of the Select Committee on the First Supplementary Estimates, 1930.)

HIS EXCELLENCY: As that addition has now been made to the Report of the Select Committee, I think the amendment contained in the resolution on the Order Paper is unnecessary and it would be simplest for the Colonial Secretary to move:

“That the Report of the Select Committee appointed to consider the First Supplementary Estimates, 1930, be adopted, and that the First Supplementary Estimates, 1930, be approved.”

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee appointed to consider the First Supplementary Estimates, 1930, be adopted, and that the First Supplementary Estimates, 1930, be approved.”

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to move an amendment to the motion:—

"That on page 2 of the First Supplementary Estimates, 1930, item 25, Public Works Recurrent—£16,500, be deleted and the sum of £6,500 be substituted."

In other words, Sir, a reduction of that amount by £10,000.

My colleagues and I, Sir, feel very strongly indeed that Government has not addressed itself sufficiently seriously to the important problem of the enormous allowances which we have paid each year in the form of rent for offices and house allowances to members of the service, and the cost of renting houses for such members as houses cannot be provided for. Now, Sir, £16,500 does seem an unreasonable amount to add to the original vote of £47,200, and we feel that an estimate of a more exact nature should have been made when this year's Estimates were under discussion last year. We consider, Sir, that details should have been supplied showing quite definitely the proportion of the total sum absorbed by rents of offices and houses, and a separate figure to show the actual amount spent in the form of house allowances in lieu of quarters. Now, Sir, we all know that Government is quite definitely committed to a very large number of the present members of the Service who are under contract, and it is not suggested for one moment that there should be any violation whatever of Government's commitments in that connexion, but we still continue to press, Your Excellency, for very serious consideration of the possibility of introducing the principle of consolidated pay in the case of new appointments. We consider that Government has been for many years, and still is, unduly lavish in the quality and class of accommodation provided for members for whom accommodation has to be supplied. We consider, Sir, that insufficient regard is paid to the financial position of the Colony.

A very good illustration of that, Sir, exists at Nakuru. Government owns a house at Nakuru which it rents out. At the same time it hires at a very much higher rental than it receives from that house another house from a man who is not a member of the Service, at a rental almost double what Government receives for its own house, and I suggest that Government houses might quite well be used instead of hiring very expensive houses for this purpose.

In Nairobi and Eldoret, Your Excellency, we have been told quite plainly that speculative builders are quite prepared to erect suitable accommodation for the amount of money to which members of the Service are entitled under their

terms of contract, and in view of that there would appear to be no need whatever for Government to rent houses for its servants at a cost greatly in excess of what the individual would be entitled to under his contract.

Now, Sir, apart from the housing question; we consider that further details should be made available as to the necessity for such a very large sum of money to be spent on extending the Nairobi Aerodrome. We appreciate the fact, Sir, that the 600 yards diameter must be extended to 1,000 yards in order to conform to air regulations in connexion with the land; but £1,050, Sir, does seem an enormous sum of money for levelling out this comparatively small area of land. We should welcome justification of what we believe to be a very high figure.

Now, Sir, speaking for myself, I intend to support on broad lines the Government proposals in relation to the reconditioning of the Kamasia Reserve. I do happen to know that Reserve and I consider that this work should have been undertaken a long time ago. The condition of the Kamasia, Sir, is undoubtedly pitiful, and almost every year they do clamour for and get substantial famine relief. I honestly believe that the expenditure of this trifling sum of money might be a very good investment, inasmuch as it will probably obviate the necessity for constant recourse to the public purse in the shape of famine relief.

We have, during this session of Council, Your Excellency, put up several proposals to Government for the relief of agriculture generally, and I think it is only reasonable and right and proper that we should show our sympathy with this proposal for the specific relief of a very deserving section of the native community. At the same time, Sir, it is important to emphasize the fact that we do not agree for one moment to the principle that the reconditioning of all Native Reserves for all time is a fair charge on the public purse of the Colony. In many cases, where they can afford to, we consider that the natives themselves should contribute—wherever that is practicable—but in this particular case I consider that the Kamasia are entirely deserving of the maximum sympathy. At the same time, Sir, we should be satisfied that the money is to be wisely spent, and it is by no means admitted by many of us that the same result would not be achieved if an intelligent system of culling surplus native stock was insisted on by Government and effective steps taken to stop the increase—the enormous increase—of that uneconomic animal known as the goat.

There is one point which has not been mentioned in connexion with the Government's proposals. I think I am right in saying, Sir, that trypanosomiasis is rank in the

Kamasia Reserve, and I believe those natives are deprived of the use to a large extent of their grazing land owing to the ravages of the tsetse fly. It would be interesting to know whether Government has had recommendations for releasing a greatly increased area of grazing by taking effective steps to kill these flies, and so on, and clean up infested areas generally.

I sincerely trust that this expenditure, Your Excellency, will be very carefully supervised and that a report will be made available before Elected Members are called upon to discuss next year's Estimates.

HIS EXCELLENCY: The hon. Member has not moved an amendment.

THE HON. CONWAY HARVEY: I beg to move the amendment mentioned at the beginning of my remarks, Your Excellency, that the figure £16,500 be substituted by the figure £6,500.

HIS EXCELLENCY: The amendment must take the form that the Report of the Select Committee be amended by the insertion of the following paragraph at the end:—

“That the sum of £16,500 under Public Works Recurrent—Rents of Offices and Houses and House Allowance in lieu of quarters be deleted and the sum of £6,500 substituted therefor.”

Does any hon. Member rise to second?

CAPT. THE HON. E. M. V. KENYAL: Your Excellency, I rise to second that amendment. Do you wish, Sir, that this amendment should be spoken to separately?

HIS EXCELLENCY: Yes.

CAPT. THE HON. E. M. V. KENYAL: Well, Sir, when this question arose last Budget Session we were unable to find out what our contractual obligations towards Civil Servants in this country were. We are still in that condition. Government undertook to institute an enquiry and give us some definite information. We have not had that definite information, although we have to-day had laid on the Table a Report of the Commission on Government Housing Policy, but I have not yet had time to read it. I consider it is unfair that Government should introduce a proposal of this nature without giving Members an opportunity of reading the Report of this Commission on which, presumably, this proposal was based. I see some of the dates given were in

February. That implies, I suppose, Sir, that four or five months have elapsed before this House has had an opportunity of reading it and analysing it. I consider that is an improper method of doing it, and because of that I support this amendment and support the proposed deletion of £10,000 in this particular vote.

HIS EXCELLENCY: The question is that the Report of the Select Committee be amended by the addition of the following paragraph at the end:—

“That in Public Works Recurrent—Rents of Offices and Houses and House Allowance in lieu of quarters—the sum of £16,500 be deleted and the sum of £6,500 substituted therefor.”

LIEUT.-COL. THE HON. C. G. DURHAM: I support the amendment, Sir.

THE HON. THE COLONIAL SECRETARY: Your Excellency, the hon. Member for the Lake stated that he would like to have further information as to how the various items under this Head of Estimates were made up. The amount now asked for in addition, as hon. Members are aware, is £16,500. The amount which appeared in the sanctioned Estimates was £47,200, as stated in the Explanatory Memorandum.

The reason for this original under-estimate on the part of the Director of Public Works was due to the fact that certain housing both for Europeans and Asians, which it was expected would be completed during the course of the year, has not been completed and is not likely to be fully completed, and therefore it is necessary under existing regulations and contractual obligations to pay those officers house allowance.

The further point is made that Government is coming—or the suggestion is made that Government is coming—to the House now asking for larger provision under this item this year than was the case last, but such is not really the case. The total figure for which we are asking—the sanctioned Estimates and the First Supplementary Estimates—is £63,700. The total sum of money spent last year, in 1929, under this same vote was £64,571. Therefore the anticipated expenditure this year is very slightly smaller than last—approximately the same.

Then I have been asked if I can give particulars as to how this vote is split up. I cannot do so with certainty as regards the 1930 expenditure because it is very difficult to say from day to day, from month to month, exactly how the allocations may work out, but I have the figures for the expenditure during 1929, and they perhaps may be a guide

and provide useful information to hon. Members opposite. Of the total of £34,571 which I have just mentioned, £14,803 represented the rents of rented quarters; £8,355 represented rents paid for rented offices and other public buildings; and £11,413 represented the money paid in house allowances to officers who were not provided with Government quarters. The allocation of the last item as between officers of the service was:—

Europeans	£15,700
Asians	23,588
Africans	2,125

There is just one other point. The hon. Member for West Kenya stated that Government had not yet given information as to what the contractual obligations between the Government and its servants were. I regret, Sir, that he has not had time—it is quite true this Report has only been laid to-day—to read the Report fully, but if he does so he will find that that question is dealt with very fully in the Report and the position set out. It is the case that certain Members signed their Report, or the minority Reports, as early as February, 1930, but certain other Members were not equally prompt and considerable delay was caused in securing all the signatures to that document. Since then the matter has been under consideration by Government and as inevitably from reading this Report it will be observed that some reference and comparison is made between the housing policy of Government and that of the Kenya and Uganda Railways and Harbours, the Government has been going into the recommendations in this Report further with a view to seeing how far it is possible to adopt a uniform system throughout the Colony. For that reason it has been impossible to make any definite pronouncement at this date on the subject, but hon. Members will have a full opportunity of dealing with the Report and all its implications in connexion with the 1931 Estimates.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, this particular point raises a question which I do trust will be settled before long; that is, the whole question of terms of service of the civil servants in this country.

With reference to what the hon. the Colonial Secretary said, I see in the Estimates for this year, Sir, we are told there is a decrease of £6,000 on last year which, in the note, says is due to an increase in the number of public buildings and houses. As capital money has been spent on the increase of houses and buildings one did hope that the recurrent expenditure on rents and so on would decrease proportionately, which it does not seem to be doing.

HIS EXCELLENCY: The question is that the motion be amended by the deletion on page 2 of the First Supplementary Estimates, 1930, item 25, Public Works Recurrent, of the figures "£16,500" and the substitution thereof of the figures "£6,500."

The question was put and lost.

CAPT. THE HON. E. M. V. KENEALY: Is the rest of the Report now open to discussion, Sir?

HIS EXCELLENCY: Yes.

CAPT. THE HON. E. M. V. KENEALY: On page 2, Sir, "Expenses of Census"; it was urged in the Select Committee that Government should agree to take that census early in the year. I hope, Sir, that Government will so agree.

In regard to weights and measures, Sir, the Select Committee's Report states that the hon. the Colonial Secretary undertook to go into the question of the operation of weights and measures as affecting the Railway Administration. Surely, Sir, it should be a postulate that the laws of the country apply equally to the Railways and Harbours. I should like a reassurance on that before passing the Report.

In regard to item 33 on page 3, the supply of pumps for water in the Kamasia Reserve, that, Sir, raises a very big question. I shall deal with the control of stock under the reconditioning vote which comes later on, Sir, but the policy of providing pumps for Native Reserves is one which I think is worthy of further consideration. If pumps, why not other things? Where is the line going to be drawn? Out of general revenue are we to supply funds for particular purposes without a very shrewd analysis of the advisability of so doing? I think it is an improper suggestion for Government to make that out of general revenue pumps should be supplied to a Native Reserve. Perhaps it can be justified, but I have not yet heard the justification, even in Select Committee.

Then the big question of the initiation of a policy of reconditioning Native Reserves in the vote of £1,250. It seems, Sir, a small sum to consider, but on what basis is that sum brought in? This question of reconditioning Native Reserves has not been referred to the Agricultural Board. Now, Sir, at a great expense to the country that Board was instituted; its activities are wide and I maintain, Sir, that the investigation of a problem such as that is one of its activities. I deeply regret that this matter was not the subject of reference to the Agricultural Board.

We have had no report to Council, Sir, as to the advisability of reconditioning; we have had no report as to the details. Certain details were given us in Select Committee, but those details, although they may justify some action being taken, do not, I maintain, justify the initiation of a policy such as this which is illimitable in its scope. It may involve the country in very large monetary commitments. This appears to be a token vote, and if reconditioning is to be utilised, where is the line to be drawn?

The major criticism that I have, Sir, is that Government has not adopted the first and most fundamental step in benefitting Native Reserves and thereby affecting their reconditioning, and that is the control of the numbers of uneconomic stock in those Reserves. We have urged throughout several Budget sessions, Sir, that action should be taken. The Agricultural Commission made a definite recommendation that one of Government's first duties towards the native population of this country was immediately to institute some system of control of native stock and a limitation of their numbers commensurate with the carrying capacity of the Reserves; that has not been done. Of course, Government utilises our position in this matter in a peculiar way. Government states that the only alternative to the acceptance of this policy and the adoption of this principle is the extension of the Native Reserves. We, Sir, challenge that statement. We maintain, Sir, that administrative action should be taken to limit the number of stock in Native Reserves, and that, Sir, is the major part of this question. We are willing, on this side of the House, to vote money for the betterment of the Native Reserves but we feel that Government has lamentably failed in its duty towards the natives themselves and the country generally in suggesting a measure which will accentuate and perpetuate a practice which is at present a curse to Kenya in breeding and maintaining uneconomic stock at the expense of the country.

There is one other item which is deserving of mention, and that is on page 7—Nairobi Telephone Exchange. I only raise that Sir, because in the footnote I see the utilisation of Surplus Balances is quoted. Now, Sir, that Committee put out a definite recommendation that Surplus Balances should be used, not only in this manner, but also in financing a Land Bank—that £200,000 should be set aside for the purpose of a Land Bank. If a recommendation such as that, unanimously agreed to, carries no weight, why is it that the resolution dealing with the Nairobi Telephone Exchange carries more weight?

I do not know if Government can give us an assurance in regard to the policy of reconditioning the Native Reserves—that the results of the expenditure of this money will be made available to the House before next year's Estimates are considered, but I am afraid I cannot agree with that. I am not often called upon to defend Government, but in this instance I imagine, Sir, that it will be utterly impossible for Government to give the information to conform with the conditions which Elected Members—or a certain section of them—have imposed upon Government, that the analysis of the results of the expenditure of this money can be made available before the introduction of the next Budget session. I imagine, of course, that that cannot be done. I believe it cannot be done, and I shall never expect Government to do it.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, there is one section—section 4 of the Report of the Select Committee—on which Elected Members desire information—the Registration of Domestic Servants Ordinance. It is outside Nairobi that the question which has been agitating the country for a long time—and I am glad to see the vote is in here for starting it in Nairobi. I quite realise that to get this started, and without augmenting the staff to do it, it must be done firstly in the towns, but there is a very general feeling all throughout the country that as soon as possible it should be extended to the districts outside as well.

With reference to the Kamasia Reserve, in regard to the pumps and reconditioning, I hope and believe—and I understand from the Colonial Secretary the other day that the Government are doing so—that there will be some definite procedure laid down in regard to pumps—as to what the liability is for the Reserves who get these pumps, and so on. It is rather unsatisfactory at present, this rather haphazard method of introducing a sum into Supplementary Estimates.

With regard to general reconditioning, I do know a little bit about that part of the country, Sir, and I do think Government are justified in spending money there in the way they propose. The difficulty there is to see that such money is really of permanent use and is not wasted. I understand the land is to be ploughed up with the idea of encouraging grasses and clover, and so improve the grazing capacity of the area. To make this of any use there must be proper control of the stock in the Reserve to see that they do not eat it all up and destroy the good that is done. The curse of the problem is our old friend the goat. He is a rotten, uneconomic animal. He destroys a great deal and he is not easily disposed of. Water too—that is a problem that Government

has got to tackle. My mind does not rise to a solution of the problem, but I hope the united wisdom of Government will be able to do so. It is a big problem, and one which must be taken into consideration if we are to do anything at all to improve the Reserve.

When it comes to cattle, there are means of finding markets for cattle: there are many fanners about who are willing to buy their available stock of cattle, but the goat problem, Sir, is a much more serious one and I do hope that something will be done to deal with it.

With regard to the remarks of my gallant friend on my right (the hon. Member for West Kenya), I do not think we suggested that Government should give us a report on this matter before the next forthcoming Budget, but we do trust that before this extremely useful work is extended into next year they will be able to let us know whether the result of this money which is being voted now has been of practical value in developing the carrying capacity of the Kamasia Reserve.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, I have no personal acquaintance with the Kamasia Reserve myself, but having heard the reports of the officers who have gone to examine the state of things there and what has now been said by the hon. Member for the Lake regarding the pathetic state of these people, I very warmly welcome the money being spent on these people.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I agree with the Report of the Select Committee, and as that Report is now before the House it is not necessary for me to go into details. But there is one item which was not before the Committee when we sat but has been taken this morning.

With regard to the reconditioning of the Kamasia Reserve, on principle, Sir, I maintain that the action of the Government in this matter can be approved; but they have introduced reconditioning without having referred the matter—as I consider they should have done—to the Agricultural Board. The Agricultural Commission made a very definite recommendation in regard to the very necessary investigations prior to reconditioning, and also they were very emphatic in regard to the stock question. They were also very emphatic about the destructive abilities of the goat, and I am perfectly certain, from a very long experience, that it would be an economic action on the part of Government to have the whole of the goats of this Colony exterminated. It is a shocking animal.

I suggest, Sir, that matters such as this should have gone before the Agricultural Board. Even if they were not asked to investigate, and only as an act of courtesy, they should have been asked to express an opinion on the information before Government.

I am not satisfied that this money is going to be spent to any advantage—£1,250, principally made up of items such as remuneration of the reconditioning officer and the purchase of trained oxen and ploughs, which I consider myself, from very long experience, the wrong type to use. It seems astounding, Sir, that it is necessary to purchase oxen outside a Native Reserve that is presumed to be overstocked; although they may have had losses amongst their stock due to locusts and drought.

I cannot see that the details of that proposition are going to help to any effective extent. I think the one value which will be got will be a negative one. It will prove to be more or less a waste of money, though there may be a certain amount of information got from these experiments, and it will have to be looked on as an experiment; it may have that value.

I do not intend to vote against it, but I should like Government to consider the points that have been brought out in the debate with reference to the reconditioning of Reserves, and that for the future a comprehensive survey should be taken of the situation and put before Members on this side of the House as regards the commitments that are likely to be made under this item in the future.

THE HON. E. POWYS COMM: Your Excellency, I beg leave to move an amendment to the Report of the Select Committee to the effect that the item "Administration Extraordinary—Reconditioning of Kamasia Reserve—£1,250" be deleted.

— My reason for doing so, Sir, is not that I do not realize the extreme importance of increasing the productivity of the Native Reserves; on the contrary, I regard it as a matter of extreme importance. So large an area of this Colony has been set aside as Native Reserves and it contains such valuable land, that that land must be made the very best use of and must yield the maximum it is capable of yielding if the economic situation is to be truly maintained. I therefore am as anxious as any Member of this House that the Reserves should be reconditioned, but I submit, Sir, they have got to be reconditioned in a practical manner, and I doubt the practicability of the scheme now proposed. Last year you thought it worth while, Sir, to appoint an Agricultural Commission, and you obtained the services of a very distinguished

agriculturalist as its chairman. The Commission received a very great deal of evidence from administrative officers on this very subject. It also visited the Reserves and its chairman in fact made a special point of visiting a Reserve such as the Kamasia; the recommendations of that Commission are perfectly clear on the subject, that reconditioning is necessary, imperatively necessary, but that the first step towards it must be the reduction of the number of stock in those Reserves because the Reserves are overstocked. Further, it was clearly shown, Sir, that a very large number of stock in those Reserves had no economic value whatsoever. Many of the cattle were of so poor a quality as to have no economic value, and the goats, of which a very large number exist in this and other Reserves, are definitely shown to be a destructive factor rather than a factor of any value.

Now, Sir, if you have a Reserve that is overstocked, surely the first step is to reduce the number of stock before you can possibly hope to improve the land by means of ploughing and planting improved grasses, which I understand is the method proposed in this case. I feel that before asking Members on this side of the House to vote for this amendment Government should show very definitely in what respect the recommendations of the Agricultural Commission are in error. Until that is done, I am afraid I must vote against this particular item of expenditure in its present form.

Further, Sir, I think it is very unfortunate that a matter of such great importance should be introduced at the eleventh hour, when the Estimates are actually being considered, under a motion suspending Standing Rules and Orders, and although I am very grateful to the hon. the Colonial Secretary for the trouble he took this morning in trying to explain the position, I do not feel that that explanation is by any means complete. I feel there is a great deal more we have a right to know before this policy is embarked upon, because I would remind the House, Sir, that this item of £1,250 which appears now is only the first instalment—it is only intended to carry this experiment up to the end of the year—and that probably a vote of at least twice the size will be asked for next year, and so on. It is, in fact, the initiation of a policy of very great importance, and that being so, I submit, Sir, that it would have been a fairer plan and a wiser plan if the House had been given a longer time in which to consider the matter; and bearing in mind that the Agricultural Commission reported last October, I submit, Sir, that Government has had ample time between then and now to put this matter fully before this House. I think it is a great mistake, Sir, to rush a matter of such importance through at the eleventh hour.

I am not taking up merely a negative attitude on this matter. I believe that there is a great deal of work which could be done in the Kamasia Reserve, usefully done indeed, without any further delay. For example, you have already begun, Sir, to sink for water. I venture to suggest that this £1,250 would be far better spent in an extension of boring operations because, after all, water is one of the prime matters in an agricultural Colony such as this; and further, should it be determined later, after you have found the water and after some kind of culling of uneconomic stock has been done, to set about a policy of reconditioning, the information obtained by the sinking for water would be valuable as indicating the districts in which reconditioning by the planting of improved grasses should take place. I maintain that, owing to the lack of that information, experiments in reconditioning the Reserve may be undertaken at spots which are not the most desirable. I cannot believe that that is ever in the interests of the Colony as a whole or of the Kamasia tribe in particular.

On those grounds—not that I am against the general principle of reconditioning, but I am against the methods now proposed—I propose this amendment.

CAPT. THE HON. E. M. V. KENYALU: I beg to second that amendment.

HIS EXCELLENCY: The question is that the motion be amended by the addition of the following words at the end:—

“but that the sum Administration Extraordinary—Reconditioning of Kamasia Reserve—£1,250 be deleted.”

The question was put and lost.

THE HON. THE COLONIAL SECRETARY: I did not wish to intervene in the debate on the amendment, but now that the amendment has been disposed of I think it important to deal with the suggestion which has been put forward that this Government had been guilty in any way of discourtesy towards Sir Daniel Hall, whom I was instrumental in asking to come and preside over the Agricultural Commission, or to the Board of Agriculture. The recommendations of the Agricultural Commission in regard to the reconditioning of Native Reserves postulated as the first condition of doing so the establishment of a meat factory. Hon. Members on that side of the House are perfectly well aware that the Government has been very carefully going into the question of the establishment of a meat factory, and proposals to that end have been laid before the Board of Agriculture and have now gone to the Secretary

of State. Everything therefore has been done to carry out the recommendations of Sir Daniel Hall and of the Agricultural Commission, and every respect has been shown in the matter to the position of the Board of Agriculture. This is purely an emergency piece of expenditure. The Board of Agriculture was totally unable to judge of the emergency, and I am afraid that the Government must retain the discretion to spend money in an emergency if it believes that it is absolutely required. What I wish to make perfectly plain is that there is no foundation whatever for the suggestion that the Government has shown any lack of respect for Sir Daniel Hall or for his Report, and I very much regret that that suggestion was made.

Your Excellency, there are one or two points which I should like to deal with in reply. Your Excellency has dealt so fully with the proposal for reconditioning the Kamasia Reserve that I do not think I should say much more on that point beyond adding these two remarks. The Noble Lord the hon. Member for Ukamba, and, I think, the hon. Member for West Kenya, referred to the question of pumps in the Native Reserves. I would inform him again, as I did in Select Committee, that the Government is not entirely satisfied that the present method of administration of water-boring parties in Native Reserves is in the best interests, either of the Reserves themselves, or is the most economical arrangement to make. The matter has been considered at a Provincial Commissioners' meeting, who are making a report on the subject, and a suggestion at any rate has been made that we should get the capital expenditure for these pumps out of loan, possibly out of the Colonial Development Fund, and that then the interest and running charges should be met either by a special water rate or some form of taxation by notice. It would be difficult to find the capital money whereby they could, even by way of cess, meet the interest on the capital involved.

I have been asked to give an assurance, Sir, that the work to be done in the Kamasia Reserve will be carefully watched and a report made to Council as to the success of this venture. I am only too willing to do that. I would, however, like to emphasize on this point that we are asking this House to vote this money in order to endeavour to make a very definite experiment and tackle a very difficult problem. If we are always going to wait until this condition and that condition is favourable the result is that nothing is done, and we do feel that in taking the measures that it is proposed to take we are only doing so after having taken the best expert advice available to us in the Colony. The proposals are based on a

very careful survey by a most competent officer of the Agricultural Department. They have been endorsed as sound by the Agricultural Department, and I do suggest that if this Government is going to employ skilled officers and pay them large salaries it is rather useless not to follow their advice on technical matters.

A suggestion has been made, Sir, that in many cases it is a pity to conduct these operations until we know more about the cases to be treated first, but I do suggest in a matter of his sort that the man on the spot must necessarily know more about it than any gentlemen, however well skilled in agriculture, sitting round this table; and in amplification of that I would just like to read this report from the Provincial Commissioner. He says:—

"I am of opinion that we should commence operations in the south eastern Kamasia locations, i.e. Elkeben, Pokorr and Enderois, where reconditioning would appear to be more urgent and where water has been obtained by boring."

In other words we are attempting the principle suggested by the hon. Member for the Rift Valley, that we should commence our operations in an area where water has been found to exist.

There are one or two other points in connexion with the Supplementary Estimates that perhaps I should refer to. Hon. Members in Committee asked for information as to how the sum of £1,050 for the Nairobi Aerodrome was made up. I have now received figures on this point. The area of the existing landing ground is 58 acres. The area to be dealt with to provide the extension now required is 105 acres making a total area of 163 acres. The estimate of £1,050 contains the following items:—

	£
	10
Clearing and stumping	10
Filling in large depression with red or other suitable soil transported $\frac{1}{2}$ miles	210
Levelling ant hills	60
Digging out rocks, carting away and making good with soil	20
Filling small holes and depressions	30
Grading and dragging whole area to produce even surface, 105 acres at £3	315
Taking up and relaying boundary marks, 1,600 feet super, at 50 cents per foot super ..	40
Drainage of three acres by means of herring bone system of agricultural drains	300

As hon. Members are probably aware, a great deal of the Nairobi Aerodrome is composed of black soil of varying consistence, and in this estimate, which may at first sight appear to be large, provision is made for two large specific works—the filling in of a large depression at a cost of £210 and under-drainage of three acres at a cost of £300. The other items represent an average cost of £5 an acre for clearing and levelling. I hope that information will satisfy the hon. Members opposite.

The other point on which I was asked to give information, Sir, was on the extension of the Eldoret and Kitale Schools and the cost of the electrical installations there. The cost at Eldoret School is £840 and at Kitale £480. The work on both was completed by the end of 1929, and the revote now asked for, amounting to £366, was utilised in payment of the contractors' outstanding bills for wiring.

The lighting sets installed are Petter sets, the engines of which operate on crude oil. They were adopted in order to economise in running charges. No storage batteries are included in the installations and the lights function only while the engines are kept running, but it was understood when the sets were ordered that this arrangement met the requirements of the school authorities inasmuch as while it did not afford the convenience of continuous lighting throughout the night, the utmost economy in operation and maintenance was thereby secured. In view of the expression of opinion now that that system is not adequate the Government are considering the installation of storage batteries in the cheapest manner possible.

Sir, I think that covers the points raised in the Select Committee and the remarks made by the hon. Members opposite.

HIS EXCELLENCY: The question is:—

“That the report of the Select Committee appointed to consider the First Supplementary Estimates, 1930, be adopted and that the First Supplementary Estimates, 1930, be approved.”

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE SHOP HOURS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

“That the Report of the Select Committee appointed to consider the Shop Hours (Amendment) Bill be approved.”

In 1928, Sir, a short Bill to amend the Shop Hours Ordinance, 1925, was introduced. The object of that Bill was to exempt from the operation of the Ordinance certain essential services, such as sellers of motor fuel, motor oil, motor cycle and aircraft parts and accessories. The Bill was referred to a Select Committee and it is the Report of that Select Committee which this Council is to-day being asked to adopt.

At the time when the Select Committee reported the opinion was expressed that a more comprehensive review of the whole system, the whole principle, on which the parent Ordinance was based was required, and in view of that expression of opinion, Sir, the Report of the Select Committee was never formally adopted. The result is, as hon. Members will see, that the selling of petrol from a petrol pump, the selling of oil outside ordinary hours, the selling of spare parts and tyres or anything of that sort out of the ordinary prescribed hours, is at present illegal. We all know that it is going on but it is entirely wrong that its continuance should not be legalized. The recommendations in the Select Committee's Report, Sir, are extremely simple and extremely short. They are, firstly, that exemption from the provisions of the Ordinance should be granted to motor fuel sellers, motor oil sellers, and sellers of motor cycle and aircraft supplies and accessories; and secondly, Sir, that in native locations shops for the convenience of the population should remain open until 7 p.m. instead of 6 p.m. The reason for that was that the evidence before the Committee was that most of the inhabitants did not leave work until about 6 o'clock, and therefore unless the shops were allowed to remain open a little longer they had no facilities for shopping at all.

I beg to move.

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

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee appointed to consider the Shop Hours (Amendment) Bill be approved.”

THE HON. CONWAY HARVEY: Your Excellency, I am only going to raise one small point. I think the Report of the Select Committee might quite reasonably have given some reason for the restricted scope of clause 19 by deleting any reference to intoxicating liquor from restaurants, cafés or eating houses. There is no reason whatever given up to now for that having been deleted.

THE HON. THE ATTORNEY GENERAL: I can give the reason very simply. The hours during which sellers of intoxicating liquors may remain open are already regulated by the Liquor Ordinance. Restaurants, eating houses and cafés are already exempt from the full scope of the measure by virtue of the provisions of schedules 2 and 3 of the Ordinance, and it was therefore unnecessary to repeat the provisions relating to either of those classes of trade.

THE HON. CONWAY HARVEY: Thank you.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee appointed to consider the Shop Hours (Amendment) Bill be approved.”

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Council resolve itself into a Committee of the whole Council to resume consideration of the Brokers (Amendment) Bill. It has already been referred to a Committee, Sir.

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.

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: Your Excellency, under No. 79 of the Standing Rules and Orders I beg to move that this Bill now be referred to a Select Committee consisting of:—

The Hon. the Senior Commissioner, Coast.

The Hon. the Nominated Arab Member.

The Hon. Member for the Lake.

The Hon. Member for the Coast.

The Hon. the Elected Indian Member,

with myself as Chairman.

Your Excellency will recall that a few days ago the hon. the Elected Indian Member laid a petition and had leave to have it referred to a Committee, and I am suggesting that the same Committee might deal with that petition also.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resume.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill entitled the Brokers (Amendment) Bill has been further considered in Committee of the whole Council and has been referred to a Select Committee.

THIRD READINGS.

THE PRISONS BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Prisons 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 Bill was read a third time and passed.

THE DEEDS OF ARRANGEMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Deeds of Arrangement 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 Bill was read a third time and passed.

THE NATIVE TRIBUNALS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Native Tribunals 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 Bill was read a third time and passed.

THE SHOP HOURS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Shop Hours (Amendment) Bill be read a third time and passed; subject to a formal amendment which I beg to move under Standing Order No. 85 that the figure "1930" be substituted for the figure "1928" in the first clause.

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

HIS EXCELLENCY: The question is that the Bill be amended by the deletion of the figure "1928" in the second line of clause 1 and the substitution of the figure "1930" therefor.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill, as amended, 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 Bill was read a third time and passed.

APPOINTMENT OF SELECT COMMITTEE.

THE MINING BILL.

HIS EXCELLENCY: I understand that the following Select Committee has been agreed to consider the Mining Bill:—

The Hon. the Commissioner for Local Government, Lands and Settlement (Chairman).

The Hon. the Attorney General.

The Hon. the Chief Native Commissioner.

The Hon. the Solicitor General.

The Hon. the Director of Education.

The Hon. the Member for the Lake.

The Hon. the Member for West Kenya.

The Hon. the Member for the Coast.

The Hon. the Member for Nairobi South.

ORAL ANSWER TO QUESTION.

KITOSH RESERVE.

THE HON. CONWAY HARVEY asked:

Has the attention of Government been drawn to a letter which appeared in the 'East African Standard' of the 17th July on the subject of the Kitosh Reserve? Will Government be pleased to state what the facts are in connexion with the matter and if there is any justification for the rumour that a change in the existing boundary is contemplated?

THE HON. THE COLONIAL SECRETARY: The answer to the first part of the question is in the affirmative. The answer to the second part is that Government is not aware of any facts to justify the statements made in the letter. No such reduction of the North Kavirondo Native Reserve is contemplated.

Council adjourned sine die.

THURSDAY, 28th AUGUST, 1930.

The Council assembled at 10 a.m. on Thursday, 28th August, 1930, at the Memorial-Hall, Nairobi. HIS EXCELLENCY THE GOVERNOR (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GIBBO, 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:—

FREDERICK ARTHUR BRIMSTER, Elected Member for Mombasa.

PRESENTATION OF INSIGNIA.

HIS EXCELLENCY presented the Insignia of:—

Companion of the Most Distinguished Order of Saint Michael and Saint George to—

MR. HENRY MONCK-MASON MOORE, C.M.G.;

Commander of the Civil Division of the Most Excellent Order of the British Empire to—

MR. HAROLD EDWIN GOODSHIP, C.B.E.;

Officer of the Civil Division of the Most Excellent Order of the British Empire to—

MR. SYDNEY HERBERT LA FONTAINE, D.S.O., O.B.E., M.C.;

Member of the Civil Division of the Most Excellent Order of the British Empire to—

MISS ETHEL HARRISON, M.B.E.;

Companion of the Imperial Service Order to—

MR. JAMES MADDY LEMLEY, I.S.O.

MINUTES.

The Minutes of the meeting of the 23rd 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)—

The Kenya Police Annual Report, 1929.

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

Report of Select Committee on the Brokers' Bill.

Report of Select Committee on the Goldsmiths' and Silversmiths' Petition.

By THE HON. THE TREASURER (MR. H. H. RUSHTON)—

Report of Select Committee on provision for Matthew Wellington.

Report of the Audit of Accounts for 1929.

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. H. T. MARTIN)—

Return of Land Grants, etc., under the Crown Lands Ordinance, from 1st April to 30th June, 1930.

By THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT)—

Education Department Annual Report, 1929.

QUESTION.

THE HON. C. G. MITCHELL: On a point of order, could Government give me some information as to when they can give me an answer to a question which I handed in before the last meeting of Council at Mombasa on the question of insurance of Government vehicles.

THE HON. THE COLONIAL SECRETARY: Your Excellency, the answer to that question has already been prepared and is either in the post or will shortly be sent to the hon. Member, but as this was an emergency session of Council no questions have been put down for answer at this session.

BILLS.

FIRST READINGS.

CHATELTS TRANSFER (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Chattels Transfer (Amendment) Bill was read a first time. ✓

SALE OF WHEAT BILL.

On motion of the hon. the Attorney General the Sale of Wheat Bill was read a first time.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with Your Excellency's leave, I beg to move that Standing Rules and Orders be suspended to enable a Bill to Amend the Chattels Transfer Ordinance, 1930, and a Bill to Regulate the Sale and Distribution of Wheat Grown in the Colony to be read a second time and carried through the subsequent stages to-day without due notice.

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

The question was put and carried.

SECOND READINGS.

CHATELTS TRANSFER (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Amend the Chattels Transfer Ordinance, 1930.

When the Chattels Transfer Ordinance was passed in June of this year it was unfortunately overlooked that the enactment of that measure meant in effect a substantial increase in the stamp duty payable on the type of instrument with which the legislation deals. Prior to that date—prior to the enactment of the measure—transactions of that sort were carried through commercially by means of letters of hypothecation, the stamp duty on which was at the flat rate of Sh. 1. Unfortunately, an instrument under the Chattels Transfer Ordinance is subject to a stamp duty at the rate of a quarter of one per cent on the amount covered by the instrument. I am sorry to say that the effect of that has been that in one of the instruments already registered a stamp duty of £70 has had to be paid. In the opinion of Government, Sir, there is no need to look to such instruments as a source of revenue. The gross amount forthcoming would be negligible and there is no reason at all for increasing the stamp duty which hitherto has been in force and effected in regard to such transactions. Therefore, the Bill provides that the stamp duty on instruments under the Chattels Transfer Ordinance shall be at the flat rate of Sh. 1 per instrument.

If hon. Members will look at the Order of the Day they will see that on the committee stage I have given notice of certain amendments which I propose to move. The net effect

of these amendments is to extend the concession still further. One of the types of document included in the definition of "instrument" under the Chattels Transfer Ordinance is a receipt for the purchase price of chattels, the stamp duty on which is only 10 cents. Manifestly there is no intention of increasing the stamp duty on such receipts and therefore they are excepted; and the amendment which will be moved to clause 2 of the Bill removes them from the purview of this amending Bill. The duty on these receipts will remain at 10 cents. Furthermore, it is felt that, as the stamp duty is to be at the flat rate, there is no need to have embossed stamps, a formality which entails forwarding the instrument to Nairobi to be embossed and then to comply further with the other embossing rules. It is felt that the convenience of all concerned will be served if sufficient adhesive stamps are used to denote the duty. Lastly, Sir, it is proposed that this Bill shall be deemed to have come into operation on the same date as the date of the principal Ordinance. The effect of that will be that those persons who have paid stamp duty on such instruments between June and this date at the higher rate of a quarter of one per cent will be entitled to a refund. 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 a Bill to amend the Chattels Transfer Ordinance, 1930, be read a second time.

The question was put and carried.

THE SALE OF WHEAT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Regulate the Sale and Distribution of Wheat Grown in the Colony. I shall endeavour to be as brief as I can consistent with the importance of this measure, Sir, but I had better at the outset apologize for the drain on the time and patience of hon. Members which I am afraid I shall have to make.

I would ask hon. Members first to look at the provisions of the Bill, as they are modified by the amendments of which notice has been given on the Order of the Day. The measure, as hon. Members will see, is an enabling measure only. It makes no change in the state of things as they are to-day, but it does enable the Governor to establish one or more agencies for carrying out the purposes of the Bill. These purposes, shortly, Sir, are to enable the sale and distribution of wheat

grown in the Colony to be controlled in the interests of the industry as a whole. If and when an agency or agencies are appointed, it will not be competent to any wheat grower to dispose of his wheat—provided it is wheat for human consumption—to any person other than an agency, inasmuch as the grower of wheat will be bound to dispose of the whole of his crop for human consumption to one or other of the agencies appointed.

It is only fair that the Bill should also provide that it shall be the duty of the agency to purchase all wheat which is offered to it, provided always that that wheat is of a quality which is fit for human consumption. That provision was inadvertently omitted from the Bill, as drafted and published, but hon. Members will see from the list of amendments a provision to that effect.

It is proposed also, Sir, that millers operating in the Colony should be registered. There are, at the present moment, Sir, ten millers in the Colony. That number may, of course, increase, and, in the interests both of the agency which is to supply the legitimate and reasonable demands of the millers for wheat and in the interests of the millers themselves, it is, I think, not unreasonable that millers should be called upon to register, so that an agency may be fully aware in advance of the claims which are likely to be made—the claims which will, in fact, necessarily be made—the stocks of wheat which that agency controls. It is therefore proposed, Sir, that within one month of the commencement of this Ordinance, or within one month of the date on which any person begins work as a miller, he shall register with the district commissioner, and thereafter it will be an obligation upon the agency to see that the reasonable and legitimate demands of each such miller shall be met with complete fairness, at the same price for flour of the same quality, and in the same quantities, to each miller.

Various other obligations are thrown upon agencies, Sir, one of the important ones being that it is declared to be the duty of an agency to do its utmost to supply the needs of the East African Territories before it disposes of any flour in any other way. If more than one agency is appointed, each agency will, to the satisfaction of Your Excellency, have to enter into an agreement to ensure equality of treatment to all who will be forced by the provisions of this legislation to deal with that agency, and further, to ensure that each such agency, irrespective of whether it exports wheat or not, shall be bound equally with other agencies to share in the loss caused by the necessary export of the surplus quantity of wheat produced in the Colony.

It is hoped, Sir—it is confidently expected—that the provisions of that clause will ensure, not only equal treatment to all millers and to all growers in the Colony, but will go further and ensure that the fortuitous happening that that position forces a grower to deal with one agency rather than another will not militate adversely against him in so far as the price which he will be entitled to get for his wheat is concerned.

Even if an agency disposes of its total stocks within the Colony it will still be bound to have due regard to the amount of wheat produced in the Colony which is exported though not exported by itself. The price will be fixed, a general uniform price for all wheat will be fixed, taking into account the ratio between the local consumption of all wheat and the quantity exported, and that will be the price which will be paid, always of course having regard to the factors of quality supplied. That will be the price which will be paid uniformly by all agencies to all growers.

There are certain reservations, Sir, to be found in clause 12 (now clause 13). The provisions of this legislation will not apply to the sale of unmilled wheat for export, to wheat which is already at the time of the appointment of an agency the subject matter of a contract, the sale of wheat for consumption by animals, the dealing in wheat from outside the Colony, the sale of seed wheat, or the milling of wheat grown by the miller himself.

On that last reservation, Sir, I should like to say just a word. It has been represented within the last few days that that reservation might be construed to empower the milling by a co-operative body of all the wheat produced by any grower, each and every grower, who is a member of that co-operative body. That, of course, is not so, Sir. The reservation extends no further than this, that the person growing the wheat and the person milling the wheat must be the same person in law, the same individual, the same partnership, the same company. But the mere accident of his being a shareholder or partner in a co-operative or limited liability milling concern will not entitle that person, under this reservation, to dispose of, outside the four corners of this legislation, all the wheat grown by any member, shareholder or partner.

It is hoped, Sir, that it will be possible to make the provisions of this legislation—if an agency is ever appointed—applicable to wheat grown by natives, as well as to the great bulk of wheat produced in the Colony. But it may be possible, Sir, that in certain Reserves, particularly in the more distant parts of the Reserves, it will be in the better interests of

native wheat growers to enable them to make their own arrangements with the local gristing mill and have their wheat converted into flour of the nature which they particularly desire without the intervention of an agency. It is for that reason, Sir, that the last clause of the Bill is inserted. It also is merely enabling, and it is expected, so far as one can foresee, that it will be only in the rarest cases that regard will have to be had to the enabling provisions of that clause. It is expected that the great bulk of the wheat grown by natives in the Colony will be susceptible to the same treatment as other wheat. An agency will be able to deal with native wheat just as it does with all other wheat which is grown.

It would be well, I think, Sir, to forestall, even if I cannot hope to disarm, a certain amount of criticism, by owning frankly that two matters to which a great deal of public interest and attention has within the last few months been devoted are not dealt with in this measure. Those matters, Sir, are the question of the fixation of prices and the question of the prohibition of the importation of wheat and flour into the Colony. A very great deal of attention has been given to both of those subjects, Sir, by Government as well as by the public at large, and, if hon. Members will permit me, I would like to say a few words first on the subject of the feasibility and practicability of prohibiting the importation of wheat and wheat flour into the Colony.

The power to prohibit imports, Sir, is given to Your Excellency by section 47 of the Customs Management Ordinance of 1926, and anyone who reads that section divorced from its context naturally forms the impression that the powers conferred upon Your Excellency are large and unlimited and that the importation, whether by land, air or sea, into the Territory of any class of goods is conferred by that section. That is undoubtedly so, Sir, when the section is read by itself; but in this connexion, Sir, the position of Uganda is one of very considerable importance, and section 133 of the same Ordinance, the Customs Management Ordinance of 1926—a measure which I would remind hon. Members was enacted by this Council at the same time when exactly similar legislation was enacted by the Legislative Council of Uganda, similar in every word and in every detail—that section, Sir, provides that goods imported and intended for transmission to the Uganda Protectorate shall be deemed to be goods imported for consumption within the territory. The word "territory," Sir, is defined as meaning "the Colony and Protectorate of Kenya with the territorial waters thereof." Goods imported and intended for transmission to Uganda shall be deemed to be goods imported for consumption within the territory—that is to say, within Kenya—and shall be liable to the like duties,

restrictions and conditions as provided by this or any other law relating to customs. The effect of that, as hon. Members will see, is that a prohibition on wheat or wheat flour, imposed by Your Excellency under the provisions of section 47 of the Ordinance, would automatically stop the importation of wheat or wheat flour into the Protectorate of Uganda. That manifestly is a step for the taking of which there would be no justification without the full consent and concurrence of the Government of Uganda.

A further legal obstacle—and here, Sir, I am dealing with the legal aspect of the case only—I do not wish hon. Members to assume that there are no other objections, but it is with the legal aspect of this matter only that I am dealing at the moment—a further obstacle is the provisions of the Customs Agreement between this Colony, the Protectorate of Uganda and Tanganyika Territory. The Customs Tariff Ordinance, which was passed as recently as April of this year, contains provisions for the free transit of goods between the various territories once they have paid duty in any one of them. It is obvious that if a prohibition were imposed here, evasion of that prohibition through Tanganyika Territory would be an easy matter, by virtue of the provisions of that legislation and the provisions of the agreement for free trade. Tanganyika Territory, under the provisions of its mandate, would be unable, would be debarred from agreeing to any prohibition of wheat or wheat flour into that Territory. The provisions of Article 7 of the Mandate are clear and explicit on that subject, so that the consent and concurrence of Tanganyika is a matter which we cannot hope to obtain.

But that is not all, Sir. There are also the provisions of the International Convention of 1923 relating to the simplification of Customs formalities. That Convention was signed on behalf of His Majesty's Government and at the time of signature a declaration was given that the provisions of that Convention applied to the whole of the British Empire other than the self-governing dominions, so that the provisions of that Convention are binding upon this Colony. That Convention also, Sir, specifically deals in Article 3 with the grave obstacles to international trade caused by import and export prohibitions and restrictions, and that Article contained an undertaking to adopt and apply, as soon as circumstances permit, all measures calculated to reduce such prohibitions and restrictions to the smallest number.

I hope, Sir, from what I have said, that it will be clear to hon. Members that any provision in the Bill now before this Council purporting to prohibit the import of wheat and wheat flour into the Colony would have had disastrous effects.

It manifestly would have run flatly counter, not only to the Customs Agreement with adjacent territories which has taken so long to achieve—a child of such recent birth—but it would also be a flat contravention of our treaty obligations. So much, Sir, for the omission from the Bill of any provision as to prohibition of imports.

I come now, Sir, to the question of fixation of prices. I am quite sure that hon. Members will agree with me that gratuitous and unnecessary interference with economic laws is one of the most dangerous and disastrous things that any body of persons or any Government can possibly dabble with. It should only be in the most extreme and extraordinary circumstances that any such interference should be even considered, and so, is it necessary in this case to do anything of the sort? If we were to undertake it at all, Sir, it would be necessary to fix the price to be paid by the agency to the grower of wheat according to the various qualities of wheat grown and produced in the Colony. It would equally be necessary, Sir, to fix the price to be charged by the agency to all registered millers getting their supplies of wheat from the agency. That, surely, is by no means the least important aspect of it. It would, as a corollary, be essential to fix the price which a miller might charge to a baker for flour imported by him. I daresay some hon. Members will say we should go further, Sir. If we once put our hand to this plough of price fixation, we should go further and fix also the price of bread to the consumer. But is it necessary to do any of those things at all, Sir? Once we assume that prohibition of imports is not a practicable possibility, in view, not only of our statutory provisions, but of our treaty commitments, is it necessary to do anything to fix either the price to be paid for wheat or the price to be charged for flour? Imported wheat, Sir, is charged with a duty of Sh. 3 per 100 lb., with a further additional suspended duty of Sh. 1/50 per 100 lb. In other words, talking in bags of 200 lb.—the common form of importation—the duty on such a bag is Sh. 9 per bag. The most recent figures, Sir, are as follows: imported flour, duty paid, ships' slings in Mombasa is Sh. 37; superfine flour at Nairobi Station is Sh. 46/50; Kenya flour at the mills at Nairobi is Sh. 32, and at Mombasa Station it is Sh. 34. There is, therefore, a difference in favour of local flour of Sh. 3 per bag of 200 lb. at Mombasa, and of no less than Sh. 14/50 in favour of Kenya flour in Nairobi. The figures for Atta are equally favourable to the local flour. Imported Atta, duty paid, is Sh. 36 at Mombasa, and locally produced Atta is Sh. 29/50 at Nairobi—Sh. 6/50 in favour of the local product. At Nairobi imported Atta is Sh. 45/50, whereas local Atta is Sh. 29/50. Further than that, Sir, it is possible,

with the present marketing organization, to deliver Kenya flour in Dar es Salaam at Sh. 37 for a bag of superfine flour, less Sh. 1 for cash, less a further Sh. 1 for quantities of not less than one ton, whereas Atta can be delivered at Sh. 34. Surely, Sir, with the element of competition necessarily connoted by the existence of ten mills in the Colony, with the further proviso that there is this range of price between the price of imported flour, subject to duty and cartage, as against locally produced flour, with the advantages of no duty and country produce rates on the railway—surely there is sufficient scope for ample competition, and such competition must, Sir, have the effect of fixing prices to the advantage of all concerned by the operation of ordinary economic laws without any interference from this Council.

No one, I think, need be afraid, Sir. The consumer can, I think, gain comfort from the fact that flour has to rise in price at least Sh. 5 per bag before the price of a loaf of bread can be advanced by two cents. I would ask hon. Members, bearing in mind, firstly, that prohibition is beyond the competence of this Council unless it is to be false to its treaty obligations, and, secondly, in view of the heavy duty and suspended duty on imported flour, and the further advantages which locally produced flour gets from the operation of country produce rates—I would in all seriousness ask hon. Members if there could possibly be any advantage in attempting to fix prices or in enabling anybody in this Colony to fix prices. I would ask them if it would not be courting disaster to attempt to fix prices, if it would not be putting an entirely undue burden on any person or body of persons in this Colony to enable them to do so. Unless they were clearly invested with it from the outset, that enabling power would never be exercised.

Now, Sir, with the leave of Council, I will say just a few words about Government's attitude generally towards the provisions of this measure. It is, I repeat, an enabling measure only, and it is but fair that hon. Members should be made aware at once that Government has no intention of setting up a Government wheat pool. Experience, as hon. Members are aware, elsewhere in that direction has not been so encouraging as to make Government look with any gladness on the prospect of making such an experiment here. There will be no Government wheat pool. Government will not undertake any financial interest in the operation of any agency; Government will not undertake any financial responsibility for the operation of any agency. It is for the industry as a whole, Sir, to get together. When Government is satisfied that the industry has got together, then the question of the establishment of an agency will become a practical

question. But the initiative in the first place must come from the industry as a whole, from all parties interested in the industry. If the industry, Sir, can bring everyone in, if the industry can get co-operation from all interests and bring them all in, then, Sir, the Government will be prepared to use its compulsory powers to keep them all in. That is, in the view of Government, Sir, the correct attitude to adopt towards the provisions of this Bill. There will be no compulsion until compulsion is manifestly welcomed. When there is a full measure of co-operation, then it will be proper for Government to step in and prevent those who have agreed to co-operate from wilfully and maliciously changing their minds and refusing to co-operate. If the industry will get people in, the Government will keep them in, but until the industry has got them there Government is not prepared to appoint any agency. Still less will the Government contemplate the establishment of a Government wheat pool; using those words in the sense in which they have been used elsewhere. All the influence of Government, the utmost endeavour of Government, will be directed in the interests of the industry in getting interested parties together, keeping them together and trying to evolve a solution of the problem which faces the wheat industry at the moment. But I would reiterate, I would emphasize, that the first step must come from the industry itself. Furthermore, if an agency is appointed, the functions of Government will be, by supervision and by inspection, to ensure, in the interests of all, that complete fairness to all interests is given by that agency. If an agency fails in that primary duty, then the appointment of that agency must cease. There must be complete fairness; there must be no exploiting of any section of the public, whether it be the wheat grower, the miller or the consumer. That will be made abundantly clear to any agency which is appointed, and failure in any respect in that regard will naturally—can only be visited by the cancellation of the appointment. In a word, Sir, the attitude of Government is to secure agreement between the various interested parties and between all sections of the industry. Having done that, Sir, having given statutory effect to that agreement by means of the appointment of an agency, the whole of Government's time and attention will be devoted to ensuring that that agency gives fair and equitable treatment to all concerned.

I beg, Sir, 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 Sale of Wheat Bill be read a second time.

THE HON. COSWAY HARVEY: Your Excellency, first of all I should like to congratulate my learned friend on the clear and lucid manner in which he has put up the Government case for this measure. Elected European Members, Sir, welcome this enabling Ordinance, which has been asked for repeatedly by an overwhelming majority of wheat farmers of Kenya, especially as its application and the establishment of a wheat pool must inevitably have a most stabilising effect on the important wheat industry, to the definite advantage of the Colony as a whole.

Although, Sir, at first sight, this Bill appears to have the merit of originality, such is not the case. As most people know who have studied the subject, in Canada and Australia wheat pools have been operated with a considerable measure of success in the past, although in recent years these pools have been replaced by other measures better suited to the local conditions in those colonies for the benefit of the wheat industry. At the present time, Sir, special steps are being taken in England, with the approval of Government and the active concurrence and assistance of a very large number of Labour Members of Parliament, to provide a fixed and definite minimum for all wheat grown in England, and it takes the form, I understand, Sir, of making it compulsory for a fixed quota of English grown wheat to be used in all flour used for bread making in England. That, Sir, is rendered necessary in order to protect the farmers of England against unfair competition by subsidized foreign flour.

Now, Sir, both America and Canada are very seriously at the present moment considering the establishment of compulsory wheat pools, while in Australia a referendum is being taken as to whether or not a compulsory wheat pool should be established—while New South Wales has definitely proclaimed in favour of a pool, provided other States come into line.

Now, Sir, unless a compulsory wheat pool is established in Kenya fairly soon, there is every danger that the promising wheat industry of Kenya will be extinguished by cut-throat competition for the local trade. At present, Sir, the position is that of one large co-operative concern, which handles something like 82 per cent of the total output of wheat and bears 100 per cent of the loss incurred in the export of the surplus over what can be sold locally. Non-members of that co-operative concern, Your Excellency, are engaged in what I believe to be unfair, uneconomic competition, not only with those who bear the brunt of export, but with one another, and the inevitable result of that, Your Excellency, carried to its conclusion, will be the lowering of the price of wheat to a figure only very slightly in excess of the export value. That,

Sir, is an unthinkable tragedy, and every possible step should be taken to obviate the complete elimination of the wheat industry by the fact that wheat growers get less for their product than the cost of production.

It is perfectly obvious, Your Excellency, under these circumstances, that this high protective duty cannot operate beneficially, and as the export price of wheat to-day is something in the region of Sh. 11 per bag, it naturally follows that the present position constitutes a most serious threat to the wheat industry, in which enormous sums of capital have been invested.

Now, Sir, the industry has been thrown completely out of gear by the heavy fall in the price of wheat, which has dropped from Sh. 28 per bag between January, 1926, and February, 1927, to Sh. 16 in June, 1930. In the same period the cost of flour has dropped from Sh. 57 to Sh. 32 per 200 lb. bag.

Now, Sir, it is to be regretted that a corresponding fall in the price of bread has not taken place, although we all know fairly substantial reductions have recently been made; and I should like to emphasize that in my opinion the establishment of a wheat pool, with proper safeguards, cannot possibly affect the price of bread, except possibly in a downwards direction.

Now, Sir, if I am in order, I should like to say that, in common with many others, I regard the complete prohibition of imported wheat and flour—except in small quantities for special purposes, under license—as a highly desirable corollary to the establishment of a wheat pool. In spite of the difficulties mentioned by my learned friend—of course, Sir, violation of treaty obligations is unthinkable, but treaties are occasionally amended, and I suggest that many of the difficulties mentioned might be overcome by the exercise of a little energy on the part of the Kenya Government and a little goodwill on the part of neighbouring colonies. I do consider, Your Excellency, that Empire trade is far more important than international trade.

Now, Sir, there are one or two points which I should like to mention in connexion with the pool itself. We consider that provision should be made for the establishment of a representative statutory board for the purpose of controlling the operations of the proposed pool generally, and especially in regard to the fixation of wheat prices paid to the growers; though it is not quite clear whether under clause 11 His Excellency the Governor has the power to delegate his authority to a Board or not.

We consider, Sir, that a Board might quite possibly be a far better body to deal with such matters than, with respect, His Excellency the Governor. Such a Board, Sir, might be empowered to fix prices paid to growers for wheat, and we do consider that a maximum price for wheat should be fixed at about Sh. 20 per bag for the protection of the consumers, as it is very important indeed that measures of this nature should be received with the maximum of goodwill from all sections of the community. We have discussed this matter in very great detail, Your Excellency, and we agree entirely with my learned friend that the prices of flour and bread can quite well be left to the play of economic forces.

I am very strongly of the opinion, Sir, that the business of buying and distributing wheat should be entrusted to one agency only, in order to ensure uniform working, and I consider that if more than one agency is established, there will inevitably be a good deal of confusion, especially when one bears in mind that many grades and types and qualities of wheat have to be supplied to the various millers.

We should, Sir, welcome some indication, which we have not yet had, of the methods by which Government proposes to establish a pool, and some idea of the lines on which the organization will work.

Now, Sir, I have no doubt a variety of other points will be raised by my colleagues, and I trust that Your Excellency will agree to the appointment of a Select Committee to consider such points as may be raised in the course of this debate. With that assurance, I intend to support the second reading of this Bill.

THE HON. E. POWYS COOM: Your Excellency, I should like to congratulate Government on having introduced this measure, which I believe is a very important step towards the setting of the wheat industry on a sound footing; and I greatly appreciate the clear way in which the hon. Member the Attorney General has dealt with the legal aspect of the case. But I think he has left untouched a good many points which I think ought to be elucidated.

It is very difficult, Sir, to discuss this measure as a separate measure. Even the hon. mover found it difficult and had to refer to other steps which inevitably must enter into the setting in order of the wheat industry. In my opinion these steps fall under three main heads: the question of a subsidy, which is already the subject of the motion before this House and which will come up at this session; the question of a wheat pool, which is the immediate subject of this Bill; and the question of prohibition as the hon. the

Attorney General called it—but perhaps it might be safer to say the raising of the effective tariff wall against the importation of wheat and wheat flour.

Now, Sir, before attempting to deal with those matters—those sections of the organization of the industry—in detail, I think that it is only fair that the House should give consideration to the main issue which underlies all these steps, namely, whether or not the wheat industry in this Colony is on so sound a footing as to justify the country in taking measures to support it and to establish an employment.

Now, Sir, I believe there are people—hon. Members of this House and members of the general public outside this House—who from time to time question the soundness of the wheat industry of this Colony. That may arise, possibly, from a lack of knowledge of the Colony and a lack of knowledge of the working of the industry itself. The first point, obviously, Sir, is whether or not the wheat can be produced in this country on such a basis of cost as to enable it to compete with the wheat of other countries. On that matter the Board of Agriculture has been giving a great deal of attention to comparing the operative costs of production in this Colony and elsewhere. That work is not yet complete but it has gone far enough for me to be able to say that I think there is no doubt that it is going to be shown that it is going to be proved that the costs of production in this country are considerably lower than many of its chief competitors. It will be shown that the margin is considerable, and I think that is an effective answer to fears which are expressed from time to time that the wheat industry is merely being bolstered up artificially and that it is not worth the amount of trouble spent on it. It is also, I think, a very complete answer to the cry which has become now a very common cry that in these times of economic crisis the first thing is for the farmer to "get down to it." In fact, the farmer has "got down to it" in this Colony, and got down to it remarkably well. I do not say he cannot go further. I have no doubt—relying as I do upon the intelligence of the farming community in this Colony—that the farming community will devise means to still further economies, but I would like to refute in the most practical way the common expression that the farmers of this country have not "got down to it." They have "got down to it" to the extent that their cost of production is a great deal lower than most of their competitors.

Another point which is frequently raised is whether or not it is worth while stimulating an export trade in wheat from this country. There is a section of opinion which argues that we should be content to deal in the local markets

—by local markets I mean the East African markets—Kenya, Tanganyika and Uganda—the chief argument being that there is an over-production of wheat in the world already; and that we should not add to that over-production.

Now, Sir, an examination of the world position of wheat will, I think, demonstrate clearly the fallacy of that argument. It is perfectly true that within the last five years the total wheat acreage of the world has increased by a matter of 12,000,000 acres, but I think it will be clear to the House that, when you are talking with such big figures as those, to talk about a reduction of expanse of our tiny acreage is altogether beside the point. And exactly the same thing applies when you deal with the yield of wheat per acre. When the total yield of wheat is over three billion bushels-of wheat our small production, which only amounts to 800,000 bushels, is again such a drop in the ocean that we need not talk in world terms of simply whether or not our industry is a sound industry. A far more effective point, to my mind, is that we are producing wheat of a good quality at a cost of production which does not compare unfavourably with the costs of production of our principal competitors, and that we should leave the question of equalizing supply and demand to the great wheat growing countries, who apparently are taking steps in that direction, and not confuse the issue by bringing in questions of that sort.

That, Sir, looking at the main object of this Bill—which undoubtedly is the equalization of prices between all growers—that is to say, definitely causing every grower of wheat in this Colony, whether he sells in the local market or the export market, to bear a share of the burden caused by the lower prices of export wheat. That is a principle which I believe everybody in this Colony is agreed upon—the fairness of the main principle on which this Bill is founded.

Then comes the question of how, under those conditions, the various interests outside the wheat industry are going to be affected. I venture to argue that the maintenance and the expansion of the export trade is the very surest means by which the local price can be kept at a reasonable figure, a figure satisfactory to the consumer. I argue it in this way. If we had to-day to depend entirely on the local market and we had no export trade, then our production would endeavour to adjust itself exactly to the demands of that local market. From time to time, from causes entirely beyond the control of anybody, that production would fall below the demands of the country and the inevitable result would be that prices would rise and considerable confusion would be caused, because probably steps would have to be taken to admit imported wheat under licence, or something of that sort. On the other

hand, if you have a large surplus of export wheat, that does provide a margin which will inevitably fill the local market; and that wide surplus is, I think, the greatest security which the local consumer has. There is a further important point that if you are going to encourage that export trade you have got to make it reasonably attractive to the grower, and I think that can only be done by equalizing between the price to the export man and the price to the man who sells to the local mills. From the Colony's point of view I submit that the stimulation of the export trade is a matter of the very greatest importance.

If we are going to depend entirely on the local trade in wheat then we are merely going to take in each other's washing, and we shall not get far that way. On the other hand, if we can extend the export trade, then we shall be able to bring new money back into the country, with all the happy results which follow from such a process.

Now, Sir, the hon. the Attorney General explained very clearly all the legal obstacles that stand in the way of prohibition. I trust that these same obstacles would not be argued by him to exist in the case of increased duty on wheat, the raising of the existing duty. Now I think this becomes a matter of very great importance because, both from the point of view of the industry and of the Colony; and of the consumer, the present importation of wheat and wheat flour is an eminently uneconomic transaction. The main figures are that wheat and wheat flour are imported into the three East African Territories to the amount of 80,900 bags per annum. I am afraid I must deal with that from the point of view of East Africa because I believe it is essentially an East African question. The value of those imports last year was over £97,000.

Those 80,900 bags imported—may I say in explanation that in using the figure 80,900 I am using the wheat equivalent of the flour imported—those 80,900 bags imported compare with the export from this country of an equivalent number of bags of wheat at prices offered elsewhere. That wheat was exported at prices which will probably realize something like £40,000. Clearly, therefore, the Colony, on that transaction—the industry—made a net loss of nearly £60,000. That is to say, by permitting the dumping here of flour from India, from Australia and from North America, and by the uneconomic process of sending an equal quantity of our own wheat away to a distant market, the Colony did lose definitely nearly £60,000. It seems to me that is an indefensible transaction. Further, the mills of the Colony—the mills of East Africa I should say—by losing the gristing of 80,000 bags, had to maintain a ratio of overheads to the

price of flour which would be very considerably reduced had they had that extra business put through their mills. It must be enormously to the interest of everybody concerned, particularly the consumer, that flour should be as cheap as possible, and I submit that one of the surest ways of reducing the price of flour is to increase the volume of the milling business so that the overheads of the mills may effect a lower ratio to the work done. I believe it has been calculated that if those 60,000 bags had gone through the mills here that they would represent a very considerable saving of something like a shilling a bag on the total output of the mills; and a shilling a bag on all the flour consumed in the three territories is a very considerable sum.

There is another very strong argument in this connexion, that the amount of foreign competition to which the wheat industry of this Colony is subjected is, I think I can fairly say, an unfair competition. So far as the North American flour and the Canadian flour is concerned, it is obviously the unblushing dumping of a part of their enormous surpluses. So far as the British Indian flour is concerned the same applies. British India in the last five years has added a million acres to her wheat areas and she has to find new markets. That compels her to seek any opening which she can find. Further, we do know from reading the recent Indian Agricultural Commission's Report that wheat in India is produced under very unsatisfactory conditions—conditions which I think border on the inhumane. Further, we know that there are business connexions between some of the mills of India and some of the transportation services serving this country. Hence we find the extraordinary anomaly, for example, that the sea freight on foreign flour between Bombay and Mombasa, or Bombay and Tanga or Dar es Salaam is less, very considerably less—in some cases 50 per cent less than the freights between Mombasa and Tanga and Dar es Salaam. That is to say, the long voyage across the Indian ocean is costing less than a few hours steam to the East African ports. I believe, Sir, that these factors together do amount to a competition of so unfair a nature that the wheat growers of this country are very seriously embarrassed.

A good deal has been said to-day about the relation of the price of wheat and the price of flour and the price of bread. Now, Sir, I would like to emphasize that, taking the history of the last four years and the price of those commodities in this country—figures which have already been quoted by the hon. Member for the Lake—I would emphasize the point that, whereas between the price of wheat and the price of flour there has been a definite relation, between the price of flour and the price of bread there has been no such

relation. For example, four years ago the price of flour was Sh. 56 to Sh. 58 and the price of bread stood at 48 cents. To-day the price of flour stands at Sh. 52 and the price of bread stands at 37 cents. There is no relation, I think, between those prices. But that is a matter which I think must be dealt with in another way. So far as the wheat industry is concerned, it is impossible to go further than the price at which the flour leaves the mill.

Turning to the details of this Bill, Sir, I have no doubt it is Your Excellency's intention to refer it to a committee, and therefore it is unnecessary to raise any points on the actual text, beyond supporting what the hon. Member for the Lake said concerning some form of board, some *ad hoc* body, which should have the general organization and control. We feel on this side of the House, Sir, that above the agency or agencies proposed to be set up, there should be some entirely impartial body, composed of every interest, who shall meet in order to formulate such general regulations of the industry as may be necessary—such regulations as will be necessary to hand to the agencies for their guidance.

On the next question of compulsion, I would only say this concerning that: that whereas it is true that at the present moment there are no compulsory wheat pools in existence, nevertheless the case for compulsion is growing stronger, recognized as growing stronger in many countries; and particularly it is recognized that *vis a vis* with the tendency to organize buying—to set up powerful organizations such as the British Grain Importation Board of the United Kingdom—it becomes more and more important that the growers should get together, so that one organization may be able to negotiate with another. If the buyers are going to organize then it becomes imperative that sellers also should organize, and in a country such as this—the trade of which has some very peculiar features, as, I think, have been made clear to-day in the course of this debate—I think that unless compulsion is applied there will be a certain amount of "black-legging," and "black-legging" has been a very serious menace to any voluntary wheat pool that has come into existence the world over. The most critical factor which the Canadian wheat pools have to fear to-day is the fear of "black-legging" in the existing conditions of the trade, and I think we are wise to adopt the principle of compulsion. But I should like to enter this caveat: it is a new principle and I believe that this Council will be well advised to consider whether or not it is desirable to insert in this Bill a clause permitting its review at the end of a certain specified period, with a view either to terminating or perpetuating it, owing

to the circumstances of the case, which the success or otherwise of its operation may make desirable. It is quite possible that with the passage of time considerable defects may be found in this proposal, and it is quite possible that other methods, more suitable to our particular conditions, may become clear. If that is so, I think there ought to be no obstacle in the way of making any such changes as, after the passage of time, may seem desirable; and I should like to say that I greatly appreciate the line which the hon. mover stated was the attitude of the Government towards this measure in the concluding paragraphs of his speech. I think it is most desirable that on every occasion the development of the trade and industry of the Colony should be left as free as possible from any Government control, and I think that the attitude which Government proposes to take up, namely that of passing an enabling Bill and inviting the industry to come together and propose the final arrangements for carrying out this idea of a wheat pool, is wise and sound and I believe in the long run will make for the satisfactory working of the system.

With these remarks I support this Bill.

(Council adjourned for the usual interval.)

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in this very simple Bill there are two factors for our consideration, and two major factors only. They are, the protection of the industry and the safeguarding of the consumer. It is evident that the industry does require protection; and it does not require protection at a future date—it requires protection immediately.

THE HON. CONWAY HARVEY: Hear, hear.

CAPT. THE HON. E. M. V. KENEALY: The amount of agreement which has already been arrived at amongst the producers of wheat justifies the Government in taking immediate action and no longer postponing it. In regard to the safeguarding of the consumer, the industry does, by discussion amongst the Elected Members, who represent the industry and the consumers as well, recommend that there should be a definite maximum price to be paid to the wheat grower.

Now, Sir, one of the factors which dominates the position is the factor of world price. World prices are very low, and what do governments throughout the world do? They subsidize certain industries and, in effect, merely pay a proportion of this price to the world at large. We will say that

London represents the wheat market of the world—it does not, really, but we will postulate that—and we will say that Kenya and Australia and Canada all contribute a proportion of the price which should be paid entirely by the world at large. It is paid by the governments of the countries which subsidize wheat in various ways.

Now, Sir, we are prepared to demonstrate to our own consumers in this country that we do not wish to exploit them. The consumers in this country are assisting us by endorsing this measure and we are proposing not to exploit them but to demonstrate that we shall treat them entirely fairly. When the opportunity arrives for us to get more from the world's markets we mean to do so. We mean ultimately to exploit the world's markets because at the present time we are paying a proportion of the cost which should devolve upon those markets. But we do not intend to exploit our own people, and, as an earnest of our intention, we are prepared to accept a maximum price.

With regard to the fixation of prices and the imposition of prohibitive duties, Government has adopted a rather weak attitude. Government has said: "We cannot have (a) because (b) is impossible, and on the other hand we cannot have (b) because (a) is impossible." The explanation given in regard to the difficulties of altering our tariffs is not satisfactory. We could alter those tariffs—we could alter them by agreement. That agreement can be arrived at. The fixation of price, Sir, would demonstrate to the world at large that we do not mean to exploit our own consumers in this country. It is a very difficult thing to impose upon an individual responsibility for arbitrarily arriving at a price. I think it is inadvisable that that should be done. There should be a board of control and that board of control should have dictated to it certain principles upon which fixation of price should be reached.

The main point I wish to urge is that there is a sufficiency of agreement amongst producers in this country with which to enable Government to take immediate action in this matter. The necessity is here, the safeguarding of the consumer is provided for, and Government should feel entirely justified in taking immediate action, because immediate action is the action which is absolutely essential to the industry. I support the Bill.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, on general principles I am in favour of the measure, but not exactly in all the details. As the Bill, I understand—I hope, anyhow—will go to a Select Committee, I will not criticize or make a point in reference to the Bill.

I think it is a very good scheme, Sir, to implement this matter under the agencies suggested, but in clause 10 it states: "If more than one agency is appointed." I express the pious hope, Sir, that if wheat growers outside the co-operative societies wish to form an agency by forming themselves into a co-operative group that they will get every sympathy and consideration from Government. But there is a fear—and I maintain a very reasonable one and a justifiable one—that this Bill will have the tendency to drive everybody into the Kenya Co-operative Society, and there are a great number of people, including myself, who consider that the present directors of that society are not only a danger to their own society, to their own members, but also a danger to the Colony.

HIS EXCELLENCY: Order, order.

LIBERTY-COL. THE HON. J. G. KIRKWOOD: And it is on that ground, Sir, that I would ask that we be given an assurance later on the lines indicated.

I also note, Sir, that millers are to be registered and licensed, but I am not aware that there is any provision in the Bill giving power to refuse a license. I may be mistaken, but I hope, if it is not in the Bill already, that it will be incorporated, as I consider myself that the present mills—the present number and their capacity—is sufficient for now and for quite a distant future, and it would obviously not be advisable to appoint other mills and create further difficulties.

I would also suggest, Sir, that, in addition to working through agencies, that there should be a control board, and I hope Government will give their serious consideration to that, and I hope that will be moved in select committee.

On the question of prohibition, the importation of flour, the hon. the Attorney General told us, quite rightly so, that it is inadvisable to interfere with economic laws. I am quite in agreement with him, but I would remind the hon. the Attorney General that in a Bill which I believe he proposed or seconded he proposed interfering with economic laws, our present conditions, but I believe if flour is prohibited, importation of flour is prohibited, it would mean at least another £60,000 to £80,000 would be available in this Colony to provide home grown wheat and flour and supply it in the place of the imported article.

A very strong case, I maintain, has been made by the hon. member when he quoted figures which prove that local flour is supplied to all markets in the territories at a lower price than the imported flour. That surely, Sir, proves that

the local flour has the ability to compete in price with the imported article, and in doing that he surely proves the desirability of preventing imported flour from coming in. I can see no necessity for imported flour. If the price were otherwise—if our local flour were very much higher than the imported article—then I would be with him, but you have an economic loss for the imported flour coming to the Colony, and I think he has made out one of the strongest cases for that idea.

I hope, Sir, that he will not change colour, or change the calling of the tune, when we get on to the other dole. I submit, Sir, if the flour was prohibited, it would be a simple matter to put a maximum price of say Sh. 20 on wheat and a maximum price of Sh. 40 on flour. That would make everybody realize that we were not going to be exploited and the economic price would be dictated by economic laws.

There is one clause, clause 9, Sir, which I should like to read—

"An agency shall be responsible to the Governor for satisfying the requirements of all millers within the Colony at the same price for similar quantities of wheat and for wheat of the same quality."

Now, Sir, what does it mean, the words "the same price for similar quantities"? I do not know what it can mean. Does it mean, if there are two agencies and one agency is prepared to handle more than the other at a definite price, or does it mean that the supplier who is supplying only 10 tons is going to get a lesser price than a man supplying 50 tons or 100 tons? I have been told that a man supplying one bag will not get the same price as the man supplying 10 tons. I do not know if that is so, but if it is so the organization purchasing the wheat, or the people representing them, would hold up their produce until such times as they had an economic unit for railway purposes.

I would like, before I sit down, Sir, for this measure has been long overdue—due I believe to the practice which has been adopted up to now of holding enquiries into the wheat pool—and I regret that it was only yesterday that I had these papers supplied to me with reference to these measures before the House this morning. I should like again to point out that due notice and an opportunity to discuss these measures should be given . . .

THE HON. THE ATTORNEY GENERAL: May I reply on a point of order, Sir? The hon. Member appears to forget that the Bill was published in the Gazette on the 5th of this month.

LIET.-COL. THE HON. J. G. KIRKWOOD: I was just about to add that, with regard to the Bill, yes. But I have a whole heap of amendments here which were only supplied yesterday.

MAJON THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, although I represent an area in which wheat growing has not yet been proved, my constituents down there still eat bread. I think, perhaps, the prohibition of flour, or importation of flour, may cause some heart-burning down there at first—for a time, anyhow—but I do think that when local flour gets properly established down there and the people get to know it better—at present they do not know it well—I think they will probably take to it, and the natives too. I do think one reason people would take to it more is the price. If the price in Mombasa were the same retail as in Dar es Salaam and Tanga, I think that might have an effect in helping the sales of it. I propose to support the Bill.

LIET.-COL. THE HON. C. G. DURHAM: As I believe it will be for the ultimate good of the whole country, I support this Bill. I believe, Sir, that the stabilisation of the wheat market will have its effect in reducing the cost of living. Further than that, I trust Government will explore every avenue in the hope that it will see its way to either increasing the Customs duty on imported flour or prohibiting the importation of flour.

COL. THE HON. W. K. TUCKER: Your Excellency, during the two or three weeks since this Bill has been published, many of us have spent much time in anticipating what the hon. and learned mover would have to say in explaining the Bill, and also in anticipating the rules that may arise out of the Bill, the Bill itself being necessarily vague, as of an enabling measure. So far as I am personally concerned, I am glad to be able to tell him that I welcome the fact that he seemed to apologize for, namely, that there is nothing in the Bill relating to the restriction of imports of flour. Throughout our considerations we have never regarded the one as necessarily standing together with the other. In other words such a wheat measure as this can be brought in without the other being incorporated. In other words, I think, I imagine that legislation, as such, would not be necessary, but action would be taken rather by way of a motion if and when Government have made up their minds that the restriction of importation is desirable.

I have followed what the hon. mover has had to say with the very greatest attention, Sir, and I want to traverse two or three of his major points, the first being that Government

could not and would not assume financial responsibility. Now, Sir, I never have regarded that as essential, and I am quite certain that those gentlemen who have thought most about the operations arising out of the legislation of this country regard it as neither desirable nor necessary. So I think that point, so far as I am concerned, is pushed aside.

One cannot view with the same complacency the next major point he made, and that was that Government refuses to move—what I think were his own words—beyond the establishment of an enabling Bill until what he described as a full measure of co-operation had been achieved. I beg to express a hope that that was a general phrase rather than one to be taken literally. It seems inconceivable that, if a high percentage, as does exist—if there is a high percentage in favour of what is contemplated under this Bill, that Government should require one hundred per cent of acquiescence before they would move along the lines which we would welcome. That is to say, that when that full measure of co-operation has been achieved, Government would then do all they could to facilitate the sort of rules and regulations which the country has in mind. I say that very advisedly, Sir, because it is obvious to anyone that a very small minority may insist on very unfair terms, to which the majority might be disposed to yield, rather than let the whole scheme fall to the ground.

Then, Sir, we listened with great attention to all the hon. gentleman had to say about treaty rights, Customs unions and so on. We all desire to respect them to the hilt, but we are none the less cognizant of the fact that common-sense is applied to difficulties as and when they arise, and in this country we have managed, in innumerable instances, to overcome difficulties. I suggest, not more insuperable than this particular one. In the past we have led older countries, and yet to-day one only has to read the current week's newspapers to find that England, the oldest and certainly the greatest slave to the old-fashioned economic laws, is scrapping or proposing to scrap the old-fashioned shibboleths and doctrines. As an illustration, I venture to say, Sir, if you will allow me, I will quote two sentences in this week's paper from a speech made by the Parliamentary Secretary to the English Board of Agriculture, dealing with precisely the same sort of legislation as that before us this morning. He said: "It might seem tyrannical, but they had got to face it in order to get a decent price for the producer. Far too many people had been going about the country, saying something had to be done, and then, when someone suggested something, using their energies in resisting the proposals." I hope, Sir, that the lead given us by the Mother of Parliaments, is one, I

anticipate will be the case, which will help this local Government to reconsider the very rigid attitude taken up this morning by the hon. gentleman.

A great deal has been said this morning, rightly, about protecting the interests of the consumer, and, representing, as I do, an urban constituency, I felt at the very outset, months ago, that I should have to weigh my position and my constituents *ris-à-ris* this proposed legislation. I am happy to say, Sir, that Nairobi, in so far as I am able to test it, welcomes this form of legislation, exhibiting even more goodwill towards the agricultural industry perhaps than they have shown on some previous occasions. Happily I was able to inform them on the best of authority that this form of legislation, particularly if supplemented by a restriction of imports, would assuredly lead, so far from any increase in the prices of bread, to a possible reduction, while at the same time giving the farmer more for his wheat than he is getting at the present time. That view was endorsed as recently as last week at a very representative meeting of the Nairobi Chamber of Commerce.

I referred just now to commonsense. May I reply in this way. Is it conceivable, no matter what the apparent difficulties are, if we can get no offer for a matter of 60,000 bags of wheat—is it conceivable, judged from the standard of commonsense, that we have got to let that rot and stagnate in this country, and, at the same time, freely bring foreign flour on to our shores? To my mind it has got to be decided by some such extreme view as that which was expressed the other day.

Finally, I would like to endorse what has been said by, I think, the hon. Member for the Rift Valley, that all sorts of anxieties might conceivably be allayed if it were made clear at this juncture that all parties would be agreeable to a very limited operation of such legislation, openly defined and agreed to. My view is, Sir, that one year would be a simple time and would be agreeable to all parties.

Before sitting down, Sir, I would like to say I am afraid I shall disappoint the hon. Member for Plateau North by ignoring his remarks about a certain institution with which I am associated beyond stating that the 850 farmers who created that Board will resent much more than I do the remarks he has made.

THE HON. W. C. MITCHELL: Although I have not the same opportunity of watching the clock on this side of the House as the other side have, I feel time is going and so I will be brief.

With the general principles of the measure I am entirely in favour, because I think that any opportunity afforded to the agricultural industry to organize itself in these days must necessarily have the support of everyone. But on the subject of price control I am afraid I differ from one or two Members on this side of the House. It has been pointed out—I think the Attorney General pointed it out in his speech—that the ordinary law of competition would control prices sufficiently, but, as I see it, Sir, immediately this Bill is implemented, local competition in the price of wheat disappears. The only competition that remains is competition between the price of locally milled flour and imported flour, and the Attorney General, in his arguments in favour of "no need for control of prices" informed us that the difference in price between local flour and imported flour at Nairobi to-day was Sh. 14/50 per bag, and I think he said, in the case of atta, Sh. 11.

In spite of assurances, which may have been given by others, who are perhaps interested parties, that this position will not be exploited, I am bound to express a certain amount of diffidence and fear that in all probability the price of locally milled flour will very quickly, if not quite, approach the price of imported flour when this Bill is brought into effect. I would go so far as to say, Sir, that I would not be surprised if it exceeded imported flour because the price of imported flour can only control the price of locally milled flour if the supply is unlimited, and it will not be. Under these circumstances nobody would take the risk of importing in large quantities, knowing that they would be at the mercy of the local market when the supplies arrive.

As the object of this measure is to some extent to ensure the minimum price of wheat to the grower, there should be something included in it to guard against the maximum price to the consumer. If a price of Sh. 20 per bag were fixed for wheat we should agree to the price of flour not exceeding Sh. 40 per bag, assuming that the same ratio between flour and wheat would then exist as has been the case in the last five years. With flour at Sh. 40 there would be no need for the price of bread to advance at all. Bread is sold at Cts. 37 in Nairobi and I believe in Mombasa they are paying Cts. 56. I believe the difference in price between Mombasa and Nairobi is due to the fact that the real Scots are found in the Highlands.

On the subject of prohibition I have little to say. I think it would undoubtedly be an advantage because it would simply mean that we should be selling the same amount of local flour as the present combined local and imported flour, to the advantage of the industry. But I think the first step

should be taken by the wheat industry of Kenya to approach Uganda and see if some arrangement could not be effected between the two Colonies.

THE HON. THE ATTORNEY GENERAL: I have listened with very great care and interest, Sir, to the debate on this Bill and I am extremely, pleasantly impressed by the fact that there appears to be little or nothing for me to deal with in reply. There is, however, one point which perhaps I ought to take, to clear up. It has been suggested—I endeavoured to make myself very clear indeed on this point in moving the second reading, and yet it has been suggested by at least two hon. Members on the other side of the Council that I have stated that it was impossible for us to vary the tariff agreement with the adjoining territories. I would like to say, Sir, that not only did I never say so, but it would have been perfectly absurd for me ever to have said so—nor did I think until a few minutes ago that any hon. Member of this Council would have imputed this statement to me. What I did state was that there could be no provision in this legislation dealing with the prohibition of wheat for the reason that that is a matter which is governed not only by statute but also by our treaty obligations to adjacent territories. That does not mean, Sir, obviously, that it is not quite competent to this Government, by agreement with the Governments of adjacent territories, further to amend the tariff if such amendment is ever considered necessary.

The other points I think, Sir, have been undoubtedly points of detail, which would, I think, be more fittingly considered when the Bill comes for consideration to the Select Committee which I am authorised by Your Excellency to say Your Excellency proposes to appoint.

The hon. Member for Plateau North—perhaps I misunderstood him, Sir—has asked whether there is any provision for the refusal of a licence to a miller. It is perhaps a point with which I ought to deal. There is no such provision because there is no provision for the licensing of millers, nor is it intended to make such provision. What the Bill does provide, with the amendments which appear on the Order Paper, is that it will be incumbent on a miller to register. That is a very different thing from licensing, Sir. That is a voluntary act on the part of the miller. Registration means registration so long as that miller conducts the business of milling. There is no provision for licensing whatever, Sir.

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

The question was put and carried.

HIS EXCELLENCY: I understand that the following Select Committee is agreeable to all parts of the House:—

The Hon. the Attorney General (Chairman).

The Hon. the Treasurer.

The Hon. the Commissioner for Local Government, Lands and Settlement.

The Hon. the Director of Agriculture.

The Hon. Member for Rift Valley.

The Hon. Member for Nairobi North.

The Hon. Member for West Kenya.

The Hon. Member for Mombasa.

The Hon. Member for Plateau North.

THE CHATTELS TRANSFER (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council for consideration clause by clause of a Bill to amend the Chattels Transfer Ordinance, 1930.

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

The question was put and carried.

Council went into Committee.

THE CHATTELS TRANSFER (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Stamp Duty payable.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the clause, as printed, be deleted, and that there be substituted therefor the clause which appears at the top of page 4 of the Order of the Day.

The reasons for this amendment I gave briefly, and I hope at sufficient length, on the motion for second reading.

HIS EXCELLENCY: The question is that clause 2 be deleted and the following clause substituted therefor:—

"2. The stamp duty payable on an instrument under the principal Ordinance other than a receipt for the purchase money of chattels, shall be one shilling, which shall be denoted by means of an adhesive stamp duty cancelled by the person executing the instrument."

The question was put and carried.

Clause 3.—Date of Commencement.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that there be inserted in the Bill as clause 3 the following:—

"3. This Ordinance shall be deemed to have come into force on the thirteenth day of June, 1930."

That date, Sir, is the date of assent and commencement of the principal Ordinance.

THE HON. E. POWIS COOK: There is one point I would like to ask on this. I think it is the intention of the hon. the Attorney General, in fact, to make these amendments retrospective, and therefore that does wipe out some transactions which have taken place in the past. Does it necessarily entail a refund of the excess stamp charges which have been paid?

THE HON. THE ATTORNEY GENERAL: I should hardly have chosen the phrase "wipe out" Sir. It is specifically provided in the same Ordinance that where excess stamp duty has been paid a refund may be claimed and the refund will be made. The effect of that, Sir, will be that in the case of instruments already registered under the principal Ordinance any stamp duty paid in excess of Sh. 1 will be repayable on demand.

The question was put and carried.

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

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that a Bill entitled a Bill to amend the Chattels Transfer Ordinance, 1930, has been considered in Committee of the whole Council and has been reported to Council with amendments.

THIRD READING.

THE CHATTELS TRANSFER (AMENDMENT) BILL.

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

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

The question was put and carried.

The Bill was read a third time and passed.

HIS EXCELLENCY: I understand that it is the special desire of hon. Members on that side of the House that the Director of Agriculture should move the motion standing in his name on the Order Paper before the adjournment to-day. Time is short but I hope it will be just sufficient for that purpose.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move, formally, that Standing Rules and Orders be suspended to enable the motion of which notice is given on the Order Paper to be taken to-day.

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

The question was put and carried.

MOTION.

SUBSIDY ON CEREALS.

THE HON. DIRECTOR OF AGRICULTURE (MR. A. HOLM): Standing Orders having been suspended, I beg to move the motion standing in my name in the Order of the Day:—

"That, in order to give further relief to grain growers, in connexion with which the Railways and Harbours Administration are prepared to co-operate to the extent of bearing fifty per centum of the cost, this Council approves of the appropriation of a sum not exceeding £35,000 from the Colony's surplus balances for the purpose of enabling a refund of the whole or part of railway rates and port charges to be made in respect of the maize, wheat and barley exported since January 1st last from the present season's crops (i.e., the crops harvested towards the end of 1929 and early in 1930) on the under-standing:—

1. That the relief is passed on in full to the growers.
2. (a) That the refund in respect of maize be an amount up to Sh. 1 per bag of 200 lb. net provided that the total return to the grower f.o.r. Kenya stations including the net selling price plus the refund does not exceed Sh. 8 per bag.
- (b) That the refund in respect of wheat be an amount up to Sh. 2 per bag of 200 lb. net provided that the total return to the grower f.o.r. Kenya stations including the net selling price plus the refund does not exceed Sh. 13 per bag.
- (c) That the refund in respect of barley be an amount up to Sh. 3 per bag of 180 lb. net provided that the total return to the grower f.o.r. Kenya stations including the net selling price plus the refund does not exceed Sh. 6 per bag.

In the case of maize, wheat and barley shipped through a co-operative organisation the return to the grower, as mentioned above, may be taken as the average over the whole period of the season's shipment.

3. That in so far as the Colony's share of the total sum involved is concerned the amount refunded may at a future date be recoverable from the industry in such a form or manner as this Council may hereafter decide."

I think it would be convenient to the House if I remind hon. Members of the events which have taken place during the past weeks, and which have culminated in the motion now before the House. It will be recalled that the Board of

Agriculture made certain recommendations to the Kenya and Uganda Railways and Harbours Administration for consideration by the Railway Council that the total railway and port charges on wheat, maize and barley for export should not exceed Sh. 11/20 per ton, and that the reductions so recommended should not be temporary in character. The next step, Sir, was the motion by the hon. Member for the Lake at the last session of this House, wherein he moved that a Committee of Enquiry should take place in order to consider the advisability of granting a subsidy of Sh. 1 per bag on all wheat, maize and barley exported during 1930. Arising out of that motion, a representative committee was appointed by Your Excellency to consider the whole question, and the proposals embodied in the motion now before the House are really in substance, as well as in detail, the recommendations of that Committee. When, Sir, I refer to the Committee in my remarks on this motion, I mean the representative Committee to which I have just referred.

With your leave, I intend to take an opportunity of reading certain essential paragraphs of the Committee's report, which the Committee presented to Your Excellency.

The first question that may be asked is what is the necessity for this relief. Well, Sir, other grain growing countries throughout the world have been faced with this problem, and it is admitted everywhere that grain cannot be produced at present prices except at considerable loss, and in different countries various methods have been adopted and proposals have been made for the purpose of granting relief. When I say that these grain crops cannot be produced except at a loss, I would remind the House that the present values for export amount only to about Sh. 6 per bag in the case of maize, between Sh. 9 and Sh. 10 per bag in the case of wheat, and between Sh. 2 and Sh. 2/50 per bag in the case of barley, and I think it requires no close examination or detailed inquiry into the cost of production to arrive at the conclusion that grain cannot at present be produced on the average farm and in the average district except at a loss.

The Committee is satisfied that assistance is needed, and needed urgently, to carry farmers over the present period of depressed values. The Committee further emphasised their opinion that the need to maintain production, and through production the revenues of the Colony, was vital, and that without some assistance there was a grave risk that a considerable area of land would pass out of cultivation.

It may be said that the case for relief should be proved on the basis of cost of production, and that no one who has not proved the need for assistance should be granted relief.

That aspect of the matter, Sir, was very fully inquired into by your Committee, and they found that it was quite impracticable to attempt to deal with the matter upon the close investigation of costs of production; but I need not occupy the time of the House, as time is short, by giving the details of the Committee's Report in this connexion—but the fact remains that it is not on that basis that the case need be proved.

Another point, I think, is this, that there is ample evidence to show that not only in the case of grain growers, but in that of farmers and planters generally throughout the Colony, genuine efforts have been made, and successfully made to reduce their expenditure, personal and otherwise, and economise in every direction. In this way the costs of production have already become appreciably lower.

Now, Sir, coming to the motion itself, it will be seen that the cost is to be shared equally by the Kenya and Uganda Railways and Harbours Administration and the Colony. I take this opportunity of explaining to the House that the whole question came under review at a recent meeting of the Railway Council. Members of the Railway Council had in mind that three years ago substantial relief, amounting approximately to £35,000, was given in the case of railway freight rates on cotton, during a period when there was depression in cotton prices. The Railway Council recommended, and you, Sir, as High Commissioner approved the proposal, that the cost should be shared equally. It is calculated that this sum of £35,000 from the Kenya and Uganda Railways and Harbours Administration and from this Colony will suffice to give effect to the proposals before the House. It is further considered that the best method to adopt is to ask the Kenya and Uganda Railways and Harbours Administration to administer the relief on the basis of a reduction in railway rates and port charges, and then that the Government of this Colony should re-imburse the Administration to the extent of fifty per cent of the cost, not exceeding £35,000.

The next point in the motion, Sir, refers to application to the present season's crop. That is defined as the crops harvested towards the end of 1929 and early in 1930. It is not anticipated that any difficulty will exist in practice in determining to what harvest a particular crop belongs. In this connexion I shall just have to quote one sentence from the Report: "Your Committee also considers that the problem arising out of one crop should be met in respect of that crop, and further, that the administration of any form of relief would be more easily effected if the crop is treated as a

whole, rather than commencing any form of the relief in the middle of the export season and carrying it on into the next season."

HIS EXCELLENCY : I must remind the hon. Member that he is not entitled to read from a document that has not been laid on the Table of this House. He can give the views of the Committee, but he is not entitled to read from the Report.

THE DIRECTOR OF AGRICULTURE : I am sorry, Sir, I understood that was the intention.

The next point in the motion is that the relief should be passed in full to the growers. The intention is that the assistance should be first paid to the shippers, and, having regard to the fact that about ninety per cent of the maize exported is passed through the hands of one shipper, and all the wheat exported is passed through the hands of one shipper, it is not anticipated that there will be any difficulty in seeing that the refunds made will be passed in due course to the growers.

With regard to section 2 (a), (b) and (c) of the motion, Sir, I think that part is self-explanatory. For the information of the House, however, I will give the figures on which the total cost is estimated. It is considered likely that the export of maize will be about 1,010,000 to 1,020,000 bags, the export of wheat from 140,000 to 160,000 bags, and the export of barley from 5,000 to 6,000 bags. In respect of the reference in the motion to the total return to the grower of freight and port charges, free on rail Kenya stations, information is available which will provide the means of checking the local values, based on the known selling price in the overseas market.

The motion further provides that in order that the members of co-operative organisations should not be penalised, provision for the return to the grower shall be taken as the average over the whole period of the season's shipment. Hon. Members will no doubt agree that that is an equitable provision in the motion. I should perhaps, however, take this opportunity of saying, Sir, that some members of the Committee held the view that the relief, as indicated in the motion, should be granted on a repayment basis, and furnished a scale of application whereby according to varying prices realised at given times so the repayment would be made on a sliding scale basis. For example, when the export price was above Sh. 8/50 and not above Sh. 9 per bag there was to be a repayment of Cts. 20 per bag; when the export price was above Sh. 9 per bag, it was suggested that fifty per cent of the excess over Sh. 9 should be repaid in addition to the Cts. 20, and that in the case of wheat, for example, when the export price was

above Sh. 13/50 per bag, that the repayment should be fifty per cent of the excess over Sh. 13/50. I have, however, to say that Government has not yet arrived at a decision on the question of the repayment. It was felt that the proposal was one which should not be ruled out but that it was one which would require further thought and the exercise of calm judgment.

I might take this opportunity, very shortly, to mention what may be the prospects of the forthcoming season. It will be generally agreed, I think, Sir, that no great advance may be expected in prices. Some improvement may not unreasonably be anticipated, however, in the present very low ruling prices, but there is one satisfactory feature in the situation, and that is that the crops of cereals on the whole are good throughout the Colony, and high average yields are anticipated, and these, coupled with the lowering in the cost of production which is taking place, will, I hope, create a situation in regard to the forthcoming season that will not be too difficult to meet.

I have endeavoured, Sir, in a somewhat hurried speech to give an outline of what is a highly complicated subject, and I hope sufficient information has been given to Members in every part of the House to enable them to support the motion.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to second the motion.

HIS EXCELLENCY : I think I will reserve putting the motion until Saturday.

THE HON. CONWAY HARVEY : I beg to move, with your permission, Sir, that this debate stand adjourned till Saturday.

This motion came into the hands of Elected Members at a late hour yesterday afternoon, and the whole of yesterday was fully occupied in discussing the Sale of Wheat Bill. In the light of the hon. Member's illuminating exposition, Sir, we shall be able to deal with it much better on Saturday morning.

May I at the same time ask that the Report of the Committee to which the hon. Member has made reference may be laid, in order that the Members of the House may be able to take advantage of . . .

HIS EXCELLENCY : I am afraid I cannot sanction the laying of the Report. The Report is not a Report to this Council; it was a Report to the Government, and I do not

think it is desirable that all reports of enquiries should be laid at all times. Any information which hon. Members may require may be asked for.

The question is that the debate be adjourned till 10 a.m. on Saturday.

The question was put and carried.

CAPT. THE HON. E. M. V. KENEALY: Has the Committee been appointed?

HIS EXCELLENCY: Yes, I read it out just now.

Council adjourned to 10 a.m. on Saturday,
30th August, 1930.

SATURDAY, 30th AUGUST, 1930.

The Council assembled at 10 a.m. on Saturday, 30th August, 1930, at the Memorial Hall, Nairobi, HIS EXCELLENCY THE GOVERNOR (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLARY 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 28th August, 1930, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

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

Report of the Select Committee on the Sale of Wheat Bill.

MOTION.

SUBSIDY ON CEREALS.

HIS EXCELLENCY: The motion of the Director of Agriculture having been seconded, discussion of which was adjourned at the last meeting, I will put it to the Council and the debate may then be carried on.

The question is:—

“That, in order to give further relief to grain growers, in connexion with which the Railways and Harbours Administration are prepared to co-operate to the extent of bearing fifty per centum of the cost, this Council approves of the appropriation of a sum not exceeding £35,000 from the Colony's surplus balances for the purpose of enabling a refund of the whole or part of railway rates and port charges to be made in respect of the maize, wheat and barley exported since January 1st last from the present season's crops (i.e., the crops harvested towards the end of 1929 and early in 1930) on the understanding:—

1. That the relief is passed on in full to the growers.
2. (a) That the refund in respect of maize be an amount up to Sh. 1 per bag of 200 lb. net provided that the total return to the grower f.o.r. Kenya stations including the net selling price plus the refund does not exceed Sh. 8 per bag.

(b) That the refund in respect of wheat be an amount up to Sh. 2 per bag of 200 lb. net provided that the total return to the grower *i.e.* Kenya stations including the net selling price plus the refund does not exceed Sh. 13 per bag.

(c) That the refund in respect of barley be an amount up to Sh. 3 per bag of 180 lb. net provided that the total return to the grower *i.e.* Kenya stations including the net selling price plus the refund does not exceed Sh. 6 per bag.

In the case of maize, wheat and barley shipped through a co-operative organisation the return to the grower, as mentioned above, may be taken as the average over the whole period of the season's shipment.

3. That in so far as the Colony's share of the total sum involved is concerned the amount refunded may at a future date be recoverable from the industry in such a form or manner as this Council may hereafter decide."

THE HON. CONWAY HARVEY: Your Excellency, in supporting this motion, which does not go quite so far as we think it might, I do not propose to detain the House very long. The House listened with patience and tolerance to my views on the question of a subsidy when we met a few brief weeks ago in Mombasa, and I should like to express my very great appreciation, Sir, of the celerity with which Government tackled this important problem. It is quite an unexpected burst of speed on the part of Government, and I do feel, Sir, that a very special expression of thanks is due to the personnel of the special committee—both Official and Unofficial Members—who got down to their job straight away, and I believe they produced a report which indicated very careful investigation of all the factors, a report on which I understand this motion is based. At the same time, we must not forget that we do owe a debt of gratitude to the Railway Administration in connexion with this matter. I do feel, Sir, very strongly that unusual measures of this nature for the relief of agriculture would have been quite unnecessary had the Land Bank Bill been passed through during an ordinary normal period of time. There should be no doubt, whatever, Your Excellency, that a Land Bank forms a far sounder economic basis for expenditure of this character. Under the present proposal it is quite inevitable that one or two at least fairly wealthy cereal growers will get relief out of the public purse which they do not really want, but that is inevitable, Sir, and we have to consider that we are doing the greatest good to the greatest number.

There is one interesting feature of this proposal. Your Excellency, which appears to me to introduce an interesting variety in railway accountancy, inasmuch as, if my figures are correct in the case of the subsidy proposed in the case of wheat and barley when the grower hands in a consignment of these goods for shipment, the amount of the subsidy may quite possibly exceed the total freight due on the consignment of goods to the Coast, which will mean that in addition to getting his consignment note back from the local station-master, he will be given a small cheque—a little windfall which no one could have possibly foreseen when they planted their wheat and barley.

There may be some criticism on the ground that natives do not participate in this proposal. I should like to make it perfectly clear that natives, however, definitely do enjoy the advantages with all other sections of the community. During the year 1929, Sir, 8,567 bags of maize were exported from the Native Reserves, which I consider, almost negligible when one considers the total volume of maize exported. Now, Sir, native growers and all growers will share in the advantages of these proposals, inasmuch as the local price of maize must inevitably react to the additional price of export maize due to the addition of the subsidy.

Now, Sir, the need for this motion clearly illustrates the trend of development in agricultural economics in Kenya, and in view of the fact that demands may be made in the very near future from other agricultural industries, I consider that the need for conservative Government expenditure is more insistent than ever, and I should welcome an assurance from Government once again that the Colony is not being committed to expenditure on costly Government buildings until the needs of agriculture have been fully met. I say this with special reference to the Law Courts buildings and the proposed Central Offices. We hear that foundation stones are being laid in gardens all over the town; and we hope, Sir, that the expenditure for the moment, anyhow, will stop at that.

I do consider it, Sir, very important indeed that adequate steps and complete steps in every way should be taken to ensure that this money is passed on to the grower.

I have just one small criticism before I sit down. I should have liked rather more definiteness in the concluding paragraph of this motion. The Government proposals for repayment are on the vague side, and I consider it would have been far better if it had been stated quite clearly and definitely that an *ad valorem* duty on a sliding scale on maize, wheat and barley exported would be collected by Government when the price of cereals exported exceeded the cost of production.

In conclusion, Your Excellency, I think we should place on record our appreciation of the generous action of the shipping companies, who have very considerably reduced their freights on these commodities.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I have one or two points to traverse, but I think there is one in particular which should be mentioned, and that is the suggestion which has just been made by my hon. friend on my right (the hon. Member for the Lake) that there are cereal growers in this country who do not require relief. I do not think that is so. I cannot believe that any evidence can be adduced to prove that that is so. I feel every cereal grower must need relief on the basis of the cost of production and the sums realized by him on his sales.

We have had very little information in regard to how this measure is to be worked. Sir, and I hope, if it is to be worked through the good offices of the Railway Administration, that we shall have a more detailed statement as to how it is to be done.

This seems to be an opportunity, Sir, for adjusting the anomalies of maximum rates applied on the Railway in regard to branch lines. We use the expression "maximum rates," but that expression is meaningless because it is not the maximum, and therefore it is inept and inapt. We must, Sir, if we are going to arrive at efficiency, abolish the branch line rates in application to maximum rates on produce, and also, Sir, in regard to the carriage of fertilisers. That seems to be omitted from the purview of Government in the introduction of this measure, Sir.

One of the methods by which one can attain to a greater production at smaller cost is by the intensified use of fertilisers. We have a rate, called a "maximum" rate, on fertilisers, but that does not apply to branch lines; nor does the maximum rate on exportable produce apply to branch lines. I do hope that Government and the Railways and Harbours Administration will deal with this anomaly and adjust it. It appears to be an excellent and easy opportunity for introducing rationality in this way and I trust it will be adopted.

I support the measure and congratulate Government on its action in introducing it.

COL. THE HON. W. K. TUCKER: Your Excellency, a few moments will suffice to make the points which I feel should be brought out. One has been partially touched on by the last speaker—that is, to ask through you, Sir, my hon.

friend the General Manager of Railways whether he sees quite clearly how he is going to handle unaided, not merely a refund of his own money, but money contributed to him by the Government, or whether he desires the help of other Departments in performing his task?

A further point to the same hon. gentleman is whether he can understand from this motion, having gone through, that the beneficiaries under this motion may expect to receive money with reasonable—without unreasonable delay, as distinct from waiting until the date period has expired for which the benefits are to operate?

My second point, Sir, is this. The hon. the Director of Agriculture in submitting the motion emphasizes that this relief is in respect of three years. He also emphasizes that the costs of production have already been brought down. Now, Sir, in that connexion, looms very largely the question of locusts, and at a very large meeting held the other day it was desired that an opportunity should be given to the hon. gentlemen of, in two or three sentences, reassuring the country on that point—because a year ago among the costs of production were the direct and indirect efforts by way of insurance and other things regarding locusts—and my hon. friend has promised, with your permission, that he will, in a couple of sentences, tell the country whether we have really got back to the condition of four or five years ago, or whether it is still necessary that more money should be spent on insurance, etc.

My hon. friend the Member for the Lake, Sir, has anticipated what I was going to say regarding the work of the committee and the work of the Railway Administration, but I do think—as one who has seen the inside perhaps more than any other Member—I would like to couple with that a vote of thanks for the very generous attitude and sympathy shown by the Uganda Members of the Railway Council in this matter, both official and unofficial.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, it is with pleasure that I support the motion before the House, but I would like to take opportunity of regretting that it could not have been brought forward in some other form. It is quite obvious that there are large sections of producers who will not benefit by what I will call a subsidy. That is, the producers of maize and wheat who have disposed of their production for local consumption, both in this Colony, in Tanganyika and Uganda. I would prefer, if it had been possible, for Government to bring in a measure that would have obviated that disability with these particular growers.

I understand, Sir, that it also means a reduction of 25 cents a bag on the branch line rates. It is rather a puzzle to me, seeing that it is so—I understand it is so—that the proposal I put forward several months ago to the Railway Council that that should be suspended for this year was refused. It is also a puzzle to me why I was informed that Government would not accept a motion that Government should subsidize the Railway to that amount on the branch lines of this Colony. It seems to be a reversion of policy, but it is a reversion that I can approve of.

In the last paragraph it states: "In the case of maize, wheat and barley shipped through a co-operative organization the return to the growers as mentioned above may be taken as the average for the whole period of the season's shipment." I should like to know, Sir, whether it is intended, as regards co-operative members of societies, whether it is intended that the money should be paid through the society or whether it is going to be paid direct. It is a question I should like to have clear. I have no strong feelings on the matter. I think it has definite implications and the result will be very much the same. But I know there is a large number of members of co-operative societies who desire that money should be paid direct to them and not through the society. Whether that is sound or not, Sir, I am not advocating.

I would also like to take the opportunity of expressing my thanks for the consideration that has been given on the Inter-Colonial Railway Council, both by our own members and by the members of Uganda, and also the sympathetic manner in which this proposal has been brought forward by Government.

LIET.-COL. THE HON. C. G. DURHAM: Your Excellency, I merely desire to record my very grateful thanks to Government and the Railway for their attitude in meeting the present situation. I support the motion.

THE HON. F. A. BEMISTER: Your Excellency, this is a farmers' matter and I would not have interfered in it except for a remark made by the hon. Member for the Lake. I hope I am in order but I merely want to disagree entirely with his suggestion that any delay is even hinted at in the public works and buildings which you have told this House shall be gone on with. It is all very well, Sir, farmers are asking for relief, but I certainly think that the unemployed people should ask for relief, and money to-day is cheap, employment is bad, and there never has been a better time for carrying on your public works and unharassing in every possible way an economic proposition. That must be the

method in every case. I merely want to protest that I will never assist or encourage any idea that will stop expenditure of public money on really good economic projects.

THE HON. E. POWERS COM: Your Excellency, I do desire to support this motion and to express my appreciation of the speedy way in which Government has handled it, and my appreciation of the manner in which the Railway has come to the rescue. But I want to make one point in connexion with the Railway, and that is, that we trust that, although they have made these temporary reductions now, they will find that they are so satisfactory that they will be able to make them permanent and that we shall see permanently a reduction of the rates on cereals. I made most of these points before and I think I must reiterate them because I believe them to be so important. It is an undoubted fact that, owing to our particular system, the cereals here in this country do reach the ship's slings at a cost very far above that at which the cereals of competing countries reach them. Now, Sir, that is made up purely of branch lines charges. I do believe, Sir, that that is an unjust rate, unjust in its incidence. In the case of maize, it amounted to nearly Sh. 3 per ton and in the case of wheat and other cereals it very often exceeds Sh. 12 per ton. These are very serious charges and I cannot see the argument that justifies them. Further, our transportation system here does actually carry the main line cereals at a price which compares favourably with those of South Africa, but it must be remembered that this is not the end of the cost of transportation locally—transportation of cereals—and I think it is perfectly fair to argue that, if the services here rendered by the transportation authorities is a service which cannot give those refinements of handling which can be given in larger countries, then the cost of the necessarily inferior service should be less. I am not advocating to-day, Sir, I am not suggesting for one moment, that this country has reached the stage where elevators should be the method of handling grain, but I do submit, if we have not reached that stage, we ought to make every endeavour to cheapen the operation of handling cereals in this country to-day. Until that is done I for one shall never be satisfied that we have put our cereal exports on a fair basis for competition with those of other countries. I believe, Sir, that we ought to adopt in this country the policy which is adopted in other countries which depend for their prosperity very largely on the export of cereals, e.g. the policy of Canada. The Canadian Railways are successful and their success depends almost solely upon the prosperity of their cereal growers. Recognizing that, it is, I believe, an undisputed fact that for very many years the railways of

Canada have definitely carried cereals to the sea at rates which show a definite loss so far as the outward transportation of cereals is concerned, but nevertheless the railways are a success. They do pay good dividends and their shares do stand at a large premium. That can only have been arrived at by their policy being a sound policy. They believe that if they can get the cereals out of the country cheaply then the volume is going to increase, and in consequence the volume of imports is going to increase; and it is on that system that they have built up their prosperity. I think we can rely on the same kind of policy here, and we have at least one very good example of how that policy has actually worked out in this Colony. It will be remembered that prior to the Economic Committee which sat in 1921 the cereal trade of this country was very small indeed, insignificant. That Committee took the bull by the horns and established the existing flat rates on cereals. The result has been that that cereal trade has grown in a very marvellous way, grown in a way that has undoubtedly added to the prosperity of this country and my suggestion is, that having tried a certain remedy and having found it is successful, we should try a further dose of the same remedy, and we shall find that the results will be ample. Further, I think there is the more justification for the argument I am using in that it must not be forgotten that during the last seven years the Railway rates on imports have been reduced by over £800,000 a year and that the rate of reduction in import rates during the last three years has been an average of nearly £100,000 a year. On the other side, there has been very little reduction. The reductions made on export rates during that period have been negligible. I venture, Sir, to think that, if it is possible to do so, some such suggestion that the Railway

HIS EXCELLENCY: Order, order. The hon. Member is in order in discussing the rates on cereals but he is not in order in going into a disquisition on Railway rates in general.

THE HON. E. POWYS COBB: My point, Sir, was entirely in relation to cereals—that there have been no reductions on cereals, I think, all that time. These rates could have been further reduced if there had not been very heavy reductions on the other side, on the import rates. We have tried a remedy; it has been successful, and my earnest hope is that the Railway will see its way to try a further dose of the same remedy.

THE REV. CANON THE HON. H. LEAKY: Your Excellency, I shall have very great pleasure indeed in supporting this motion. I feel it is a definite attempt on the part of

Government to remedy a difficult position that has arisen for the farmers to-day. I was particularly gratified to hear the hon. Member for the Lake say that he was certain that such native cereal growers as there are will also benefit, and—I am not a trained business man and do not pretend to understand intricate matters regarding such things, but I hope very much that the hon. the Director of Agriculture in his reply will be able just to touch on that aspect and endorse or amplify that remark. I think it will be of very great use in his speech as published.

HIS EXCELLENCY: If no other hon. Member wishes to address Council I will call upon the Director of Agriculture to reply to the debate.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, it is gratifying that the motion standing in my name has found so much acceptance on the other side of the House. I will deal, Sir, in order of sequence with the views expressed by hon. Members on the points made by them as far as I can.

The first point, I think, was that raised by the hon. Member for the Lake with regard to the relief to be granted in respect of wheat and barley. I should preface my remarks by saying that the Sh. 1 a bag relief in respect of maize will be fully covered by the flat rate of Sh. 11/20 a ton to the Coast.

In respect of wheat and barley, as the motion indicates, the relief will be confined to Railway freight rates and Port charges, but the Railway freight rates will also include branch line rates. The position therefore is, Sir, that in respect of the ordinary Railway freight rates and Port charges, the relief amounts in the case of wheat and barley to Sh. 1/67 per bag, to which would be added the amount of relief that could be given under branch line rates. My friend the hon. the Acting General Manager and I have discussed this matter but I regret to say that we have not sufficient information in detail available at the moment to indicate accurately what the amount of relief would be on branch line rates in addition to the Sh. 1/67 in respect of the other charges. It is believed, however, that the amount will not fall greatly short of Sh. 2 per bag. I think, however, it would be fair to draw the attention of the House to the fact that in respect of barley, in each case, the committee recommend that up to Sh. 3 per bag of relief should be given, but it was recognized that it would not be possible to give relief to that extent. I need not go into detail in regard to the special case of barley in the country. The committee, after full enquiry, recognizes

that to a great extent it is a speculative crop, depending largely on seasonal conditions, and is not quite in the same category as maize and wheat.

I would like to give an assurance to the hon. Member for the Lake that no difficulty is anticipated that the relief will not be passed in full to the growers. We are administering at the moment the return of maize drying and conditioning charges. There again the undertaking was given, and the Government is satisfied and all figures indicate that there will be no difficulty in seeing that this is done.

I regret that no more definite statement can be made on the question of repayment than the information which I gave to the House when I introduced the motion. The position is as indicated in section 3 of the motion before the House. I note, however, that the hon. Member for the Lake is in favour of this relief being granted on a repayment basis. I would like to assure the hon. Member for West Kenya that the case of individual cereal growers was closely examined by the committee and it was found quite impracticable to attempt to administer relief on an individual basis or even in respect of any particular area of the Colony.

With reference to the hon. and gallant Member's other point I did, I think, indicate to the House when introducing the motion that this relief, the administration of the relief, was to be handled by the Railways and Harbours Administration. Already, if I may say so, Sir, there have been discussions between my hon. friend the Acting General Manager and the senior members of his staff and myself with regard to the methods to be adopted in giving effect to the motion. And on that point I would like to assure the hon. and gallant Member for Nairobi North that it is believed there will be no delay in paying out the amounts due. Already very substantial progress has been made, Sir, in anticipating that this motion would be passed.

On the other point made by the hon. and gallant Member—be referred to the locust menace in this Colony—I am glad to have an opportunity of giving the House information. It seems to me, Sir, that the role of Director of Agriculture in Kenya Colony is "many and various" and I note that he is now also expected to be somewhat of a prophet. Well, Sir, the position is that there is no record in the Colony to-day of either hoppers or flying swarms, or laying swarms, except scattered flying swarms in parts of Turkina. During the last two or three months the comparatively small swarms which were to be found in the Baringo district and near Marsabit have been wiped out and there remain only a few scattered swarms in Turkana, and there the locust control officer is

at present engaged on closely investigating the movements of these swarms. If I might prophesy in the matter again, as I have had to do on previous occasions in connexion with these infestations, I have every reason to believe that these particular swarms will not come into Kenya Colony—will not come southwards further into Kenya Colony—and my information is, Sir, that the menace of locusts has passed in this Colony for some years to come; and I do not see any reason to anticipate that farmers will for some years to come suffer any more damage from locust destruction.

Two points made by the hon. Member for Plateau North were the question of relief on the basis of cereals sold locally and the question of payment being made through a co-operative organization.

In regard to the first point, the committee fully explored the advisability of adopting that method, and I think it will be clear to the House, if they give a little thought to the matter, that any attempt made to give relief on a basis of maize or wheat or barley sold locally would be quite impracticable. Only in respect of exports, of which documentary evidence is readily available in regard to the amount on which a claim is based, can relief of the kind indicated be successfully administered. Furthermore, it should be remembered that this is a very good price factor to take in the matter, because for all practical purposes, throughout the greater part of the year, maize is sold locally on a parity basis of its export value.

I should like to say very definitely in regard to the other point that the intention of Government is to pay relief through the co-operative society in respect of the interest of the members of that society. And there are good and sufficient reasons for embodying that reference to a co-operative organization in the motion before the House. The relief will not be paid directly to any member of such a society, but there is ample provision that it can be paid to the co-operative organization, and each member of the society will receive the full benefit.

With reference to the remarks of the hon. Member for the Rift Valley, I do not propose in connexion with this motion to enter into a discussion generally on Railway rates and policy. I do not think this is the time, though I shall be very glad to have another opportunity of discussing the whole position with the hon. Member.

In regard to the point raised by the reverend Member, Canon Leakey, the fact is that only 8,573 bags of native maize were exported this season, and they were exported at a period when maize was selling at a comparatively high

price, so that that maize would probably not come under the limit—the maximum, rather—of Sh. 8 per bag. But I may take the opportunity of saying, Sir, that it was the recommendation of the committee that I have referred to that, in the event of a repayment being agreed upon, natives should not be called upon to repay except up to the extent of the benefits which they have derived. I hope that will satisfy the hon. Member.

HIS EXCELLENCY: I think I need not read the whole of the motion again. The question is that the motion standing in the name of the Director of Agriculture upon the Order Paper be approved.

The question was put and carried.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: With Your Excellency's leave I beg to move that Standing Rules and Orders be suspended to enable the motion for the adoption of the Select Committee's report on a Bill to Regulate the Sale and Distribution of Wheat Grown in the Colony to be taken without due notice.

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

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE SALE OF WHEAT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the Report of the Select Committee on the provisions of the Sale of Wheat Bill is a very much shorter document, so far as my task this morning is concerned, than at first sight it would appear to be, because in the four pages of that document there are literally only four points which introduce any new matter into the Bill as printed for the information of the public, with the amendments which appeared in the Order of the Day when this Council sat last Thursday. These four points, Sir, I shall indicate *seriatim*.

The first is in the second recommendation of the Committee and introduces a definition of the word "purchases." The word in itself hardly would appear to require definition, Sir, but the reason for its incorporation is that the Committee felt that it was necessary, particularly, to encourage and to gain the confidence of the public on this matter. It was thought advisable that we should specifically declare that the purchase of wheat necessarily connotes taking delivery of it

within a reasonable time and making payment for it in a reasonable time. That, hon. Members will find in the suggested new definition of the word "purchases."

The next new matter is in the eighth recommendation of the Committee. It imposes on the miller a new obligation, that of grading wheat delivered to his mill in accordance with the classification of grades of wheat laid down for that miller by the agency supplying the wheat. In practice, Sir, I am informed that the wheat will not pass through the hands of an agency—the transaction will be carried out through the instrumentality of an agency, but it will be delivered by the grower direct to the miller for conversion into flour; and in view of that state of affairs, Sir, it is, I think, only prudent that that additional obligation should be placed upon the miller, an obligation with which, as hon. Members will see, he is bound to comply only at the request of the agency with whom he deals.

Recommendation 9, Sir, very largely amplifies the penal provisions in the Bill as originally printed. In the draft Bill there was a flat penalty for offences against the penal provisions of the Ordinance—a fine of £100 or imprisonment for six months, or both. It is felt that it might conceivably be in the financial interests of a miller to avoid deliberately the provisions of the Ordinance and run the risk of imprisonment and pay the fine, even of the sum of £100; and therefore, Sir, the recommendation provides that for a second or subsequent offence the penalty should be very much greater. There is the further provision, Sir, that where a court passes sentence for a second or subsequent offence against the provisions of the Ordinance, that conviction and sentence must be reported to Your Excellency in Council. There is the corollary, of course, Sir, that the Governor in Council may, on receiving that report—after considering all the circumstances of the case—cancel the registration of the miller. A miller whose registration is thus cancelled is disqualified from further registering as a miller without the consent of the Governor in Council.

The fourth and last point, Sir, is in the last, the sixteenth recommendation, which provides for the making of Rules by the Governor in Council. When I drafted the Bill, Sir, I did not contemplate the necessity for a rule-making section. It was, however, represented in Select Committee that from the point of view of the establishment of confidence it was better that the conditions on which an agency should operate—the duties and functions of an agency as laid down by Your Excellency in Council—should be made public by way of Rules rather than merely contained in a document which would pass from Government to the hands of the agency and might

never become public. That, Sir, is the object of the last recommendation. It is an object which I am sure—I am confident—will commend itself to every hon. Member.

I would draw the particular attention of hon. Members, Sir, to the last paragraph of the report. Four of the Elected Members who were members of the Select Committee would have preferred the appointment of a wheat board, representative of all interests, to control the operations of such agency or agencies as may be appointed. At first, Sir, I thought the desire for that representative board was the rock upon which all the negotiations of the Select Committee was more than likely to founder. I am glad to say it was overcome because I was authorized by Your Excellency to make a statement to the members of the Select Committee which I desire to make again here, publicly, and with all the emphasis at my command. That statement, Sir, is as follows:—

“That in considering the appointment of an agency, Government deem it one of their most important duties to take all steps to ensure that the personnel of the board of that agency will be such as will adequately represent all interests, and ensure fair and equitable treatment of all sections of the community who are affected by the provisions of this legislation.”

It was in the light of that statement and those terms, which I made yesterday, Sir, that the Elected Members on the Select Committee contented themselves with merely recording their preference, and I think it is only right, Sir, that that statement—which so influenced the minds of Elected Members yesterday—should be made in as public a manner as possible.

I beg, Sir, to move that the report of the Select Committee be adopted.

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

THE HON. W. C. MITCHELL: Your Excellency, when the second reading of this measure was moved I spoke as strongly as I was able to in favour of some measure of price control, and I am disappointed to find in the report of the Select Committee that no provision of that kind is provided for. I will, as briefly as I can, Sir, give you my reasons for still further insisting on the need for something of that kind. It seems to me that in the absence of any provision of the kind in the Bill itself, the only safeguard left to the consumer is the fact that Your Excellency can, by proclamation, cancel any agency that may be appointed, and I would ask Government, I would plead, that in the event of it being found that

the operation of this scheme was followed by an increase in the price of bread to the consumer, that that scheme would be reviewed again by Government.

As Your Excellency knows, the country is now passing through the throes of a readjustment of standards of values, and in that connexion a general reduction in the wages of wage-earners has been made. In the ranks of the commercial community adjustments of that kind, Sir, are always difficult and I hope that Government will see that the difficulty will be greatly accentuated if any possibility should arise of increasing the cost of production on an article like bread, which enters into the daily ration of the poorest, including natives. I see no difficulty in the way of Government giving that assurance because, if they are convinced that the necessity is not likely to arise, then the giving of that assurance will be all the more easy.

With the general principles of the measure I am in complete sympathy, but I would ask for that assurance from Government.

COL. THE HON. W. K. TUCKER: Your Excellency, on the point raised by the hon. Member for Nairobi South I would like just to observe this. After all, everyone understands that his point of view obviously must be the same as my own, both of us representing an urban constituency. The point I want to bring out rather is this: that in this country, according to all the evidence available, the price of bread in Kenya is less dependent on the price of wheat—or rather, flour—than in any other country in the world, and anyone who examines the report of the Cost of Living Commission will be struck by the many other factors that go to make up the price of bread; and I therefore do ask my hon. friend to bear in mind that the Wheat Board cannot control all these other factors. Therefore, he should, I think, qualify that demand by excluding from the responsibility of the wheat grower such factors as further increases in the cost of rent in Nairobi, further increases in the cost of importing expensive bakers from overseas, and so on, and I am perfectly certain that to that extent he will follow me.

The only other remark I want to make is that those of us who have thought most about this subject do recognize that a very difficult situation will exist the moment this measure becomes law. We shall no longer strive, as we have striven in the past, not merely to create understanding between various members of the trade, but to prevent them breaking down the understanding afterwards. If we only can arrive at a proper understanding, Government will step in and see that minorities do not break it down. It was for that reason,

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The only other remark I want to make is that those of us who have thought most about this subject do recognize that a very difficult situation will exist the moment this measure becomes law. We shall no longer strive, as we have striven in the past, not merely to create understanding between various members of the trade, but to prevent them breaking down the understanding afterwards. If we only can arrive at a proper understanding, Government will step in and see that minorities do not break it down. It was for that reason,

Sir, with all respect to the hon. the Attorney General, that I entirely agree with the big point he made just now as regards Your Excellency's ruling and dictum in the matter. But none the less, we have another point of view, and that is, that in the light of all that has been said and assurances given, we believe that we are better off not to press for a board at this stage, because the conferences which will follow this legislation will have a very much freer hand in tackling the situation than if we had forced on us a board.

THE HON. W. C. MITCHELL: On a point of explanation, Sir, I only asked for an assurance in the case of it being found that the operation of the legislation ended in an increase in the price of bread.

HIS EXCELLENCY: If no other member wishes to address Council I will call upon the Director of Agriculture to reply.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I should like to take this opportunity of referring to the point made this morning by the hon. Member for Nairobi South, the point which he also made during the second reading debate two days ago. In the opinion of Your Excellency's advisers any attempt at fixing prices and price control will fail in its object because of the complicated character of the business to be transacted. It was sufficiently difficult, if I may say so, in connexion with the administration of the Food Control Board. It is ten times more difficult when you are dealing with these products, whether it be wheat or flour, which vary a great deal in quality. But, Sir, I would like to put my view, and the view of my colleagues, to the hon. Member in this way. Under existing conditions there are, at it were, natural means for controlling prices. The agency will not be able to charge a price for the wheat to the miller in excess of the price that should be paid by the miller, to the agency for wheat for conversion into flour. Otherwise, the miller will not be able to compete against imported flour. On the other hand, it would naturally be the desire of the agency to pay the grower the highest price that the agency can afford to pay the grower. But there is this governing factor, the competition of imported flour, to prevent wheat being sold to the miller at too high a price; and I should like, also, to take this opportunity of saying, without going into this complicated question of the price of bread, on which statements have been made—authenticated statements—during the last few minutes, that there is ample evidence to show that neither the wheat grower nor the miller in this Colony has exploited the position which they have been placed in through protective duties and preferential rates on the Railway.

THE HON. THE ATTORNEY GENERAL: Perhaps I may be permitted to intervene once more in the debate, with one object, Sir, that of giving the hon. Member for Nairobi South the assurance that he asked for: that if, by reason of the establishment and operation of an agency under this legislation, the price of bread to the consumer is increased, Government will certainly, at once, give most careful consideration to the question of reviewing the whole situation.

HIS EXCELLENCY: The question is that the report of the Select Committee be adopted.

The question was put and carried.

BILL.

THIRD READING.

THE SALE OF WHEAT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to Regulate the Sale and Distribution of Wheat Grown in the Colony be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

DEPARTURE OF HIS EXCELLENCY.

THE HON. CONWAY HARVEY: Your Excellency, as I understand the Council is not likely to reassemble before the end of October, this will probably be Your Excellency's last appearance as President of the Legislative Council of Kenya, and I should like to assure Your Excellency, on behalf of all the Elected Members, of our best wishes for your future success in public and private life.

We have always appreciated the disadvantages of the present system under which Governors leave just when they have established intimate contact with the people and problems of the territories in their charge, and the fact that they have not really enjoyed the advantage of seeing progressive measures introduced by them brought to fruition must be somewhat discouraging, and in spite of this disability and in spite of the fact that a Governor's path is rarely strewn with roses, Your Excellency has always maintained a cheery optimism which should serve as a worthy example in these days of unprecedented depression.

You, Sir, have served a longer time in Kenya than many of your distinguished predecessors, and I trust Your Excellency will treasure many happy memories of your sojourn in this country, as will many of those who have had the privilege of close association with your Excellency in public and private life.

We wish Your Excellency the best of luck in your future career.

THE REV. CANON THE HON. H. LEAFY : I should like to ask to be allowed, on behalf of those whom I represent, to associate myself with the words which have been spoken by the leader of the Elected Members.

HIS EXCELLENCY : I appreciate very deeply indeed what the hon. Member for the Lake has said on behalf of the members on that side of the House, and also what was said by the reverend Member representing native interests. Hon. Members are no doubt aware that the duties of President of this Assembly are not always easy, for the particular reason that he has dual responsibility. He is not only President of this Assembly, but he is also head of the Executive and responsible therefore ultimately for the conduct and welfare of the Colony. That dual responsibility does create difficulties of its own, and I know it is very hard to discharge the duties connected with it with acceptance in all quarters.

For that reason I should like to thank hon. Members most sincerely for much courtesy and consideration. I am glad to think that ever since I have known this Council, its proceedings have always been conducted with dignity and decorum. That, I think, is a matter of very great importance in the Colony, and I am very grateful to hon. Members in all parts of the House for the constant and willing co-operation which they have given in securing that result.

I leave the Colony with many happy memories. I shall always watch the proceedings of the Council with interest; indeed, I may say I shall always watch them with keen attention and sympathy, and I think I need not say that this Council and all its Members have my warmest good wishes for the future.

Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA,

LEGISLATIVE COUNCIL DEBATES,

1930

FOURTH SESSION.

WEDNESDAY, 22nd OCTOBER, 1930.

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Wednesday, 22nd October, 1930, **HIS EXCELLENCY THE ACTING GOVERNOR (MR. HENRY MONCK-MASON MOORE, C.M.G.)**, 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:—

Ex-Officio Member :

HUMFREY TRICE MARTIN, Acting Colonial Secretary.

Nominated Official Member :

OSCAR FERRIS WATKINS, Provincial Commissioner, Nzoia.

Acting European Elected Member :

ARTHUR CECIL HOBY, Plateau South.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF COUNCIL :

In opening the Estimates Session of Council I propose to make a brief review of the Colony's affairs during the past year, and to forecast the Government's proposals for the financial year, 1931. So far as the legislative work of the Council is concerned the year has been a heavy one. No less than sixty-one Bills have been passed, some of them Bills, not only of considerable length and complexity, but also of the greatest importance to the welfare of the Colony. In the latter category, I would mention particularly the Fencing and Cattle Cleansing Ordinances, the Water Ordinance, the Customs Tariff Ordinance, the Native Lands Trust Ordinance, the Penal Code, the Criminal Procedure Code, the Native

Tribunals Ordinance, the Agricultural Advances Ordinance and the Chattels Transfer Ordinance. Some of these Bills still await the signification of His Majesty's pleasure, but the majority of them have already received the Royal assent, and I would wish to congratulate both the law officers of this Colony and the Members of this Council on the hard work, particularly in Select Committee, which this formidable body of legislation represents.

To turn to the financial and economic side, it must be frankly admitted that the results of the year's working have been disappointing, largely, if not entirely, owing to causes beyond the control alike of the Government and of the agricultural and commercial communities of this Colony. When the Estimates for the year 1930 were laid before Council about a year ago there was every ground for reasonable, though not extravagant optimism. The locust menace had worked itself out, good rains had fallen after a period of prolonged drought, and the famine conditions which had necessitated the imposition of food control had virtually disappeared. This early promise, so far as the crops were concerned, has been fulfilled, and though in certain areas considerable damage was caused to the maize crop by the excessive rains which fell during the early part of the year, necessitating special action by Government both by way of reduction of drying and conditioning charges, and also by the erection of additional plant, none the less the volume of production from the last season's crops proved larger than in any previous year. One factor, and one factor alone is responsible for the present depressed state of the agricultural industry. That is the collapse of the world's markets for most of our primary agricultural products. It would have been a wise prophet indeed who could have foretold this eventuality a year ago, and though the consolation may be a poor one, we at least have the satisfaction of knowing that all other agricultural countries have been equally taken by surprise, and we need not reproach ourselves with the thought that our present plight is due to lack of foresight. The Government has, I think, given practical proof of its sympathy with the farming community by the passage of the Agricultural Advances Ordinance, and the relief given to cereal growers in respect of drying and conditioning charges and bearing its share of the remission given by the Railway on freight charges on cereals. The Railway, despite, falling receipts, has also made its contribution to the industry by way of freight-rate reduction. The industry on its side has done its part by the introduction of all possible economies and a real endeavour to reduce the cost of production. I should like to congratulate all concerned on the gallant fight which they are

putting up and on the courage and determination with which they are setting their house in order to meet the altered world conditions. I should also like to record the thanks of Government to the members both official and unofficial of the local and Central Boards set up under the Agricultural Advances Ordinance. They have given their services unsparingly, and I am sure the country as a whole is most grateful for the manner in which they have discharged a difficult and delicate trust.

In native areas, with the exception of portions of the Kitui District in the Ukamba Province and of certain locations in the Meru District, where famine conditions prevailed at the end of last and the beginning of this year, necessitating some relief by way of tax reduction and remission of charges for food supplied, conditions have been on the whole satisfactory. The price of native maize has, however, dropped in sympathy with the general fall in prices and the native producer, in so far as he grows crops for sale and not for domestic consumption, is also adversely affected by the general market depression. The result of the conditions which I have described has been that the forecast on which the 1930 Budget was framed has not been realized. Hon. Members may recall that in the form in which the draft Estimates were originally presented to Council it was estimated that the transactions of the year would result in an excess of assets over liabilities on December 31st, 1930, of £558,014. As a result of amendments made in the Estimates in Select Committee, this estimated balance was increased to £578,849, while the further reductions in expenditure subsequently directed by the Secretary of State which were incorporated in April last in the Appropriation Bill, by which date the actual excess of assets over liabilities for the year 1929 was known, resulted in increasing our estimated balances at the end of 1930 to £614,054. This figure has now been carefully revised in the light of the actual experience of the year's working up to date, and it has been found necessary to reduce it to £561,599. In other words, the revised estimate of our Surplus Balances at the close of the present year is some £52,455 less than the figure estimated for in the 1930 Estimates in their final form. Hon. Members may recall that in the course of last year's Budget debate I gave the assurance that, if in the course of the year any unforeseen circumstances arose which made it unlikely that the revenue estimated for would be realized, action would be taken by Government to curtail its programme of expenditure. This pledge has been kept. As soon as the effects of the general slump became evident, circulars were issued to Heads of Departments impressing upon them the necessity for the

exercise of the most rigid economy, and warning them that no applications for expenditure in excess of the sanctioned Estimates would be entertained except in the most special circumstances. As a result, not only have certain vacant, though sanctioned, posts been left unfilled, but also items of less urgent expenditure have also been held in abeyance or only partially carried out. This curtailment of sanctioned expenditure, which the shortfall in revenue rendered necessary in any case, was made all the more imperative by the fact that further urgent and unforeseen expenditure had to be faced. First Supplementary Estimates as approved by Legislative Council in July sanctioned additional expenditure to the extent of £113,824, including a sum of £40,000 for repairing flood damage to roads and bridges, while sums of £35,000 and £11,000 were subsequently voted by way of emergency measures for cereal growers. In short, expenditure to the amount of some £194,194 is estimated to have been met in addition to the expenditure originally contemplated. The fact that none the less the total expenditure for the year is now estimated at £3,549,729, or some £5,806 less than the £3,555,535 provided for in the Appropriation Ordinance is, I suggest, clear proof of the economies in expenditure effected by the Government. To turn now to the revenue position. The revised estimate of revenue for the current year falls short of the original estimate by £58,261 and now stands at £9,403,351. Apart from certain over-estimations under the Heads Reimbursement and Interest, this shortfall is mainly due to reduced estimated receipts from Customs Duties and Native Hut and Poll Tax, and to remission of charges for food supplied to the Meru during the recent famine. These three items alone account for a shortfall of about £80,000, and may be definitely ascribed to abnormal causes which could not reasonably be foreseen. In all the circumstances and in view of the very difficult times through which we are passing, I trust hon. Members will agree that we shall have not done too badly, if by the end of the year our Surplus Balances stand at the figure now estimates of £561,599.

Let me now refer very briefly to the lines on which the Estimates for 1931, laid upon the Table this morning, have been cast. In reviewing the position the Government was faced first with the fact that our Surplus Balances at the end of the present year were likely to be less by some £52,455 than originally estimated; secondly, that out of these Surplus Balances a sum of £100,000 has been hypothecated to finance the Agricultural Advances Ordinance, reducing to that extent the amount available for Liquid Reserves, and third, that while the general crop prospects throughout the Colony are very favourable, it is difficult, if not impossible, to foretell how soon the upward movement in market prices which we

all so anxiously look for will actually begin. In this connexion the latest report furnished me by the Director of Agriculture may be of interest to Members.—

“ Latest reports indicate that crop prospects throughout the Colony are very favourable.

Although the maize area has been reduced by 12 per cent, the yield is likely to be high and a total crop from European producers amounting to one and three-quarter million bags is anticipated. As a consequence, it is expected that the season's exports will be little, if any, less than the previous season's record export of over one-and-a-quarter million bags.

An increased acreage has been planted in wheat. Prospects at present point to a high yield which, if the present favourable conditions continue, should produce a record crop of about 350,000 bags. Should such be realized, it is expected that at least 125,000 bags will be exported.

The coffee crop, although not so high as formerly estimated, can be regarded as satisfactory. A total crop of about 12.5 per cent in excess of the previous season's production is anticipated, and is estimated at not less than 12,250 tons.

There are indications that, unless values improve considerably, the export of sisal fibre will show a serious decline. It is reported that several estates have already restricted their output, while others have temporarily abandoned operations.

Increased and sustained activity in the dairying industry is apparent. The agricultural year which ended on July 31st last shows that the export of butter quadrupled itself as compared with the previous year's output. The relative figures were 4,865 cwt. valued at £37,500 in 1929-30, as compared with 1,104 cwt. valued at £9,400 in the preceding year. There is every expectation that this rate of increase will be maintained during the present year.

The favourable season should result in an increased production of sugar, bringing the total output up to approximately the total consumption.

A satisfactory feature in the present season's development is the increase in the variety of crops which are being cultivated. Although the acreage under such is still of necessity small, there are indications that farmers are now interesting themselves in such crops as beans and potatoes. Exports of potatoes, chiefly from native sources of supply, are rapidly increasing. From the same

source increasing quantities of wattle bark are being sent to overseas markets.

The volume of production from the last season's crops was larger than in any previous year and had the markets for most of the primary products not collapsed, the Colony would have experienced a record year financially. Production from the forthcoming season's crops is equally promising and it is to be hoped that market prices will improve.

If these crop forecasts are correct, as we have every reason to believe them to be, only a reasonable recovery in the world price of primary products is required to ensure us a most prosperous year. World prices are, however, of course, beyond our control, and the experience of the last year has emphasised the necessity in an agricultural Colony such as this for the existence of a substantial reserve to tide us over hard times. The object, therefore, which the Government has set before itself in framing the 1931 Budget has been not only rigorously to exclude all new services or extensions of existing services, but also to reduce all recurrent expenditure to a minimum with the object of building up such a reserve. The Estimates of Revenue have been prepared on the assumption that the agricultural prospects of the Colony, to which I have just referred, are sufficient to justify some increase in trade returns as compared with the revised Estimates for 1930, and that it is only reasonable at this stage to assume that there will be some revival of market prices. Accordingly the Revenue Estimates for 1931 provide for an increase of £54,441 over the approved Estimates for 1930. As hon. Members will see from the volume of Estimates, variations which are, generally speaking, of small amount, have been made in a large number of sub-heads of Revenue Estimates, the principal increases being an increase of £33,293 under the Head Reimbursements, owing to payments due from the Railways and Harbours Administration in respect of Sinking Fund charges on the Loans floated in 1927 and 1928; and substantial increases totalling £22,000 in the revenue anticipated from motor licences and the petrol tax. As against these, a reduction is shown in the estimated receipts from Customs revenue and from the sale of Government property.

On the Expenditure side the cuts made have been severe and drastic. Appointments to the value of some £8,547 have been deleted, while the filling of other appointments to the value of £9,650 has been temporarily held in abeyance. Recurrent expenditure under other charges has been curtailed to a minimum, and I should like to take this opportunity of thanking all Heads of Departments for the manner in which

they have co-operated in a necessarily distasteful task. In the case of the Public Works Department the Government considered it desirable in June last to appoint a Committee to inquire into and report upon the administration and office organization of the Public Works Department, with particular reference to what increases, if any, of clerical staff were necessary. That Committee reported in September, but owing to the absence of the Director of Public Works on leave, it has not yet been possible to obtain the Director's comments on the report. In view of the terms of the report it is most desirable that the Director should be given the opportunity of replying to some of the criticisms contained in the report, and indeed of appearing personally before the Committee. In these circumstances the Government is not at present in a position to publish the report or to decide what action should be taken on the detailed recommendations contained therein. For Estimates purposes the Government has, however, acted upon the general recommendation of the Committee that, pending further action on their recommendations, no addition should be made to the Department's establishment.

In non-recurrent expenditure the draft Estimates for 1931 show a decrease of £164,645 as compared with the corresponding figures for last year. This figure has only been obtained by excluding practically all new works, and confining the provision, with a few minor exceptions, to the revotes necessary to carry on work which is already in hand.

The final result of the operations which I have described is that the estimated expenditure both recurrent and non-recurrent is more than covered by the estimated Revenue for the year. The estimated Revenue for 1931 now stands at £3,516,023, and the estimated expenditure, both recurrent and non-recurrent at £3,464,045, leaving a surplus of £51,978 to be carried forward to swell our Liquid Reserves. On this basis our Surplus Balances which are estimated at £561,599 on the 31st of December, 1930, should stand on the 31st of December, 1931, at a figure of £613,577.

I trust that hon. Members will agree that these Estimates reveal a real effort to keep our annual expenditure within the limits of our annual revenue, that they reflect a reasonable and balanced appreciation of the present conditions prevailing in the Colony, and that while it is not within the wit of man to prophesy the future, the policy of adding to our Liquid Reserves to meet future eventualities even in hard times like the present is one that common prudence should dictate.

Now let me refer very briefly to the legislative work which awaits the Council at this session once the Estimates

have been got out of the way. The present state of agricultural depression has emphasized more than ever the need for long-term agricultural credits on easy terms which an institution such as the Land Bank could supply. Both the Government and the country are at one in wishing to expedite the creation of the Land Bank. Only two days ago the Select Committee on the Land Bank Bill held a special meeting to consider certain further observations and amendments suggested by the Secretary of State, and I was glad to be informed yesterday that the Committee had signed a final and unanimous report, embodying all amendments made to the original Bill and incorporating those recently put forward by the Secretary of State. Further, I am happy to be able to inform you that as a result of telegraphic correspondence with the Secretary of State, sanction has been obtained to carry the Bill through its remaining stages during the present session, instead of forwarding it first to the Secretary of State for his further consideration as originally proposed. I am sure hon. Members will agree that this is most satisfactory, and indicates a sympathetic appreciation at home of the difficult times through which we are passing. As the Secretary of State will under the arrangements now proposed necessarily be ignorant of the actual text of the Bill as submitted to Council, he has sanctioned this procedure on the understanding that assent should not be given to the Bill until he has had an opportunity of examining it in its final form. This procedure will very materially expedite the passage of the measure, and I am sure that everyone will be very appreciative of the consideration that has been shown us. I also wish to make it clear that this course has been agreed to on the understanding that the capital proposed for the Bank is confined to the sum of £240,000 which has already received the Secretary of State's approval.

The other two Bills of special importance awaiting your attention are the Education Bill and the Northern Frontier Poll Tax Bill.

The Education Bill has a special significance for the reason that it contains provisions which permit of the application of the compulsory principle under certain conditions. Full opportunity will be given to Members to discuss this principle both in Council and in Select Committee in accordance with the undertaking given by Sir Edward Grigg a year ago.

The cogent reasons for the introduction of taxation in the Northern Frontier Province have frequently been represented to this Council, and I do not propose to recapitulate them. Owing to the special conditions appertaining to the Northern Frontier it has been considered desirable to impose taxation by virtue of a specific Ordinance. I would only add

that it is imperative that this Bill should be passed in time so as to allow the collection of tax early in 1931, as administrative officers are already actively engaged in preparing the necessary machinery and notifying the people in *barazas* of the intentions of Government.

Finally, I desire to invite the attention of hon. Members to the advantages to be obtained by participation in the Colonial Development Fund. Certain tentative proposals have been prepared or are in the course of preparation by Government, and I hope it may be possible to submit them to the Select Committee for consideration at a later stage in the Session. In such event hon. Members would no doubt wish to consider any such proposals in relation to our general loan commitments present and prospective. In this connexion I should perhaps point out that our present system of financing our loan commitments by advances cannot be continued indefinitely, and that legislative authority will be required, if further funds are to be raised either by loan or the issue of Treasury Bills.

I trust that under Providence the session which now begins will promote the welfare of this Colony and Protectorate and of all the races in it.

MINUTES.

The Minutes of the meeting of 30th August, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

BY THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN):

Draft Estimates of Revenue and Expenditure of the Colony for the year 1931.

Memorandum on the draft Estimates for 1931.

Report on the Statistical Department of the Conference of East African Governors, 1926-1929.

Annual Report on the British East African Meteorological Service working in connexion with the Conference of East African Governors, 1929.

Report on the work of His Majesty's Eastern African Dependencies Trade and Information Office, London, for the year 1929.

Game Department Annual Report, 1929.

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

The Civil Procedure (Amendment) Rules, 1930.

BY THE HON. THE TREASURER (MR. H. H. RUSHTON):
Colonial Loan Statement No. XVII.

BY THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM):

Annual Report of the Department of Agriculture for 1929.

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

Estimates of the Revenue and Expenditure of the Kenya and Uganda Railways and Harbours, 1931.

BILLS.

FIRST READINGS.

THE ARCHITECTS AND QUANTITY SURVEYORS BILL.

On motion of the hon. the Attorney General the Architects and Quantity Surveyors Bill was read a first time.

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

THE COLLECTIVE PUNISHMENT BILL.

On motion of the hon. the Attorney General the Collective Punishment Bill was read a second time.

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

THE FOREIGN PRISONERS DETENTION BILL.

On motion of the hon. the Attorney General the Foreign Prisoners Detention Bill was read a first time.

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

THE LIQUOR (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Liquor (Amendment) Bill was read a first time.

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

*Council adjourned to 10 a.m. on Thursday,
the 30th October, 1930.*

THURSDAY, 30th OCTOBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 30th October, 1930, His Excellency THE ACTING GOVERNOR (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

HAMILTON FREDERICK WARD, Acting Member for Nairobi North.

FRANK JAMES COLLDREY, Acting Member for Rift Valley.

MINUTES.

The Minutes of the meeting of 22nd October, 1930, were confirmed.

ORAL ANSWERS TO QUESTIONS.

LOCAL NATIVE COUNCIL FUNDS.

CAPT. THE HON. H. E. SCHWARTZ asked:

Whether accumulated Local Native Council funds are invested and earn interest and, if not, whether arrangements can be made whereby the money no longer lies idle.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Such amounts as are not required to meet current expenditure are placed on Fixed Deposit and earn interest. The total amount on Fixed Deposit on 31/12/29 was Sh. 1,361,204.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: May we be told at what rate of interest?

THE HON. THE CHIEF NATIVE COMMISSIONER: I must have notice of that question. It is the ordinary rate for fixed bank rate deposits, whatever that is.

HIS EXCELLENCY: I do not know whether the Treasurer can give us that information at once?

THE HON. THE TREASURER (MR. H. H. RUSHTON): I think it is 3½ per cent at present. I am not quite certain.

FAMINE RELIEF MEASURES.

THE HON. A. C. HORY (on behalf of the HON. T. J. O'SHEA) asked.

Will Government lay on the Table a Financial Statement of and report on the Famine Relief measures for which funds were voted by this Council in the year 1929.

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Full details of the Famine Relief measures taken during 1929 are given on page 10 of the report of the Food Control Board, which was laid on the Table of Legislative Council on the 15th April. The following further details may be added.

Government efforts to relieve famine conditions in the Native Areas were for the most part concentrated in the Kikuyu Province and the bulk of the money expended was devoted to that portion of the country.

In Meru and Embu where the failure of the crops was followed by the destruction of subsequent crops by locusts, famine began early in the year and 28,367 bags of maize and maize flour were distributed in these areas, at that period the total cost including transport being Sh. 836,804.51.

Towards the end of the year famine again descended on the Meru District in spite of strenuous efforts in the interval by the Agricultural Department in conjunction with the Administration to promote large schemes of irrigation and extend the planting of root crops.

The difficulties and cost of providing famine relief were greatly accentuated by the abnormally heavy rains which rendered the roads of access to the famine areas almost impassable during the months of November and December.

The total cost, including transport, of the maize and maize meal distributed during this period amounted Sh. 216,440/02.

Though famine made itself felt in the Kitui District of the Ukamba Province, no free distribution of food was made in that area as the Wakamba, who possess an abundance of stock, were in a position to pay for the food supplied. With the help of Administrative Officers, about 800,000 bags were disposed of to the Wakamba through the agency of local traders.

Details in regard to the issue of maize in the Isiolo area and the Coast Province are given on page 11 of the report of the Food Control Board.

The total expenditure on Famine Relief measures during 1929 amounted to £95,520 against which revenue from sale of foodstuffs and seeds totalled £36,524, leaving a net expenditure in 1929 of £58,996. During the first four months of 1930 expenditure to the extent of £6,182 was incurred and revenue totalling £836 was received. The total net expenditure during 1929 and the first four months of 1930 was therefore £64,342.

CAPT. THE HON. E. M. V. KENEALY: Arising out of that partial answer, may the House be informed as to the amount which Government anticipated collecting from native sources in respect of money spent on famine relief, which has actually been paid, other than the amount mentioned by the hon. the Acting Colonial Secretary?

THE HON. THE ACTING COLONIAL SECRETARY: I am afraid I cannot give a figure like that off-hand and I must ask for notice of the question.

CAPT. THE HON. E. M. V. KENEALY: May that be accepted as notice?

HIS EXCELLENCY: I should be glad if the hon. Member would put his question in writing as it is rather an involved one, comprising figures, and it would be desirable that we should have the information accurate.

BRANCH RAILWAY CONSTRUCTION.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT asked:

Will the Colonial Secretary state what is the position with regard to the future construction of branch railway lines?

THE HON. THE ACTING COLONIAL SECRETARY:

- (a) The position with regard to the future construction of the extension of the North Kavirondo branch line to Butere is that this extension has been approved by the Secretary of State, who has intimated that the extent of the guarantee asked by the Transport Administration against losses will depend upon the decision on the general question of guarantees when taken.
- (b) The position in regard to the Kedowa-Kericho line is that the construction as far as mile 42, for which the Transport Administration have asked for no guarantee, has been recommended to the Secretary of State, whose reply is awaited.

- (c) The position in regard to the Thika-Yatta line is that the estimates of construction, etc., are under consideration by Government. No guarantee in respect of this branch has been asked for by the Transport Administration.
- (d) The position in regard to the Kitale-Mount Elgon proposal is that it has been deferred pending a further report by the Director of Agriculture as to the economic prospects of the Trans Nzoi and a conjoint report by that officer, the General Manager and the Director of Public Works in regard either to the location of an extension to the Kitale branch railway or to the construction of a road or roads in the manner best calculated to serve the economic requirements of the area and to enable the produce of the Trans Nzoi to be transported to its markets. These reports are awaited.

THE HON. CONWAY HARVEY: arising out of that answer, may I ask whether Government will endeavour to expedite a reply from the Secretary of State in regard to the Kedowa-Kericho branch line?

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, if the times of the application and the lack of reply appear to justify it, this Government will send a reminder and ask the Secretary of State to expedite a reply.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in regard to that reply, will Government state why they have put back the recommendation of the Branch Lines Committee in regard to the Thika-Donyo Sabuk line, which was also supported by the Railway, and which showed far the best economic prospects of any of these lines, and which was, in this House, promised to be the next to be constructed after the Thomson's Falls Railway at least two years ago?

THE HON. THE ACTING COLONIAL SECRETARY: I think the Noble Lord is labouring under some misapprehension. The question of this line has not been put back, but the estimates submitted by the Railway are going through their normal course of examination by the Government. There is no intention, so far as I know, to submit this particular Railway to unusual procedure.

NATIVE AUTHORITY ORDINANCE.

THE HON. F. A. BEMISTER asked:

What are the intentions of Government in regard to the letter appearing in the *Mombasa Times* of July 25th, headed *re* Native Authority Ordinance—and signed with the initials 'S.A.'—in which the actions of a senior Government official are criticised?

THE HON. THE ACTING COLONIAL SECRETARY: Government does not propose to take any action in the matter.

BRANCH RAILWAY CONSTRUCTION.

THE HON. CONWAY HARVEY: Your Excellency, in view of the reply to Question 54, my question would appear to be redundant. I therefore beg, with leave, to withdraw it.

HIS EXCELLENCY: The question is by leave withdrawn.

THE LAND BANK BILL.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: With reference to Question 58, standing in my name, in view of the announcement made in this House, and also from the facts within my own knowledge, I wish to withdraw that question.

HIS EXCELLENCY: The question is by leave withdrawn.

THE LAND BANK BILL.

THE HON. CONWAY HARVEY: I echo the remarks of the previous speaker, Your Excellency.

HIS EXCELLENCY: The question is by leave withdrawn.

HYPOTHECATION OF LAND SALES REVENUE.

CAPT. THE HON. E. M. V. KENNELLY asked:

Will Government consider the advisability of reserving sums of money realised by sales of Agriculture Crown Land for land banking purposes?

THE HON. THE ACTING COLONIAL SECRETARY: Government is unable to agree to the hypothecation in the manner suggested of revenue derived from land sales, as the Legislative Council must be left free to appropriate the Colony's revenue as may seem best to it, taking the requirements of the Colony as a whole into consideration.

CROWNS LAND IN LAIKIPIA.

CAPT. THE HON. E. M. V. KENEALY asked :

Will Government state when further Crown land in Laikipia lying unutilised at present will be alienated?

THE HON. THE ACTING COLONIAL SECRETARY : It is not at present proposed to alienate further Crown land in Laikipia until its water producing possibilities have been tested by boring. Boring on unalienated Crown land in Laikipia is being carried out at the present time.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, to what extent are the boring activities of Government—I mean in their technical sense—to be indulged in? Does it mean that Government will put down one bore-hole in every 100,000 acres or one bore-hole in the whole of this area, which could be utilised profitably to-day with its present water bearing capacity?

THE HON. THE ACTING COLONIAL SECRETARY : I am afraid I am not in a position to answer the hon. Member and go into details of what this boring scheme may be which is now in progress, but I have no doubt it will be possible to furnish the hon. Member with such details as he may require.

REVISION OF JUDGMENTS.

CAPT. THE HON. E. M. V. KENEALY asked :

Will Government furnish the Elected Member for Kenya with a copy of the revision by the Supreme Court of judgment in the assault case of Mr. Stahmer, Rumuruti?

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL) : The answer is in the negative. The procedure governing reference to Supreme Court archives is continued in Part V of the Rules of Court, to which the hon. Member's attention is invited.

CAPT. THE HON. E. M. V. KENEALY : Is the status of the Rules of Court as a guidance to procedure in judicial practice of greater significance constitutionally to this country than legislation passed in this Chamber?

HIS EXCELLENCY : The hon. Member has put, I think, a hypothetical question which is out of order. Questions must be in relation to questions of fact.

LIBT.-COL. THE HON. LORD FRANCIS SCOTT : Is there no method by which the public are able to ascertain what has been done in these revisions by the Supreme Court?

THE HON. T. D. H. BRUCE : I would refer the Noble Lord to the answer given. That is continued in Part V of the Rules of Court.

LIBT.-COL. THE HON. LORD FRANCIS SCOTT : I have not got them : they are not in my pocket.

RAILWAY TENDERS.

CAPT. THE HON. E. M. V. KENEALY asked :

When the Kenya and Uganda Railways and Harbours Authority calls for tenders, will Government induce that Authority to disclose :—

(a) the name of the successful tenderer ;

(b) the amount of the successful tender ;

to persons interested; and also to ensure that all tenders are opened publicly at a stated time and place?

THE HON. THE ACTING COLONIAL SECRETARY : Government is aware of no reason which might move it to take any steps to induce the Kenya and Uganda Railways and Harbours Administration to alter the existing practice, which is based on the Regulations in force for that Administration.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, Sir, I was informed after correspondence with the authority concerned, that they had no regulations governing these . . .

THE HON. THE ACTING COLONIAL SECRETARY : Your Excellency, on a point of order, I think the hon. Member is not asking a supplementary question. He is stating a fact.

CAPT. THE HON. E. M. V. KENEALY : If I had been allowed to state my fact, Sir, I should have come to a question on which that . . .

HIS EXCELLENCY : I must ask the hon. Member to confine himself to questions, and not to statements of facts.

MUNICIPAL ESTIMATES.

THE HON. F. A. BEMISTER asked :

Will Government produce, before the Budget discussion a statement of the amounts budgetted for in the following Municipalities, excluding capital expenditure, for 1929—

(a) Mombasa ;

(b) Nairobi ;

(c) Eldoret?

THE HON. THE ACTING COLONIAL SECRETARY: The Estimates of the Nairobi Municipal Council for 1929 provided for a Revenue of £97,487, and Expenditure, other than Capital Expenditure, of £82,754.

The Expenditure Estimates of the Mombasa and Eldoret Municipal Boards for 1929 did not differentiate between Recurrent and Extraordinary Expenditure. The total Revenue and Expenditure provided for in the Estimates of these Boards for 1929 were—

Mombasa: Revenue, £47,206; Expenditure, £47,439.

Eldoret: Revenue, £4,554; Expenditure, £4,554.

REPORT OF PUBLIC WORKS DEPARTMENT COMMITTEE.

THE HON. CONWAY HARVEY asked

If Government will please lay on the Table of this House, at the earliest possible moment, the report of the Committee of Enquiry into the organization of the Public Works Department?

THE HON. THE ACTING COLONIAL SECRETARY: In view of the terms of the Report, it is considered desirable that the Director of Public Works should be given the opportunity of replying to some of the criticisms contained in the Report. It is not proposed to lay the report on the Table of this House until the Director of Public Works, who has recently returned from leave, has had this opportunity.

THE HON. CONWAY HARVEY: Your Excellency, can Elected Members be furnished with a copy of the draft report prior to consideration of the Public Works Department Vote in Select Committee?

HIS EXCELLENCY: On that point I would say that every effort is being made by the Director of Public Works to let me have his comments in time and I am sure he will do his best to meet the wishes of hon. Members in this respect.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of the answer to that question by the Acting Colonial Secretary, do I take it that when the comments of the Director of Public Works have been received we may rely on the report then being laid?

THE HON. THE ACTING COLONIAL SECRETARY: Sir, I think the answer to that is that Government must consider, I think, those comments at the same time that it considers the report, and the report will then be laid in due course.

AGRICULTURAL ADVANCES.

LIEUT.-COL. THE HON. J. G. KIRKWOOD asked:

(a) What sums have already been sanctioned and paid?

(b) What sums have been sanctioned but not yet paid?

(c) What is the number of applications received in each Administrative District which have been granted?

(d) What is the number of applications received in each Administrative District which have been refused?

THE HON. THE TREASURER:

(a) and (b).—In almost every case advances are made monthly, not in lump sums. The total amount sanctioned for payment up to the 31st of December next is £52,622/15/3.

These monthly payments are made by the Local Boards through the District Commissioners, and information as to the actual amounts paid to any given date does not reach the Treasury until some time afterwards.

(c) and (d).—The following table gives the information required up to and including the 20th of October, 1930:—

District	Received	Granted	Refused	Pending	Total Amount of Advance
Naivasha ..	5	4	..	1	£ 3,179 0 0
Nairobi ..	29	15	11	3	11,220 9 0
Machakos ..	4	3	1	..	1,850 0 0
Nakuru ..	8	6	2	..	4,591 10 8
Kisumu ..	15	10	3	2	5,930 9 7
Nyeri ..	5	4	..	1	1,060 0 0
Kitale ..	28	20	5	3	10,343 19 0
Eldoret ..	34	18	13	3	14,447 7 0
TOTAL ..	128	80	35	13	52,622 15 3

TIGONI TOWNSHIP.

LIEUT.-COL. THE HON. C. G. DURHAM: I beg to ask when I may expect an answer to a question asked some twelve months ago with regard to the Tigoni Township.

HIS EXCELLENCY: The hon. Member is not in order. Are you asking a question arising out of this answer?

LIEUT.-COL. THE HON. C. G. DURHAM: No, Sir.

HIS EXCELLENCY: If you wish to ask a question with reference to the Tigonu Township you must give notice of that question.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, with reference to the remark made by the hon. Member for Kikuyu, at the risk of interfering in what is not my business, I think there has been a misunderstanding. The hon. Member put down a question twelve months ago to which he has not had an answer. He was appealing to the Chair for information as to when he may expect an answer.

HIS EXCELLENCY: In that case I misunderstood the object of the question. I will have that looked up at once.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. THE ACTING COLONIAL SECRETARY:

Annual Report of the Commissioner for Local Government, Lands and Settlement, 1929.

Return of Land Grants, etc., for the quarter ended 30th September, 1930.

By THE HON. THE TREASURER:

Statement of Excesses on Sub-Heads which have been met out of Savings under the same Head as at the 31st March and 30th June, 1930.

The European Officers' Pensions (Consolidation) Regulations, 1930.

MOTION.

ESTIMATES, 1931.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move the motion standing in my name:—

"That the Draft Estimates of Revenue and Expenditure for the year 1931 be referred to a Select Committee."

The introduction of the Colony's Estimates customary in Kenya proceeds through a variety of stages before they pass into Select Committee. A broad statement of the structure

of the Budget is necessarily a part of the President's address when he makes his annual review of the general conditions of the Colony. A digest of the Budget in some detail is submitted in the form of a Memorandum, and it is mainly on this Memorandum, together with the Draft Estimates, that Elected Members are apt to base their criticisms, both of principle and of comparative detail: criticisms which it is perhaps the chief duty in the debate of the Colonial Secretary to answer. The particular function performed by the formal introduction of the Budget, the function in which I am now engaged, is perhaps therefore of uncertain definition. There is always a risk of undue repetition of the statements already made by the President, and a risk too of raising issues prematurely—issues which would be more helpfully met in final answer to the debate. Still, there is one function which I think can only be fulfilled in the sort of speech I have now to make, and that is to make as clear a statement as possible of what is in the mind of Government; what is the ruling principle, as illustrated throughout the detailed Estimates, from one head or sub-head to another, particularly where any deviation from established or customary provision is concerned. I will try, therefore, as briefly as possible, to comment on what I take to be the main features of the Budget and explain the principles on which they are based.

I must, however, make some apology for the use, I trust not the abuse, of many figures in my speech. It is very difficult to avoid them, particularly if one is deliberately marshalling one's facts in a different order from that presented in the Budget Memorandum. The latter document necessarily leads attention from department to department to facilitate particularly what is now crystallised as the normal procedure of a Budget Committee. But it is also perhaps of value to ignore, for the purpose of a more general review, the departmental classification and to reshuffle many of the same figures into different categories in order to illustrate principles which govern all, or at least many departments equally. Also, Sir, it should, I think, not be forgotten that each form of statement of the Estimates issued by Government—whether in the printed draft Estimates, or in the Memorandum, or in the Council introduction of the Budget—is not presented solely for debate in this Council, but also for the more leisurely digestion of those who do not happen to be hon. Members of this House. I hope, therefore, that if I err on the side of unnecessary explanation the error will be on the safe side.

First, I should like to make some general remarks applicable, I think, to Revenue and Expenditure Estimates alike. If I encroach somewhat on the ground covered by

Your Excellency's opening address the other morning, it will only be because there are some things so important to say that it may well be worth while to say them more than once. There are certain patent facts which we all admit: there is the universal trade depression which has blanketed us increasingly during the current year; there is the great uncertainty as to what next year will bring in market prices; and there is, too, in consequence, the already noticeable decrease in acreages under cultivation for certain crops. But, Sir, there are other facts which we can claim to be no less established: there is the basic and proved capacity for recovery latent in the soil and in the farmers of this Colony; new conditions are being met with new measures of economy and organization, and I think we can accept it as a fact that where there is a reduction of acreage, there is at least apt to be an increase in intensiveness of cultivation. There is a further fact, which is perhaps so near to us that it might escape notice, but it is one which we cannot ignore: the last half of this year has seen, not in one but in several directions, most substantial contributions made by Government in cash to farmers, contributions which will not necessarily bear productive fruit until next year.

There is one more item on the right side of the ledger, of which I should not like to omit some mention. I believe that if the economic troubles of the current year have borne one good result, it is in the direction of knitting together individual interests and individual farming endeavours in some form of co-operation; and that perhaps a beginning of an impetus has been given to the co-operative movement, and to a spirit of *esprit de corps* amongst farmers themselves and between farmers and others, which we should hardly have seen to such a degree in more prosperous times. Such a tendency, Sir, can but increase economic production and reduce inefficiency generally.

Finally, I have my friend the Director of Agriculture's authority to say that there are substantial grounds for expecting from now onwards increasing production for export from native sources. The proper balance of all these proportions, as affecting Revenue Estimates, is not easy to assess. The Government has not thought fit to accept all the adverse conditions and yet to ignore facts which must have at least some weight on the other side. On the other hand, I wish to say at once that I believe the main problem of this Budget is not to be found on its Expenditure but on its Revenue side. The difficulties and the possibilities of reducing expenditure I will deal with later in their proper place. For the moment I will say this much, that they have comparatively ascertainable limits. But on the

Revenue side it is quite another matter. The Revenue Estimates have been prepared by the Treasurer and I will leave my hon. friend to deal with points arising on them during the debate, but I think it may help the debate too if I make a few general observations which cannot bring in the history of past years without the suggestion that that history has a least some lesson for the future. In fact, Sir, the peculiar difficulty and importance of compiling accurate Revenue Estimates for 1931 justify me, I think, in dealing at length with the general problem which we have to face annually in framing this side of the Budget.

Two years ago, in introducing the draft Estimates for the year 1929, I referred to the fact that experience in the four preceding years had shown that the Estimates of Revenue, as presented to Council, are normally very conservative and I suggested that a revision of the system upon which the Revenue Estimates are framed might with advantage be considered in the near future. We operate, of course, in this Colony on the fiscal system which provides nearly half the tax-revenue from indirect taxation by way of Customs duties. The other half comes from a comparatively large number of licences, duties, minor taxes, etc., which, with the exception of the Native Hut and Poll Tax, are calculated to bring relatively small sums into revenue. Now it is admittedly difficult to frame Estimates of Revenue well in advance of the year to which those Estimates relate. This difficulty is accentuated because, in order to be accurate, the Estimates of Revenue must take into account the development which is likely to take place during the fifteen months or so after the Estimates are prepared; and they must allow, too, for the effect which that development will have upon the Colony's revenues.

During the past two years conditions have in many respects been abnormal, and it is not, therefore, possible to stress too closely a comparison between the relative accuracy of the Revenue Estimates during that period as against that of the years 1924 to 1928. But I would propose the following general conclusions, derivable from calculations spreading over the past six years. Under Head II of the Revenue Estimates, under which are grouped items of licences, duties, taxes, etc., actual receipts exceeded estimated revenue by an average of 13½ per cent per annum from the years 1924 to 1927. For the years 1928 and 1929 actual receipts have exceeded estimated revenue by an average of ½ per cent only. This latter figure for those two years is, however, subject to a special qualification. In 1929, owing to drought and famine conditions in certain native areas, there was a shortfall in revenue from Native Hut and Poll Tax, amounting to

approximately £36,000. This could not have been foreseen when the Estimates of Revenue for that year were prepared and, if this factor is excluded, it will be found that actual receipts during 1928 and 1929 exceeded the estimated revenue under this Head of the Revenue Estimates by an average of approximately 3 per cent.

I have mentioned these calculations in order to show that, owing to very close scrutiny of the revenue position during the past two years, the Estimates of Revenue have been much nearer the mark than they were formerly. It may be said, perhaps, that this result has been achieved only because the seasons have been abnormal and that an excess similar to that shown during each of the four preceding years would have accrued if weather and crop conditions had been good. I do not wish to ignore this factor; it is obviously a very important one; but I think it will be agreed that the effect of poor agricultural seasons would be felt more under the head of Customs Revenue than under the various items which go to make up the other tax revenue referred to in Head II of the Revenue Estimates.

Turning now to the Estimates of Customs Revenue, I find that actual receipts over the past five completed years have exceeded the estimated revenue by an average of 5 per cent per annum. In 1929 the excess was about 21 per cent. In none of the years mentioned have the actual receipts fallen short of the estimate. In view of the difficulties, which are obvious, of taking all factors into account in preparing an Estimate of Customs Revenue for Kenya, I think it will be agreed that an average error of 5 per cent is not unreasonably high. In order than hon. Members may realise the complexity of preparing Estimates of Customs Revenue for incorporation in the Kenya Estimates, I would remind them that dutiable merchandise enters the Port of Mombasa for Kenya, for Uganda, and, to a small extent, for Tanganyika. The volume of anticipated trade has, therefore, for Revenue purposes, to be apportioned between the three Territories; and the problem is still further complicated by unknown factors represented by the duty involved in the transfers of goods between Kenya, Uganda and Tanganyika. In addition to this, agricultural prospects in Kenya and the cotton crop position in Uganda react on the volume of trade and on the distribution of the revenue collected between these two Territories, and crop forecasts must be taken into very close consideration before the Estimates of either Territory are prepared. Added to this, there is the difficulty of framing Estimates for the succeeding year during the middle months of the year, when trade is normally at a low ebb. Collections during the last quarter of any one year afford an excellent indication of prospects for

the first quarter of the succeeding year, but this information is not available when Estimates are prepared. From 1926 onwards, Customs Revenue receipts in respect of Kenya have shown a steady increase, whilst those of Uganda have fluctuated in relation to cotton crop figures. The average yearly increase in the combined receipts for Kenya and Uganda, based on 1926 figures, has been approximately £80,000 and, in preparing the Estimates of Revenue for 1931, the Government of Kenya has assumed that, as compared with the revised Estimate of Revenue for 1930, some improvement in trade returns will take place.

Hon. Members will see from the table on page 11 of the volume of Estimates that the revised Estimate of Kenya Customs Revenue for the year is some £40,000 lower than the original Estimate, and now stands at £923,591, or approximately £26,000 less than the actual receipts in 1929; and this in spite of the fact that the actual collections from January to April, 1930, exceeded the actual collections in the same period of 1929 by more than £27,000.

Estimated collections from May to December, 1930, fall short of the actual collections during the same period of 1929 by £53,500. It will be realised that this is an estimate and that it is not at present possible to frame with any great accuracy the actual trade position during the last few months of the current year. But, working on a basis that the revised Estimate of Customs Revenue for 1930 is £923,591, Government has framed the estimated Customs Revenue for 1931 on the assumption that some part of the normal expansion of Customs Revenue will take place during next year. The figure of £953,239 presupposes that some improvement will take place in the present market value of primary products; that the trade depression now ruling will not continue throughout the whole of 1931; and that it is not unreasonable, in view of the present favourable agricultural prospects, to expect during the next fourteen months an improvement in the volume of imports, which will be reflected in a corresponding improvement in Customs duty collections.

Returning now to Head II of the Revenue Estimates, it will be seen that the revenue from licences, duties, taxes, etc., are expected to show a net increase of £36,578. Variations, generally speaking of small amount, have been inserted in all but four of the items under this Head. Most of these variations have been made to conform with the revised Estimate of Revenue for 1930 prepared as a result of the experience gained during the first nine months of this year. The two largest increases are shown under the items Licences under the Traffic Ordinance and Petrol Tax. In the former

case the increase of £8,500 brings the estimated Revenue to £54,500 as against an original estimate of £46,000, and a revised estimate of £50,000, in 1930. The actual Revenue in 1929 was £47,070. In the case of the Petrol Tax, an increase of £13,500 brings the estimated Revenue for 1931 to £40,000 as against a revised estimate for 1930 of £37,500.

The estimates for Native Hut and Poll Tax show an increase of £1,378. Hon. Members will recollect that in the Estimates for 1930 allowance to the extent of £25,000 was made in respect of the arrears of Native Hut and Poll Tax due in 1929 which were expected to be collected in 1930. The estimate of £607,940 for 1930, therefore, contemplated normal revenue from this tax to the extent of £582,940. The figure for 1931 includes a sum of just over £5,000 for arrears of 1930 tax expected to be collected from the Kikuyu Province in 1931. The annual revenue from the 1931 Native Hut and Poll Tax therefore amounts to £604,256, or £21,316 more than the annual revenue which was expected to be received from the 1930 tax.

It may here be added that the figure inserted in the 1930 Estimates for revenue from the Native Hut and Poll Tax is not now expected to be realized in full. Conditions in parts of the Ukamba Reserve have made it impossible to contemplate the collection of arrears of 1929 tax in the Kitui District, and the 1929 tax due from the inhabitants of that district has been remitted. This remission has led to a decrease of £26,543 in the estimated revenue from Native Hut and Poll Tax from the Ukamba Province, but this decrease is largely compensated by revised estimates from other Provinces, and the revised estimate for Native Hut and Poll Tax as a whole for 1930 now stands at the figure of £601,603, or £6,337 less than the figure included in the sanctioned Estimates.

Reference should be made to one other item of Native Hut and Poll Tax. A figure of £8,000 has been inserted as an estimate of the tax to be received from the Northern Frontier Province. A Bill, the Northern Frontier Poll Tax Bill, is in the hands of hon. Members. The Bill provides for the payment of a poll tax by the people of the Northern Frontier Province upon proclamation by the Governor that any proclaimed tribe shall pay an annual poll tax. The Bill has not yet been introduced but it is intended to submit it for the consideration of Council at the present session. As stated in the volume of Estimates, the anticipated receipts from this measure in 1931 amount to £8,000.

An increase of £12,824 shown under Head III of the Revenue Estimates, which refers to revenues from fees, municipal revenue and payments for specific services, is due

mainly to an increase expected from tuition and boarding fees for European and Indian education and to a larger estimated revenue in respect of agricultural produce, grading, conditioning and cold storage fees. Two new items of revenue have been introduced, one in respect of aviation housing and landing fees, and the other in respect of fees for licences to exhibit cinematograph films, revenue derived from the issue of licences by the Film Censorship Board being expected to cover the expenses of the Board itself.

The remaining Heads of Estimates show variations calculated to indicate the Revenue to be derived in 1931 from Reimbursements, Earnings of Government Departments, Post Office and Telegraphs, Land Sales, Interest, Forest Department, and so on, and do not, I think, call for any special comment. They have been compiled on the latest information available on the basis of actual receipts during previous years or of new factors which will tend to influence the Colony's Revenue for next year.

I have dealt at some length with these Revenue Estimates because in the first place I wish to make clear the basis on which those Estimates have been prepared and, in the second place, I wish to show that those Estimates have been compiled on normal lines, without any attempt to exaggerate the seriousness of the present position or to minimise the danger which may threaten the Colony if the present degree of trade depression continues. As I have said before, the estimates in respect of Customs Revenue are quite definitely based on the assumption that at least some revival of trade may be expected. In regard to the other Heads of the Revenue Estimates, the figures shown in most cases presuppose normal conditions during 1931. Given normal conditions and even a moderate improvement in market prices, Government is confident that the total revenue shown in the draft Estimates will be realized. I trust at any rate it will not be thought that I am using graphs, averages, percentages, of any cattle of that chancey sort to prove that these Revenue Estimates are mathematically impeccable. They are, of course, nothing of the sort, nor are they susceptible to any such proof. But the period over which they extend has by no means been a uniform one of prosperity; since, when market prices have been good, too often crops have been disappointing, and when crops have been better prices have been worse. A statement, therefore, of the general level of Revenue through those fluctuations of conditions may at least be of interest to hon. Members and might be of some help to diminish our present tendency towards pessimism. In

the past such bases of calculation appear rather to have substantially under-estimated Revenue. The lesson of 1930 is one which we cannot yet accurately weigh; we can only recognize its general character of teaching us that a past history of consistent under-estimation may abruptly terminate when factors over which we have no control come into operation, as they have been in operation during the current year. We have recognized those factors and, I believe, neither exaggerated nor under-estimated their probable continuance during part at least of 1931.

On the Expenditure side of these Estimates, I will content myself with two general propositions. One is that we have made every attempt to avoid cuts which might affect our springs of revenue; the other is that we have tried to avoid cuts which will indirectly increase expenditure under other Heads. The latter aim, Sir, is easier to attain than the former, and I will deal with it first. There are some, if not many, of us here now who remember that difficult Budget year of 1922. Prospects appeared so desperate then that any jettisoning of cargo, any cutting away of top-hammer seemed justified to save the ship. All of us realize now what effect the retrenchment of pensionable posts may have later on the finances of the Colony, particularly when better and later times justify some increase of establishment. In this Budget we have not considered the immediate position such as to involve us in any special increase of the Pension List. We have abolished thirty-five posts involving an annual saving of approximately £8,500, of which £7,200 is a definite saving in 1931. Of these posts thirteen are pensionable offices and seven are clerical posts of a kind which would ultimately have become pensionable. Of the effect of the abolition of these posts in the Pension List I will speak later.

The other problem, the problem of how to avoid cuts which react on revenue either directly, such as by weakening the machinery for collecting revenue; or indirectly by diminishing services essential to at least maintenance of production, is, as I have already said, much more difficult. It has indeed a side to it more positive than the mere avoidance of uneconomic cuts. It includes the omission to provide new posts essential either to the collection of revenue, to the minimum economic development of the main industry or to the efficiency of a department of great public utility such as the Post Office and Telegraphs Department. Government believes that the loss of any of the appointments now to be abolished will not have an adverse effect in any of the

directions I have indicated, and that all of the new appointments are at least desirable for the sake of efficiency or economy in vital services. The posts to be abolished are as follows:—

In the Administration Conservancy Overseer, Nyanza Province.

In the Agricultural Department: One Veterinary Assistant.

In the Customs Department: The Assistant Inspector; and three non-European Clerks.

In the Education Department: Four Teachers for European Education.

In the Legal Department: One non-European Clerk.

In the Medical Department: One European Clerk; one Medical Officer; one Male Nursing Orderly; two Sanitary Inspectors; two Sanitary Overseers; and one Malaria Overseer.

In the Police (Immigration Department): Two non-European Clerks.

In the Post Office and Telegraphs Department: Five Wireless Engineer Operators; and one Wireless Engineman.

In the Printing Department: One European Apprentice.

In the Prisons Department: The Matron.

In the Public Works Department: The Mechanic for the Mombasa Boasting Plant; the sub-Foreman for the Nyeri Water Supply; and the Assistant Superintendent and a non-European Clerk in the Timber Seasoning Branch.

In the Secretariat: One European and one non-European Clerk.

All the appointments proposed to be deleted are appointments which, owing to reorganization or altered circumstances, can, it is felt, be dispensed with. Although some of these appointments are pensionable appointments, in no case does the deletion of a pensionable appointment add to the Pensions List a pension which, owing to abolition of office, becomes payable before its time. In some cases the deletion of provision for a pensionable appointment follows the retirement of a pensionable officer and it is proposed that on the retirement of that officer the post should be abolished. In some other cases the deletion of a pensionable appointment

indicates a reduction of establishment with the result that an appointment at present vacant will not be filled. In such a case as this no pension is payable as the appointment deleted is itself vacant. In some cases, the deletion of a pensionable post will result in the transfer of the holder to a similar post in another department where a vacancy exists. In regard to another case, five appointments are proposed to be deleted owing to an arrangement now under consideration with the Communications Company for the assumption by that Company of the working of the Mombasa Wireless Station.

As Your Excellency observed in your opening address to Council savings have been this year and can in 1931 be effected not only by the abolition of posts but by the omission to fill posts provided for in the establishment. The following posts will not, it is contemplated, be filled in 1931 unless a much greater improvement of conditions comes about than these Estimates provide for:—

In the Agricultural Department: Superintendent of Fencing.

In the Customs Department: One Assistant Collector.

In the Forest Department: One Assistant Conservator.

In the Medical Department: One European Clerk; three Medical Officers; one Health Officer; three Sanitary Overseers; one Entomologist; and one Laboratory Assistant.

In the Police Department: Two European Constables.

In the Public Works Department: One Assistant Engineer; one Surveyor; one Assistant Engineer in the Hydrographic Survey.

In the Registrar General's Department: One Assistant Registrar General.

In the Statistical Departments: The Assistant to the Statistician.

In the Survey and Registration Department: Two Computers; and one Draughtsman.

These posts are still maintained as part of an establishment which has already received the approval of this Council but no salaries or allowances are provided for them in next year's Estimates. Owing to the fact that these appointments are proposed to be held in abeyance there will inevitably be some restriction in the services of certain departments, but the list has been compiled on lines which endeavour to confine this restriction to items which it is considered will least

materially affect the public service. The resultant savings in Personal Emoluments come to £9,650 and other economies in Personal Emoluments result in a further saving of nearly £2,000 in 1931.

Some further explanation is perhaps necessary in regard to one appointment which it is proposed should be held in abeyance, namely that of Superintendent of Fencing. Since the draft Estimates were prepared further information has been received on the subject of the Land Bank Bill and, with the passage of this Bill, it is hoped that progress may be possible with the operation of the Fencing Ordinance. In this event money for the Superintendent of Fencing may have to be restored to draft Estimates and attention will have to be given to the problem of finding money to satisfy the financial obligations of the Government towards the capital cost of the fencing material required to fence Crown lands. The Select Committee will be invited to consider this question.

To turn now to new appointments, the annual cost in a full year of the salaries of all new appointments inserted in draft Estimates, 1931, totals approximately £13,000, and the amount inserted in draft Estimates to provide for these new appointments, some of them being for a part of the year only, totals £10,813. The new appointments proposed are as follows:—

In the Administration: Eight District Officers; two European Clerks; five Asian Clerks; four African Clerks; and three Junior Warders at the Kabete Reformatory.

In the Agricultural Department: One Livestock Officer; and provision for a Deputy Director (Animal Industry), displacing an existing appointment at £1,100 per annum.

In the Customs Department: An Operator for the statistical machines.

In the Education Department: An Inspectress of Schools; one European Clerk; a Caretaker for Kabete; a Matron for European Education; seven Teachers for Indian Education; four Teachers for Arab and African Education; and a Matron for Arab and African Education.

In the Judicial Department: An African Telephone Operator.

In the Medical Department: Two Nursing Sisters; one Sub-Assistant Surgeon for Kitale; and an Assistant Government Analyst.

In the Post Office and Telegraphs Department: One Telegraph Inspector; one European Clerk; two Indian Sub-Inspectors; and two Linesmen (First Class); and three appointments for the Service in Uganda, namely: a Wireless Engineer; a non-European Clerk; and an Indian Sub-Inspector.

In the Printing Department: One Asian Apprentice.

In the Prisons Department: Five male Warders and one female Warden; an African Schoolmaster; and a non-European Clerk.

In the Statistical Departments: Three Clerks, for the work of registering births and deaths.

In the Survey and Registration Department: Three European Clerks.

I do not propose to try and prove at length and in each individual case that these posts are essential. That, Sir, would be a procedure more proper in Select Committee, and I have no doubt that each appointment will there receive the closest scrutiny. I will, however, attempt a brief analysis of them to the following effect:

Nineteen of these posts are in respect of the Provincial Administration, and, of those nineteen, eight are new District Officers. Hon. Members will, I hope, remember both the statement made by Sir Edward Grigg and the reception which they accorded it in Mombasa recently, on this subject. His Excellency said:—

"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 population 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 believe I am right in saying that those remarks were greeted with general acclamation. I trust that this proposal now to implement them will be not less acceptable. The eight District Officers will, of course, be pensionable. The other appointments are clerical and, at least at present, non-pensionable.

The Education Department accounts for sixteen new posts, most of which are in connexion with Arab and African and Indian schools. I need not, I think, stress the importance of keeping pace with the educational needs of these communities or labour the proposition that education is the highest possible form of production which we can foster. I need only say that Government regrets that greater provision still could not be made for educational needs. I will not do more than refer to the Education Bill now before this Council and to say that its provisions are not in any way reflected in these Estimates.

Medical Services, Posts and Telegraphs and Prisons each urgently require certain additions, and each is a department which hon. Members will realize must at least maintain its standard of service and efficiency.

To sum up the position as regards Personal Emoluments, the increased provision as compared with the 1930 Estimates amounts to £28,894. This figure includes normal increments salary adjustments, the making of full annual provision in respect of posts sanctioned in 1930 and for which the full pay was not included in the 1930 Estimates but now has to be included in the Estimates for next year, alterations due to changes in holders of posts and leave movements and including adjustments made in the Estimates for accounting purposes, such as the transfer of provision for Personal Emoluments from non-recurrent to recurrent heads. This figure of £28,894 refers to perfectly normal adjustments in Estimates of the kind necessary from year to year and does not include the cost of new appointments and new services. The annual cost in a full year of the salaries of all new appointments included in draft Estimates for 1931 totals approximately £13,000, and the amount inserted in draft Estimates to provide for these new appointments, some of them for a part of the year only, totals £10,813. The sum inserted in Estimates to cover the cost of new appointments combined with the figure of £28,894 which represents the cost of normal increments and other normal adjustments, comes to a total of £39,707. But as against this figure certain posts have been deleted, certain posts are proposed to be held in abeyance and certain other economies have been made in Personal Emoluments, and the total effect to these reductions is a decrease of £18,754; so that the net increase shown in Personal Emoluments in the draft Estimates for 1931 as compared with the sanctioned Estimates for 1930, excluding the Head Military, amounts to £20,953. This figure of £20,953 falls, as hon. Members will observe, well within the total increase which is attributable to normal increments and adjustments in salary.

Items of "Other Charges" under departmental Heads, again excluding the Head Military, show an increase of £6,147. This increase, however, is more than covered by the transfer of an amount of £9,150 from the Military vote to that of the Administration, and the Police vote, in accordance with the revised system of accounting in respect of the carriage of civil supplies by the Supply and Transport Corps in the Northern Frontier and Turkana Provinces. One other considerable increase is that of £4,500 for medical and surgical stores and equipment. As against this increase can be placed a saving of £10,000 from the Local Transport and Travelling votes, an item on which Your Excellency has yourself commented and in connexion with which has already informed Council that an enquiry will be held.

This concludes the main points in connexion with departmental recurrent expenditure apart from the Head Military. The net result for departmental recurrent expenditure is an increase of £27,100, a figure which again falls within the figure of £28,894 which, as already stated, is the amount which may be attributed to the increased provision necessary to meet normal increments and adjustments in Personal Emoluments.

As regards non-departmental recurrent expenditure, there is a net increase of £60,280. This increase is made up as follows:—£42,500 of it is in respect of Sinking Fund payments on the £5,000,000 loan of 1927 and the £3,500,000 loan of 1928, the first payments of which fall due on the 1st July, 1931, and the 1st November, 1931, respectively. I would point out, however, that the whole of this amount less £9,298 is due to be reimbursed by the Railways and Harbours Administration and therefore appears on the revenue side also under the heading Reimbursements.

The increase of £9,049 under the Head Public Works Recurrent is more than accounted for, I regret to say, by an increase of house allowances and house and office rents to the amount of £11,800.

Interest on advances pending the raising of loans, together with pensions and gratuities, account for the balance of the increase in non-departmental recurrent expenditure.

I have so far dealt with all Heads of Expenditure Estimates except the Head Military and the Heads of Extraordinary Expenditure. The Military Estimates, so far as the Northern Brigade is concerned, have been prepared on the basis of the reorganization scheme, the general lines of which were discussed when the Estimates for 1930 were introduced. Any questions of detail regarding these Estimates will be dealt with as they arise by my hon. and gallant friend, the Officer

Commanding the Northern Brigade, and I will not at this stage do more than say that the draft Estimates for next year foreshadow a reduction in military expenditure of £14,225. The full reduction in the cost of the Northern Brigade cannot be reflected in next year's Estimates as some expenditure additional to that which will be necessary when the force has been fully reorganized is still necessary during a transition period when establishment is being reduced. I would further invite attention to Appendix M in the volume of draft Estimates, which shows that, taking both recurrent and non-recurrent expenditure for the Northern Brigade into account, the Block Estimates for 1931 amount to a figure of £20,595 less than the amount shown in Block Estimates, 1930. The full savings anticipated from the reorganization scheme on the formation of the Northern Brigade to serve the military needs of Kenya and Uganda amounted to £25,000, and it will therefore be seen that when the reorganization is complete the total of Block Estimates should be some £4,400 less than that shown for 1931 in Appendix M. These savings anticipated from the reorganization of the military forces in Kenya and Uganda are of course divided between the two Territories concerned and I am not yet in a position to state what portion of those savings may accrue to Kenya.

The Estimates under the Head Military make separate provision for the King's African Rifles Band and for the Kenya Defence Force. In regard to the Band, it has been considered that the expenditure on bands, both in Kenya and Uganda, should not form part of the Military Block Estimates. If, therefore, either Territory desires to retain its band, separate provision must be made in Estimates. I feel sure that hon. Members will agree that the King's African Rifles Band should not be disbanded. It serves a very useful purpose in Kenya and has for many years been one of our most popular institutions.

Defence Force expenditure, as included in draft Estimates, remains at the same figure as the approved figure in 1930. The Estimates, as presented to Council, have been prepared in order that the total expenditure should fall within the figure set by those limits and they do not represent the amount of money which the Central Defence Force Committee considers necessary for the operations of the Force next year. In a time of financial stringency, however, such as the present, Government felt that it could do no more than aim at maintaining the Force at such a stage of efficiency as the present total of £12,615 per annum will allow.

In regard to non-recurrent expenditure in general, I have very little to say. A very considerable reduction is shown as compared with the provision made in the Estimates for the

current year, but I would remind hon. Members of two points in this connexion. In the first place, the Estimates for 1930 made considerable provision for non-recurrent expenditure to be undertaken from the Colony's surplus balances. In the draft Estimates for 1931, so far from relying upon surplus balances to enable us to carry out much needed capital work we are aiming at adding a considerable sum to those balances in order to strengthen the Colony's financial position by increasing the liquid reserve. In the second place, in times such as the present, when all items of expenditure must be rigorously examined, it follows that items of non-recurrent expenditure against revenue which have not yet been sanctioned by this Council, and which do not therefore constitute any commitment from past years on the revenue for the succeeding year, can only be proposed for reasons of the utmost urgency. A considerable part, therefore, of the non-recurrent expenditure for which provision is made in draft Estimates for 1931 has been inserted in order to enable works which have already received the sanction of this House, but which are not expected to be finished by the end of this year, to be carried forward to completion in 1931. Some non-recurrent expenditure is necessary from year to year to meet Education, Medical, Post Office and other requirements, including those for the development of civil aviation. Some special expenditure is also proposed in regard to administrative and agricultural services, while a considerable sum is also required to make non-recurrent grants to local governing bodies.

And I would here mention one other aspect of these draft Estimates which appears to call for comment. It has not been found possible in preparing the draft Estimates for 1931 to earmark more than a minimum sum for capital works on roads and bridges. In fact, no new works of any magnitude are contemplated to be undertaken from revenue during 1931. At the same time, full provision to an extent exceeding that provided for in the Estimates for 1930 has been made for the maintenance and improvement of existing roads and bridges, both on the main roads of the Colony, the roads in Native Reserves and, by means of grants to district councils, the roads for which those councils are responsible. Both the funds proposed for grants to district councils and the funds proposed for the maintenance and improvement of roads and bridges outside district council areas show a small increase and it is hoped that the funds provided will enable existing roads to be maintained throughout 1931 in a reasonable state of efficiency.

Before moving the motion which stands in my name I will give a résumé of the position as reflected in the draft Estimates of Expenditure for 1931 in the following way—

The chief items of savings as compared with the 1930 Estimates as approved are—

Posts proposed to be deleted	£
Posts proposed to be held in abeyance	7,202
Other economies on Personal Emoluments	9,650
Decrease in provision for Local Transport and Travelling	1,902
Decrease in the provision for Military	9,985
Decrease in non-recurrent expenditure	14,225
	164,645

Total decreases ... £207,609

The chief items of additional expenditure as compared with the 1930 Estimates as approved are—

Normal increments and normal adjustments in Personal Emoluments votes	£
New appointments proposed for 1931	28,894
Increase due to the carriage of Civil Supplies by the Supply and Transport Corps in the Northern Provinces	10,813
All other adjustments in Other Charges items	9,150
	6,982
Increases in non-departmental Heads, such as Debt and Pensions charges	60,280

Total increases ... £116,119

The total decreases of £207,609 exceed the total increases of £116,119 by the sum of £91,490 and this reduction of expenditure, combined with an estimated increase of £54,411 in the Colony's gross revenue indicate a gross improvement in the Budget position as compared with the 1930 Estimates of £145,901. In other words, whereas the Estimates for 1930 relied to the extent of £93,923 on the Colony's surplus balances, the draft Estimates for 1931 aim at securing a surplus of revenue over expenditure during the year of £51,978.

And lastly, I wish to state with emphasis the opinion of the Government that it is not justified in adopting the most extreme possible attitude of pessimism in respect of its Revenue Estimates; that it has, within the opportunities of

economy open to it, made substantial, and avoided uneconomic reductions in expenditure; and that at least it need not fear from Elected Members any tendency to swell the spending side of the Budget in Select Committee by the undue representation of local claims.

In the confidence, Sir, of such hopes I commend to Council this motion for a Select Committee.

THE HON. THE TREASURER: Your Excellency, I second the motion.

HIS EXCELLENCY: The motion is:—

That the draft Estimates of Revenue and Expenditure for the year 1931 be referred to a Select Committee.

Perhaps it will be for the convenience of Council if we adjourn now for the usual interval.

(Council adjourned for the usual interval.)

On Resuming:

THE HON. CONWAY HARVEY: Your Excellency, under conditions created by the appalling collapse of world markets for primary products I was afraid that Government would produce either a despair Budget or one which reflected the incurable optimism of the average Kenya settler; and I must congratulate the authors of what strikes me generally as being about the best statement of revenue and expenditure that I have been called upon to criticise during a very long period of association with the activities of this House, and I should like, Sir, to congratulate most heartily the hon. mover of the motion on the clarity and completeness with which he has detailed the principles governing the composition of this Budget.

With the object of ascertaining whether justification exists for the criticism so frequently expressed that the disparity between Government expenditure and the value of exports from Kenya indicates an unsound and precarious financial position, criticism which must inevitably do untold damage to the credit of the Colony in the private investment market—and I notice, Sir, that this statement was emphasized quite recently by no less an authority than Lord Denbigh at the last ordinary general meeting of the East African Lands and Development Company about two months ago—I have collected figures, Sir, which to my somewhat inexperienced mind completely refute any charge that may be made to the effect that the economic position of the Colony is in the slightest degree unsound so far as these matters are concerned.

The actual facts are, if one makes allowance for duty paid stocks re-exported from Kenya, and Kenya produce sent to Uganda, that the published domestic exports of Kenya could be increased in value by a sum of approximately £1,000,000. In the seven years from 1923 to 1929 (inclusive) the difference between Kenya's-home consumption imports (gross) and domestic exports was in the neighbourhood of £12,000,000, which is roughly a difference of £1,750,000 per annum, leaving a balance of £750,000. At the present time, however, our domestic exports tend to increase respectably, whilst our home consumption imports, if not declining—as shown by the Revenue returns—are at least stationary. So that it is possible that this three-quarters of a million does not exist at the present time and that we are all square on what I may call net private trading account.

But, Sir, there are other items to be taken into consideration, namely, about £1,000,000 a year for loan charges that we have to send out of the Colony, and another £1,000,000 for recurrent charges for Colonial and Railway Stores. I do not propose to distinguish between the Colony and the Railway, as that would bring in complications regarding taxation and many other matters, but to confine myself to the money that the Colony (including the Railway and Port) has to send abroad each year. To this £2,000,000 has to be added figures for pensions to ex-officials and exports of interest on private account. But taken off the total is the very important item of at least £1,000,000 a year income, money actually brought into the Colony resulting from its transit traffic, and further items (the amounts of which are unfortunately unknown) resulting from pensions and dividends from overseas, and, what is very important indeed, the proceeds of our tourist traffic. Thus you will see that, for the present year at least, it looks as if we were all square on what I have called private account, whilst to meet the known million or so we have to find on total account, we have important but unfortunately unknown items of income.

I believe these to be the true facts of our financial position, which show that our credit is far better than some, whose job it should be to know, have hitherto believed.

Now, Sir, one of the most gratifying features of the present Budget is the very small increase comparatively in net recurrent expenditure over that of previous years—less than one-third of the proportionate increase during the last three years. Nevertheless, Your Excellency, all proposals for the establishment of new posts and increased emoluments and additional expenditure in any shape or form will be vigorously challenged by all Elected Members when we examine the statement in detail in Select Committee. It is not always

realized, Sir, that our loan commitments, so far as the Colony is concerned, are of a most trifling character and compare very favourably indeed with those of other colonies and dependencies. But Elected Members have always stressed the importance of watching recurrent expenditure very carefully indeed. The suggestion which has been made, Sir, that reductions should be made in Civil Servants' emoluments should not be supported, as any variation of existing contracts is to my mind unthinkable, without, of course, the consent of all parties concerned. But I would invite Government to give most serious consideration to the possibility and necessity of bringing salaries, so far as temporary and non-pensionable posts are concerned, more into line with non-Government institutions, and into some relationship with the requirements and capacity of the Colony.

We are all profoundly disappointed that another year has passed without anything being done in the direction of revising terms of service, which were laid down under totally different conditions. This remark, Sir, applies particularly to the unduly generous and unscientific leave conditions, while a reconsideration of Government's housing policy is long overdue. This is a direction in which immediate economies should be effected. With houses to let all over Nairobi and Eldoret, I suggest that the policy of renting expensive houses for members of the Service is absolutely indefensible. As a member of the Committee appointed to enquire into this question a short time ago, I do most definitely deprecate the lethargy displayed by Government in tackling this important problem.

When the current year's Estimates were under discussion, Elected Members urged Government to arrange for an enquiry by a competent commercial authority into the clerical organization of the various Government departments, as it was felt that the employment of more experienced clerks would be an advantage and that more use should be made of modern office equipment. In congratulating Messrs. Wade and Mayer on their report on Administrative Offices, we should like to know to what extent their recommendations have been accepted by Government, more especially in so far as they refer to the Kerosene rebate and the simplification of procedure by a reduction in the numerous forms now in use in that connexion, and we should like to know when we may expect an enquiry into the organization of other Government departments.

In spite of repeated requests from Elected Members, it is regretted that no contributory pensions scheme has been introduced. The pension list, Sir, is growing rapidly, and at

its present rate of progress will, in fifteen or twenty years' time, impose an almost intolerable financial burden on the Colony, which must inevitably lead to undue stinting of essential services.

The unusual demands made upon them during the last twelve months have very clearly illustrated the need for the maintenance of surplus balances. In fact, I do not know where we should have been without them during the last twelve months, and I am very glad to see that Government contemplates an addition by £50,000 at the end of 1931. I suggest that annual additions should be made to our surplus balances until the fund reaches a total of something in the region of three-quarters of a million, and in this connexion—in connexion with the most advantageous utilisation of surplus balances, I would invite Government to consider the advisability of utilising them—anyhow a substantial portion of these funds—as advances pending the raising of loans, when the bank rate on such advances is substantially higher than the rate of interest on the investments of those funds in quickly realizable securities.

I believe, Sir, that very considerable economies could be effected by a greater degree of co-ordination between various Government departments, and in this connexion I would point out that very large sums of money are being spent on the road system in that rapidly-developing area, the Sotik, without any regard to the alignment of the new branch line. This branch line, Your Excellency, is under consideration and has been definitely accepted and agreed to by all the competent authorities in this Colony. Now, Sir, it seems a thousand pities that this road expenditure should not be arranged in very close collaboration with the Railway authorities with a view to the ultimate requirements of the district. I understand, Sir, that the department concerned has been occupied for a long time in making a new road from Kedowa to Kericho but neither the department, Sir, nor I, have as yet been able to ascertain from the Railway the precise siting of the new Kedowa Station, which will form the junction of the new branch line with the main line, with the result that the whole work is held up and considerable loss must necessarily ensue to the road department. I do, Sir, regard the closest possible co-operation, especially of these two departments, as of very great importance, and I sincerely trust that Government will look into the matter without delay.

I am surprised, Your Excellency, that no reference has been made to the Colonial Development Fund. As most people know, this fund was started some considerable time ago, with the object of giving Colonies and other participants

money for colonial development on very favourable terms, primarily with a view to stimulating employment and trade and commerce in the United Kingdom. I suggest, Sir, that there are many schemes in Kenya to which funds might appropriately be devoted, and I am very surprised indeed that during the last twelve months Government has not put up for consideration by this House or Elected Members any definite schemes in this connexion.

I suggest, Sir, that it will be only by methods such as these, and possibly others which other Members will think of in the course of the debate, that we shall have any chance whatever of realizing what I think I may describe as a somewhat optimistic Revenue Estimate.

Another omission, to my mind, Your Excellency, is the fact that no progressive settlement policy on modern lines has been embarked upon by Government at all. I think, Sir, we have now reached a time when far fuller publicity should be given to all lands, either Crown land or private land, which may be available for alienation, and I sincerely trust that Government will seriously consider the advantages of following the lead of many other countries in their settlement policy and making direct alienations of small areas to competent settlers who can satisfy Government and its advisers that they will assist in the agricultural development of the Colony and prove worthy settlers. In this connexion, Your Excellency, representations have been made from time to time that Government might with very great advantage to every one concerned and the revenue of the Colony institute a policy of the reacquisition of large areas of private land at present undeveloped for disposal to incoming settlers. It is recognized, Sir, that anything on these lines is very largely dependent on the introduction of a Land Bank, but we are all hoping that the Land Bank will be an accomplished fact in the very near future, and when that is the case, Your Excellency, I trust that Government will consider anyhow the advantages of embarking on some such policy as I have outlined.

Now, Sir, I only intend on behalf of Elected Members to comment on the activities of one Department, and that, Sir, is the Forest Department. I wish it to be clearly understood, Sir, that my remarks do not in any way impeach the zeal and diligence of the present members of that department, but what I do challenge, I have challenged before, and I shall continue to challenge, is the absolute lack of any Government policy on modern lines or in any way in conformity with modern ideas of forestry development and conservation. Sir, we have had experts galore every year or two; some

distinguished forest expert comes to this Colony but nothing happens beyond a substantial bill for the cost of his tour. Sir, we have had a Forest Adviser to whose emoluments the Kenya Government and the taxpayers of Kenya have contributed for a period of three years. We understand, Sir, that a report was made by this officer early this year; we should like to know, Sir, when that report will be made available to the public and precisely what action Government proposes to take in regard to its various recommendations. Everybody knows, Sir, that in all countries forests are regarded as an important national asset and as such they must be carefully preserved and extended. What do we see in Kenya, Sir? Ever-increasing denudation and destruction by fire, natives and Railway fuel cutters while, Sir, the reforestation which is going on, so far as I am able to discover by travelling around or in any other way, is of the most paltry character. I suggest, Your Excellency, that the forest asset of Kenya is being sacrificed at the shrine of an attractive departmental balance sheet.

There are various items of detail which can far more appropriately be dealt with in Select Committee, but, Sir, item 25 in this vote does indicate quite a new departure and the introduction of a new principle—I mean item 26, Your Excellency. Apparently a sum of money is to be devoted to the purpose of training people to come to Kenya and do their jobs. Well, Sir, I should like to know, once that principle is accepted, where it is going to lead us. I have very, very grave doubts whether this Colony is in a position to pay for the schooling of all its employees.

In conclusion, Your Excellency, I do most urgently beg of Government to make whatever arrangements may be necessary with the Secretary of State in order that such money as may be voted for road maintenance may be expended at the beginning of the year, in order to obviate an unfortunate hiatus of two or three months during the very best road-making period such as has occurred during the last two or three years. It sounds a small matter, Your Excellency, but it means much to the struggling agriculturalists of Kenya.

CAPT. THE HON. A. C. HOBY: Your Excellency, in commenting on the Budget and the speech which we have just heard from the hon. the Acting Colonial Secretary I have a few very brief observations to make. First of all, Sir, I regret I have no bouquets as regards the principles on which this Budget has been framed. In my opinion optimism ranks first and foremost. I personally am not one to disparage optimism but at the same time I cannot help thinking that it has been carried to rather an extreme point of view. In

the speech we have just heard from the hon. the Acting Colonial Secretary and which we have listened to with great interest it appears to be quite clear that the Estimates of Revenue have been largely framed on the law of averages. Sir, I submit it is mainly owing to the breakdown in the law of averages that our financial position is as difficult as it is at present. I consider, Sir, too little regard has been paid to the hiatus which must occur between the time we have some revival in world markets and the time that revival will be reflected in revenue figures. I personally believe, Sir, a considerable period must elapse before the spending capacity of this Colony can be restored to a point materially to affect revenue figures over what they are to-day. Sir, I think Government have been called upon to fulfil a very difficult task and that is predicting future revenue; one can only hope, Sir, that the figures as outlined in the Budget will materialise. For the time being I am prepared to leave the matter at that.

Now, Sir, when we turn to the other side of the picture, the proposed expenditure. I submit, is based on such an extravagant scale throughout the Budget as to be out of all proportion to the real financial position of this Colony. General administration charges, coupled with pension commitments which continue to rise rapidly, are appallingly high, and when you add to these figures the sum of £100,000, which is the approximate interest charge for this year and which must go on increasing year by year, one wonders how this Colony can carry on under such a heavy annual financial burden. Sir, I am not suggesting for one moment that there should be such drastic retrenchment as to create further unemployment and add additional commitments to our pension, but, as I say, we are definitely forced to look facts in the face and examine our overheads. I am convinced, Sir, that the first step is to go into the whole question of the terms and conditions of the Civil Service. These conditions should conform as far as possible to the conditions of the Colony to-day, and not to those of twenty years ago when this Colony was in an entirely different state and when the necessities of life were mainly supplied by tinned provisions. I am confident, Sir, that conditions of service could be revised on such a scale as would create no undue hardship to our existing Civil Service, and I am equally confident that such revision could be made whereby this country could effect very considerable savings.

One interesting point, Sir, in this Budget before us is the question of passages, which I see for this year reach the figure of £38,000, excluding those passages which will have to be given to the Railway. I realize, Sir, that a Committee was appointed in 1929 on this subject. I have read through

their report carefully and as no definite action has yet been taken on that report I have tabled a motion requesting the appointment of a commission, which I trust Your Excellency will allow to be adopted during this present session.

To turn to outstanding items in expenditure, I see provision for new appointments. I cannot see the possibility of any argument being raised which would convert me into agreeing that such appointments can be justified at the present time. The mere suggestion conveys to my mind how completely Government is out of touch with the real feeling of the Colony on the general financial problem. Here to-day amongst producers and business men every possible effort is being made to cut expenses and reduce overheads to a minimum, and to show how the general position is appreciated throughout the country there are many instances of employees coming forward and voluntarily offering to accept a bare living wage to carry on through this most difficult time of financial stringency. I feel sure, Sir, that when this Budget goes to Select Committee these new appointments, as already indicated by the hon. Member for the Lake, will receive the strenuous opposition from this side of the House which I consider they deserve. On that point, Sir, there may be necessary readjustments to be made in the way of filling vacant positions, but I believe that those readjustments can be made with the service we have at present.

I contend, Sir, that the administration charges generally are rapidly becoming top-heavy. In this connexion I would draw attention to the Agricultural vote. This vote, Sir, stood at £106,000 in 1926. I notice to-day it is proposed to spend £172,000. This shows an increase, Sir, of £50,000 for the last five years. I maintain this snowball of expenditure must be called to a halt. I have no doubt many arguments can be and will be raised for the expansion of this Department owing to the report of the Agricultural Commission. Sir, I am not concerned for the moment as to what is desirable as regards increased services to comply with the report of the Agricultural Commission. My whole point is to get down to a real appreciation of our position as it stands to-day. I believe it to be a fact that the acreage under cultivation has been considerably reduced, and I should have thought that that alone would be rather an argument for a restriction of the Department than an expansion. Nobody will ever convince me that this vote of £172,000 is not capable of revision to effect savings. Personally, I believe—and I speak as an ordinary settler in this matter—that if the Kabete Laboratory, the Field Research and the Field Veterinary Service, together with the Entomologist and the Plant Breeding Department, were maintained at the highest point of efficiency, very little

difference would be felt by the average settler and the native of this Colony if the balance of that vote is cut out. Further, Sir, a Board of Agriculture has been appointed, for which I see a provision of £3,000. Again, speaking as an up-country settler, I had heard that such a Board had been appointed, but what its actual functions were I am afraid I was rather ignorant, which, I believe 90 per cent of the settlers of this country are to-day. It was not until the recently published articles displayed its activities that I realized the real and immense value that this Board is to the Colony. I cannot help thinking, Sir, that if a really close sense of co-operation were to exist between Government and this Board, nothing but good could come from the establishment of such a Board. If, on the other hand, the activities of this Board of Agriculture are to be restricted, perhaps curbed—as seems to be the position to-day—then I maintain that we shall get no value for this vote of £3,000.

Sir, whilst on the problems of the farmer, there is a matter I shall raise at a later stage in this Session, and that is the urgent necessity for amending the Resident Natives Ordinance, more especially as regards squatter cattle. It is a matter of some surprise to me that Government have not taken action in view of representations which it has had made to it by the Stockowners Conference and other bodies. The present Ordinance needs amending for the purpose of closer control of certain abuses which are taking place under that Ordinance to-day. In the interests of the natives themselves, Sir, Government should closely examine the whole position. Now fencing and dipping are within sight under the Land Bank Bill, which will bring dairying, I hope, into its proper position of importance as one of the prime industries of this country, the whole question of native stock on European-owned land will require very closely looking into, and it is more than likely that the natives themselves will be called upon to face very severe handicaps as regards their stock in the near future.

Sir, I have mentioned the Land Bank, and I would just like to say this, Sir: that I look upon the announcement which was made by you at the opening of this Session as probably one of the most important features of the whole of this Session. A great deal of suspicion, Sir, has been gradually gaining ground throughout the settlers as regards the long and continued delays in bringing this measure into effect and I think it must be very gratifying to know that this suspicion is now swept out of the way; and I think, Sir, that it must be a matter of great gratification to know that the Secretary of State has now given his assent to the Bill passing its final stages at this Session. The amount of

capital, some £240,000, is small, and I feel sure it will be necessary to considerably increase that capital as time goes on. However, the most satisfactory feature is to know that the Secretary of State has agreed to the principle of this Colony pledging its credit in the open money markets of the world to raise loans for the agricultural and stock industry of this country. This measure, Sir, I think, will go a long way to restore confidence at the present time and it will undoubtedly be of the greatest benefit to all concerned for the welfare of Kenya.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I should like to start by congratulating the hon. the Acting Colonial Secretary on the very frank and open statement which he put before us of the state of the finances and the grounds on which he based his somewhat optimistic belief. It is always pleasant to hear someone in his position holding such robust optimism of the future of this country, but, Sir, is that optimism justified for this coming year? What I feel, Sir, is that 1930 has been a bad year, but with prices as they are 1931 must inevitably be a worse year, and from the Revenue point of view, even if prices improve, I do not see how you can feel the benefit of it till 1932. If you look at the actual Estimates of Revenue you will find that though Customs are down on the present year they are estimated to exceed slightly the actual returns of 1929; and, Sir, there was one—I think I understood the hon. the Acting Colonial Secretary correctly—rather ominous feature, I thought. I think he said that the figures for January to April of 1930 were better than the previous year but the latter part of the year was much worse. It seems to me, Sir, that that is rather an ominous sign of the downward tendency of these receipts.

Now, Sir, dealing with the Revenue, there are two items here which I personally do not like seeing. One is £45,000, Import of Grain and Flour. I personally believe that we have got to do something much more drastic about the restriction of the import of flour into this country if our wheat industry is going to carry on at all, and though I was not present in this House when that question was debated, on reading the report I do not think the arguments put up by Government were in any way conclusive. The other item, Sir, is an old enemy of mine—that is Estate Duty, £9,000. I believe, and have always believed, that that duty is a bad duty, and I think all bad duties ought to be struck out whether any alternative is produced or not. But, Sir, last year, I believe, it was agreed that Government would be prepared to strike this out if the commercial community could produce some

alternative method of producing similar Revenue. I believe they have been going into this question, and I should like to hear in Select Committee what eventuated from those discussions.

That, Sir, is all I am going to say on the revenue side. I fear it is optimistic but I trust that the Government, with their fuller knowledge than we can have on this side, may prove to be right.

When you come to the other side of the picture, it seems to me that during the last few years we have been trying to travel a bit too fast. We have been every year getting revenue considerably in excess of the estimate and we have been building up our services on a somewhat extravagant rate. I do not say, Sir, that what we have done is not good and not for the good of the country. I believe in most cases it is, but we have been going too fast, and I think and I believe we ought to go very slow now until we are in such a position, not only as our surplus balances have gone up to to the (£750,000) mark, which I think the hon. Member for the Lake stated, but also until we are in a position to allocate every year a big percentage of our revenue to non-recurrent expenditure in the way of buildings as well as of roads and even instead of having to raise loans for that purpose. Now, Sir, though I think Government have tried their best within their limits to prune the Estimates, to get them down, to make the Budget balance, I do not believe we are going to do any real good on the financial side in getting our full money's worth until we see a radical change in the whole system of administration of this country. I believe, Sir, it is absolutely necessary for economy and efficiency that the whole system should be overhauled and should be overhauled at once. I am glad to see, Sir, that Government apparently agrees with this view, as shown on page 53 of the Memorandum. However, Sir, they will not face the issue. They have once more ridden off on that plea which has been such a stumbling block to our progress and efficiency during the last few years, the plea that we must wait a little longer until we know more about Closer Union. Personally, I wish to goodness we had never heard the word Closer Union. It has held up everything and caused more trouble than anything else, and we never get any benefits from it. It is always used as a reason to prevent us doing what we know is for the best. I am quite sure, Sir, we do not want other people's views as to what is best for us; we can find that for ourselves.

It says here in this Memorandum: "What is really required is a greater measure of decentralisation, both in the Secretariat and in the headquarters of Departments generally.

This can only be achieved by much more radical changes." I agree, Sir, and I am going to be bold enough to put forward an outline on how I suggest those radical changes might take place. Naturally, Sir, I can only speak as an amateur, and others with the technical knowledge can pick my scheme to bits, but if I do not or somebody on this side does not put up some scheme I do not believe we shall ever get any "forwarder."

At present we have got to face the fact that in what should be the finest and most popular service in the Empire there is a distinct lack of *esprit de corps* and a good deal of dissatisfaction. Why is it? I believe, Sir, that it comes a great deal from petty interference from headquarters with officers in responsible positions and an excess of clerical work entailed by the bureaucratic system. When this Colony first started it was small and a system grew up by which everything was concentrated in the Secretariat in Nairobi. We had an exceptionally able Colonial Secretary who was a past master in the running of a Secretariat, but his very efficiency has led to undue centralization. We have left that stage now, Sir, and by our system, as is shown in the Memorandum which is published with these draft Estimates, the Colonial Secretary is overloaded with work, and so are most of his assistants. This state of affairs cannot be put right by adding another senior official to the Secretariat. It can only be effected by a complete reversal of present policy. Let us try the greatest amount of decentralization possible, giving Provincial Commissioners and Heads of Departments as much latitude and power as possible. You cannot expect the best out of men who have risen to high positions if they feel they are never trusted and that the smallest things they have to do have to be scrutinized and criticized by some possibly quite junior gentleman in the Secretariat. Due control over expenditure can be maintained by making them keep strictly to the amount of money allotted to their Departments in the annual Budgets. I suggest, Sir, the Provincial Commissioners should be in complete charge of their Provinces and should be responsible to the Colonial Secretary for the proper carrying out of Government policy. Having been made acquainted with what Government policy is, they should be left to carry it out without having to refer practically everything to the Secretariat: in fact, only the main questions should be sent there at all. They should have control over the movements, postings and leave of all administrative officers in their Province, who should remain in the Province for all their service after their first tour. In that way, Sir, I believe you would get much more efficient administration; you would get officers who knew the people they were dealing with and I

believe it would add very greatly to the *esprit de corps*. We should get a Provincial *esprit de corps* even if we could not get one for the whole service.

Technical officers in a Province could also be under the direct orders of the Provincial Commissioner so far as their work comes into the general scheme of the organization of the Province. Of course, a Provincial Commissioner should not interfere in the actual technical side of the work. I suggest he should be something on the lines of a Divisional Commander in the Army, who has his sappers and gunners and signallers and medical officers and so on under his general orders, though, of course, when it comes to the technical part of their work that is outside his scope.

I believe, Sir, that this would lead to economy and efficiency, and the saving of much correspondence if a Treasury official could be posted to each Provincial Headquarters who would see after the revenue and expenditure of the Province and would forward to the Treasury the necessary financial information. The collection of taxes would still be left to the District Officers. Possibly to keep everything on the financial side more up to date more frequent audit inspections might be necessary; that I am not in a position to speak about. If this system is adopted, Sir, I suggest Provinces should be as big as can be possibly administered by one Provincial Commissioner. Certainly as a start the Ukaamba and Masai Provinces should be joined into one and one Provincial Commissioner and his headquarters saved thereby. I am glad to see that the Naivasha Provincial District is being abolished. Whilst I am sure it is not really necessary to have a District Commissioner as well as a Provincial Commissioner in a place like Nakuru, I am sure there are a great many economies in that sort of way which could be effected.

There are two possible "snags" in this plan which I have put forward. One is that if officers spend all their time in one part of the country they might get too much impregnated with the views of that particular tribe and part of the country—they might become a little narrow. To obviate this I should like to see in every Province a settled area where these officers could go from time to time to be brought back to earth again among their own fellow men.

The other, Sir, is the danger that a bureaucratically-minded Provincial Commissioner might start to build up a Secretariat on his own. Any such tendency should be strangled at birth.

The file habit is a very dangerous one and I feel there should be a heavy penalty on any officer who starts a new file. I remember when I was on the staff of a Viceroy in India he declared that if he left two files together for a night they always bred another new one by the morning.

If this system was adopted I believe it would immediately free the greater part of the staff of the Secretariat who could then return to district work, and I hope it would also lead to big reductions in the Treasury.

At the same time, the same system must be followed in the principal Government Departments. Their Heads must be trusted more and the correspondence proportionately reduced. By this means I feel sure a great saving in clerks could be effected and senior technical officers, such as in the Medical Department, would cease to be *babus* and would use their technical abilities to the benefit of the whole country. My scheme, Sir, would lead to the abolition of the post of Chief Native Commissioner, which always seems to me to be a little like the fifth wheel of a coach, but I do trust that my friend who at present adorns that post will not think I am meaning anything personal in this.

Now, Sir, it seems to me that what we ought really to do is to divide the whole country up into four Provinces. You would have to have the Coast which must be administered by itself; you have got to have the Northern Frontier; but I believe you could divide up the rest of the country into two large Provinces which would each include about a million people. The administrator of these Provinces would have a really big job which it would be worth a man's while to work up. If this, Sir, is too big a mouthful for the Government to swallow at once, I do trust they will go as far as they possibly can in this direction, and will immediately set up a practical committee to go into the whole question of how this can be best done. We have here in this very House practical and experienced men who could get round a table and could, I believe, produce a very good scheme, which would save money to the country and would lead to much greater efficiency in the whole administration of the country. I do trust Government will be able to do something with this idea; that they will get on with it and will not wait for anything further about Closer Union. I have just heard to-day that our Delegation are returning from England because they do not think it worth while to wait for the Joint Committee of the two Houses, so do not let the old watchword of this country—*bada*, again act in opposition to this idea.

Now, Sir, going hand in hand with this system of decentralization I think it is absolutely necessary, as two of my hon. friends have already said, that the whole question of these terms of service, including leave and passages, housing, travelling allowances and pensions, should be thoroughly thrashed out. Personally I have no wish in any way to do down the Civil Service, and in the case of those who are on actual contracts those contracts must stand unless they wish to vary them, but I believe, Sir, we could achieve that every member of the Civil Service out here could get more real value for his money than he is getting to-day. I personally have always been very much in favour of salaries on a much more consolidated basis so that officers can use their money how they like and to their best advantage and not, for instance, have to travel first class on a ship when they would much rather go second class and save £40 or £50 to spend when they get home. Also I do not think it is right that officers who may be very hard up should be forced to go on leave when they do not want to. On the other hand, Sir, I do think that much more local leave should be granted. I believe of this Colony it is not so much the altitude or the sun or anything else which gets people rather worn out; I think it is the persistent every-day small worries. It does more good for officers if they can get away for two or three weeks fishing, or down to the Coast, or big game shooting, or whatever their particular bent is; to get away from their every-day work; than by having to go home as often as they do at present.

With regard to pensions, Sir, this is, to my mind, one of the most serious questions we have got to face. Year after year they get bigger and bigger. I see in this year's Estimates there is a sum of £20,000 put in for the probable amount for 1931, which is an increase of 20 per cent on the existing pensions. Now at the present moment I believe an officer does not get a pension under twenty years' service, and so some officials hang on to qualify for their pensions who perhaps are not particularly efficient and it would be better if they could go a bit earlier. But if anything of that sort is to be done, we cannot adopt it on present rates and, as far as I can see, the only hope is something on a contributory basis. That is a question which, of course, must be gone into by a qualified commission to do so, and I hope very much that Government will accept the motion which the hon. Member for Plateau South has already tabled.

Now, Sir, if we are going to keep our revenue up we have got to make the greatest use we can of our assets, and we have great assets out here in our land and our climate and the natural attractions of the country and the life which

can be led in it. To do this we must advertise, use more publicity. At present we have a very expensive office in London which, I believe, is of great help to merchants and manufacturers in Great Britain, but is quite useless as a publicity agency for getting new settlers or encouraging the tourist traffic. In saying this I make no attack on the officers and others running that office who are always extremely civil and polite. They have their office well organized but they do not know very much about the country and they are precluded by the actual constitution of their office from doing what we want them to do. I believe that as long as they are part of the Overseas Trade Department this must be so. I do trust that in this year's Select Committee we will carry out the recommendations of two years ago, which were again supported last year, but, like other things, were put back for this Closer Union business, the idea, Sir, being to divide our contributions to that office into two, the Railway and ourselves, combining for the publicity side and the trade part being left as it is.

Now, Sir, another method of keeping up our revenue is to get new settlers into this country. I know it will be said that the present settlers are all broke, so why bring in other men to get broke too? As a matter of fact, that is not a sound argument. Usually it happens when there is a boom that there is a great influx of settlers who come in at the top of the market and put all their capital into buying places very expensively instead of at a time like this when they could come in at the bottom of the market and get their land cheaply. There is a lot of Government land available for alienation and if they came now, by the time they have developed their farms and got their things ready we all trust that prices will have had an upward tendency. Everything cannot be produced in the world for ever at a loss to the producer. To get those settlers I think it is essential that the acquisition of Crown land should be made easier so that eligible applicants for land can choose a farm and get it at its upset price without having to wait for an auction. Personally I think this system of auction sales is a great deterrent to settlers. People get tired of waiting and go away, or else they wait and when the time comes they find somebody with a longer purse who then overbids them. I should like to see much more publicity given to the land which is available for alienation and much easier methods of people acquiring that land.

Now, Sir, to come to this. I have dealt with general questions; there are a few detailed votes which I should like to refer to. The first thing, Sir, is No. 1—His Excellency the Governor. Now, some years ago, as you know, we deliberately

voted for the increased salary of the Governor so as to attract a first class man a bit out of the ordinary run. Since then the vote has risen by £2,000, or about £16,000 to £18,000, but we all agreed to that some two years ago. Now, Sir, I feel sure from all I have heard that our new Governor to be, Sir Joseph Byrne, is a first class man and will be an excellent Governor, but are we to have another superman imposed on top of him in the form of a High Commissioner? And if so, what is that going to cost us? Who is going to occupy Government House, the Governor or the High Commissioner, because surely that vote is for its upkeep? These questions do affect the point of view of this salary and I think they should be cleared up, if possible, before the new Governor arrives so that both he and the country know exactly where they stand.

Now, Sir, coming to the Department of Agriculture, I should like to ask the hon. Director a question about when he is going to introduce the two Bills dealing with the coffee and sisal industries. I have recently had representations from representatives of these two industries saying they consider these Bills are most urgently required.

Another point dealing with that is this—what steps are Government contemplating taking to deal with over-stocking and denudation of the Reserves? Quite recently I motored through the Ukamba Reserve near Machakos, and it is a most pitiable sight. I understand, Sir, that recently a Government official from a neighbouring Province has anticipated any action by Government and started the culling of Wakamba stock by introducing pleuro-pneumonia amongst them, which is already having considerable effect. But I am not sure that this is really the best method that Government could adopt.

I should like to support what my hon. friend the Member for Plateau South, said about the Board of Agriculture. I look on the formation of this Board as one of the greatest assets the country has had for a long time, but to be of real use they must have the support of Government and the confidence of the country. One knows, Sir, they have produced many reports which have not seen the light of day, such as those on the sisal, coffee and dairying industries. If those reports are not published almost at once their figures very likely become inaccurate after a time when prices have all changed, and for real benefit it is necessary that that Board's activities should be published and that the public should know exactly what they are doing and get the benefit of all the research which they are putting in. I should like to say now that I think the country owes a great debt of gratitude to the Chairman of that Board. He has given up the whole of

his time, and does all his clerical work himself, for weeks on end, and I should like publicly to acknowledge what he has done.

Coming to the Military vote, Sir, I notice, if you analyse it, that actually the total Military vote is within £98 of what it was in 1927, and we had hoped that there were going to be big economies under this reorganization scheme. Perhaps in Select Committee the hon. and gallant Commander of the Northern Brigade will explain it all more in detail, but there is one particular point where I think we can have an economy, and that is with reference to the Inspector General. Some people think it is not necessary to have an Inspector General at all; we have now got an officer who is considered good enough to be a Brigade Commander, and it does seem rather absurd that we have to pay large sums for him to be inspected and to see that he has been doing his work properly. Whether it can be left at that or not I am not prepared to say, but I do say this, that it would be quite sufficient if he only came every other year and the post was shared between East and West Africa. I believe that is an idea which would not meet with great opposition.

I should like to know, Sir, when we come to Select Committee, exactly how the money on the Defence Force has been spent and whether it has been put to the best advantage or not.

Coming to the Police, Sir, do you not think we can have a little economy in traffic control? It seems to me that one can hardly move about Nairobi now without the danger of being arrested. I think there can be some economy there.

Now, Sir, the Printing Department; it is not shown anywhere in this except under "Contract Printing," but it is a fact that our Native Affairs Department Report has now to be published in England so that copies can be presented to each Member of the House of Commons? If that is so, I think it is a completely wrong method. I do not see why that should be done in that way any more than the Report of the Director of Medical Services or the Report of the Director of Agriculture. That is a question perhaps on which we can have some more information.

When it comes to the Public Works Department, it is very difficult to say anything until we have seen this report, but there is one particular point which I should like to know more about, and that is are they carrying on an undertaking which was given some years back that they would increase the

use and utilization of African trained artisans? In some question I asked the other day, Sir, on the expense of building these Government buildings and Law Courts, it gives the wages as follows:—

	£
Europeans	40,000
Asiatics	59,500
Africans	25,000

I should like to know, Sir, how much of that £25,000 is going to skilled labour and how much to unskilled. It is to use our spending a lot of money training these Africans if they do not get any work afterwards, and if we are going to carry out our jobs as trustees for the natives surely it is our duty to look after these people who are trained and help them all to earn a good livelihood.

Referring to what the hon. Member for the Lake said in regard to Roads and Bridges, I should like to hear a little bit more about this branch line from Thika to Donyo Sabuk. I understood it had been approved and was going ahead. I understand that to-day it has been put back for some reason or other. I hope that very shortly we shall have a meeting of the Branch Lines Committee and have the whole thing settled. People in that part of the country not only have not yet got their branch line, which they have been more or less promised for years, but they cannot get across the Athi River bridge because it has never been put into proper repair since the flood time. What has happened to the money which was voted for repairs due to flood damage which has been allocated to that part I do not know, but I should like to hear.

I should also like to support the hon. Member for the Lake's request that we should see this report of the Forest Adviser. I understood he had drawn it up as long ago as last January and that it was considered too long and he was asked to curtail it a certain amount. I do feel it is time we had that and that we should know what he has recommended.

Finally, Sir, if I may sum up, I do hope Government will be very cautious and will be prepared for the worst though hoping for the best.

Council adjourned till 10 a.m. on Friday, 31st October, 1930.

FRIDAY, 31st OCTOBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 31st October, 1930, His Excellency the Acting Governor (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 30th October, 1930, were confirmed.

ORAL ANSWER TO QUESTION.

EXTENSION OF RAILWAY TO CONGO BORDER.

LT.-COL. THE HON. J. G. KIRKWOOD asked:

Will Government give an assurance that this Colony will not be committed to any extension of the Kenya and Uganda Railway to the Congo border without sanction of this Council?

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Economic and railway surveys of a possible extension of the Kenya and Uganda Railways towards the Belgian Congo Boundary are being prepared by the Uganda Government and the Transport Administration, but in so far as this Government is aware the enquiries have not yet reached a sufficiently advanced stage for it to be known what the prospects of such an extension, if made, would be.

This Government will not commit itself to finding money for any extension to the Congo boundary without consulting this Council.

MOTION.

ESTIMATES, 1931.

HIS EXCELLENCY: The following motion:

"That the Draft Estimates of Revenue and Expenditure for the year 1931 be referred to a Select Committee."

has been proposed and seconded and the debate has been adjourned.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the Budget enables us to criticise the system and also the application of that system.

Now, Sir, in spite of the agricultural depression that exists in this country to-day, yesterday it was demonstrated to us that lilies and roses grow in profusion in the neighbourhood of the Lake, and these have been brought down in their profusion and garlanded round the heads of various Government officials, including the Colonial Secretary. I do not consider, Sir, that it is our duty to indulge in this garlanding. It is an Eastern practice. It is contrary to principles and I hope it is contrary to our general desires. Our business is to criticise the elements in the Budget with which we find fault and I propose to do so. I propose, in so far as I am able, to remove this glist of adulation and flowery attachment that weighs down the brows of Government at the moment and apply a small degree of kindly bludgeoning, which I think will do far more good.

Now, Sir, in the Budget one finds that optimism is the characteristic note, but although we are exceedingly optimistic on this side of the House, we can only agree to the presentation, and to the recognition, and to the acceptance of the Revenue Estimates if Government makes it possible for us to produce the revenue, and, Sir, Elected Members passed a resolution which read that "it was decided to agree to the introduction of the Budget Revenue Estimates on their present basis, on the understanding that Government will take all necessary steps to ensure the maintenance and expansion of agriculture, on which the Estimates are primarily based." It must be understood, Sir, by Government that that is the fundamental and essential preliminary condition on which we acquiesce in the proposals of the Government, in so far as we do acquiesce in them at all. Government will not be in a position, Sir, to deny that postulate. That is a postulate we have laid down and we have laid it down unanimously. That is the essential thing, and until Government recognizes that only on that basis are we accepting the Budget in its present form—in so far as we do accept it—Government will have no justification for proceeding with the Budget in its present form.

Having accepted that, Sir, let us proceed to a further analysis. Now, Sir, I think it can be admitted that the intention of this Budget is generally honest, but it suffers a disability, and that disability is that it is dependent to far too great an extent on the traditions of the past; and the traditions of the past, Sir, are unhappy ones. This Budget, like all the Budgets that we have listened to from the inception of Council government in this country, has been swayed by tradition. The origin of man was the globigerina slime and the present Government of to-day in this country looks back with pride and gladness and fondness to it. We on this side

of the House are asking Government to discard all the darkness of the past and come into the sunlight of the present and view the situation as it exists; but we find the greatest difficulty in persuading Government to do so. Why is it that Government prefers a certain degree of darkness with which to cloak this Budget, as it has cloaked all other Budgets? We find that degree of darkness, Sir, generally in the terms of service, in the engagement of Civil Servants in this country, and it is with that that we have the most quarrel. The hon. Member for the Lake, in a burst of generous benevolence, assured Government generally that he would never agree to any interference with contractual obligations. I will even go further, I will even suggest that no Elected Member will propose that any Government Member's throat shall be cut. Surely, Sir, it is unnecessary for Members on this side of the House to give that assurance, that neither will we murder nor will we attempt to steal from any individual Government servant what he possesses, or rightly possesses; but I maintain it is our duty to know exactly what our contractual obligations are and, in the interests of Kenya, to cause a suspension of any commitments beyond those that we have contractually undertaken.

What is the position, Sir, in regard to our contractual obligations? There are, as we know, personal emoluments, which are laid down in this Budget. There is a definite scale of salary and each individual servant in the Government draws that salary, and those salaries we know. But, Sir, there are allowances and other sums of money which are unknown to us, and it is amongst those sums of money and amongst those allowances that I maintain this darkness, which is carefully maintained by Government, exists. I should like, Sir, to mention some of these allowances to which I refer. They are: leave and passages, housing, medical attention, dental attention, local travelling, local transport, pensions, gratuities, uniform allowances, conservancy allowances, water allowances, personal and acting duty allowances, non-pensionable allowances, entertainment allowances, furniture allowances, special allowances, camp equipment allowances, shorthand allowances, station hands, gardeners, etc., highly efficient allowances, language allowances, and, in addition to these allowances—some of which I have mentioned, Sir—there are a lot of other allowances. I maintain the time has now come to make Government face this issue and to force Government to say what is contractual obligations are to itself. We do not know, and Government presumably does know. I propose in Select Committee and, if necessary, at a later stage, to move a reduction by 10 per cent of all the allowances which I have mentioned, and also the allowances which I have not mentioned, but which exist. That will, I trust, force Government

into a position where it will have to justify itself and state what its contractual obligations to the servants of this country are.

Then, Sir, in regard to the terms of service, the same thing does to a large extent apply. I do not suggest that contractual obligations should be ignored or altered but the terms of service have been discussed for many years. Two reports have been put in—the reports of two committees have been put in—and one found acceptance in this country and also in the mind of the Secretary of State. Well, Sir, neither of those reports has been adopted. It is now suggested that there should be a commission to go into this. Well, Sir, I agree that a commission could investigate this problem. It is necessary that the problem should be investigated, but I maintain that we have already information enough on which Government could act if its duty is to act upon the reports of those committees, or combined action based on the reports of both those committees, and redress this absurd state of affairs. We know and Government knows that there are Government servants in this country who draw more pay in the form of allowances of various kinds than they do in the form of their salaries, and I maintain Sir, that this is an iniquitous and wrong state of affairs and it is a state of affairs which should no longer be tolerated by a minute acquiescence on this side of the House. Government has had an opportunity in the past of adopting an alteration in the terms of service but every possible excuse has been continually used by Government for postponing the application of this alteration. The Civil Servants themselves have asked for alterations. There is no doubt that hardship does exist in various Civil Servants' domestic budgets through being forced to accept the distressing leave conditions which apply. They are forced to take passages under conditions which make it very difficult for them economically to carry on their home satisfactorily. But it is not because there is distress there that primarily I draw attention to this. It is because Kenya has not been fairly treated—I am speaking on behalf of a section of Kenya—a thinking portion of Kenya. I trust I shall get the support of other Members to the proposal that there should be a reduction of 10 per cent of these various allowances, or Government will have the greatest difficulty in demonstrating their retention.

What is the cause of the general collapse of prices? I do not think it is a secret—I think it is a factor which the world is recognizing more and more, and reducing that factor to one name, or one contention; I think it is generally accepted by the world to-day that the so-called brain-worker is overpaid. That is the primary cause of the present trade and industrial depression throughout the world. It seems an extraordinarily simple explanation to find, but I assure you, Sir, it is a correct

one, and I assure you also, Sir, that, unless this Government, in conformity with other governments of the world, recognize that, there will be, not a peaceful and gradual alteration but a revolution, and revolting and distressing alterations in the system. I know that that is so and I think that that will occur within five years. We have got to face the issue and we have got to readjust our ideas of things. I maintain—I think, correctly—that every brain-worker in this country, the so-called brain-worker of this country, could profitably to himself and the country, have his total emoluments reduced by a third. Nor do I think in that case that there would be a throwing up of posts. I think that if people were offered two-thirds of their present pay—I do not mean the contractual obligation incurred by the State, because I do not propose to interfere with that, but two-thirds of their present total emoluments, they would be very happy to accept that offer rather than accept dismissal, if the alternative were dismissal. That is my sincere belief and I maintain it applies not only to conditions in this country but to conditions elsewhere.

Now, Sir, loyalty is an admirable quality, but let us not be loyal to the traditions of the past when the traditions of the past have proved unsatisfactory. "The King is dead—long live the King." Let us come to the surface; let us expose the situation in regard to our contractual obligations; let us expose the conditions under which this country is governed to the light of the public view. If we have nothing to be ashamed of, the public will endorse them. If we have anything to be ashamed of we naturally try to hide it. As long as Government encourages this policy of secrecy, so long will this country be suspicious, and rightly suspicious, of the circumstances governing Government action.

Now, Sir, the administration of this country is to a large extent academic rather than practical, and in so far as its academic attribute overweighs its practical attribute it fails. One of the reasons that we are having so much distress in the country to-day, Sir, is because we lack advertisement. Now the academic mind hates advertisement. It feels that advertisement is vulgar and it deprecates vulgarity; but after all, life and death are very vulgar, especially death. More people have died than lived, and we have all got to die eventually. Unless we recognize vulgarity in so far as it is desirable in this country and encourage advertisement we shall assist in the burying of Kenya. We have got to drop our academic ideals and come down to the practical facing of issues.

That is a sort of general analysis of the system and a general suggestion as to how the system can be remodelled to meet our conditions. I shall now come, Sir, to an analysis of the principles on which the various Heads are controlled.

I do think, Sir, we require some information in regard to the terms of the engagement of our new Governor. I think that this House is entitled to that. Whether it is proper for the House to be informed at this stage or in Committee I do not know, but I presume, Sir, that our agreement to the vote under the Head of "His Excellency the Governor" will be taken as a conditional agreement based upon our reassurance in regard to the terms of the engagement of our new Governor.

In regard to the Administration, Sir, the major issues that confront this problem have been consistently shelved, but their solution is a preliminary to the success of any administration in this country. The policy in the past has been for the new Governor to be shielded from facing issues which are of importance to us domestically. He has been shielded from these issues for a year or two years or three years, and then we have been told that he should not be asked to find an immediate solution; give him time to study the problems that have confronted him; and he, naturally, not wishing to commit himself or being concerned with his future in the mind of the Colonial Office or some other authority, has postponed the issue. Well, Sir, I think we are getting a strong man—anyhow, we have the advantage of having an Irishman—to come to this country. (Laughter). And, Sir, I hope it is the intention of other Elected Members—I assure you it is my intention—immediately he comes to confront him with our problems, our domestic problems, our major domestic problems. I should not ask him for an immediate solution because he would not be able to supply it, but we want him to know that these are the things on which we want a decision, and leave him to discover the solution to these problems shortly after. I believe that the solution is easy. We are prepared to assist in the discovery of that solution, but, Sir, that is the disability under which this country suffers at the moment; the major issues, because they are difficult of solution, are not attacked and a solution consequently is not found.

Now, Sir, a few of the important domestic issues of this country are these, such as the overstocking in Native Reserves. Why has not a matter of that kind been faced by the administration of this country? There is only one reason. The reason is that the administration of this country has not faith enough in its own capacity to handle that problem. The Elected Members have consistently urged Government and have consistently agreed to supply the necessary sum of money for dealing with the overstocking in Native Reserves, and what has Government done? Nothing. And why has Government done nothing? Because Government is cowardly. That is the only reason; that is a simple narration of fact. We have had the Report of a Commission—I must go into these minor details because they bear out my contention that

policy is weak—we have had the Report of a Commission that the goat in this country is an uneconomic factor. We know that that is so. It is destructive. It is destroying one of the assets of the country. We have known that for years. The Commission—an important one—summarised that and made a recommendation to Government. What has Government done? Has Government acted upon any of those recommendations? No. And why not? Again because it has funk'd the issue. This is true, Sir, that every year tens of thousands of goats come into this country from the Northern Frontier and every one of those goats is destroying the country; each one is responsible for further desiccation and deterioration of the pasture in the Reserves, and it is of no real economic value to the country. Why does Government not put a stop to that? Surely if you have a destructive factor entering the country, and it is recognized even by Government that that factor is a destructive one, it is Government's duty to put a stop to its entry. Why has nothing been done? I consider, Sir, that that is an iniquity. Government concerns itself, or pretends to concern itself, with the welfare of the native, and we have the definite demonstration that in these two instances the native interests are not only neglected but they are increased. The neglect of these interests is increased.

Another matter of great importance to this country and which impinges on the interests of every section of the community is water legislation. After a great deal of pressure Elected Members persuaded Government to introduce water legislation. That legislation has been passed but it has not been applied because the rules necessary for its application have not been formulated. I have put in a question about that and asked for the appointment of the Board which is necessary to the formulation of those rules. There has been this delay, and if Government does not recognize that every month of delay in the handling of the water problems of this country is an expense and a loss to the country Government is woefully out of touch with the conditions appertaining to Kenya.

Then, Sir, every endeavour is made to introduce the political spirit in the native population. That appears to be the endeavour not only of . . .

HIS EXCELLENCY: Order, order. I have given the hon. Member every licence in accordance with the usual custom of Council that in dealing with the Budget debate they should range over a wide field. He has taken advantage of that, ranging from epizootic slime to the nationality of the next

Governor. I do suggest that if he wishes to criticize, as he is entitled to do, the actions of Government, he should do that best on the text of the Estimates and make his points in relation to particular points on the Estimates. I do not think this is the occasion for a general diatribe.

CAPT. THE HON. E. M. V. KENKALY: Your Excellency, I shall, as you instruct me, draw attention to the particular item in future upon which each of my comments is based and which justifies or authorises its existence. It will take, I am afraid, a little time.

Under the Native Affairs vote, Sir, I maintain that we have an insufficient provision and an insufficient interest in providing labour camps for labour in this country, for labour movements in this country. Government is concerned with collecting revenue from the native and Government should be concerned with the welfare of the native in providing him with ordinary facilities in moving from wherever he resides to where the demand for his work exists. He wishes to do so and the facilities for his doing so are denied him to a large extent by Government.

Again, Sir, in the same vote there is an inadequate provision for markets. We have shows for the natives. Such shows as are voted are generally for shows, but I maintain, Sir, that the ordinary marketing facilities for native produce, even the flummery ones of shows, are inadequate.

Again, Sir, we have an elaborate provision under the Native Industrial vote for the creation of artisans—native artisans. We have done our best and we have voted a lot of money for the creation of native artisans, but where do we see the ultimate intention of Government manifested in their employment? Is there any clause in any contract made by which a certain number of native employees shall be employed? No, Sir. We do not, and I maintain that it is Government's duty so to do. That is my criticism of Government in regard to this particular activity.

Then, Sir, in regard to native taxation—native taxation remitted; in what circumstances are there remissions made, and is it proper they should be made in the circumstances in which they are? I suggest, Sir, that if this House is right in imposing taxation in the form of revenue, that this House should be consulted in regard to its remission as well, that is, a general remission.

Then, Sir, in regard to the Mining Bill, which I regret has not preceded the passage of the Budget, we find the principle concerned is the principle of collecting large sums of money from anyone interested in the exploitation of mines.

I refer to page . . . It does not matter, if I may be excused finding the page, Sir—I assure you that the item does occur in the Estimates where revenue is expected from mines. Well, I maintain, Sir, that we should encourage mining by not expecting such a large revenue from mines until they are actually producing. The principle upon which the Mining Bill is framed is wrong.

In regard to the Education vote, Sir, the terms of service for the engagement of school teachers in this country are absurd. They are recognized by Government as being absurd. It is recognized by the Government generally that an alteration is necessary in the terms of service but that alteration is not made, and I propose to tell this House why that alteration is not made. The alteration, Sir, is not made because Government fears that recognition that an alteration is necessary and possible in the Education Department would be the preliminary to an alteration recognized as necessary and requisite in other departments, and that is why that is being resisted to-day.

We have a large criticism to make in regard to the Education Department, Sir, in regard to finance and the types and standards of education provided, but I suppose that these are better dealt with in Committee, so I shall not pursue the matter further.

In regard to the Police vote, I maintain that this is too high. I ask that Kenya recognize that vagrants and deportees should not receive the kindly treatment that they do receive in this country. Many of them come to this country and exploit the situation. They get a lot of credit from people who can ill afford to give it to them, starting at the best hotels and ending up at the worst boarding houses. They then report to the Police who, at the expense of Kenya, deport them, and they get away with it. It is an iniquity. These people should be put to earn the money to pay the debts which they have incurred and not be allowed to escape from the country until they have earned these moneys. That is my major criticism in regard to that particular item.

In the Agricultural Department, Sir, one expects, one recognizes rather, that Governments represent the wishes of the people that they govern, and one agrees that there is an inevitable lag between Government's actions and the desires of the people making themselves manifest, but one does expect the Department and the Government at least to keep abreast and in touch with the desires of the people that the Department is administering. I maintain, Sir, that the Agricultural Department is too ponderous; it is lagging behind the general opinion and expressed wishes of this country.

Now, Sir, in regard to the Judicial Department in this country, this is a very important matter which does require the attention of this House. Yesterday, Sir, I put in a question: I did not get a satisfactory answer. This House is responsible for making laws; it makes those laws and then hands over the administration of those laws to the Judicial Department—the translation of those laws in their judicial significance, to the Judicial Department. I maintain, Sir, that a judgment and a record of a case, which is public, and which is public because the freedom of the citizen is necessary, should be applicable to any action appertaining to that particular case, and if a case is revised by a judge a record of that case should be available to anyone interested, being a part of the analysis of an action which is supposed to be, or is, contrary to the laws of the country. The time has come, Sir, when this policy of revision, which was based on conditions entirely different, should be altered. In the past we have had inefficient magistrates and relatively efficient judges. At present we have efficient magistrates and there is no need for such a policy of revision which is contrary to the wishes of this House in its application, and the time has come for an alteration. I had better not pursue the subject further—I know I shall be ruled out of order—but I wished to draw your attention to that. The country at large is convinced that the policy of revision should stop.

In regard, Sir, to lands and settlement, what we need is not this silly secrecy policy which has obtained in the past, but a bold and active one. We want development and we want the simplest, most ordinary methods of handling the situation adopted in that Department. We have a policy of auctions of land, and land which is not sold at an auction one would imagine—a child of five or six would imagine—that if a thing is available at a certain price on a certain day and the State want to dispose of it, that it would be available within the periods of the auctions at the upset price at the auction. But what do we find? We find it is withdrawn. There is still this policy of obstruction of settlement in this country. Government must recognize, as the country recognizes, that we must have either more taxpayers or greater taxation. Those are the alternatives which I have quoted year by year for the last thirteen years, and they are the same now as they were before. We have to have more taxpayers, more settlement and more disbursements in the interests of Kenya than exist to-day.

In regard to Customs, when the new Customs Tariff was introduced, we were told there were to be no material changes. Agriculture is a small thing, but the imposition of a salt tax has been brought to the attention of Government. Provision has been made for it: we expect a small revenue

from it, as shown in the Revenue Estimates to-day. We asked Government to withdraw that. We have had no definite assurance, and I think we should have, that the salt tax import duty will be withdrawn.

In regard, Sir, to defence, here we have what is called a "brigade" and we have a very expensive staff of officers to handle what is called a "brigade." What does the brigade consist of? Less, I think, than 1,200 bayonets. It seems silly, doesn't it? I maintain that the expenses of the King's African Rifles, the expenses of defence generally are far too high and the major cost of that is in the transport service of the King's African Rifles. That requires revision. I hope Government will agree to the appointment of a committee to investigate it.

It is difficult for us to analyse an obligation which is a wholly Imperial one, but because it is an Imperial obligation, that does not absolve us from our duty of making it as economic as one possible. If we can effect a reduction in the defence vote of this country and obtain an equal or higher degree of efficiency, let us attempt to do so.

With regard to the Medical Department, Sir, one expects the Medical Department to remove the stigma which attaches to this country through the activities of the Medical Department: not a personal one of course, but on account of medical authority and medical opinion of the past. Medical opinion as a body has done little, if anything, to remove that stigma.

Then, Sir, one of the big items to which attention has been drawn, to which I wish to draw attention also, is the pensions commitment of this country. Again, Government has received definite urges for a long time to do something, and Government again has done nothing. It is a pitiful situation.

Now, Sir, the Colonial Secretary, in his speech, commented on the resilience of the farmer of Kenya, be he white or black. No doubt the farmer of Kenya is resilient, but I suggest, Sir, that he has been bounced too long; he is getting rather sore; he wants a definite assurance from Government that conditions will be provided for him, satisfactory conditions will be provided for him, for providing the revenue which is estimated to be obtained. If these conditions are provided, he will provide the revenue. That is all Government has got to do, provide satisfactory conditions; and on that understanding, Sir, I accept the Revenue Estimates, although in detail I criticize the votes according to what I have said, and there are a great many major points which I shall deal with in Committee. If Government will assure this House, Sir, that they will ensure the conditions necessary for the provision of that revenue, we—the producers of this country—will provide that revenue.

CAPT. THE HON. H. F. WARD: Your Excellency, if it were not for the seriousness of the position to-day, if it were not for the difficulties that look like lying ahead of us, one might be inclined to treat this Budget very much on the same lines as Budgets previously presented to this House. It gives one ample opportunity of criticising the activities of Government; it gives one ample opportunities of emphasizing those delightful points that appear in different pages of the Budget. But, Sir, I think the opportunity of this debate can best be met by going to the root of the matter, and the root of the matter definitely is the Revenue Estimates.

I would like to say, Sir, from the start, that I would be a whole-hearted follower of Government's policy as outlined, which, as one reads it to be, is to keep a stiff upper lip through the difficulties ahead of us; to try and get through with a minimum of disturbance and a minimum of discharges of those employed; and without being stampeded, as was the case on a previous occasion. But I find, Sir, that the method of dealing with revenue, the method of taking a certain estimated sum as an accepted fact, without any qualification whatsoever, so far as I am concerned, turns me from a direct supporter of the Budget into a direct opponent. The Government must realize the thin ice it is skating on at the moment. It is written practically in every page of the Memorandum by the hon. mover of this resolution and in every page of the Budget. One example probably will suffice. On page 3 we find that the Select Committee on the draft Estimates for 1930 looked forward to a total reserve of £454,054, and we are asked to-day that, even if the most optimistic estimate of Government revenue is secured, we are told then that all we shall have at the end of the year in general reserve is £182,599. That, Sir, in itself should be an indication of the seriousness of the position.

Now, Sir, in my view, there are three main ways in which the Revenue Estimates must be qualified and must be supported by Government. The hon. mover of this resolution indicated in his opening remarks that consideration had been given to jettisoning a certain portion of the cargo from the ship of State. I am sorry, Sir, that he should refer to his colleagues in the Civil Service as dead-weight cargo in the hull of the ship. But, Sir, following the same illustration as he has given, it is extraordinary to find, almost in the same breath, that he proposes to take on board further passengers. I do submit, Sir, that the first qualification of the Revenue Estimates must be a definite undertaking by Government that they will not increase their commitments in 1931.

In his concluding remarks, the hon. mover of the resolution threw out a suggestion that the Budget would probably be all right if hon. Members on this side of the House in Committee did not add to it to meet commitments from their various constituencies. Sir, that shows I think how far the hon. Member's mind must be away from the actual position as it exists to-day, and the feeling that is running without any exception throughout the country, and it may be news to him to know that hon. Members on this side of the House definitely pledged themselves not to increase the commitments of Government in 1931 by any suggestion, whatever its merits might be, and, as I understand the position, they definitely pledged themselves to prevent any increases, any of the proposed increases by Government in 1931. So the first qualification of the Budget, I would again say, in my view, is that the Government must not increase in any way its commitments in 1931.

The second qualification appears to me to be an increased examination of how the assets of the Colony can be better brought into play. We know that at the moment the productive side of our assets is in difficulties, a point with which I will deal later, but we also know that we have many and very excellent assets that are capable of treatment, and that are capable of treatment in time to produce results in 1931. We have an organisation at home, the London Office, which for something like seven years has cost this country £5,000 a year and the Railway £2,500 a year, and whilst I have nothing but praise for the commercial side of that office's activities and the excellent way in which that office is organized for that particular purpose, publicity, as known in other parts of our Empire, is entirely absent; and such publicity, to use an Irishism, as we do get, is the sort of thing that we do not want particularly to emphasize. Sir, I suggest that if the figures of the amount of capital introduced into the country annually by our visitors—if these figures are examined it will be found that there is a very considerable augmentation to revenue from that source, and that it is a source that, with very little treatment, could be made increasingly productive. I refer not only to the big game shooter but to the tourist and to the type of man who prefers to spend his winters overseas; and I do submit, Sir, that our assets in this respect are unequalled, and are at the moment untreated; and I propose, with Your Excellency's permission, when the Budget goes into Select Committee, to seek the agreement of Government to a resolution to the effect that this particular side of the question should be closely enquired into by a committee appointed by Government.

Now, Sir, the third and last qualification of revenue, in my judgment, is the fact again that the agricultural industry of this country must be sustained for the next few months. Those of us who have lived in this country know by experience that when violent reactions take place in Great Britain, it takes something like from eight months to eleven months for those reactions fully to be felt in this country, and whilst I am prepared to admit that the reactions have been so violent on this occasion that they may be felt earlier, I am definitely of the opinion that they have not been felt yet. If you take the date of the first violent reaction in 1930—it was somewhere between May and July of this year—based on the experiences of the past, the peak of the difficulty should be somewhere about January or February next year. Just about that time, Sir, commercial houses, banks and others who provide the essential financing of the current year's crop, will be striking a balance in respect of the present crop, and will be considering all sorts of sundry requests for further financial assistance to deal with the next crop. Those financial houses, those commercial houses have not only got to face the results of the abnormal seasons of 1930, but they have also got to face the backwash caused in that respect by the poor climatic conditions of the previous two years, and I say, without any question and doubt, that, unless Government are prepared to enter into some co-partnership arrangement with those commercial houses, they have no hope at all of securing the revenue which is set out in these Estimates. That, Sir—without trying to be an alarmist, trying to put the position as I must do in moderate language—definitely, as far as I see it, is the case; and therefore, Sir, while, as I have said, one's feelings are all in support of the line Government has taken, it is impossible that anybody who understands, sees, knows, views the position as I do will support this Budget unless the Government give us a definite undertaking and the guarantees that I have suggested.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, my few remarks refer generally to matters at the Coast and matters in the Budget affecting the Coast which cannot be gone into very fully by other Members.

You will, Sir, I am sure, be glad to find another source of revenue which you will probably require. I would like, therefore, to commend to your notice the establishment of a motor car service between Mombasa and Malindi which would, I believe, bring in a very considerable revenue. On the Coast we do not ask for branch railway lines but we do ask for further development of our communications.

I note, Sir, with very real regret, that the Coastal Experimental Farm which was agreed to last year and was recommended by the Agricultural Commission has been struck out of the Estimates for next year. In a footnote on the page it says that this experimental station is not required in 1931. I should like to know the reason why it is not required. It has been required for the last twenty years, and the necessity for the same having been realised, I cannot understand why it has been knocked out; if on the ground of economy, I maintain it is a false economy. Likewise, no provision has been made for the development of the fishing industry. The Coast area is now, as far as these two matters are concerned, back to the same position as it was twenty years ago. These industries, though valuable to the Coast, are also of extreme value to the whole of the country, and I do not see why they should not be proceeded with.

One agricultural officer has also been transferred, presumably to the Highlands. I maintain that if the services of these officers are of such value to the country, the Coast is entitled to such services just as much as the Highlands.

A Coast Advisory Board was also formed, or at least names were submitted for it, but I am unaware whether it has ever functioned. I would like to know then whether it is on the advice of this Board that the experimental station was done away with.

I should like now, Sir, to draw attention to what I consider a grave injustice and a breach of faith to the Police. I refer to the withdrawal of the language bonus or allowance to the *asharis*. This bonus was given to *asharis* who were able to write in Swahili, for which they were given an extra Sh. 2 per month. This proved of very great value to the Police in having these men at outposts and various other places who were able to write. They have drawn this bonus or allowance for many years and to do away with it now seems a most retrograde movement. I do trust that in Select Committee the amount, which is only about £240 a year, may be replaced in the Police Estimates.

With regard to the Publicity Office, I believe a very good field for its activities exists at present in India. There are many army officers there who are being retired and retrenched and going on pension. Other countries, I know, are trying to get these people to their countries. There is no reason why we also should not try and get them; they would probably make excellent settlers.

On the Coast, Sir, closer settlement is out of the question, but there are large areas of land eminently suitable for development by companies who take them up and develop them. At

present, however, there is no one in Mombasa who can give any information regarding vacant lands—where they exist or for what they are capable. The Coastal Advisory Board, if it existed, or the agricultural officer could probably give us valuable information about this. If there were a map available at some bureau where prospective settlers could see it and where arrangements could be made to show it to them, I am certain it would be a very great advantage and would save this interminable sending up to Nairobi to various departments before anything happens at all.

With regard, Sir, to the Publicity Office in India again, I met a gentleman the other day, a few weeks ago, who had just come back from there. He had been there on a business trip and he assured me, as he has others, that there is a very large opening there for the butter trade, the bacon trade, and various other things from this country, but the lack of knowledge of this country over there is extraordinary. There is no publicity whatsoever and people who live in the country and buy their things have no idea their butter or cheese can come from Kenya. I would recommend this also to the Agricultural Board for their consideration.

Regarding the abolition of the post of Matron in the Mombasa gaol, Sir, I presume this is necessary but I would ask that if possible, as other departments are asking for matrons, consideration might be given to the lady who now holds this post which is being done away with.

I presume, Sir, that Government has made provision somewhere in these Estimates, whether under interest charges or elsewhere, for obtaining the necessary money required for the new Land Bank. Before we embark on any scheme for bringing in new settlers to this country I do hope we will first think of those who are already in the country and who are in urgent need of assistance. Land settlement is not merely a matter of crowding the largest number of people on the land. Its true purpose is the expansion of agricultural production on a sound basis. It is therefore to be hoped that we in Kenya have learnt the wisdom of consolidating our affairs before attempting new advances with the formation of a Land Bank, of which, if proper advantage is taken, we may look forward to a far better future. I would remind you, Sir, that "there is a tide in the affairs of men which, taken at the flood, leads to fortune."

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, so much has been said with which I concur that I shall only deal with the King's African Rifles vote, on which I have a number of criticisms to make.

First of all, Sir, with regard to the post of Inspector General, I believe the time has arrived when this post, if not wholly done away with, could at least be reduced to visits of once in two years. This would be a saving of £1,000 a year to Kenya.

Turning to the vote, Sir, it is somewhat difficult to make comparisons as the figures submitted ignore the 1930 Estimates and are compared with the block vote of 1930, which none of us have had the privilege of seeing. We are, therefore, a little at a loss. I cannot appreciate the picture painted by the hon. the Colonial Secretary showing the wonderful saving, as on a basis of rifle strength, I cannot find it. To-day block Estimates for the brigade stand at £167,000. I find the strength of the brigade is only 924 privates. After all, it is only the size of a decent-sized battalion at full strength, and the cost is far in excess of what a battalion should be. Turning to page 138, we find a little bit of eye-wash. There is a delightful bit of re-arrangement, and in addition to the number of privates you find they provide for twenty-four regimental police and fifty batmen. These are not any longer described as "privates." No doubt they were ex-privates. I desire to know why this has been done. As far as I know, batmen were always drawn from the ranks and continued as serving soldiers. They were excused fatigues and certain parades. Each officer who had a batman paid his servant a certain sum of money in addition to his monthly pay. It would now appear that batmen are not soldiers and we are to have the privilege of paying £920 a year for soldier servants. Now, Sir, I maintain if these men are not going to carry rifles then we are not going to pay for them. In fact, we are now losing these additional fifty rifles plus the twenty-four police which also should be in my opinion retained in the battalion.

Transport and Travelling Allowances—Sir, I regret to state that I feel very strongly that there is a serious disregard of what may or may not be done in this vote. There is a large amount of expenditure which, I am perfectly certain, should not be incurred and I intend to raise this matter in detail in Committee and prove my case. There is the same disregard to a certain extent in other departments and I hope Government will give every consideration to the matter.

Government Supply and Transport—in the 1930 Estimates provision was made under Personal Emoluments for £6,000. To-day the brigade block vote, with only 175 additional men, requires no less a sum under the same head than £15,600. That is an addition of £9,600 because they have the paltry number of 175 men more. Your Excellency, I submit this demands the closest investigation. It will be seen that in place of the two officers which we have in the

1930 Estimates they have now provided for eight. There are large increases in pay and all-round increases in other ranks, plus the wonderful company of ten Asiatic clerks. In the native ranks there is a small increase of two lorry drivers but they ask for a definite increase of £700 in that particular item. What they are going to do with it Heaven only knows. Your Excellency, I have heard the strangest rumours as to what we are going to do and as to what has been done. I understand that a Royal Engineer officer is to be attached to make their roads in Turkana. As it possible we have no man in this country, to make a road, a simple country road? I think we have. There is a further wild suggestion that we are going to import a baby tank. It would seem, Sir, that we have all gone mechanically mad. All these contrivances are very, very fine but, although I may be thought to belong to the old school, I will knock out a suggestion that in my opinion, for what it is worth, they are putting altogether too much on the mechanical side of the brigade. Although such a branch may serve its purpose in countries where they have a network of roads and supply bases at every street corner, the same cannot apply to any great extent in this country. I still believe, if we are going to give Turkana some protection, it will mean flat feet and camels and not mechanical transport as it is suggested they should provide. In view of the comparison in expenditure based on the block vote of 1930, I beg leave to ask if you will consider the appointment of a committee on this vote so that we can go into this matter very fully indeed.

I understand it is proposed to raise a territorial battalion of the Defence Force in Nairobi. I am certain of course that they will have to have a little more money provided but I am certain if that money is forthcoming they can be made an efficient force and I am quite prepared to sit and prove to the Officer Commanding Troops that the money so required can be found out of the King's African Rifles vote with greatly beneficial results to the country. It may be thought, Sir, that this vote was agreed to by the authorities who are responsible directly to the Colonial Office but, Sir, we are paying the piper and we have every right at any rate to discuss the tune if nothing else.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, we cannot but realise that a great deal of water has run under Makupa Causeway since the eloquence of this debate started. I believe the debate is drawing to its conclusion; I have no wish to prolong it unduly but there are a few points I should like to make. Firstly, I should like to prefix my remarks by getting the atmosphere. The atmosphere as I see it—I will put it in this way: the prices of the world's primary

agricultural products have cracked. It has been an outstanding year in history, and I suggest that it would be a brave man who dared to predict when prices will get back to where they were twelve months ago or at what rate they will recover. Taking our experience, and working on experience, I suggest that the Budget is somewhat optimistic. That probably is a difference of opinion and an honest difference of opinion. I believe, from a study of the Budget, that an endeavour has been made to meet our commitments for next year, but I hope before the Budget is finally passed there will be very little of that difference of opinion, and that in the interests of the Colony we will get unanimity and still further be able to reduce the figures on the expenditure side.

Starting with the vote which I consider at the head, that is, the Governor's vote, the Government House vote, which stands at £18,000 a year, plus £2,000 from the Kenya and Uganda Railway, making a total of £20,000—I suggest, Sir, for your consideration that it is an opportune moment when the Secretary of State should be asked what are the terms under which our new Governor has been appointed. I think it is an opportune time to consider whether that vote should be reduced or not, and I hope some action will be taken, and information given to Council—and especially to Elected Members—before the Select Committee comes to a final decision.

I notice that in the Budget there are numerous additions, new posts of administrative officers. While in normal conditions it may be justified, I suggest, as the future is still a doubtful one, that at least we should hold these new appointments over till 1932.

There is one item, Sir, in the Police vote—I refer to page 42, items 4 and 5. It states in the Memorandum:

“Owing to the present system of fixed establishments, Assistant Superintendents of Police who are efficient in every way are being blocked from promotion owing to the lack of vacancies in the rank of Superintendent and in consequence may ultimately become due for retirement before reaching the maximum of the Superintendent grade to which their length of service should normally entitle them. It is therefore proposed that the present grading be replaced by the introduction of a long scale of salary . . . for Assistant Superintendents and Superintendents of Police.”

I suggest, Sir, that if that is reasonable it is easily tested. I would suggest, Sir, for your consideration, asking this House to treat your own personal case on that basis, in view of the fact of your long and honourable service in the Colonial service, that it is not possible, notwithstanding your record,

to attain as Governor of this Colony owing to the appointment of a new Governor. I think it is carrying it to the extreme, the logical conclusion of that argument. If that argument is sound, my suggestion is sound; if it is not sound, then the argument falls to the ground.

I notice the Agricultural vote is increased some £4,260. There are several new appointments, and I hope they will be scrutinised in Select Committee and, where found possible, they will also be held over.

It is pleasing to realise that the Land Bank Bill, announced by Your Excellency, will shortly pass its third reading. I believe that is a measure that will go further than any measure that has ever been passed in this Colony to stabilize our primary industry of agriculture. I am not satisfied that the Bill as presented to this House is what can be called an ideal Land Bank Bill, but it will be a great advantage to have that Bill on the Statute Book, and I believe the sum of £240,000 proposed to start it off with will be sufficient in the initial stages to gain experience and perhaps will eventually lead to alterations and adaptations to our needs as we find them.

I would like to refer, Sir, under the Agricultural vote to the reconditioning plant at Kilindini and I should like to couple with it the Committee known as the Maize and Wheat Consulting Committee; and I believe they held a meeting on the 18th of this month when they decided to enlarge the reconditioning plant at Kilindini. In a way it is an advisable measure. Undoubtedly we all realize that one plant at Kilindini is not sufficient to cope with the reconditioning of maize and wheat in this Colony, but I submit, Sir, that it is wrong to enlarge the present plant at Kilindini when there are more economic methods and policy to be followed with advantage to the up-country districts and to the Colony as a whole. I consider the Kilindini plant, to start with, is in the wrong situation and it creates an unnecessary burden on producers on account of rehandling. The plant should be situated on the wharfage front either at M'baraki or elsewhere, and I say it is a mistake, where it is admitted that a plant is in a wrong position, to spend money on that particular plant and make it even more impossible in the future to have that plant shifted to an ideal position. I suggest, Sir, that the time has come when this policy of the reconditioning at one centre, at the Coast, should be considered, and I ask that it will be considered and also that the composition of the Maize and Wheat Consulting Committee will be revised. There was passed what I consider a momentous decision on the 18th. They ignored the fact that they had erected a plant, true an experimental one, at Kitale. Due to wrong construction

that plant has been inefficient and is now out of action, but I submit the fact that the experimental plant, so called, put up at Kitale is sufficient proof that an efficient plant is desirable at that point. The points in favour of a plant at Kitale are that Plateau North is a district, a large maize producing district in the Colony. Kitale is in an outstanding situation for maize, supplying freight to the Railway when coming down-country in the region of £400,000 during this present year, that is to say, less than ten months. I submit that the policy be reconsidered and an efficient plant erected there. It is not a question of saving two or three hundred pounds extra in running a plant there in addition to the one at Kilindini, but it is a question of saving many thousands of pounds to the producer, which is a thing to be taken into account. It would allow of maize being reconditioned straight from the field; it would allow, in a year like the present, when weevil is present in the growing crop, to have those crops reconditioned and forwarded to the Coast for immediate despatch by boat instead of increasing the accumulation which goes on in Kilindini, which is nothing but atrocious. I think something near the high-water mark in the present year, true an abnormal one, is 100,000 bags waiting for despatch overseas and waiting to be reconditioned at the Coast. The up-country stations have consequently not only been greatly handicapped but the producer generally has been handicapped by having that maize remaining in an area which I consider is infective. It stands to reason where we have 100,000 bags, wet and weevily, it is going on at the expense of the producer, and if that waste can be stopped and put into the pocket of the producer it will be put into the pockets of the Colony. I hope that the constitution of this Committee will be given consideration and that Plateau South will be allowed to have some representation on it, and Plateau North likewise; Plateau South because it is the largest wheat producing area and Plateau North because it is the largest maize producing area. I submit it is a decision so momentous that they should reasonably have some voice in the decision.

I also suggest, Sir, that under the London Office vote, there is a big margin for improvement. It is no fault of the London Office, it is the fault of our policy, and I suggest that with a Land Bank, with the London Office and other details co-ordinated, we could eventually advise the world what we know as regards Closer Settlement or even settlement. At the moment it is very difficult to understand just how and where we stand. If you remember, Sir, it was recommended by the Agricultural Commission that very serious consideration should be given by Government to the advisability of financing settlers on privately-owned land as well as Crown land. That suggestion was discussed in the

last Budget and we even had it referred to and approved of in our Budget report. I understand the principle has also been accepted by the Land Advisory Board, but I am very much afraid it is a question that will be allowed to stagnate and not be taken in tow and I suggest a small committee to advise and report on the co-ordination of these different suggestions and how best we can utilize them to the utmost.

It has been mentioned in connexion with His Majesty's Trade and Information Office in London by previous speakers, but I would like to draw attention to the fact that £5,000 contributed by this Government and £2,500 contributed by the Railway is an excessive amount for the very doubtful advantage that we get. I consider the office requires—it is not a question of criticising the personnel of that office; I believe they are doing their best under very difficult and trying circumstances—but they represent the Eastern African Territories, not Kenya only, and the least we require there is one part of that office where enquiries can be answered from the Kenya point of view only. They have in the past, I consider unintentionally done a disservice. They broadcast quite recently the fact that settlers were not required in this Colony. In their annual report which has been laid I noted with a start, reading from the book: "taking Kenya first, the country has experienced three bad seasons running." I say, Sir, that is not true and should not have been published, not in that context. I have lived in one district in this Colony for ten years and I do not know of a bad season (laughter). It is not a laughing matter, gentlemen, it is very serious that anywhere a statement should be made that Kenya is suffering from bad seasons, locusts, malaria, reports of native disturbances, etc., and the depressed financial situation in the United Kingdom. I say that statement is untrue and should be contradicted. In the first place, it should never have been allowed to be published. It is not correct. There may have been parts of Kenya that may have had three bad years, but the whole Colony has not had three bad years. It is not correct, and I do advise that when statements have been made like that that they should be qualified. Take locusts: locusts practically do not affect settled areas. Of course, there is a great deal of money spent in preventive measures—I do not believe in a policy of sitting down and waiting—but the fact does remain that there are districts in the Colony which the locusts have never entered. And yet it is broadcast that we are suffering from locusts. Those who do not know better think the whole Colony is suffering. These are the points which I think should be brought up in the future and stopped.

With regard to Public Works, I do suggest most seriously that the Report of the Committee, which I understand is available, should be laid before the House, and that also the hon. the Director of Public Works' comments should also be laid for the consideration of the Select Committee before they study the Budget in that Department. I think it is only fair.

I hope that serious attention will be given to the appeal that has been made by a previous speaker for a Committee to be appointed to investigate and report on the Civil Service in this Colony. Whilst I am not suggesting for a moment the present contracts should be interfered with, I do believe that contracts generally in this Colony were made at a time and have been carried on under conditions that do not now exist. They should cover the terms of service, leave, pensions, housing, etc. I honestly and sincerely believe that the Civil Servants themselves, Government officials, generally would welcome an enquiry and that they would welcome probably an extension of the terms of service which would prevent them from being compelled to go home and disburse their savings every two and a half years. I think it is only reasonable to suggest that it would be advisable for the Government to consider whether, in the event of an officer deciding to prolong his work period, that he should be given some consideration, and I think it would be a step in the right direction, where it is extended six months or more, that fifty per cent of the savings should go to the official concerned and fifty per cent to the Government. I believe that by instituting a system of that sort the officials themselves would prove that two and a half years is not essential.

In the last Mombasa Session the advisability of prohibiting the importation of flour was discussed. Again I seriously suggest that it should be taken account of in this Session. I think the least Government can do is to restrict the import of flour by licence, as far as Kenya is concerned, and afterwards try and get the support of adjoining territories. I am perfectly certain that there would be no hardship to anybody and it would allow us to turn another 50,000 to 70,000 bags of wheat into flour and keep that money in the Colony.

With regard to the King's African Rifles, it has been dealt with very fully but I should like to suggest that it is an opportune moment, while Your Excellency is occupying your position, to suggest to the Imperial Government that the defence of the Northern Frontier is something more than the business of Kenya alone. I consider it is an Imperial responsibility and should not be a burden thrust upon this Colony. I understand the adjoining territories are now members of the League of Nations; it could be dealt with by the League of

Nations, and they could be compelled to defend their own frontiers or prevent their scallywags from raiding into this Colony. It does seem astounding in this year of 1930 that a Crown Colony has got to keep an armed force on the border to protect its own people.

I endorse the appeal that has been made on behalf of the native artisans of this Colony. It has been the policy of Elected Members for quite a time, as instanced by the support and assistance on the operation of the Kabete Industrial Training Depot, that these natives who are now being turned out in quite reasonable and considerable numbers should be given an opportunity of finding work when they have served their apprenticeship. I think it will be only reasonable if a proportion of skilled artisans were provided for in Government contracts when constructing Government buildings. It is a question that is going to affect this Colony in the years to come. It affects the native population and the advancement of the native and the Colony generally whether the natives are going to be brought along and given an industrial training and an opportunity to prove that they can compete in the labour market in this Colony.

There is just one item before I sit down, and that is I should like some information with regard to the Colonial Development Fund. Applications have been made, but what applications Government intends to make and generally what is the position with regard to this is not known. How are we taking advantage of the Colonial Development Fund? I would ask that Elected Members should be given any information in the possession of Government.

I believe, Sir, that during this coming Select Committee we will be able to get a good deal of unanimity on both sides of the House. I do not believe it is necessary to criticize Government unduly. I think the Budget in many ways is a great improvement on the previous ones, and I hope that in the interests of the peace and prosperity and welfare of this Colony it will ever remain so.

Council adjourned for the usual interval.

On resuming :

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM) : Your Excellency, I should like to take an opportunity of referring to certain observations made by hon. Members, particularly in regard to the Department of Agriculture vote. I listened with very great regret to the observations made by my hon. friend, the Member for Plateau South, and I regret that he is not in his place this morning to hear what I have to say. In stating what was the cost to the Colony of my

Department, the total expenditure, he omitted to indicate to the House that there was on the other side an estimated revenue of over £40,000. He suggested that inasmuch as the acreage of land under cultivation or production in the Colony was reduced, that that was a reason why the vote of the Department should be reduced. The fact is, Sir, that there is not a reduction in the area of the Colony under occupation, which I will quote at a later stage in my remarks, but I think an argument of that kind is rather fallacious. The position is that this Colony has many industries, many branches of the agricultural industry, ranging from those of a temperate zone to a tropical zone, and whether a department has to deal with 2,000 occupiers of land plus native agriculturists or whether it has to deal with 20,000 the work involved and the work which the department is called upon to render in those industries is equally great. The hon. Member to whom I have referred indicated, as I understood him, that the balance of the vote might be cut out, leaving only veterinary laboratory services, plant-breeding services, and entomological services. Well, Sir, I suggest that he can have but little knowledge or information in regard to the demands made upon the Department of Agriculture. What might happen, for example, if the veterinary field service for all this Colony was cut out of the Estimates, or if the plant inspection and control service was deleted, or if the grading and conditioning services were not rendered, or if the statistical section did not collect that information which has been useful to Members on the other side of the House? Again, he made no mention that native agriculture should be provided from the vote of the Department of Agriculture. Further, in accordance with demands made by farmers throughout the Colony in different districts, a service has been provided by agricultural officers for carrying out experimental work, inspection service and advisory work in those areas. It would be entirely wrong in my opinion, Sir, to expend money entirely on research services without providing the necessary staff to translate into practice the result of that research work. That view, Sir, was supported by the Agricultural Commission and I would read to the House a short extract covering this point and supporting the opinion I have expressed. In paragraph 39 of the Agricultural Commission Report the following appears :—

“ In this field of crop husbandry the question again arises as to the relative desirability of concentration upon research work or upon advice to settlers. The Commission accepts the Director's opinion that in the present condition of the Colony, it would be unwise to attempt a clear-cut decision between these alternatives, but that the two types of work must go on *pari passu* as far as the resources of the Department permit.”

Then in clause 47, there is a reference to the experimental work to be conducted by agricultural officers as I have already indicated. Then in clause 54 referring specially to coffee services, the Report says—

"In whatever way research is dealt with, the Department must retain considerable contact with the coffee growers, in that it has to carry out inspections and exercise control in order that diseased plantations shall not become a danger to the industry. Difficulties would be experienced in divorcing administration of this kind from the research which should always inform and guide the control of diseases."

I trust, Sir, that I have disposed effectively with the suggestions made to the House by the hon. Member for Plateau South in regard to a cut of the Department's vote in this direction.

The Noble Lord, the hon. Member for Ukamba, asks me to give information in regard to the position of the Coffee and Sisal Bills. In regard to the proposed coffee and sisal legislation the position is this, that after very considerable discussions with those interested, for example, the Sisal Growers' Association, the Coffee Planters' Union, and the Coffee Consulting Committee, draft Bills were framed with the assistance of my hon. friend, the Attorney General. The draft Bill in regard to the special sisal services has received the approval of the Sisal Growers' Association, though in a quite recent communication from that Association it was indicated that in view of the depression in the industry at the present time they would prefer that the operation of the proposed legislation should only be applied in a very restricted manner. That draft Bill, Sir, you may allow me perhaps to inform the House, was referred to the Secretary of State at his request for his advice in the matter, inasmuch as it involved the introduction of a new principle in legislation in this Colony. The position with regard to the draft Bill covering the special coffee services is in very much the same position. It has been reviewed closely by the bodies which I have mentioned. I understand that at a meeting of the Council of the Coffee Planters' Union held a few days ago, after reference by me to that Council, they approved the Bill almost completely, but I have not yet received the reply from that Council. As soon as it has been received I will refer it to Government for consideration in regard to the next step which should be taken.

The Noble Lord also asks me to give information with regard to over-stocking in Native Reserves. That subject is a very large one and I fear I should occupy the House at too great a length if I attempted to cover it. Government has,

however, taken the necessary initial steps by forwarding an application to be submitted to the Colonial Development Fund for the necessary money to be provided for the erection of a meat factory.

I regret that my hon. and gallant friend, the Member for West Kenya, suggested to the House that the Department of Agriculture was lagging behind the known wishes of the agriculturalists of this Colony. I do not think, Sir, that that is the position. The fact is that there is associated with the Department no less than ten advisory consulting committees representing all the important branches of agriculture in this country, and, in addition, there has recently been created the Board of Agriculture, which is also closely associated with the Department, and I have every reason to believe that if any views are held by people in the Colony in regard to the development of agriculture they will be expressed through those committees. I will be quite prepared to agree with him that at any particular stage all that certain people may expect to be done cannot be done, but that is governed by the resources placed at the disposal of the Department itself.

The hon. and gallant Member for the Coast referred to the removal in the Estimates for 1931 of the provision which appeared in 1930 for the establishment of an experimental farm at the Coast, and he said that the reason given in the Memorandum was not a correct one. I am afraid that he has read the Memorandum wrongly. The Memorandum does not say that the Coastal Experimental Farm is not required in 1931. The Memorandum does, however, say that it has been deleted on account of the financial position and the money inserted in 1930 will not be required in 1931, which is rather a different matter. Also it is not correct to say that an agricultural officer provided for the Coast has been transferred to the Highlands. He also made some remarks with regard to developing trade and agricultural credits in India and I am able to tell him that considerable progress is being made in that direction and that private enterprise, and I say it quite properly, is seeking information with regard to the development of further markets in India for our agricultural produce.

My friend, the hon. Member for Plateau North, addressed the House at considerable length in regard to the conditioning plants at the Coast and Kitale. I was rather surprised, Sir, to hear the line which he took and I feel that it may be he did not intend to indicate to the House what his actual remarks meant. The position, Sir, is this, that the whole subject has been very carefully reviewed. It came before the Joint Wheat and Maize Consulting Committee, as he said, on the 18th instant. That Committee passed a resolution unanimously to the effect that the extension of the conditioning plant which I submitted to the Committee should be

proceeded with immediately. The Committee also further passed a resolution to the effect that the provision of this conditioning service should be concentrated at the Port and that the type of conditioning plant, experimental conditioning plant, which meant the use of hot air without control, should not be erected in any part of the Colony.

Now, Sir, I may be allowed to say that Elected Members gave me the opportunity of explaining the position to them a few days ago, and I am correct in saying that they passed a unanimous resolution in favour of the extension of the plant at Kilindini, but reserved themselves the right to reconsider the advisability of erecting a new plant at Kitale. With regard to that, I am firmly convinced now, as I have been for years past, that the place at which Government should provide this service is at the Port. It does not meet the case and the need of grain growers in this Colony if you have a plant at the Port and another at Kitale. There are stations in different parts of this Colony where large quantities of grain are loaded for export besides Kitale, and I suggest that if the industry finds, in the light of its experience, that additional units are required in different places in the Colony, then private enterprise should consider whether they should not provide that service for themselves.

His observations, too, with regard to the unsuitability of the site for the conditioning plant at Kilindini might rather mislead the House and the public if the facts are not known. The position is this, Sir, that at the time that site was chosen there was no opportunity for choosing or erecting a plant on any one of the wharves or quays forming Kilindini Harbur. I hope, however, as times goes on and further larger schemes develop in the light of increased production, that provision may be made for a service of this kind located on one of the quays.

Before I sit down, Sir, I think it may be of interest to the House, particularly in connexion with the remarks that have been made in regard to production, which is closely related to the revenue position, if I gave the House some information which has just been compiled from the Agricultural Census now nearly completed for the period ending 31st July of this year. From that Census, Sir, one finds that there has been an increase in the area of land under cultivation of 61,000 acres odd, notwithstanding the fact that there has been a decrease of 87,000 acres comprising land chiefly in infertile areas, land which has been surrendered for the time being, so that putting the two together the increase may be regarded as not unsatisfactory. Then in regard to the number of occupiers, there has been a net increase of sixty-one; forty-eight farms were surrendered during the year temporarily, so

that there has actually been an increase of 109 new occupiers during the year. If one reads the results of the efforts at settlement in certain other countries, countries which expend large sums of money upon endeavouring to secure new settlers, that increase in Kenya for this last year, although very disappointing I agree, is not unsatisfactory when you compare it with the fact that other countries seeking new settlers have not been able to attract many of them.

In regard to actual areas under production, there was a total of 626,342 acres in European hands, a decrease of only 9,000 acres, chiefly due to the decrease in the maize acreage. A noteworthy feature of the crop of maize for this last season has been the very high average yield of eight bags per acre, and it is further estimated that for the forthcoming crop the average yield will be in excess of that figure of eight bags per acre. While there has been some reduction in the maize area, there has been an increase from 64,000 acres to 68,500 acres in the wheat area. Here there has been a very remarkable increase in the average yield. Hitherto the average of wheat in this Colony has been remarkably low, far too low. The average yield has, during this last season, increased by between forty and fifty per cent. For this last year it was actually 4.7 bags per acre, and it is estimated that for the forthcoming crop, unless something unforeseen happens, it will very nearly touch the five-bag per acre figure. There has also been an increase in the planting of coffee of 4,000 acres and a very substantial increase in the production of coffee is expected. The area for tea has in the same period increased from 2,700 odd acres to 8,331 acres; that is to say, more than trebled during the year. There is at present an output from these new plantations of over 500,000 lb. of prepared leaf. In the sisal industry the increase, particularly in view of the fact that there is now a depression in the sisal industry, which did not, of course, affect the actual planting for the past year, shows the remarkable figure of 26,500 acres odd in the planting of sisal—25.3 per cent increase for the year—though I am afraid it may be anticipated that in the forthcoming year, due to the slump in the market, there will be a reduction in that area.

I regret, Sir, that so far as statistical information is concerned, it is not possible to secure reliable data in regard to progress in the Native Reserves, but one has only to travel through the Native Reserves to see the enormous increase of production which has taken place as compared with the production of a few years ago. We have, however, Sir, some more definite information with regard to wattle bark, for example, and sweet potatoes, both export crops which bring in a considerable revenue to the native producer. These industries are making very substantial progress.

I omitted to mention, Sir, before referring to the position in the Native Reserves, the fact that the production of sugar is expected to increase to something like 12,500 tons in this forthcoming year; that is to say, an increase of about 5,000 to 6,000 tons as compared with the production in the previous year.

THE HON. F. J. COULDRY: Your Excellency, most of the points on which I should like to have spoken have already been traversed by hon. Members on this side of the House, and I have no intention of taking up your time by repetition. I, like every other speaker, am very much concerned with the revenue side of this Budget, and I should like to emphasize as strongly as I can emphasize the statement made yesterday by the hon. Member for Plateau South. In my opinion the Government fail utterly to realise the financial condition of the agriculturist of this Colony. The hon. the Acting Colonial Secretary states that he has allowed in his Budget for an increase in the price values of raw commodities. I submit, Sir, that unless that increase comes immediately and can apply to the crops which we are now harvesting and will shortly be marketing, it will come too late to have any beneficial effect at all on the spending capacity of those people engaged in agriculture.

I should like, if I might, to support the Noble Lord, the hon. Member for Ukamba, in his request for an enquiry to be held into the whole question of the administration of the Civil Service. It seems to me that any service which has had to evolve so quickly in order to keep in touch with the requirements of this country, which has altered so very quickly—it is inevitable there must creep into that service certain anachronisms and redundancies which an enquiry of this sort would, of course, bring to light. As regards the tours of service, I think the arguments are almost so obvious that they do not bear repeating. It seems to me that to endeavour to establish economies in such minor matters as travelling allowances and then to expend the huge sums which this short two and a half years tour entails in passages and in duplication of posts is about the best example that I know of straining at a gnat and swallowing a camel.

Moreover, this two and a half years tour has definite repercussions outside the Civil Service in the municipalities and district councils which have been established. It definitely affects them, especially the junior staff, and it has been the cause of a great deal of dissatisfaction. The attractions that these councils are able to offer are, of course, nothing like so generous as regards leave as the junior posts in the

Civil Service; and of course this argument applies also to employees of any nature, either of commercial firms or of farmers.

Turning to the question of detailed expenditure, I regret that no reduction has been made in Government House expenditure. It seems to me that it would be rather invidious and certainly undignified to discuss this question after the Governor has arrived, and it seems to me further that now is the one and only time we shall possibly have of debating this for the next five years. The vote for Government House expenditure was raised in 1925 at the request, I believe, of hon. Members on this side of the House. I regret that as I am new to this House I have not recourse to the Estimates of that year, but I see in 1928—three years afterwards, the estimated expenditure of Government House was only £16,000 as against £18,000 to-day. In my opinion, Sir, in years of financial stress like this I can see no adequate reason at all why Government House expenditure should be greater in 1931 than it was in 1928. I do hope that hon. Members on this side of the House will support me in endeavouring to get a reduction.

In that connexion, Sir, it may be within the knowledge, if not within the memory, of any hon. Member who served in Egypt in 1880 something, 1881 I think it was, when sugar dropped suddenly from £14 to £12 a ton, in order to balance the Budget all Civil Servants' salaries were mulcted in 10, 15 and 20 per cent reductions according to their rate of pay. It is further interesting to note that these reductions were given back to them in the next year.

I also see in the Budget that small adjustments on the generous side have been made in Post Office, Commissioner of Prisons and Police votes. In normal times these would not be challenged but I do wish to repeat that these are not normal times, and surely at a time like this, when every commercial firm and every farmer, not only here but all over the world, and when many Governments are endeavouring to make reductions, it is not the time to make these small adjustments. I suggest the time to do that is when those roseate hopes that the Colonial Secretary has expressed have developed into actualities.

THE HON. F. A. BEMISTER: Your Excellency, before I come to the remarks I intend to make, on behalf of my friend, the Member for the Coast, I would just suggest to the Director of Agriculture that his error, his alleged error, was due merely perhaps to bad English. On pages 41 and 43, with regard to the six agricultural officers that he referred to, where it is suggested one had been transferred from the experimental station at the Coast, the actual words printed in the

Budget are: "One transferred from Experiment Station, Coast." It was not his mistake; it was a mistake in the printing. Again, Sir, with regard to the item on page 43, "Ukpeep and development of fann," the words are these (a little letter \bar{u} says it): "Not required for 1931." I leave that for your consideration.

Now, Sir, with regard to my own opinion of things, as I have told you before, my life has not been brought up in politics; it has been brought up largely connected with company work, and I regard this occasion, this annual occasion, as similar to a large company, which has its one opportunity of meeting its departmental managers and its operators generally, when the directors call for an explanation of the past year and the prospects of the next year; and I do hope, Sir, that I will not be out of order in examining the principles and policy which have been followed by the Government in expending the money which we gave them in October last.

I contend, Sir, that there are many large principles which have been and are affected by the action of Government during the past year, and first of all I will refer to the Department of Administration. This Department one should always look to as the Department which keeps straight the operations of most of the others and which, Sir, should be the most jealous unholder of right and wrong in the Colony. Yet, Sir, if you refer to the last what I call annual general meeting you will find we suggested and worked out a system under which the organisation of the Secretariat would be thoroughly examined. I remember, Sir, it was suggested that individuals who were then going on leave should investigate the systems and methods not only in Government offices at home but with business firms and business organisations and that they should return and give to this House a proper scheme which would add to the efficiency of the whole working and yet not cost any more. I waited some time, Sir, to see what was going to happen and then I had a bombshell. It consisted of the Wade-Mayer Report. I do not how many of you have read that Report but I take my stand on this, Sir: first of all there are no two men born, no matter how high a standard of genius they may have attained, who could review the whole of the working of the Civil Service, the Secretariat and the Administration of this great Colony in two or three weeks and work out a scheme which would be of any possible use. I say, Sir, that the wording of that Report, the issue of that Report, was an insult, first of all to Heads of Departments of Government, who could have brought in those very selfsame reforms without a travelling allowance of Sh. 30 a day for tramping about the country, and secondly it is an insult to the Elected Members who had not the slightest intention of introducing some files

and rotary machines and other odds and ends. There is no question about it, Sir, reform has got to be undertaken. It was admitted on all sides last year, and whether the Government likes it or not it has got to come. The strange analogy is that in 1923 there was an agitation in this Colony for economy—what they called the Geddes Commission—and in my opinion that was the most dastardly thing that ever happened in the Colony. It handicapped everybody, it destroyed confidence at the Coast, it broke up the medical service in that region, and what it did gain at the time it lost later on in heavier expense because in a few years' time you had to replace all those men whom you had thrown out and given compensation to. If this question is not properly undertaken you are going to get another agitation ten times worse and which is going to handicap the country for ages. If the matter is tackled carefully and quietly, as Heads of Departments and Elected Members agreed last year, a solution will be found and you will find that the whole of the Colony will receive the benefit which it deserves.

Another item, Sir, is that covered by the question which I put to the minister concerned in connexion with an allegation made in the Mombasa newspaper relating to the action of a very high official in the Government Service. I am not saying it is right; I am not saying it is wrong. I receive letters practically daily alleging all kinds of things but my point is, Sir, that the Government should defend its servants on every occasion. These people, if they are in the right—we are English and we are willing to admit an error, and we are willing to put the thing right. If we are in the right and they are in the wrong they should be put in their place. The proper thing would have been not to sit aside and say nothing and let these things get into the London papers, showing how Government officers are alleged to go round robbing the people of their land. What should have been done is that the whole circumstances should have been enquired into. It would not have cost any money but what it has cost is prestige, and I say that the Administration has lamentably failed in its duty to defend its own officers and the prestige of the white man at the Coast.

Again, Sir, in October last year, we decided, we proposed—when it was foreshadowed—that there should be an investigation into the working of the Public Works Department. That resolution was taken somewhere about November 1st and the Head of Department concerned left the Colony on February 15th. Nothing was done, Sir, until July, and though I do not wish that whatever report has been made should be pigeon-holed, I want to see it—if it is just—I want to see it properly worked.

Now, Sir, the next Department I wish to query is the Education Department; truly I can hardly say Education—I was going to call it "so-called Education" but I do not really want to be rude. This Department has through the influence of a Grand Panjandrum, an influential Member, erected buildings all over the Colony; no doubt that is a very great asset to education although I do not consider it is essential. What I contend, Sir, is that education should carry with it a moral background, which this Department can attain by working in with the established organizations that are still in the Colony. Remember, Sir, it was not the Education Department that started education, not in the slightest. They came apparently at a time when education was well on the way forward, when the hard work had been started and much of it very well done. And yet what do we find, Sir? We find in the Annual Report which is issued on the money voted by this House on page 8 of that valuable document it says under "native aspirations" —

There is another factor touched on above, which is now becoming the dominating factor in the situation and that is the demand of the African himself for the provision of educational facilities through other than missionary agencies.

Now, Sir, I want to know where that evidence came from because I am going to deny it right away. I will refer you to "Osiopwa" of May, 1929. I have no doubt the hon. the Director of Education has a copy of that paper. It will give a great deal of information to his Department. If he will turn to that publication he will find the minutes of a meeting held at Yala, Central Kavirondo, on the 8th February, 1929. The whole of those minutes—I will not read them to you, Sir—contradict the whole of this suggestion, and I am going to challenge the hon. the Director of Education to prove that in any large degree in this Colony the natives have ever wished to get away from the missionary influence which they have been born and bred amongst for the past thirty or forty years. I know we are not unanimous on this side.

Again, Sir, I am going to refer to page 53 of this Education Report for 1929, where it says:

"The raw material for us is the product of mission influence and therefore our task is often re-education or the removal of previous prejudices and the substitution of a broader point of view."

What does that mean, Sir? What does that mean? I would like to know what this Education Department means by suggesting that natives want a broader point of view. Is

it a fact, Sir, that any native, or anyone else for that matter, in an elementary stage of education requires other great principles than those of right and wrong and respect for their superiors? Take away that great influence and what do you find? Don't you find darling agitators all over the place who do not think themselves as good as you, they think themselves a jolly sight better? That is the thing you have got to stop, but that is the thing the Education Department is creating.

Now, Sir, I come from a Swahili-speaking area, not an area in which you hear the following which is alleged to have been heard at Muthaga. The other night a gentleman was playing golf and he wanted his boy to tee up his ball; he said, "Upesi, bori, tengeneza chai." That sort of thing is not heard at the Coast, or in the Arab School of which, Sir, there is no mention in this Report. That is the language of the people, and yet I find that some of the money we voted last year was expended on paying the salary of an inspector of that district. An inspector, of course, I take it, knows all about things and checks teachers, but this inspector arrives in this country at twenty-three years of age, without a knowledge of a single word of Kiswahili and holds the position of inspector of an Arab area only speaking Kiswahili. He inspects that school, and I say, Sir, what is the value of any report from that gentleman? Mind you, let me tell you that I am—I do not know how—on a Board called the Central Board for Arab Education at the Coast. This Board, I thought, was something like the Board I used to sit on at home, which was called the Managers Board, which managed the voluntary schools, at which the reports from the schools were handed to the managers; they read them and they said, "This report is bad, you have got to go," or, "That one is good, you can have a rise," and so on. But, Sir, that Committee has never been issued with a copy of that report, and when I asked for it at the last meeting of the Central Arab Education Committee I was told that it was sent to the Area Committee for Arab and African Education. When I asked where this Area Committee was, I was told that it had not met for six months. (Laughter.) All these things annoy me because I am a man who has to earn his own living and I do not want to waste any time. I am willing to work on public matters as long as you like to work with me but I do not like wasting my time, and in this case, had I had in front of me that report, I could have seen and the other fellows could have seen—members, I should say—could have seen just how the school was being managed and what was the best policy to carry on in the future. You must recollect, Sir,

that a very great experiment is now going to be started at the Coast for which we voted last year again a lot more money. It is a boarding school, and unless we, as managers of the Arab school in Mombasa, can thoroughly recommend the system to the people surrounding—and you will be surprised, but we have a lot of influence with the Arabs—that is going to be a white elephant. If the people do not go there, and I have grave doubts whether they will or not, that is going to be public money voted by a lot of men who do not know too much about it, and if they have not got the opportunity of receiving the correct information they cannot assist you and the consequences are that the money to be spent on—we will call it—an experiment for the Native Industrial Training Department will be wasted, and that is all there is in it.

*Council adjourned till 10 a.m. on Saturday,
1st November, 1930.*

SATURDAY, 1st NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, the 1st November, 1930, HIS EXCELLENCY THE ACTING GOVERNOR (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of 31st October, 1930, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

By THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN):

Annual Report of the Forest Department, 1929.

MOTION.

ESTIMATES, 1931.

HIS EXCELLENCY: The following motion:

That the draft Estimates of Revenue and Expenditure for the year 1931 be referred to a Select Committee, has been proposed and seconded, and the debate has been adjourned.

The hon. Member for Mombasa is in possession of the House.

THE HON. F. A. BEMISTER: My next item, Sir, is the vote for the Local Government and Lands Department. This Department is charged with the control of municipalities and I want to show you how they interfere—wrongly, in my opinion—with the activities both of the public and the private endeavours of the community. I want to refer, Sir, to an incident in which, when the Municipality of Mombasa was taking over the Conservancy Department, they decided to employ three Sanitary Inspectors at a consolidated rate of pay. This matter was very fully discussed amongst the members of the Municipality in order to give intending applicants a good opportunity in the Colony and at the same time safeguarding the interests of the ratepayers. The rates of pay and conditions, in accordance with the ordinary routine of business, were sent up to the Central Department in

Nairobi, the controlling department, and subsequently we found, the ratepayers found, that house allowance had been added to the terms of employment of these three gentlemen. We protested at the time, but as the men had been engaged nothing could be done. Subsequently correspondence took place and the department, the controlling department, admitted the mistake but would not admit any liability, with the ultimate result that the ratepayers in the next three years will be insisted of £400 to £500 which has been forced upon them through an error in the controlling department. Now, Sir, I consider that a very, very serious thing because a Municipality, especially like Mombasa, composed as it is of people who really know the whole conditions of their locality, have to be under the special circumstances very, very careful of their expenditure. I consider, Sir, that the Central Government should have taken over that debit in relief of the ratepayers of Mombasa for the period it had been contracted for. That, Sir, is with regard to the public.

Now, this department also has control of the town planning policy, and last year I asked another Member, a very prominent Member, to press the matter before you, but apparently it was not important enough for his consideration and therefore I want to do it this time. As you are aware, Sir, the native villages in Mombasa had to be taken from their horrible state and brought into a much better plan on better land. I will not call them philanthropic people, but the landlords did come forward with areas of land suitable for this special development and, I contend, unsuitable for any other at the present moment, and they had to submit to a reduction in their development area of 33 per cent made up, Sir, of 100 feet wide roads through an area which is of temporary occupation and which obviously has lowered the revenue possible on those areas; and not only that, it has laid a very heavy charge in the future on the Municipality to keep those large waste places clear. Beyond these 100 feet roads in the 100 acres which I personally have developed, there are six spaces of 100 yards square allotted for open spaces. Now, Sir, it does seem to me—and I assure you it agrees with the opinion of many prominent men in this Colony—we do not object to the laying out of a town planning scheme which, in the future, may or may not be required. We say you are perfectly right in reserving these large road areas, but until they are required to be used why not give us, the landlords, the opportunity of developing 50 feet of them so that we can treat the natives in a better manner and charge them a slightly lower rent? Also we can save the Municipality huge charges for keeping these areas clear. What I contend, Sir, is that there is too much of this great view of posterity. It is a very fine view but I contend, Sir, that posterity can

much better afford the large ideas which are being forced on the community to-day because in those days they will be far better able to pay for it.

Again, Sir, recently there is an area of about 480, we will call it roughly 500 acres, being developed on the north side of the Island of Mombasa, and it is on this one point that I feel most strongly, and in view of the decision in Mombasa I resigned from the Municipal Board. The figures roughly are these. Sir: about 500 acres in a total are laid out on the north side; roads of 60 feet, 90 feet and 40 feet are right through the area; there are only about 150 plots laid out; the minimum of each is two acres. The total area is 480 acres, out of which 130 acres have been reserved by the Government for Princes Park; 10 acres have been allotted on the seashore, and 15 acres for a promenade. Calculating that the biggest house that is built there will be one-third of an acre, I make it that 200 acres of the plots will be open spaces. In other words, Sir, of a total of 500 acres there are 355 acres left entirely open. But what is the result? What is the action of the agent of the Local Government Board? He holds up the whole of that development because he requires two plots amounting to 5 acres to be left open for an open space. Now, Sir, I do think that is a wrongful interference with the proper development of the country, and it is a handicap because these plans, I have no doubt, should have been passed a long time ago, and you are never going to tell me that where you have 355 acres open in an area of 500 acres, besides the roads, that the whole benefit and the kernel of the benefit of that estate is wrapped up in a paltry 5 acres.

Now, Sir, I have a very few remarks to make with regard to the future. I have wanted to show you my particular grouses on the money for the past year and to show you that by reason of those ideas I intend opposing to the best of my ability every possible thought of increase in the present Budget. In Your Excellency's opening speech you congratulated the House on their work. I had hoped, Sir, that the spirit would have been beyond like the Protestant Confiteor: "Many things we have left undone which we ought to have done, and we have done many things which we ought to have left undone," for verily, Sir, that has been a record of the past year. Now for the future year what have we to look forward to? It has been alleged that it is an optimistic statement of revenue; I have no means of even criticising that, but I believe my colleagues have that information and in consequence it is absolutely necessary to take no risks. In fact, every possible chance, every possible opportunity must be made to-day to cut down the expenditure so that if may

come within some reasonable calculation - of the most pessimistic estimate of revenue. There is no question, Sir, that with the present state of trade, of agriculture and of the world's financial condition, we shall have a very serious condition to face in the next few months. But I do not congratulate the Government on making an attempt and I would suggest, Sir, that that attempt was made on the basis that anxiety for economy increases with the near arrival of a new Governor.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, with regard to the remark made by the Noble Lord the hon. Member for Ukamba yesterday, concerning the question of reduction of officials, I am afraid I am in complete disagreement. He thought that one post which could be done away with was the post of Chief Native Commissioner. I assure you I most entirely disagree with that suggestion. I heartily agree with what he said in regard to the young cadets, after it has been found out what they are most suited for, being put into some tribe to work amongst and kept there as long as possible. I know the difficulties of this, I know when some post has got to be filled the great difficulty it is to keep that man there, but still I feel that is the ideal. They should know the language and understand the customs of that particular people until they become past masters at it. I also heartily agree with the suggestions he made that Senior Commissioners, in their own provinces, might have more latitude and possibly be given some greater executive powers in minor matters; but I consider that the post of Chief Native Commissioner is absolutely essential, so as to co-ordinate the work of the Senior Commissioners in the different reserves and so that he may be an officer *de liaison* between these Senior Commissioners and the Secretariat, or His Excellency the Governor, himself. I hope that at no time whatever will it be thought wise to do away with that special appointment. Knowing something, as I do, about native affairs, I am convinced that the post is an invaluable one as a co-ordinating link between the administrative officers and the Colonial Secretary on these matters.

With regard to the Medical Department estimates, I merely wish to thank very much those of this House, and others on the Special Committee appointed by His Excellency Sir Edward Grigg to consider applications from missions and private individuals with regard to providing financial help for such work as they are able to do to assist the Medical Department, through hospitals, or clinics. I very much hope that

the Select Committee will recognize that this particular Committee gave great care and scrutiny in the case of every application, and that they will see their way to accept the recommendations which have been made.

With regard to the matter of education I have very little to say. In regard to the education of the native I suppose that in these days of stress one must be thankful that things stand as they do in the Budget. Naturally I would like to see a very great increase in the grants to Missions for native education, because I honestly believe that that is only consistent with the tremendous increase in the demand to-day in the Native Reserves for education, an increase which is growing by leaps and bounds. Missions working in close contact and friendly co-operation with the Government have a very great part to play if they have financial assistance. But, Sir, I know that this is no time to ask for increases, and therefore I can only hope that nothing will be reduced, and that things will at least stay as they are.

Sir, there is one matter in regard to education which I wish to speak about. I hold exactly the same view as I did a year ago in regard to another community whose children are not being trained or educated in the best way possible. Any children who are growing up without a proper education are a danger to the community at large. It does not matter whether they are Europeans, Indians, Arabs, Africans, or Goans. I feel, therefore, as before, that if it was possible to give some small encouragement in the way of a grant to the Goan community it would be playing the game to them. Anyhow, they are taxpayers who are trying to do something for themselves, and it seems only fair, seeing that we tell Europeans, Africans, Indians and Arabs that of course we realize that they cannot educate their children properly without some outside help, that some small help should be given to this community also. I would like, therefore, even in these days of stress, to see if something cannot be done to encourage these people to train their children properly, because, as I see it, we must not let the children of any tribe or community grow up in this Colony without proper education. That, Sir, is all that I have to say.

THE HON. A. H. MALK: Your Excellency, optimism is the order of the day and naturally I do not want to be ruled out for being unduly pessimistic. I sincerely hope, and share the hopes expressed by the hon. Member, the Acting Colonial Secretary, when he said that he hoped that the trade depression of 1930 will not continue throughout next year. Knowing partly as I do the feelings and the state of ferment of the tradespeople to-day I am sure that those remarks, those

encouraging remarks of the hon. the Acting Colonial Secretary must have backed them up considerably, although I am not convinced that it is very fair at this time of the year to indicate that there will be a material improvement in the trade depression. I agree with the Noble Lord, the hon. Member for Ukamba, when he said that if conditions do improve during the early part of next year at all the effects of it will not be felt until the year 1932. I wished and hoped that some hon. Member with better experience and knowledge of the trade conditions would have dealt with the present position. If you compare the prices to-day that are ruling in the market for the various trade commodities you will be surprised to find that you can buy articles if you have got ready cash at a little over the home retail prices, where the articles are manufactured. For instance, a very useful article which is being bought almost by everybody is watches and clocks. Now a clock that you can buy, if it is of American manufacture, in America for say Sh. 10 50, you can buy here for about Sh. 11 50. Not that these importers who have imported this commodity by selling it at a margin of Sh. 1 make any profit at all, in fact they lose, but they are forced to lose that just to meet their other liabilities.

Another useful indication of the present trade depression is the number of insolvency applications, which I understand to-day are over one hundred. Just fancy, Sir, a hundred individuals and bodies going bankrupt in a small space of about nine months. Some of these applicants or insolvents started in this country as pioneers, both in the European and the Indian communities, and I consider, Sir, it is a thousand pities that people like that who started with such a hope and prospects in view should have ended up their career in their old age like that.

The Estimates of Revenue under the Head of Customs Duties: it has been stated, Sir, that, taking into account the experience of the past five years, the Revenue Estimates have always been exceeded by actual receipts, but I would draw attention to this fact, Sir, that five years ago the country was flooded with money which was raised by means of loans and that money was circulated in the country with the result that there was a greater buying capacity than you find to-day. This factor also must not be lost sight of: that five years ago the price of trade commodities was at least 25 per cent higher than it is to-day. If an article cost Sh. 125 five years ago you can buy it to-day at Sh. 100, with the result that five years ago the Customs duty was higher than can be expected to-day. It may be argued, however, that in spite of this fact that the tendency of prices was downward yet the Customs obtained the same amount of revenue as in the past

five years. This fact is explained, Sir, in this way, that as there was more buying capacity, there was more money to buy articles, there was increased volume of importations of trade commodities. But now that there is a want of money and the tendency of prices is downwards the volume of the importations is going to be less. It has been less and it is going to be still less at the end of next year. Now, in discussion with an eminent tradesman in the town, Sir, the other day, it appeared that the downward tendency of prices is so rapid that he expects that in addition to this 25 per cent reduction of what they were five years ago there is going to be a further reduction of 10 per cent in the price of general commodities. That means, Sir, that there is going to be a reduction in value of at least 35 per cent of what it was five years ago, or 10 per cent of what it is to-day. Now if the total value of importations is, say, £200,000 of the trade commodities to-day the same amount is going to be imported for—well, the cost of the same amount of articles will be £20,000 less, being a 10 per cent reduction. Consequently there will be a 10 per cent reduction in the cost of import duties, which means £2,000, Sir.

The trade conditions, Sir, particularly in Nairobi, are absolutely ruined by insufficient measures to protect trade. True, there is the trade licence, but that is only a revenue-making, revenue-collecting item and does not afford sufficient protection to the trade. There is nothing to debar any man coming from outside and hiring a shop depending on the capital of agents and some wholesale shopkeepers to furnish his shop and business. If a man has no capital of his own when the time comes for payment he sells the articles at any old price with the result, Sir, that those people who have been in the trade for years and years, and probably in some cases for a generation, suffer. They cannot compete with these tradesmen who speculate on the capital of others and just undercut each and every article that they can think of. In town to-day you can find dozens of shops open with no capital of their own, who are to-day under-selling the articles which the ordinary tradesman, the bona fide tradesman, cannot possibly afford to do. If you walk in the Bazaar or in Government Road to-day you find every other shop for sale, with the result, as I have already pointed out, Sir, that up to date there are over one hundred insolvency applications, and if this state of affairs does not improve by some financial miracle I feel the trade conditions are going to be very serious indeed. I do not feel at the moment it is right to place any hopes on any immediate improvement in trade. It takes a long time, Sir, to construct a thing, but it takes no time to destroy a thing. It is quite right to expect a building to be demolished within twenty-four hours by lightning or fire

or something else, but you cannot expect to hope that a playing ground to-day will contain a nice building when you get up to-morrow by some similar agency. Destructive elements are always quick and constructive ones always very slow, in fact too slow.

Then it was expected that there would be increased revenue from Motor Licences. Perhaps the Government in their better judgment, with all the statistics before them, are right, but judging from the motor trade now I feel the country has reached saturation point and there is no room for any more motor cars or motor vehicles of any shape or kind. If you have a walk round the garages you find them full and they cannot sell at the same rate as they have been selling in the early part of this year, and there is a feeling that probably next year there will be a deadlock.

While on this subject of trade depression, Sir, I have always felt that some measure could be adopted by Government to protect the honest tradespeople. Perhaps something in this form could be done, that any new people who want to enter any particular trade should be required to show a certain amount of capital necessary for the trade or business they propose to do; if anybody cannot satisfy or cannot produce the minimum amount of capital that is thought fit or proper to carry on the trade, he should be debarred from entering it—or some other thing which some better knowing body may devise.

Coming down to particular heads of the Estimates, Sir, I have to draw the attention of Your Excellency's Government to the old need of the Indian community in one very important direction, and that is the medical treatment, the medical assistance to the community. This question, Sir, has been before the Government for over a decade now and it has been accepted by the Government that the Indian community does need some medical aid from the Government. I daresay the Government is convinced of it also. There has been talk of a combined hospital for a number of years, which has not materialised and probably will not materialise because of the fact that the sister community who are supposed to have a share in this combined hospital have got every facility—perhaps not adequate, but they have got sufficiently adequate and good facilities—in the medical assistance from the Government. The Indian community at the moment, Sir, has got no hospital whatever for its treatment. We have got one ward at the native hospital set aside for the Indian community. Going through this ward the other day, Your Excellency, I found that the patients who suffered from various diseases, such diseases that a patient suffering from a particular disease—suppose he is laid down with fever and

he has got a sick feeling—he requires his surroundings so that that feeling of his is abated; but what do you find? On the next bed to him is a man with probably some bodily injury, and perhaps two or three times a day his wound is opened up in front of this sick person, with the result that his ailment is trebled; instead of getting better he gets worse. I am not sure, but I believe there are about sixteen beds in this men's ward in the Asiatic ward at the native hospital, and you always find that perhaps some of the sixteen patients sometimes suffer from such diseases that they should be kept away from one another.

It was brought to my notice also by the patients that the native boys sometimes who compound their medicines make mistakes in this way; that the medicine which is for "A" patient is given to "B" and "B's" to "A." In the matter of food also, Sir, the doctor has prescribed perhaps milk or some similar light food for one particular patient and soup for another, and it happens often, the patients complain, Sir, that in the morning they get milk and in the evening soup, and the other man who ought to have had the soup got the milk. That sort of thing in a hospital where people go for treatment, to improve their health, where they get wrong diet, wrong medicines—you can well imagine the conditions should be altered.

The question of an Indian nurse—one or two Indian nurses—Sir, as you remember, I have brought up from time to time, and it was semi-promised that something would be done this year. I am afraid I have not been able to discover any such provision in the current Budget. The least that can be done at the moment to ameliorate conditions at the native hospital, so far as the Indian wards are concerned, is that there should be at least one Indian compounder—who will not, I trust, make mistakes as these native boys do—and at least a couple of Indian nurses to look after the Indian patients, both male and female. Of course, that does not mean to say, Sir, that I admit that there does not exist any immediate necessity for establishing a proper Indian hospital. This is only a suggestion for a makeshift.

Regarding local bodies, Sir, at the present moment all the local government bodies such as the municipal councils, municipal boards and district boards are absolutely without any Indian representation. I will admit, Sir, that a particular section of the Indian community is responsible for this, but I would suggest that this particular section does not lose anything by refusing to participate in these bodies; it is the general community who are losing ground over it because the municipal councils and municipal boards are the bodies which affect directly each individual who might

be living within the jurisdiction of such bodies. The Government, in their better judgment, always, in spite of the refusal of the Indian community, make provisions for various other things and they do not wait for the Indian community to apply for it. I trust, Sir, that this is one of those cases that Government should take into their hands and not merely satisfy themselves by saying that we have offered the Indian Association and such and such people to nominate or send forward names of people to participate; they should get into touch with individuals, of whom I am sure there are many in the country, who would come forward and respond to them and assist the Government and these local bodies, and serve their own community as they ought to and as they are expected to. The same remarks and the same arguments apply to Indian representation on the Executive Council. That body again remains unrepresented, has no representation for the Indian community, and I do trust, Sir, that some suitable person will be found among the ranks of the Indian community who will be willing at the present moment to come forward and assist the Government in matters affecting the community and the country.

In regard to education, Sir, I have to thank the Government and the Education Department for the very needy provision that they have made in this Budget for starting an Indian girls' school. In Select Committee last year, Your Excellency and the hon. Members on this side of the House felt that that was a crying need for the Indian community, and as it was a bit too late at the moment to make any investigations or to make any provision out of the Estimates, it was promised that a very sympathetic consideration would be given to this question, and I am really grateful both to the Government and to the hon. Members on this side of the House for the kindly promise which they gave last year which has now materialised, and I am sure I am voicing the gratitude of the whole Indian community when I say that they sincerely welcome this provision and they hope that very good work will be done in that institution. I feel, Sir, that at the moment the provision for six teachers is quite ample and anyway is a good start.

With regard to Goan education, Sir, I endorse the views expressed by the hon. Member representing Native Interests when he said that children of whatever denomination should be looked after and given a proper education because if one section of the community—the children of one section—are neglected the effect of it will be felt on other children also. Through the courtesy of the Goan School Committee and the headmaster of the school which we have started this year, Sir, I had an opportunity to visit it. The school at the

moment, Sir, is housed in a living-house of about four rooms and has accommodation for 140 children, both girls and boys. There is no playground attached because they cannot afford it and I understand, Sir, that the Goan community is running this school at a loss of about £50 a month. It is quite conceivable that no community could continue to run a public institution like that at a considerable loss and I am perfectly certain, Sir, that if something is not done by the Government the Goan community will have to stop. I understand, Sir, that there are over 200 children in Nairobi of school-going age amongst the Goan community. If you, Sir, think these children are not properly trained and educated the result will be that when these children grow up they will be very undesirable members of the community. The desires of the Goan community are, Sir, that some grant, some assistance in the shape of a grant, should be allowed to them, but I feel, Sir, that the grant that they expect—they expect at the moment about £500 a year—even if it is granted will not carry them very far and the present state of the country's finances does not warrant any increase and enhanced expenditure. I am not sure whether the Goan community will be agreeable to this but I would say that some provision should be made to the existing Indian schools for the Goan children. It would mean only this, Sir, that up to, say, Standard III, there shall be required a Goan teacher who could coach these children up in various subjects in Goan language, but after that they should be able to receive instruction in English. At the moment in their school the language is English but I understand, Sir, that in many cases they have to employ some Goan teachers who translate from foreign languages. If that is not found possible, Sir, I do hope that the Select Committee will give due consideration to their request and give them some assistance. In this connexion, Sir, I would think, subject to correction by the hon. the Treasurer, that the Goan community contributes about £5,000 annually—and it has done so for the last four years—towards the Education Fund in the form of a Liquor Consumption Tax. I feel, Sir, that a part of this tax should be allotted for the benefit of the Goan community.

There is one small matter, Sir, relating to Indian education which I feel I should make reference to at this stage, and I was particularly encouraged by the remarks made by the hon. Member for Mombasa when he made reference to the degree of inspection at the Arab school at Mombasa. A very similar state of affairs exists, Sir, in connexion with Indian education. At the moment I believe there are over 2,000 children in the country receiving education in the various Government schools. Instruction is given by the Indian

teacher. In one or two cases, of course, there are European teachers also, but when you come to the inspection of these schools it is either not at all carried out in the true sense or it is carried out very half-heartedly and it will be recollected, Sir, that in 1927 provision was made for an Inspector for the Indian school with emoluments up to £900 per annum. This position up to now has not been filled up permanently: the gentleman who was employed to act as Inspector of Indian schools, I am sorry to say, Sir, has no qualifications for education, but yet by the mere fact that he happened to be in India for some time and picked up one or two dialects of India was thought fit to be appointed as the Inspector of Indian schools. The teaching, Your Excellency, is very important, but inspection, I consider, is still more important, and unless you have got a suitable and proper inspector the work naturally suffers. I suggest, Sir, that with nearly two-thirds of this money that is voted for this post, which is intended to be for a European inspector, there should be employed a properly qualified—a real educationist—Indian with experience to do the inspection of the Indian school. A European, Sir, never mind how sympathetic or clever he may be technically, is unsuited for the inspection of the Indian elements. It will be within Your Excellency's memory that last year, very unfortunately, of course, the state of affairs that was allowed to prevail in the Nairobi secondary school was awful through not having at least one Indian in the administration. I daresay, Sir, that if you had had an Indian to control that situation he would have controlled it from the very beginning. European inspectors and the members of the Education Department naturally felt that if they took any stringent and strong action at that moment perhaps they would upset the whole of the Indian community, whereas the fact was, Sir, that that movement was not started by the wishes of the Indian community. Only a few persons were responsible for that, but an Indian at the head of the administration, or taking a share in the administration, would have at once found out where the fault lay and would have cured it at once. To appoint an Indian inspector, Sir, would lead to better service, better education and less expense. I should think, Sir, that this person, who is the present holder of this position, who has been taken on temporarily, should be replaced at the end of his contract, three years now, and if the Education Department would give it serious consideration I am sure they will find it will be for the best.

In conclusion, Sir, I would reiterate that Government will very kindly give consideration to the question of hospitals for the Indian community, and some encouragement or some provision, whichever is suitable, for Goan education.

COL. THE HON. R. WILKINSON (OFFICER COMMANDING NORTHERN BRIGADE, KING'S AFRICAN RIFLES): Your Excellency, I should like to assure the House that the reorganization of the King's African Rifles has been a matter which has been given the most careful consideration. It is not a matter which has been hurriedly pushed forward. I should like to go back for a moment to the beginning of 1928 when I had the privilege to come to this Colony. The military situation, as I found it then, was that in this Colony there was a battalion consisting of six Rifle Companies and in addition a Machine Gun Company. That battalion was scattered over an enormous area in a series of small posts; perfectly unwieldy; practically no communications, and, in my opinion, it was a waste of manpower and a waste of money. In Uganda there was another battalion that had no connexion whatsoever with Kenya, and in fact its dispositions in the North consisted of a chain of small posts. Apparently their only possible object was to defend Karamoja against Kenya.

At the same time as I came to this Colony a new Inspector General arrived, and from that moment an earnest endeavour was made to try and get an organization suited to the circumstances of the case. Hand in hand with that idea of organization went the following major idea that we should cut down the expenses of the King's African Rifles without interfering with their efficiency. What we were up against was that we had to cover an extraordinarily wide area. It had very few roads, and communications between posts on the frontier with the headquarters took so long that you might practically say that most of those posts were entirely out of touch.

The reorganization scheme, which started being discussed at the beginning of 1928, gradually made slow progress, but in the interval, while it was being carried forward, certain things were done to improve the situation, such as the drawing in of a good number of posts and the establishment of wireless. As a military problem you could not very well look upon the defence of the northern portion of East Africa on a Colonial basis. It was necessary to look at the ground, and I think that anybody who looks at the map, as far as the northern portion of East Africa is concerned, will agree that there is a division into two, and that division is Lake Rudolf and the Nandi Escarpment. That definitely divides the Northern Frontier Province and Turkana from Karamoja. It practically puts an iron band against any natural communication. Therefore it seemed that the basis of this organization should be

to divide the forward portion of the Colony into two divided by that band. But in all military organizations it is essential to have a reserve. It becomes obvious, therefore, that the organization must be based upon a system of three units—two forward units and one in reserve. The enormous distances, the lack of communications, made it essential that each of these two forward units should be a command, and therefore you have the idea of having two battalions forward and one in reserve. But it was not essential to have those battalions, just because they were battalions, stronger than they need be, and after much thought and consideration it was decided that the best formation for the battalions was a small battalion of three companies. It was also decided that the only method by which those battalions could be operative was by making them more mobile. Therefore some system of partial mechanisation was necessary.

Now, unfortunately, owing to the fact that this scheme had to be passed through certain stages, for example, it was discussed with both the Governors of Kenya and Uganda, it was then brought up before the Committee of Imperial Defence and approved by them, and finally was approved by the Secretary of State, but until it was approved by the Secretary of State it was in the nature of a secret document, and therefore unfortunately—and I think very unfortunately—it was not possible to issue the details of what was going on to this House. I propose, Sir, with your permission, in Select Committee, to produce for that Select Committee the establishments as they have been laid down and approved, because I think everybody will agree that you cannot get the financial figures produced in an Estimate unless you have access to those establishments.

The other matters of criticism—and I may say that I welcome criticism—are, I think, Sir, matters which can be discussed in Select Committee, but I should like to point out to my hon. and gallant friend, the Member for Kikuyu, that I have been so busy that I have not had time to build a crèche for baby tanks. I do not think a tank is a suitable weapon in this country.

Also, as regards the question of batmen, I would like to assure the hon. and gallant Member that these batmen are in exactly the same position as they were when he was commanding the King's African Rifles. The only difference is that they have been brought into one line and put under a separate heading, the reason being that in working out our establishments we tried to show all the actual fighting men under unit commanders in one line and all the etceteras, such as policemen and batmen, who are out of the front line,

in their proper place, that is to say, in a separate column. It makes it very much easier to check the Estimates against the establishments.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, I had hoped it would not be necessary for me to trouble the House this year, but one or two things have been said by hon. Members opposite which, I think, make it necessary for me to intervene, even for a few moments.

May I say, in the first place, that the points raised by the hon. Indian Member are points which have been considered by Government and which are receiving the consideration of Government and will not be lost sight of.

The main point on which I think I ought to say something is the suggestion, or rather the speech, which was made by the hon. Member for Mombasa yesterday. May I say, Sir, that I am very glad that he made that speech yesterday and that I was not tempted to reply to it yesterday because I am afraid that it would have been rather difficult to have replied to it yesterday with that sense of responsibility with which I think we ought to deal with these subjects.

The hon. Member made two points which I wish to speak to. In the first place he spoke in a sneering and discourteous manner of an officer of the Education Department. He charged that young officer on the ground of youth, on the ground of uselessness and on the ground of his ignorance of a language. I do not think it is a suitable place in this Council in which to bandy backwards and forwards the merits or demerits of individual officers of the service. It has this objection. In the first place, if the officer is deserving of criticism it is particularly unfair to him; if the officer is not deserving of that criticism it puts the Head of the Department in the unpleasant position of having to give him a eulogy which may be deserved but which it is an undesirable thing to give in this Council. In this particular case no harm is done because the officer is out of the country and enjoying a leave far from any thought of the criticisms of the hon. Member for Mombasa.

The hon. Member for Mombasa made three statements, none of which are correct. He overstated this officer's age materially; he made a criticism in regard to his knowledge of Swahili which was entirely unjustified; and he criticised him in regard to a report which he has not seen. I leave the House to consider whether the hon. Member's action in referring to this officer is justified.

The second point, which is far more important, raised by the hon. Member was the passage in the Report of the Education Department for 1929. That passage consisted of one sentence which reads as follows:—

“The native . . . has indicated in no uncertain tones his wish to be educated in institutions which are not under the care of missionaries.”

The hon. Member took the strongest possible exception to that sentence. We all know, Sir, the methods of those controversialists who pick out one sentence from a document without any reference to the context. It is perhaps a little difficult to characterise those methods of controversy within the limits imposed by Parliamentary courtesy. If the hon. Member had done me the honour of reading the preceding page, the page preceding that on which the offending sentence occurred, and if he had done me the honour of reading the paragraphs succeeding that in which the offending sentence occurred, he would have realized that his criticism was entirely unfounded. On the previous page reference is made to the growth of the different factors in dealing with the question of native development, and one of those factors is the awakening of the native to the inadequacy of the missionary; the awakening of the native to the fact that the missionary is giving him something which is inadequate, and the natives' demand for something more, something different, but they know not what. In the paragraph following I indicated the plan which it was proposed to adopt, which was to maintain denominational schools and at the same time establish some Government schools. How, in the face of these passages, the hon. Member could have given vent to the tirade which he did give vent to passes comprehension.

But, Sir, I do not want to quibble. I know there is something at the back of the hon. Member's mind, something for which there is some justification, namely that we are all feeling that the position as between the missionaries and the natives is not satisfactory. That is why I rather distrust myself in speaking on this subject. It imposes a sense of responsibility in the present condition of Kenya which calls from us all the greatest restraint in discussing questions of native development, and I am sorry that the hon. Member did not exercise greater restraint than he did. He asked me quite pertinently what my authority was for the statement I made, and he incidentally and quite rightly gave me his authority for the statement he made. His authority is contained presumably in his own observation and also in a journal which is published by natives. With regard to that particular report in that journal, I will only tell him, and he will accept my word for it, that within a fortnight or so of the publication

of that journal I received from the Senior Administrative Officer of the area a comment on that report in which it was stated that there were some inexplicable omissions and some still more extraordinary interpolations. One of the omissions was an omission of something which I said at the particular *baraza* to which he referred. What I said was this: “I want to tell you and the missionaries that what has made me most glad to-day is that you are willing to work with the Government and with the missions and that you do not mind whether a person is a Catholic or a Protestant or of any other religion.” Those are not the words of people who do not want to work with missionaries. That is not an indication that the native desires to give up his connexion with the missionaries, and if the hon. Member had asked me whether that report was a correct one he would not have been led astray as he has been. But, Sir, let us take wider grounds for the moment and look at the wider question which the hon. Member has opened. My authority for this statement which I made, namely that there is this feeling of uncertainty between missionaries and natives is this. It is two-fold. In the first place, it is based on an experience which is not altogether a short one. It is based on the opinion of all the most important education officers from the Cape to the Nile. If the hon. Member had read the extract from the report of the education officers who met at Dar-es-Salaam last year, he would have seen there expressed in the most temperate language the anxiety which we all felt, without exception, as to the position of missionaries in the educational sphere. I do not want to discuss this question here to-day, Sir. I do not think it is a suitable question for the Budget debate, but I felt that I ought to state at once that what the hon. Member had said was incorrect and also make it clear that we are every one of us—and I am speaking here, Sir, not for myself only but for every Senior Commissioner and 99 per cent of the District Commissioners—we are every one of us extremely anxious as to the inability of the missionary to carry the native with him as he carried him with him in the past, and it is not going to make our task, the task of the District Commissioners, any easier if hon. Members get up and without a proper sense of responsibility make use of language such as the hon. Member made use of yesterday.

THE HON. THE TREASURER (MR. H. H. RESHTON): Your Excellency, may I, as an officer not unacquainted with the presentation of a Government Budget to Council, take the opportunity of complimenting my young friend, the venerable grandfather of this House, on the lucid manner in which he has dealt with a very complex and difficult question. He has been criticized because he mentioned averages in his

address. I listened very carefully to the speech, and it was quite clear to me that averages were not used in the preparation of the Estimates, but they are quite legitimately used, and illuminating, in a Budget address. As a matter of fact, I am responsible for the preparation of the Revenue Estimates and, though it is true that members of my staff did bring me sheets of averages, I refused to look at a single one of them; in the present circumstances they would be entirely a waste of time and quite useless.

One naturally expects, in the circumstances which we have recently experienced and are still experiencing, that the revenue figures will be closely criticized, both in the Press and in Council, and it is just as well that that should be the case, having regard to the recognized difficulty of the situation and the uncertainty which faces us. It is precisely because of these matters that the greatest possible care was taken in preparing the Budget figures.

Now hon. Members opposite appear to have lost sight of—or, if they have not lost sight of, they have not mentioned—a number of very important facts—at least, I consider them very important facts—which should be considered in preparing the estimates of revenue in the present circumstances. There is, of course, the effect of the reduction in exports, which is easily recognized, in curtailing the credits established abroad against which imports can be bought; that, in a Colony like this, must be felt, and felt fairly rapidly, but there is another and, I think more immediate effect than that, particularly in a Colony such as this, I refer to the psychological effect, when a sudden slump comes like a bolt from the blue, attacks the whole Colony unawares, and intensifies the shrinkage of imports and therefore of Customs dues. It has a freezing effect on the circulation of money. A breath of seriousness stirs through all the thinking people of the Colony, possibly a slight feeling of alarm, and even those who are not affected by the slump, whose salaries and incomes are not affected—and that represents a large body of people—begin to examine their position with anxiety and drastically curtail their expenditures. Now that large body of people always has a reserve of wealth capable of the purchase of imports, and if the effect of the slump is to curtail their expenditure it tends to increase their reserves so that when the reaction comes there is an increase of money available for the purchase of imports. It is largely because of this particular freezing process on the circulation of money that it is very difficult, and I think unwise, to base a calculation of the revenue for next year on the year in which the slump has taken place. Conditions are wholly abnormal, and I have, therefore, to a large extent

ignored the happenings of the current year and used the actual figures for 1929 upon which to base my calculations for the coming year.

Now when the Government, in circumstances such as these, comes promptly to the assistance of farmers, and farmers themselves take steps to produce more economically, a reaction very quickly follows, and I myself think that reaction is due about the second quarter of next year. It is quite possible, as one hon. Member said, that the lowest point of depression will be reached in January, but I do not think it will last long after that. I think myself the Colony is to be congratulated upon the manner in which the Government and the farming community have faced the situation. Government, quietly, without panic and without extravagance, have given very valuable financial aid, and the farmers have subjected themselves to mind-searching and discipline which, I think will be all to the good of the Colony in future years.

I think my point is clear, Sir, that after a period of stringency there will be a natural increase in the money available for the purchase of imports for, after all, clothes and household utensils and a wide field of imports, wear out and have to be replaced. Moreover, as confidence is restored, people get a little tired of doing without all luxuries; a thaw sets in in the circulation of money and general trade tends to become more normal.

Another point for consideration in connexion with the preparation of Revenue Estimates was the condition in the Native Reserves. Last year there was a serious famine over a fairly wide district. The indications for next year are that there will be little famine, perhaps a little in one small district, and there is every indication that increased wealth will be extracted from the soil by the natives. That again provides money in circulation for the purchase of imports.

Another point of great importance, I think, is the amount of money distributed locally by the Government, by the Railways and Harbours Administration and by the municipalities, and as far as my calculations go there will be a very considerably greater amount distributed next year than was the case in 1929.

Now a factor was referred to by the hon. Member for the Lake. I do not know who told him about it; I thought it was my own happy thought, more or less private property—and that is the value of the invisible exports represented by the services performed by Kenya for Uganda, Tanganyika and the Belgian Congo. These are not confined to transport

services; they cover quite a wide field, and in my opinion they amount to well over £1,000,000 in value, a considerably higher figure than that mentioned by the hon. Member for the Lake. In view of the crop prospects in Uganda for next year, I should put it up to a still higher figure for next year. That means again money coming into Kenya, which is largely circulated and available for the purchase of imports.

Those are the main points for consideration, but I would like to carry the matter a little further and quote a few comprehensive figures. The total increase in revenue budgetted for in respect of the coming year is £182,341 greater than the actual revenue for the year 1929; but of that sum no less than £152,000 is represented by increases on items which are not affected by the slump, or very slightly so, or will not be affected by the slump unless it become something of a permanency. That leaves a small margin of £30,000 as the total increase on items which are likely to be affected by the slump, and of that £30,000 the very small sum of £3,514 is the total increase in revenue anticipated from Customs duties next year as compared with 1929.

Now, Sir, all these figures were, of course, prepared some time ago after examination of the crop prospects for next year. Within the last few days it has been possible to check them up very closely on the latest crop estimates prepared by the Agricultural Department, and basing those estimates on current prices, low as they are, the indications are that exports next year will have a value of over £200,000 greater than in the year 1929, notwithstanding the present low prices. Now my hon. friend, the Acting Commissioner of Customs, informs me that it is quite reasonable to take 20 per cent as the average duty, and 20 per cent of £200,000 is £40,000, as against the small increase of £3,500 which we have provided for. It means, then, that if the crop prospects are realized, and there is no increase in price at all, the revenue should be £36,500 greater than is estimated. That is for Customs. I will put it in another way: if there is no increase in prices the revenue may be about £36,500 over the total of the Estimates.

As to the items not likely to be affected by the slump, which, as I have said, amount to £152,000, I think that they are perhaps better dealt with in Select Committee; I do not wish unduly to occupy time for this consideration. It may be, of course, that there are one or two items in the Budget which are either over-estimated or under-estimated, but I have endeavoured to give you the picture in its broadest lines.

Now following on what I have said it should, I think, be abundantly clear that, as Your Excellency said in your opening address, even a modest rise in the prices of exportable commodities would ensure us a prosperous year. I hope, Sir, that on further consideration I am not to be regarded as over-optimistic. I realize that every year brings demands which cannot be foreseen, cannot be postponed or avoided; I realize too that Heads of Departments have cut down their Expenditure Estimates to a figure which would make it difficult for them to save money during the year to meet those unforeseen expenditures; I realize, in consequence, that unless some slight improvement in the prices of commodities does take place the position next year is not likely to be easy.

I have not, Sir, considered it necessary to refer again to matters which were mentioned by the hon. the Acting Colonial Secretary in his opening address, namely, the effect on the Colony of the amounts advanced by the Agricultural Advances Board or the possible effect of a Land Bank, but I agree that these again are factors which will make for the expansion of trade and prosperity.

Now, Sir, I felt it my business to discuss with people returning to the Colony the feeling at home in regard to prospects and prices, people who are really vitally interested in agriculture here and banking, and I am informed that coffee is definitely on the rise, that sisal will probably rise in the near future, and that cereals are regarded as being at such a low figure that they cannot possibly remain there. There appears to be some truth in that. Though I have not enquired of the bankers here, I have enquired of people who have just arrived from home and appear to have seen the bankers at home. They say the banks are shortly going to open their purse strings again, and that quite a different feeling and atmosphere exists in the produce markets than existed a few months ago. It may perhaps interest hon. Members if it is stated that, since we are accused of over-optimism, the Kenya and Uganda Railway and the Uganda Government have not framed their Budgets on pessimistic lines. They have taken much the same view as the Government of Kenya has taken and I think, for the reasons I have stated, a very reasonable view.

Now a good deal has been said about a perfectly new danger which is about to attack Kenya called a "lag." Apparently it is thought it will affect the whole country next year. I do not take that view myself; I think this period of depression will lighten. It was referred to by one hon. Member in relation to the Agricultural Department:

well, Sir, if the unfortunate Director has to carry the ponderous burden of over a dozen advisory committees I should imagine there is some reason for a lag there.

There are two items, Sir, which I think I should refer to. One was mentioned by an hon. Member in debate, and the other was mentioned elsewhere. The first is Motor Licences by which, presumably, is meant Licences under the Traffic Ordinance; the second is the Petrol Consumption Tax. They can be dealt with very shortly.

As to the first—Licences under the Traffic Ordinance—they include in addition to the ordinary vehicle licences, certificates of competency, duplicate licences when the originals are lost, and special fees for taxicabs and motor omnibuses, but the important point, Sir, is that during the last four months—that is, in the depression—no less than 300 new cars have been licensed; that is, at the rate of 75 per month, in Nairobi alone. If there are 75 per month in Nairobi alone I should think there are at least 20 others a month in the Colony, which would mean 95, and as far as my information goes there is no indication of there being a sudden stoppage of the sale of motor cars. Even a Ford, after all, does wear out occasionally. So the prospects are something like the registration of not less than 70 a month, which is the basis of the estimate.

As to the Petrol Tax, it is quite true that revenue for the current year was very largely under-estimated, but here again I know of no reason to anticipate a reduction next year. The increase is only £2,500 and that should be covered by one item alone. There are, I think, six aeroplanes operating in Kenya at the present time. Next year, I am informed on the best authority, there will be fifteen operating here, to say nothing of the service from England to the Cape and back. The consumption of petrol by aeroplanes is a great deal more than that of motor engines in general, and I think there is very little doubt that we shall get that additional revenue.

I should like to deal with one or two of the points which have arisen in debate, if I may do so shortly. It has been at least adumbrated that Civil Servants might forego a portion of their emoluments or perquisites. In that connexion, Sir, I should like you, from your Chair, to notice the lean and hungry look on this side of the House, and contrast it with the well-fed and opulent appearance of the opposite side of the House. It causes me to wonder, Sir, if, after all, there may not be a grain of merit in the suggestion for a capital levy—not that I support such a view, but it does make one think. Another point is that apparently the only optimism remaining in the country is on this side of the House, and

that leads one to reflect as to whether it is not the simple and frugal life that is responsible for the optimism which has made the Colony what it is.

The hon. Member for the Lake mentioned the matter of machinery. I do not know whether he was referring to my Department or not, but a commencement in mechanisation has been made. The money was not sufficient to go very far but I sincerely hope that more use will be made next year and that economies will result.

The hon. Member also, I think, suggested that our surplus balances should be built up to £750,000. I think no one will quarrel about that. He also, I think, suggested they should be used instead of obtaining money in advance of loans; that has been done, Sir, in so far as it is possible. Part of that money is tied up in Unallocated Stores and part is used for working capital. The whole of the money we have is in use; none of it is lying idle.

Then he also mentioned the Wade-Mayer Report, which I should like to deal with. I have a memorandum this morning containing a statement of the whole of the action taken by Government. That report I will deal with presently.

I think the remarks of the hon. Member for Plateau South have been pretty well covered by what I have already said, but knowing the hon. Member as I do, I must say that his tone of pessimism has very much surprised me; I am inclined to think that perhaps a little local leave is indicated there.

The Noble Lord, the Member for Ukamba, mentioned the matter of Estate Duty. Well, Sir, I do not like Estate Duty myself, but it is quite impossible to contemplate giving up any revenue at the present time. If suggestions are to be made for an alternative way of raising revenue, I am sure they will be carefully considered, provided they are not on the usual principle of taxing the other fellow but are general in their application.

Another matter was mentioned by the Noble Lord and that was the matter of decentralization as affecting the Secretariat and the Treasury. I can only speak, of course, for the Treasury, but I should like to mention that I have already prepared a scheme for decentralization as far as the Treasury is concerned, and I think it could be introduced without increased expenditure by having Treasury officers in the different Provinces. It is however a matter for consideration as to whether more money would be saved in that way rather than by complete centralization and the use of Hollerith machines. I am not quite certain; my investigation has not

gone far enough. In January I hope to be able to get round the country and decide what recommendation I should make to the Government on these lines.

I think the Noble Lord suggested that anybody who opened a new file should be heavily fined. I can only say from my experience that it is a relief to see a few thin files when you have been dealing with those fat and bloated old ones that have been going on for years.

With regard to the hon. Member for Kenya West, his speech was rather an intriguing one. His *bêtes noir* appear to be brains and goats. I would not like to go quite as far as he did and suggest that Civil Servants had a monopoly of brains, but of course it is reassuring to learn that he is not going to attempt to cut throats or interfere with contractual obligations. There is nothing of that kind about the hon. Member: he believes in highway robbery with a horse pistol. His preference appears to be rather for bludgeons than brains, if I understood him correctly.

As to the hon. Member's suggestion that members of the Service might prefer to accept two-thirds of their present emoluments rather than dismissal, well, there may be something in that, but they would probably prefer another alternative, and that is to accept pensions so that they would then be free to give lessons in, shall we say, the gentle art of cultivating thistles.

The hon. Member for the Rift Valley mentioned an incident which occurred in Fiji in 1885, I think it was, in which year Civil Servants gave up a portion of their emoluments which were eventually refunded to them. As a matter of fact, there is a later example than that. I went to Fiji and found it was in a very much worse position than is Kenya to-day; Civil Servants again volunteered to give up a portion of their pay and to work an hour a day extra, but, Sir, the lead was given by Elected Members who all declined to accept any remuneration whatsoever for attendance in Legislative Council or in Committees of Council.

The hon. Member for the Coast mentioned the matter of interest on Land Bank capital. Well, we do not know yet when that capital is going to be raised or at what rate, and in any case it will not alter the balance of the Budget because it will have to appear on both sides; if it is paid by the Government it will have to be recovered from the Bank.

The hon. Member for Mombasa expressed the view that the estimates of revenue should be reduced to the lowest point which the depths of pessimism will justify. I wonder if the

hon. Member thought of what that would possibly entail. It must be known to hon. Members that we have been using advances in anticipation of a loan for some considerable time; it must be perfectly obvious that sooner or later we shall have to go on the market for a loan, and I should imagine that the very fact that the Crown Agents recently had to raise £1,000,000 in Treasury Bills for Kenya indicates that that date is likely to be sooner rather than later. While I, Sir, would oppose with all the strength at my command any attempt at window-dressing on the eve of issuing a loan—I think it would be wrong and foolish and unfair to the Colony deliberately to depreciate our own possessions before going on the market.

THE HON. F. A. BEMISTER: I did not say that at all, Sir.

THE HON. THE TREASURER: The hon. Indian Elected Member made a point about the circulation of loan money, but I have already mentioned that I anticipate that the amount of money circulated by the Government in 1931 will be considerably greater than in 1929.

He also mentioned the matter of trade depression and bankruptcy. In regard to that I can only say that there are swings as well as roundabouts.

Motor Licences I have dealt with already, and I think that, Sir, brings my remarks to a close with the exception of this Wade-Mayer Report; it is rather lengthy and I do not know whether perhaps it should not be laid on the Table.

HIS EXCELLENCY: As the time is getting short I think, with the agreement of hon. Members, that can be discussed in Select Committee in detail.

Council adjourned for the usual interval.

On Resuming.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, a perusal of this morning's paper will make it appear to the public that Elected Members were divided into two camps with regard to Government's Budget proposals. However that impression may have got abroad I have been asked to state, and I do state categorically to this House and to the public of Kenya, that there is no division whatever. Elected Members are unanimous in their view that all increases on the expenditure side of the Budget and that all new posts proposed should be deleted from the 1931 Estimates, and so much do they feel that, that this is the first occasion since I have been a Member of this Council when Elected Members have agreed

that however urgent the needs of their particular constituents in any particular respect might be they would not press or ask for the insertion of any new item. I think, in view of past history, when practically every Member has asked for sympathy for some little pet object of his own or his constituents, that it does show a real unanimity on the part of Elected Members. It is for that reason that I was a little sorry when the hon. Member for the Coast asked for the reinsertion in the Budget of, true, a small item, but of an item which had been cut out, namely £240 for proficiency or educational pay for members of the Police Force. I was more particularly sorry when I saw a most sardonic grin flit over the usually amiable face of my friend, the hon. the Acting Colonial Secretary, when that request was made.

Now, Sir, we have heard a great deal on the question as to whether the estimates of revenue for 1931 have been framed in too optimistic a spirit or not, but I should like to say that I, in dealing with this whole Budget, am not an adulator or a bludgeoner, and I come with neither a bouquet nor a knoberry, for I believe it to be true that Government has made a determined effort to get down to a realization of the economic position of the Colony; but I also believe that in spite of that determined effort they have completely failed to realize the economic position of the Colony.

When you come to consider revenue estimates as a whole it appears to me that they either are of very great financial importance to the Colony or of practically academic interest, dependent entirely upon which of two methods a Budget is framed on. There are, I suggest, two possible ways of framing a Budget, and I would say that when you are framing a Budget in times of stress one is definitely the correct manner and the other is the incorrect manner; and I believe that the methods that have been adopted in framing this Budget have been the incorrect ones. Those two methods are as follows: In one case you entirely ignore, to commence with, your estimated revenue. You realize that the financial position of the Colony for which you are budgeting is in a very serious state and you frame your expenditure estimates without reference to your revenue estimates, cutting down everything you possibly can to a minimum consistent with the effective carrying on of the services of the Colony. When you have done that and you reach a figure, you then find out by an estimate, neither too optimistic nor too pessimistic, what your revenue is likely to be, and by deducting one from the other you will find you are budgeting either for a surplus or for a deficit. But you can then come to the country and say that you have cut down your expenditure to the very minimum possible, and if you have framed your Budget on

those lines, however you estimate your revenue for the coming year does not and will not actually affect the financial position of the Colony because whatever you put down for your revenue now on a piece of paper as to what it is likely to be in the forthcoming year will have no effect on what it will actually be. In the other method of framing a Budget you presume the net figure of your revenue and put it down—we will call it "x." You then decide how much surplus you wish to budget for, which we call "y," and you carefully put your expenditure at a figure to represent "x-y," which is the amount which can be spent. That, I submit, is the wrong way because you start, not with the determination to cut down everything to the lowest limits possible, but only to cut it down so that it does not exceed "x-y."

Now, Sir, if we deal with the revenue estimates and try and ascertain as to whether they are or are not too optimistic we must realize, as has been said already, that the hon. the Treasurer in framing his revenue estimates has greater knowledge and more facts and figures before him than anyone on this side of the House, and therefore it must only be with reluctance and if we can point to any definite false premises on his part that we really are in a position to criticize. Now his statement this morning was extremely interesting and I think that in many ways he made out a very good case for the optimism with which he has framed his revenue estimates, but there are one or two points on which I think he has possibly gone wrong, and other points on which I am at least doubtful.

Now one point that he stated was that his advices from home were that there was every chance of the price of cereals increasing—they could not go lower, at any rate, and there was a chance of their increasing. Well, my information from people in the City of London who know what they are talking about is precisely the reverse. The feeling in London to-day, as expressed by many leading stockbrokers and bankers, I understand, is that so far, at all events, as the price of wheat is concerned, there can be no possible hope of any increase in the price until Great Britain wakes up, as I understand that Canada, Germany and the United States are waking up, to the absolute necessity of prohibiting the import of Soviet grain into England. That grain has been grown under conditions which can only be called slavery; the Russian peasants who are producing it are starving; and the whole market in Great Britain is being flooded with dumped wheat and grain, and until that is stopped there will be no possibility and no likelihood of an increase in the price of wheat. So I do not think that in framing your revenue estimates you can look for any appreciable increase in the price of wheat which will

affect the 1931 Budget, remembering, of course, that it takes time for the imports which are purchased with the price of the wheat to get out to this Colony.

He has also, in dealing with the Petrol Tax, stated that he relies to a certain extent on the increase in aeroplanes which will considerably affect the amount to be received from the Petrol Tax because aeroplanes use considerably more petrol than motor cars. Most of the aeroplanes here at present are Gipsy Moths and they go sixteen or seventeen miles to the gallon, which is only a little bit more than many motor cars, so I do not think that he should bank on the extra petrol used by aeroplanes as really materially affecting the petrol revenue.

He has referred to Members on his own side of the House as like Cassius, wearing a lean and hungry look; I naturally expected after the adjournment that the hon. the Acting Colonial Secretary, the Postmaster General and the Solicitor General would have crossed the floor of the House.

Now, Sir, the hon. the Treasurer gave us a figure this morning showing that it was expected that even at present prices the actual increase in the value of exported crops in 1931 would be £200,000.

THE HON. THE TREASURER: As compared with 1929.

CAPT. THE HON. H. E. SCHWARTZ: As compared with 1929—and he stated that, 20 per cent being an average yield of Customs duties, that would amount to £40,000 increase of Customs duties during 1931. I think there are two errors there. First of all, surely it is not right to say that the whole of your £200,000 comes back in imports; a large portion does, but I say not the whole; certainly not the whole amount of £200,000 which will be received from the export of crops in 1931 will come back in 1931. A large proportion of it can only come back after the conclusion of 1931, and in 1932. But this whole question of the extra value of the exported crop for 1930 depends absolutely and entirely on Government's determination and willingness to see that the people on the land can export the crops they grow and can remain on the land to grow the crops. I should like, Your Excellency, to quote a resolution which was passed unanimously by Elected Members at their meeting in discussing the Budget, which was as follows:—

"It was resolved to agree to the introduction of the Budget Revenue Estimates on their present basis on the understanding that Government will take all necessary steps to ensure the retention and expansion of agriculture on which the Estimates are primarily based."

There is no possibility, whatever, in my opinion, of the estimates of revenue being realized unless every encouragement is given by Government, who must see that the people who grow the crops are not precluded by poverty from continuing to grow, export and market those crops. I would ask myself whether Government, while admitting that they have been extraordinarily helpful during the past year, do really realize the urgent importance of helping, and helping properly, the industries that are really in need; whether by loans to be repaid at some future time is a question for discussion. I incline sometimes to doubt whether Government is at present prepared to go far enough when one considers the position which is arising with regard to the so-called subsidy—I use the word without being bound to the actual intention of the word—in regard to maize, wheat and barley.

Past history is known to hon. Members, but in fact a Bill was introduced, I believe at Mombasa, during my absence in England, to give effect to the recommendations of the Grain Committee, on which the Colonial Secretary and the Director of Agriculture were sitting, to the effect that this subsidy should be one shilling in the case of maize, two shillings in the case of wheat, and three shillings in the case of barley. The Bill was so framed as to give power to Government to give rebates of those amounts provided the price of the cereals in question did not exceed a certain figure. But in fact what has happened, I understand, is that the Railway and Port charges are being remitted or refunded but not the actual amounts which were recommended by the Grain Committee. It so happened that the Railway and Port charges on maize of one shilling a bag are equivalent to the figure originally suggested by the Committee; but the Railway and Port charges on wheat are Sh. 1/69 a bag, so that the exporter of wheat is getting a refund of Sh. 1/69 a bag instead of Sh. 2 as was suggested, and the exporter of barley is getting a refund of Sh. 1/51 instead of Sh. 3 as was originally intended, and the result, as I am informed, is that whereas Sh. 3 would materially help to keep the barley industry alive, the rebate of Sh. 1/51 does not have that effect, and when one remembers that every encouragement is being given by the Department of Agriculture to farmers to grow barley for export I would suggest to Government that the original intentions of the Committee and the original intention of the Bill—for it was stated in the debate on the introduction of the Bill that this Bill was introduced to give effect to the recommendations of the Committee—that the real recommendations of the Committee of Sh. 1, Sh. 2 and Sh. 3 for maize, wheat, and barley should be the rebate and not Sh. 1/69 and Sh. 1/51.

Before dealing further with the revenue estimates there is one item—the only one I want specifically to comment on—in regard to, in my opinion, the impossibility of collection—and that is the figure put down for stamp duties. The figure down for stamp duties is, I think, the same or £1,000 more than the sanctioned Estimates for 1930. Now a very large amount of the stamp duty tax comes as a commission and a 2 per cent duty on the transfer of land and, to a lesser extent, a $\frac{1}{2}$ per cent duty on mortgages. I speak with knowledge and assurance, Sir, when I say that transactions in land at the moment are practically at a standstill. People can no longer borrow money on mortgage—they have borrowed as much as they can and there is little buying and selling of land at present; and I think that while this depression goes on that will continue to be the case. I agree with the Noble Lord, the Member for Ukamba, when he stated that now is the time for people with liquid capital to come and buy land in this Colony. I think any man with £100,000, of liquid capital can be assured of at least doubling that sum in the course of the next three years. But investors are shy and I do not believe that it will be found in 1931 that the estimated revenue from stamp duties will come nearly up to expectations.

I would like to mention briefly the Education Poll Tax, not that I expect to get any satisfaction but because I have always opposed this. Government have promised year after year that they would go into the question of seeing if they could find an alternative tax. Nothing has been done and this anomalous and unfair tax still remains on the Statute Book.

As regards the Estate Duties, I think that the hon. the Treasurer is unaware of what actually happened. A definite scheme was put up for a tax to take the place of the Estate Duty tax and that was a tax on companies; and when last this matter was mentioned a year ago in Select Committee the position was, and it was afterwards announced publicly in this House by the late Governor, that the Government viewed very sympathetically the idea of abolishing the Estate Duty and that they would make enquiries in regard to the Companies Tax from the adjoining Territories. What those adjoining Territories have said I do not know but I should like to ask the Treasurer whether, even if these other Territories, say, are not prepared to give up the Estate Duty, he thinks that a reasonable small tax on the formation of companies to bring in a revenue equivalent to the present Estate Duty would be sufficient in this Colony to drive companies to be registered in other Colonies. I do not believe that people in Kenya, after they have paid their Stamp Duty and all legal charges—I believe that the extra amount for a Government tax on the

formation of companies, based on their capital, would be so small that they would not rush away to Tanganyika or Uganda to get the companies registered there.

Now, Sir, dealing extremely briefly with one or two of the Heads of Expenditure and Revenue, I would like to ask Government to ask the Colonial Secretary in his reply to give an assurance that when times are better one of the first increases that he will consider will be the proper staffing of the Registrar-General's Department. I do not want to go into details about that to-day but I have a good deal to do with that Department and I have no hesitation in saying that it is overworked and understaffed.

The question of a commission to consider the whole matter of the Civil Service has been considered by more than one speaker. I merely wish to say that I support it in the interests of the Civil Servants themselves because I am absolutely certain that they themselves will not be affected unless such a scheme is put into force in regard to leave and passages as they would wish to come into. But there is always this uncertainty. Everything is dealt with piecemeal; one committee sits on this part of the Civil Service and another on that, and nothing happens to any of them. If we have a proper commission we can then deal with them all in a concrete and satisfactory manner. If it is thought we are exaggerating in stating that nothing is done I would refer to the last two reports of the committees on leave and passages and to the attitude of the Civil Servants' Association, members of which assured me that many Civil Servants wanted to come in. It was accepted by this Government, by the Secretary of State, and there it is, accepted and put away in a file; the reason is that the late Governor did not like it, and so he appointed another committee which brought in another report, which Elected Members were divided upon, the other Territories did not like and the Secretary of State turned it down. That is typical of these committees and commissions which sit.

Sir, the Government House vote—I do not want to say anything further on that except one point which has not been touched on at all. I think it right to say on behalf of Elected Members that we do take precisely the same attitude to-day as we have always taken with regard to the question of goods coming in duty free for the Governor, whoever he may be. We are absolutely opposed to any remission of Customs duties because, when we fixed the salary and emoluments of the Governor after the death of Sir Robert Coryndon, it was always in our minds that that should be a net sum and that there should not be further perquisites in the way of getting goods which should have paid Customs duty without paying

it. This year, in April, Sir Edward Grigg, when the Customs Tariff Bill was before this House, said that he did not wish to take advantage of that, and I think I am right in saying that it was deleted from the Customs Tariff Ordinance, so that at present the Governor does not get his goods in duty free. I think it right, as somebody has said, that these things are very invidious to discuss when the person concerned is sitting there. Elected Members would like it known that that is their view should the question ever come up again.

In regard to Miscellaneous, Sir, I note with regret—though I can understand it—that the donation or contribution—the capital contribution, to the East Africa and Uganda Natural History Society has not been repeated this year. One realizes that in times like this Government could not and are well advised not to give this thousand pounds again, though they have kept up the annual amount of £700. It is though, I think, a little misleading in the actual Budget where, if I remember rightly, it says: "Not required in 1931"; it is very urgently required and I merely ask that it should not be forgotten when the times get a little better.

There is a very small item under Public Works Extraordinary on which I should like a little information, as there is a great deal of talk going on about the Sabaki River Bridge, which is down to cost £8,000, and which rumour has, there, which is therefore probably not true—has fallen down or been built in such a way that it is quite useless and has got to be rebuilt; a little assurance on that point would be acceptable.

With regard to the Medical Department, I do hope that the hon. the Director of Medical and Sanitary Services will put to him by the Nairobi Hospital Committee that has been only as an experiment, the reduction of hospital fees from Sh. 24 to Sh. 17. Whether those figures will show after careful and actual experiment that they are correct or not I do not know, but I believe that the actual result of reducing these fees will not result in any increased loss to the Medical Department. That sounds nonsensical put like that but I have no intention of going into the figures now, but I believe that those figures very possibly can be justified and I think an experiment will probably show that they are correct.

Now, Sir, I have only two more Heads to deal with. I am sorry to take up so much time; it is a little difficult. The first is the Judicial Department, and on that I merely wish to raise this question of revision. I am given to understand by the hon. the Attorney General and the hon. the Solicitor General that in no Colony in which either of them

has ever served has this system of revision been in force. How it came to be started in this Colony I do not know, but of one thing I am quite clearly of opinion and that is that it is time it went. The native mentality, Sir, in this Colony is such that he demands justice, despises weakness and admires strength, and that is exactly what he does not get with revision. A native, if he has committed some offence and is punished for it, knows that his conduct is worthy of punishment, and is satisfied. If he is labouring under a sense of injustice he should have the right to go and place that injustice before a higher tribunal and allow them to adjudicate upon it; but what happens at present? A native is tried; he is found guilty; he is sentenced. He knows he is guilty; he knows his sentence is a just one. The case comes up to a Supreme Court Judge who finds that there is some technical thing wrong or that in his opinion, not knowing nearly as much of the circumstances as the magistrate who passed the sentence, by a stroke of the pen either quashes the conviction or allows the conviction to stand but reduces the sentence. The native is sent for and told that the *Bwana Mkuba* in Nairobi says: "You are not to be punished as I told you." It is not fair on the magistrate, on the District Commissioner, on the natives of this Colony. I have, as Your Excellency knows, brought this whole matter up to Government some months ago and asked that the necessary amendments should be made to the Criminal Procedure Code by which revision should be done away with, on the clear and distinct understanding that every native, when he is tried and convicted, should be told by the magistrate who tries him that he has a right of appeal and that that appeal will cost him nothing. He can then go, if he has got a feeling of injustice, to the higher Court and let them deal with it. The result will be that you will not have this ridiculous system which obtains at present; that no injustice will be done to the native at all because he can always go to the higher Court should he so wish; and you will save the judges of this Colony an enormous amount of time in going through file after file after file in revision cases. Government have been sympathetic to me over this and I do trust that this matter will be looked upon as an important and urgent one and not shelved indefinitely.

Now, Sir, the last item which I wish to speak upon is the question of the Agricultural Department, and more especially in respect of the remarks made yesterday by the hon. the Director of Agriculture who, I regret, is not present to-day. Now, Sir, he started by saying that the criticisms of his Department made by a Member on this side of the House—at the moment I cannot remember which; the Member for Plateau South, I think—had entirely omitted to

consider the revenue which was earned by this Department, but, Sir, if I remember rightly, the basis of the hon. Member's criticism of the Agricultural Department was that certain parts of it might well be deleted and abolished without any harm coming to the Colony, and it is not any of these parts which have earned the revenue to which the hon. Director referred. I understand the revenue is roughly £40,000, made up of £8,000 from the Veterinary Department; £12,000 from the Serum and Vaccine Department; and approximately £9,000 from the Conditioning Plant in Mombasa and other small services. Is it any answer to a criticism, saying your expenditure is growing, growing, growing out of all proportion, to say we have £40,000 of revenue? Surely the basis is how does your revenue compare with your expenditure now and how did it compare with it five years ago?—If it can be shown that as a result of this normal increase of expenditure the revenue has increased in an equal proportion then, and then only, can the Department make out a good case. I suggest that a consideration of these figures will not show that that is the case.

He dealt with the question of the reconditioning plants at Mombasa and Kitale and stated that if Government put up one central conditioning plant at Mombasa that that was enough and that thereafter it was a matter for private enterprise to put up plants in other centres. That is only so if it can be shown that the conditioning plant at the Coast is capable of dealing with all the maize that is sent down and that is grown in the Colony. If Government can put up a conditioning plant at the Coast which can deal with all the maize that is to be exported, then I agree there is no question of Government going and putting up another conditioning plant in another centre, but if it can be shown that that will not be capable of carrying the whole load to be exported, surely then it is a duty for Government to put up another conditioning plant in whatever centre is the greatest maize-growing centre. In my opinion the whole question as to whether there should be a conditioning plant at Kitale as well as at Mombasa must be decided as to whether the plant at the Coast can satisfactorily cope with the whole of the maize exported or not, and I believe that is the right way to deal with this subject.

Now, Sir, finally, I wish to deal with the Board of Agriculture. It has been common—I will not say knowledge—not only in this town but throughout the Colony, that—I do not say Government agrees; I do not believe it to be true—the Agricultural Department has not viewed with favour the appointment of the Board of Agriculture, has not collaborated

with it to the extent which might have been expected and which could have been expected and, in fact, has in a thousand minor ways put difficulties in the way of that Board. I think that that belief was not lessened, certainly to my mind, yesterday when, in his speech dealing with the agricultural position for the year, on this most important occasion of the Budget debate, the hon. the Director of Agriculture made no reference whatever to the Board of Agriculture except to refer to it as one of twelve advisory boards which he had to deal with; he made no other reference to it at all. He made no reference to the valuable work it has done; he made no reference to the statistics which have been got out, to the advice given to Government; to none of its activities did he refer and none of them did he commend. Now, Sir, where it comes from I do not know, but I can assure this House that there is a great deal of intrigue going about with regard to this Board of Agriculture, and that intrigue is not confined by any means to any one particular section of the community. Your Excellency will excuse me if I tell you that it came to my knowledge only yesterday that it has been openly stated that my interest in and support of the Board of Agriculture is based on possible financial advantages which may accrue to me. I do not want to go further than that. It is a vile lie and I do not think that any hon. Member of this Council will require any refutation on my part; but with regard to that I should like to say this, Your Excellency, and say it publicly, if I can find out who are making these statements and if I can nail them to the mast this matter will be discussed at great length in another place.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, this debate has lasted now to its third day, and it is only to be expected that points have been made by hon. Members opposite during those three days. They number, therefore, I am afraid, a considerable amount. The time is late, Sir, and I will try, if I can, not to miss too many out or to skip such answers as I have given, but if I am somewhat rapid in my survey of these points I have no doubt it will be a relief to hon. Members.

Now, Sir, the last speaker, the hon. Member for Nairobi South, has raised—crystallized in a sense—the two points of view which, I think, are the chief interest in this debate: the simple points of view as to whether the Revenue Estimates are justified as being not too much, and whether the Expenditure Estimates are justified as also capable of reduction. Generally speaking, Sir, as I sense the tone of the debate, there seems to be a slight hope on the other side of the House that in Select Committee the Government will

be able to justify those Revenue Estimates. Personally, Sir, I may say that I have this hope, but at any rate I am glad to see that no premature suggestion has been made that they should be rejected without further enquiry.

On the side of the Expenditure Estimates I would, if I may, warn hon. Elected Members on the other side of the House that it is a little dangerous to examine estimates of that sort, which are purely matters of detail, whatever their net effect may be, with ones' minds made up about every single detail within them. I therefore take it, Sir, that the resolution which the last speaker read out is meant to be taken as, shall we say, a general statement of policy rather than completely at the foot of the letter.

Sir, a number of matters, some of them involving really important points of principle, some of them perhaps almost points of detail which hardly need specific discussion now, have been raised. I will try, if I can, to pick out the more important matters and deal with them first.

The Noble Lord, the Member for Ukamba, made, I think, a most interesting speech on the subject of the system of administration of the Colony. He advocated a strong system of provincial government, with the Provincial Commissioners in a position, for practical purposes, to govern their Provinces with a minimum of reference to headquarters. He also suggested a reduction of the present number of Provinces, both for motives of economy and for other obvious reasons. Sir, I should like to say at once that this matter has been, not only for this year but for the last year or two, actively occupying the attention of Government. Government has already started on the movement of reducing Provinces. It has already been discussing with the Provincial Commissioners at their Provincial Commissioners' meetings the importance of progressing on these lines but, Sir, I should like, if I may, to sound one note of warning. It may be that the system is responsible for the fact, or the fact has some bearing on the system, but as things are at present I think it is obvious to all of us that the great tendency is for a local decision given by a responsible, perhaps insufficiently responsible officer, but to some extent a responsible officer, either not to be sought at all or to be waved aside. The trouble is that everywhere when complaints are made or suggestions or any communications from local residents that they should be sent not primarily to their District Commissioner or Provincial Commissioner but to headquarters. It should, therefore, Sir, I think, be stated quite plainly that the success of the provincial system will depend very largely on the Provincial Commissioners' authority being honoured. Now, Sir, I should like, if I may, to say, on Your Excellency's behalf, that

Government is not only willing to enquire, actively into this matter but is anxious to appoint a committee for the purpose, with which Your Excellency, I understand, proposes to include unofficial representation. For the moment, Sir, I will leave the matter there.

The Civil Service Commission suggested in some hon. Member's speech is, of course, the subject of a motion of which notice has already been given in this House. I will say no more, therefore, until that motion appears on the Order Paper than that Government is itself seriously concerned in certain forms of expenditure which are the cause of our present system and considers that some enquiry, whether in the form of a Commission or of a Government enquiry or in some other form, is justified. I will not say more, Sir, for the moment, because when that motion comes up Government will then state its intentions.

Sir, I am taking these points as they appear in my notes but I will try, if I can, to take the bigger ones first.

Now, Sir, some criticism was made, I think by the leader of the hon. Elected Members, on the subject of the Colonial Development Fund. The suggestion was that Government has been dilatory in the matter and the belief, I think, expressed was that they had probably done nothing. Sir, I should like to remind hon. Members opposite that I think it is largely due to the considerable uncertainty in our own minds as to the propriety of making applications at all under this Fund that Government did not move much sooner in the matter. So far as what has been done is concerned, I may state that we already have obtained one grant in respect of the Imperial Airways service. We have asked, as a matter of urgency, for a grant for a meat factory, and we have now a considerable list of applications ready to go forward, which I understand Your Excellency is willing should be discussed with Unofficial Members during the present Session.

The question, Sir, of settlement is one, I think, which is never omitted in any Budget discussion in this House and I think for very obvious reasons. I do not at this juncture, Sir, wish to say too much about it except in so far as to meet specific points which have been raised by hon. Members opposite. They discussed it not so much in general terms as on one or two particular points. Direct alienation is no new practice. In this Colony the biggest settlement scheme we had made use of a system of direct alienation, and such further schemes as Members may be aware of, of course, use the same method. The question of the disposal of land lying over from recent auctions has been recently enquired into by Government and Government has in actual fact now sanctioned

the adoption of the practice of the direct alienation of these remnants within a reasonable given period. Finally, Sir, as regards settlement, I am very glad that hon. Members opposite, with all their zeal for complete settlement which we all understand, did, I think, by applauding certain remarks of the hon. Member for Mombasa, express their appreciation of the policy of starting first with the local demand for land before embarking on the introduction of new blood.

Now, Sir, the point was made by one Member—I think it was the hon. Member for Mombasa, but I am afraid I said the hon. Member for Mombasa when I should have said the hon. Member for the Coast. He made the suggestion that Government—I think he made more than the suggestion, in fact—that Government had broken a pledge in respect of the Public Works Department Committee and the time of its operation. To the best of my knowledge and belief he referred to the Budget discussions of last year and the Select Committee. Well, I have searched all records and I can find no references whatever to the Public Works Department Committee. I do not wish to labour the point, but I have here in front of me a reference to the only enquiry which was mentioned and I may say it has got no sort of connexion with any Public Works Department enquiry. In May of this year Government itself took the initiative and took certain steps to enquire into the matter.

Several Members, I think, raised the question of what has happened lately as regards these African artisans. The only figures, Sir, which I could get in time are as follows: the African artisans turned out by the Native Industrial Training Depot or the Public Works Department in 1928 were—by the Native Industrial Training Depot, 106; and by the Public Works Department, 50. In 1929 134 were turned out by the Native Industrial Training Depot and 70 by the Public Works Department—total 204. I should add, Sir, I think, that owing to the extended system now of laying out contracts it is clear that these figures will not be maintained. As regards the particular figure of £25,000 in respect of labour for certain public buildings, the Noble Lord, the Member for Ukamba, asked what proportion of it was in respect of skilled and what proportion in respect of unskilled labour. I think that the whole of that figure is for unskilled labour.

The point was made, Sir, about the printing in England of the Native Affairs Department Report. I should explain, Sir, that the Secretary of State, finding that that Report was of such considerable interest locally in England, thought it worth while to include it in the ordinary Parliamentary series and for this purpose, of course, he had it printed at home.

He further expressed the hope that there would be no difficulty about arranging simultaneous publication of the Report at home and here. I would, however, add that the question of the continuance of this practice is still under discussion with the Secretary of State.

The suggestion was made, Sir, that police economies could be effected by reducing the number of policemen engaged on traffic control. I should like to say, Sir, if I may, that I think Your Excellency and myself suggested this form of economy to the Commissioner of Police, but the Commissioner of Police put forward suggestions for other economies which he preferred to this particular form. He added, Sir, I think, in his representations, that these men—that the work of these men was not limited to traffic control but also included other duties.

The Forest Adviser's Report, Sir, is now in the press and, it is hoped, will be very shortly available.

The question of the procedure—the simplification of the procedure for paying out Kerosene rebates has been gone into by Government and a Bill is at present in the hands of the Attorney General to provide for that purpose.

Some point was made, Sir, as to the Salt Tax, and the hope was expressed that it would be abolished. All I can say about that is this. It has been said before. Whether it has been said in this House I am not quite clear, but the point is this: that the only sorts of salt which are subject to duty are common salt and table salt. That is to say, rock salt and salt used for dairying and other purposes is imported free. The total collected on all the salt amounts, I think, to £750. At the same time I should add that Government has taken the matter up. It has, of course, had to take it up with the neighbouring Territories, with whom it is in some form of Customs union, and the matter is at the moment under correspondence with them.

Several Members, Sir, expressed the wish that imported flour should be prohibited. That, Sir, the Government has considered very carefully and the obstacles, the legal obstacles, in the way are such that Government has not seen its way to take any further action.

Fishing investigations at the Coast have been referred to, not for the first time, by the hon. Member for the Coast; and I would explain to him that the question of a grant from the Colonial Development Fund for this purpose is being considered and the co-operation of other Territories in the scheme is being sought for.

Some allusion was made, I understood, by the hon. Member for Mombasa to the question of open spaces and the question of town planning, and, as he suggested, some other recourse to the application of town planning laws. Well, Sir, I am not in a position to give any statement because I have not the facts in front of me of this particular case which was cited, but I should like to say this much: that the town planning authority for Mombasa is, after all, the Municipality itself, and the matter is very largely in their own hands; and I somehow doubt whether any individual official in Mombasa would be quite in a position to impose his, I understand, unreasonable will on the rest of his colleagues on that body. But I can promise the hon. Member that I will enquire into the matter.

There is one point, Sir, he dealt with which, I am afraid, is an acute one—I had better say so at once. He raised the question of certain house allowances in respect of certain officers. I believe, to the best of my recollection, there is some ground of complaint there and I will promise to take the matter up.

Now, Sir, a matter which has been referred to several times in this debate—but without, I think, any statement from this side of the House—is the question of the Wade-Mayer Report. I do not propose to say anything more at present. The matter is so much one of detail that I think it is probably best dealt with in Select Committee, but I do wish to say this: that Government has given that Report very close attention, that in several places in these Estimates the proposals of that Committee are embodied and will, I fear, involve increases, and that there are a large number of other recommendations which either have been adopted or are under consideration elsewhere.

I will go back, Sir, for a moment, before I finish, to one or two matters which I think have been referred to and seem to involve misconceptions. There is one matter, Sir, and that is the question of the so-called cereal subsidy rebates. The hon. Member for Nairobi South rather suggested, I think, that Government had not followed the advice it had received in this matter and that its application of the intentions of this Council were not now being put into operation. I would say this much, Sir, that any variations in practice which he is now alluding to are such that this House itself must take responsibility for. The terms of the resolution were in such a form, if I remember rightly, as to make the rates of those rebates, as he gave them, the maximum but not the fixed rate. That is to say, the rebate could be made up to the shilling in one case, and two shillings in another, and three shillings in the other, but there was no guarantee that the

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maximum should be paid. If that is what he is complaining of, I fear the whole of this House must take responsibility for it.

He also referred, Sir, I think, to leave conditions, and that part of the terms of service which he stated, I think, had been accepted at home and turned down here. That is not, I think, correct. Any acceptance there was at home, I feel pretty sure, was modified by certain medical provisos which were ultimately found not to be forthcoming. However, as I have said, the whole of the matter will be debated in due course when the motion for the commission comes forward.

He has asked, Sir, for an assurance from Government that when times improve the Department of the Registrar General will receive prior attention. I think it would be very difficult, Sir, for Government to give an assurance in quite such exact terms, but I think I can safely say that when occasion warrants it, Government will sympathetically view the needs of that particular Department, as indeed it will all other Departments.

On the question of the Sabaki Bridge I am afraid I have not full information; I have seen it, but I cannot say very much more. As far as I know, the matter proceeds. If he wishes to pursue the matter it can be brought up more easily and better elsewhere.

As regards his remarks on the judicial system, Sir, the matter is to some degree, I think I am right in saying or I can say properly, *sub judice*. I think we are all aware that there have been certain public enquiries on foot which involve such issues and I do not think there is anything I can specifically answer in that way at present.

I am afraid I have treated these matters in a somewhat perfunctory manner but it has been extremely difficult in the time at my disposal to treat them fully or even to be quite sure that I have not omitted several of the questions.

HIS EXCELLENCY: The question is:—

“That the Draft Estimates of Revenue and Expenditure for the year 1931 be referred to a Select Committee.”

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Select Committee consists, as I think it did last year, of the following members:—

All the Unofficial Members;

The Treasurer;

with the Colonial Secretary as Chairman.

CAPTAIN THE HON. H. E. SCHWARTZ : Could this be put as all Elected Members. It is a small thing but you never know. I am not trying to exclude anyone.

THE HON. THE DIRECTOR OF EDUCATION : On a point of information, if I remember rightly, the Select Committee consisted of the Members the hon. the Acting Colonial Secretary has stated, together with Heads of Departments *ad hoc* in respect of their particular votes.

THE HON. THE ACTING COLONIAL SECRETARY : I must apologize; I should have added that. It becomes so much a matter of form that I did not do it.

HIS EXCELLENCY : That was the intention this year, that the Select Committee should be the same as that which considered the draft Estimates for 1930. Is that agreed to?

HON. MEMBERS : Yes.

Council adjourned.

WEDNESDAY, 19th NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 19th November, 1930, His Excellency the Acting Governor (Mr. HENRY MOSCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

WILLIAM MARSTON LOGAN, Acting Commissioner for Local Government, Lands and Settlement.

MINUTES.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, I have given notice in regard to an amendment of the Minutes of the last meeting. I appeal to you, Sir, to rectify the error in the Minutes. The Minutes are supposed to represent a true and complete record of the doings of this Council and inasmuch as they do not do so I object to their present form.

HIS EXCELLENCY : I do not think this in an occasion for a speech. If the hon. Member will state briefly on what point he objects to the Minutes I will consider that point.

CAPT. THE HON. E. M. V. KENEALY : If I am not allowed to state why the point is important, I wish merely to state the point, and the point is this: that there was a suspension of Standing Orders for a certain purpose and there was a decision taken by this House based upon that suspension of Standing Orders that certain records should be expunged from the records of this House. I maintain, Sir, that such an action is contrary to parliamentary procedure and is a danger to the rights and privileges of minorities; and therefore I appeal to you to rectify this fault in the Minutes.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) : Your Excellency, so far from being contrary to parliamentary procedure, the position is that the question of proceedings to be expunged is one very well known in parliamentary procedure. I have before me, Sir, Sir Erskine May's "Parliamentary Practice" and I will read one paragraph from that work—which is generally recognized as a work of authority, Sir:—

On the 16th May, 1833, a motion was made by Mr. Cobbett, impugning the conduct of Sir Robert Peel. Lord Althorp moved: That the resolution which has

been moved be not entered in the Minutes; but the Speaker put the question thus: 'That the proceedings be expunged' on the ground that the Minutes had already been entered in the Clerk's book. The question thus put was carried by 295 to 4 and no entry of the motion or other proceedings was made in the 'votes'.

That, Sir, I think is completely in point.

HIS EXCELLENCY: Perhaps, in view of the hon. the Attorney General's reply, the hon. Member would like to withdraw his objection.

CAPT. THE HON. E. M. V. KENEALY: On the contrary, no Sir. In view of that reply I should like to uphold it. In this country the situation is entirely different from . . .

HIS EXCELLENCY: I do not wish to interrupt the hon. Member but the rights of this House are, where nothing is stated explicitly in Standing Orders, the parliamentary practice of His Majesty's House of Commons, and therefore, as this House has full control over its proceedings, and as the suspension of Standing Orders was agreed to by the House generally, that the Minutes be expunged, that order stands.

The Minutes of the meeting of the 1st November, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ATTORNEY GENERAL:

A Bill to Establish and to Regulate the Management and Control of a Land and Agricultural Bank for the Colony and Protectorate of Kenya incorporating the Report and Recommendations of the Select Committee thereon.

The Civil Procedure (Amendment No. 2) Rules, 1930.

NOTICE OF MOTION.

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to give notice of a motion in these terms:

"That this Council requests Government to extend the operation of the Agricultural Advances Ordinance into the year 1931 and for this purpose to revoke any balance remaining unexpended under this Head at December 31st, 1930."

ORAL ANSWER TO QUESTION.

WANDEROBO COMMITTEE.

THE HON. CONWAY HARVEY asked:

When is the Committee appointed in March, 1929, for the purpose of enquiring into the conditions existing in—

- (a) that portion of the Mau Forest Area between the Tugenon and Amala Rivers, and
- (b) Chepalungu Forest Area, and to make recommendations for the more effective utilisation of these areas and to make recommendations for the settlement of Wanderobo and for their future development,

likely to start such enquiry?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Endeavours have been made on several occasions to arrange for the Committee to visit the areas concerned, but the arrangements have on each occasion fallen through either on account of weather conditions or through other pressing engagements on the part of some or all of the members.

It would seem that weather conditions are now likely to render it impossible to visit these areas before January next.

CAPT. THE HON. E. M. V. KENEALY: Arising out of that answer, Sir, may we know when Government will decide whether a motion which was tabled by my hon. friend the asker of this question in regard to the greater utilization of forest areas—Government did undertake to give an answer as to whether that motion was acceptable to Government or not, and Government has not yet done so.

HIS EXCELLENCY: If the hon. Member will give notice of that question I will have a reply prepared.

MOTION.

TERMS OF SERVICE COMMISSION.

CAPT. THE HON. A. C. HOBY: Your Excellency, I beg to move the motion standing in my name, which reads:—

"That this Council requests Government to appoint a Commission as soon as possible to enquire into the terms and conditions of the Kenya Civil Service."

Sir, in speaking to the motion I would like to say that I have moved this at the direct request of the Member proper for Plateau South, who is absent from the Colony. I need hardly say, Sir, that this request has my entire sympathy and

support. Hon. Members are fully acquainted with the recommendations of the Committee which sat on this subject and issued its report in July last. Sir, this vexed question of terms of service has been one on which a succession of committees have sat at various intervals. I remember, Sir, when I had the privilege of sitting on this Council ten years ago, "an enquiry was then being held by Sir Alfred Lascelles. It appears that in spite of this enquiry and various committees which have sat subsequently, the fact remains that no real concrete changes have taken place.

The motion before the House asks for a commission. In asking for this commission, Sir, I do so with the definite proposal of soliciting the assistance of the Colonial Office in examining the problem in its widest aspects. I feel that, if such a commission were appointed and it had the full co-operation of the Colonial Office behind it, some definite results and decisions would soon be made. I believe that until we do enlist their assistance here by the appointment of a representative of the Colonial Office, we shall not be able to probe the problem as thoroughly as it is necessary to do.

It is important in dealing with this problem to remember that the Kenya Civil Service should continue to be attractive and to bear a proper relationship to the other Colonial Civil Services in order to enable it to maintain the high standard of individual personnel which it at present possesses and to enable it to carry the full confidence of the country. I believe, Sir, to get a real appreciation of our Civil Service as compared with other Colonial Civil Services it is vitally necessary to obtain the assistance and help of the Colonial Office.

Sir, to turn to the necessity for such a commission, the terms of service as they stand to-day are substantially what they were twenty years ago although the general conditions of the Colony bear little relationship to that period. Similar terms of service for the East African Territories may be advisable for many reasons but the fact that we have a large white farming and commercial population in Kenya which has not yet been established in neighbouring Territories is itself a ground for different terms of service for Kenya officials.

Another point I consider is that here we have growing up amongst us to-day a younger European generation from whom I sincerely trust will be drawn a large number of our future Civil Servants and who, I feel sure, will justify to this Colony some of the very large capital expenditure which is being incurred to-day in providing increased educational facilities. I consider it most desirable, Sir, from all points of view, that no further time should be lost in revising the terms and conditions of service.

Of course, there can be no question of interfering with any existing contracts. It is wholly a question of future appointments, and in this connexion, Sir, I do trust that any appointments which it may be necessary to make in Kenya will be filled as far as possible from within the Colony.

This brings into review the relative position of the senior to the junior official as regards leave and passage allowances. Firstly, I believe, Sir, that greater advantage could be taken of the extension of the local leave system which will result in a considerable saving in passage commitments and help the consolidation of the Colony's finances. As regards the leave conditions, which may very well be desirable and convenient for the senior officials.

HIS EXCELLENCY: I do not wish to interrupt the hon. Member but it is a practice of this Council that speeches should not be read.

CAPT. THE HON. A. C. HOEY: I believe, Sir, that if the terms of service as they prevail to-day are applied universally throughout the Service they will create a great hardship on many of the junior ranks of the Service. As regards the junior ranks, I believe, Sir, that it would be welcomed by them if some form of consolidated pay could be introduced in lieu of the many and various allowances which are allowed throughout the Service.

Sir, it would be more advisable to divide this question into two parts, one concerning the senior service and one the junior service. As regards the senior service, Sir, I believe it to be right that conditions in this Colony should compare with those of other Colonial Services in order that this Colony may secure senior officials with wide experience and special qualifications, which are continually required in this country; and therefore, nothing should be done which would interfere with the transfer of senior officials between the various Colonies. As regards the junior officials, Sir, I believe there is a real opportunity of building up a local Kenya Civil Service. This younger generation, Sir, which I hope will fill these positions, will necessarily work and live in Kenya as part of its permanent inhabitants. In this connexion, Sir, there is no suggestion that the junior Civil Service should be barred from promotion to the senior ranks of the Service. I take it, Sir, that when a junior Civil Servant ranks for seniority he would then be eligible for promotion either inside or outside the Colony under general colonial conditions of service. The local problem then, Sir, becomes more complicated, because I do not believe that the local position has been fully appreciated in the past and it seems to me, Sir,

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It is important in dealing with this problem to remember that the Kenya Civil Service should continue to be attractive and to bear a proper relationship to the other Colonial Civil Services in order to enable it to maintain the high standard of individual personnel which it at present possesses and to enable it to carry the full confidence of the country. I believe, Sir, to get a real appreciation of our Civil Service as compared with other Colonial Civil Services it is vitally necessary to obtain the assistance and help of the Colonial Office.

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Another point I consider is that here we have growing up amongst us to-day a younger European generation from whom I sincerely trust will be drawn a large number of our future Civil Servants and who, I feel sure, will justify to this Colony some of the very large capital expenditure which is being incurred to-day in providing increased educational facilities. I consider it most desirable, Sir, from all points of view, that no further time should be lost in revising the terms and conditions of service.

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boiled down to this, that the time has come when the general conditions of service which shall be applied to the junior civil servant should be brought into line as far as possible with the conditions of the country.

Sir, I do not think that we can tackle this problem entirely by ourselves. We have tried to do so in the past in the form of enquiries by committee but the fact remains that nothing has yet really resulted, and I do believe, Sir, if we are to examine this question in its widest possible aspects it is necessary to seek the advice of the real authority on this subject, which, in my opinion, is the Colonial Office.

I trust, Sir, that if such a commission is appointed its terms of reference will be as simple and as wide as possible so as to allow the most exhaustive enquiry into this very difficult problem of which every possible point of view will be examined in detail.

Sir, in conclusion, I hope Government will accept this motion and take a hand in endeavouring to arrive at conditions of service which are in keeping with the conditions of the Colony and which will be of benefit to the Colony and its own Civil Servants.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg leave to second the motion, and I do trust that Government are going to accept it.

For many years we have had a lot of controversy and discussion on this subject and we have had committees which have dealt with it piecemeal. I do hope that Government will do as the hon. mover proposed and appoint a commission which will have the widest and the simplest terms of reference so that the whole of this question may be thrashed out from every point of view which affects it, which includes, of course, leave and passages, housing, travelling allowances, local leave, and many other points of view. It is essential for this country that we should have a good and contented Civil Service, and in asking for this commission the main idea is that the country should not have to pay quite so much and that the Civil Servants should get better worth for their money; should, in fact, get a truer salary than they are doing now at the cost to the country.

I support the suggestion that the Colonial Office should be asked to collaborate in this because up to date, after exhaustive enquiries have been held here and committees have reported and their reports approved, it has then been turned down when it has gone home. If we have a representative of the Colonial Office here I trust that such an eventuality will be avoided. On the other hand, I do trust that the

conditions which apply to this country will be taken fully into consideration and that the result will not be bound entirely by what is applicable to all other parts of the Empire, which cannot be done. At the same time, Sir, I personally hope that the question of local applicants for service in the Civil Service here will be taken into great consideration, and I also hope that the Government will get on with the committee which I understood they agreed to appoint to go into the question of greater provincial decentralization, which also would help and have a big effect on these general terms of service in the country. While naturally any change of terms cannot affect contracts already entered into, I trust the result of this commission will be such that many of those on the present contracts will voluntarily come into the new one as finding it is really very much to their own advantage as well as to the advantage of the country.

I beg leave to second the motion.

HIS EXCELLENCY. The question is:

That this Council requests Government to appoint a commission as soon as possible to inquire into the terms and conditions of the Kenya Civil Service."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I desire to say very few words in support of this motion as nearly all the essential points have already been dealt with. I would, however, like to emphasize two main points. First of all, if a comprehensive inquiry is made, as is proposed, I am quite certain that it will be for the benefit of the people concerned, because I am quite certain that although, as has been already stated by both speakers, at present Civil Servants in the service of this Colony cannot be affected except at their own volition, I am quite certain that a large number will take advantage of any opportunity that is offered them voluntarily to come in under such new terms as may be suggested. This was proved, I think, in 1924, when one of the many piecemeal proposals was put forward with regard to leave and passage conditions and when many Civil Servants—or so we were informed by the Association which represents them—would, if this scheme had been brought into force, have offered to come in under those conditions.

The second point is that so far as future entrants to this Service are concerned, we have got to get down to the fact that this Colony cannot continue indefinitely to run up its pension commitments at the rate at which they are at present increasing. It is noteworthy that the annual bill for pensions and passages in this Colony amounts to just under £200,000 for the coming year, and so far as pensions are concerned that

is always an increasing liability; and a figure of that sort, I suggest, Sir, is out of all proportion to the financial position of this Colony, either in bad times or in good.

I would like to say this, that the word "commission" is used in the motion to which I am now speaking, and I do most earnestly trust that Government will agree to a commission and not to a committee. It must inevitably carry more weight; its report must entail greater consideration, not only by this Government but by the Secretary of State for the Colonies. We have seen from bitter experience the result of committees that have been held in connexion—piecemeal committees which have been held in connexion with this subject. In 1924 there was a committee on leave and passage regulations—nothing has happened. In 1926, I think it was, there was a committee appointed to consider the whole question of pensions—they sent in an interim report but nothing has happened. And so it goes on *ad infinitum*. I think the Government must realize the only way to deal with this in an effective and final manner is, first of all, to have a representative commission, consisting not only of people in this Colony but of certain persons outside this Colony and, in addition, to treat the whole matter as one comprehensive whole. Let us finish once and for all with piecemeal committees which achieve no result and merely waste time and money.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I support the motion. Government's sincerity in this matter will be judged by whether Government accepts this motion in the terms in which it is presented or whether Government attempts to distort the terms and make the motion other than what it is intended by this side of the House. I hope the Government will accept the motion in the terms in which it is presented, otherwise we shall be forced to experience some degree of anxiety in regard to Government's sincerity.

One other point, Sir: I hope that Government, in accepting this motion, will not cease to carry out the undertaking that it has given to this House to investigate the absurd and uneconomic travelling vote of to-day. There is a flagrant instance of inefficient expenditure and possibly, I submit, unjust expenditure. Government has undertaken to conduct that enquiry and I hope that Government will proceed with that enquiry and not shelve it so as to allow this commission to embrace in its investigations an examination of that question.

I support the motion.

THE HON. F. A. BEMISTER: Your Excellency, I am sorry I am in a little difficult position, Sir, because, whilst I thoroughly appreciate and agree with any commission of inquiry which will advance any service, yet at the same time I do like to look at immediate benefits. I have taken the opportunity over the week-end to work out what would have been the effect had the report of the 1926 Committee been brought in when it was apparently unanimously passed. I find that there was a voluntary clause and had only 50 per cent of the Civil Service gone over, including all the new appointments to-day, there would have been a saving of £25,000 a year from the Civil Service list. Further to that, Sir, I contend, from very extensive enquiries I have made, that the junior ranks of the Civil Service would have been far better off. Now what I contend is this—I am in very great doubt as to how to vote or whether to vote at all—that enquiry took five or six years to come to their decision. How long is this commission going to take before it comes to a decision? My whole difficulty is, Sir, that if it were possible to bring into force—I do not know why it has not been brought into force—but if it could be brought into force at once, the effect of the report of the Special Committee of 1926 would be that these savings would be immediate, and then we could have an enquiry into anything we like. I do not mind how many enquiries you have, but there is the immediate benefit, and I would urge upon Government, Sir, if they could possibly see their way, to bring in that and at the same time have this other enquiry which will undoubtedly investigate every possible side of the matter, on both sides of the question, that is investigatable.

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Your Excellency, I should like to commence my reply by congratulating the Members who have spoken so far on the studied moderation of the terms in which they have attacked this difficult subject. So far, Sir, from the Civil Service being apprehensive of enquiries of this sort, the Service, I think I may say, has almost invariably for many years past welcomed them, and in many cases themselves asked for enquiries about particular points. In fact, the time, I feel, is very long past in which such a motion as this, put up by Members on the other side of the House, is suspect by the Service as merely being a roundabout method or a direct attack on the Civil Service privileges. I feel, Sir, that I can give that assurance that the Civil Service will not be in the least apprehensive of the motion, particularly taking into account the terms in which it has been couched.

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Now, Sir, there is very little for me to say and very little for me to criticize in what has so far been said. Most of the points which, if I may say so, I wished to try to make myself have already been made and I will do little but try and embroider to a certain extent and perhaps try and modify one or two statements already made. The hon. mover, Sir, I thought put very effectively the dual problem of the Service in Kenya. It is perfectly true that we have growing up amongst us—not only growing up amongst us but immigrants into the country—a population from which it is available to recruit, at any rate, certain ranks in the Service and which indeed in the future will be available on a larger and higher scale. On the other hand, Sir, there is, as hon. Members will have probably found, if they have only seen it in the Press, the recommendation of the last Crown Colony Conference, which was held this year in London, to the effect that it would be to the advantage of the Colonial Service as a whole for that Service to be, so far as possible, a single Service and transfers encouraged to a degree which is hardly possible now because, even though it is a Colonial Service, it has not, Sir, a completely standardised set of terms and conditions. As the hon. mover said quite rightly, we must be able to get the best men available at the price which we can afford to pay for them, and nothing should be done, therefore, to block recruitment from outside or, I think hon. Members will agree, promotion from inside to outside. That would be to the advantage not only of the imported Civil Servant but also to the Civil Servant who may grow up in this Colony.

Hardly an accusation, but the suggestion was made that so far, in the last few years, we have tackled all these problems in a very piecemeal manner. That is quite true. We have tackled them in a piecemeal manner because the problems themselves have arisen in a piecemeal manner. It is only within the last few years that anybody has seriously considered the problem of local recruitment; not only local recruitment, but the encouragement of Civil Servants to make their permanent home in this country.

Now, Sir, as the hon. mover has suggested, the matter is coming more and more to a head. We find, when we receive a report on some specific part of the problem, that it is extremely difficult to act on that report because of its repercussions on other matters which are not the subject of that report. It is, therefore, I consider, only prudent and timely that some sort of comprehensive enquiry such as is now suggested should be made.

It has been suggested by one speaker, Sir—I think it was the last speaker—that we should implement at once the 1926 Report to which he referred. Sir, I feel that if we were to do that we should prejudice the whole of the enquiry which hon. Members are now anxious to set afoot. I am afraid, therefore, that I cannot agree to such a proposition. Nor, Sir, I am afraid, can I quite agree with the remark made by the hon. and gallant Member for West Kenya.

I should be sorry indeed, Sir, to accept this motion in the terms, in the exact terms, in which it is couched. It leaves out, I think, the most important part of the motion—the question of alliance or asking for the alliance of the Colonial Office in this scheme. I feel, therefore, that though Government welcomes the substance of this motion and is prepared to take such steps as it can take with the object of obtaining assistance from the Colonial Office, it will be better to withdraw this motion and accept such an assurance from Government. In other words, Sir, Government is prepared to accept the substance of this motion and to take early steps to ask the Colonial Office to appoint a chairman of the commission; and with that assurance, Sir, I would ask if the mover will withdraw his motion.

HIS EXCELLENCY: I do not know whether, in view of the statement made by the Colonial Secretary, the hon. Member for Plateau South is prepared to withdraw the motion?

CAPT. THE HON. A. C. HOEY: Your Excellency, I should like a little time in which to consider the matter.

HIS EXCELLENCY: Yes. Does the hon. Member wish to have an adjournment?

CAPT. THE HON. A. C. HOEY: Your Excellency, I beg leave to withdraw the motion.

HIS EXCELLENCY: The motion is by leave withdrawn.

BILLS.

FIRST READINGS.

THE EDUCATION BILL.

On motion of the hon. the Director of Education (Mr. H. S. Scott), the Education Bill was read a first time.

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

THE NORTHERN FRONTIER POLL TAX BILL.

On motion of the hon. the Attorney General the Northern Frontier Poll Tax Bill was read a first time.

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

THE TOWN PLANNING AND DEVELOPMENT BILL.

On motion of the hon. the Attorney General the Town Planning and Development Bill was read a first time.

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

THE TOWNSHIPS BILL.

On motion of the hon. the Attorney General the Townships Bill was read a first time.

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

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Diseases of Animals (Amendment) Bill was read a first time.

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

THE IMMIGRATION RESTRICTION (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Immigration Restriction (Amendment) Bill was read a first time.

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

THE LEGITIMACY (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Legitimacy (Amendment) Bill was read a first time.

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

THE PENAL CODE (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Penal Code (Amendment) Bill was read a first time.

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

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Criminal Procedure Code (Amendment) Bill was read a first time.

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

THE PUBLIC HEALTH (DIVISION OF LANDS) (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Public Health (Division of Lands) (Amendment) Bill was read a first time.

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

THE SHIPPING BILL.

On motion of the hon. the Attorney General the Shipping Bill was read a first time.

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

SECOND READINGS.**THE ARCHITECTS AND QUANTITY SURVEYORS BILL.**

THE HON. THE ATTORNEY GENERAL: Your Excellency, the next item on the Order Paper is the second reading of the Architects and Quantity Surveyors Bill. I understand, Sir, that hon. Members on the other side of this Council have had discussions with members of the East African Institute of Architects and as the outcome of those discussions certain suggested amendments have been put up by that Institute. Those amendments came into my hands, Sir, only late yesterday afternoon. I have not had an opportunity of considering the effect of those suggested amendments on the Bill as a whole, and in the circumstances, Sir, I would ask the leave of this Council to defer consideration of this Bill for a day or two till I have had an opportunity of considering those amendments.

THE HON. CONWAY HARVEY: I think that will be agreeable, Sir.

HIS EXCELLENCY: The second reading is by leave postponed.

THE COLLECTIVE PUNISHMENT BILL.

THE HON. THE ATTORNEY GENERAL: I understand that it will also meet the convenience of the hon. Members opposite if the Collective Punishment Bill were postponed until to-morrow.

THE HON. CONWAY HARVEY: That is their desire, Sir.

HIS EXCELLENCY: The second reading of the Collective Punishment Bill is by leave postponed.

THE LIQUOR (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that the Bill to Amend the Liquor Ordinance be read a second time.

The Bill is an extremely short one, Sir, and I sincerely hope that I shall not be asked for a very long exposition either of its principles, which are inherently brief, or the implications of those principles. The Bill, very shortly, Sir, provides that the vendor of alcoholic liquor sold for consumption on the premises shall not be entitled to recover the price of that liquor by action in any court of law. The principle is a very old one. It is one which has been an accepted and settled part of the law of England for nearly two centuries, and the principle is one which I think might well—particularly at a time such as this, find a place in the statute law of this Colony. That there is, perhaps thoughtless extravagance, but none the less extravagance in the direction of purchase of alcoholic liquor on certain festive occasions, is a fact which I do not think anyone here will deny and anything which can be done to encourage thrift and economy in the Colony, particularly in a time of stress such as the Colony is now going through, will, I feel quite confident, commend itself to hon. Members of this Council.

There are two points, Sir, on which I would ask leave to say just a word. The first and the important one is the position of clubs under this proposed legislation. I would ask the leave of Council to discuss that point very briefly because I understand, Sir, that there have been doubts, very real doubts, in the minds of certain hon. Members as to what the position of clubs will be under this legislation. Now, Sir, clubs are of two kinds—either members' clubs or proprietary clubs—and the legal fiction, the well settled legal fiction is that a members' club does not sell drinks to its members. The liquor supplied is the property of the members; it is purchased by a committee appointed by the members from funds supplied by the members; and when a member of a members' club orders liquid refreshment the fiction is that he does not purchase it but, by the act of ordering it, he is entitled to assume that the other members agree to waive their rights as members of the club to the amount of liquid refreshment stated in the order. As a result, Sir, there is no purchase and sale, and nothing in this legislation contained will apply to dealings in liquor between the members of a members' club.

When we come to proprietary clubs, Sir—clubs which are owned and run for the profit of an individual, a partnership or a company—the position is quite different. It is well settled law that in that case there is a sale and purchase of

liquor, and that as the law now stands, the proprietor of the club or the committee of management, appointed with the full knowledge and concurrence of the proprietor, has the right to sue for such liquor. If this legislation is enacted in its present form, Sir, that right will cease to exist. Members of a proprietary club will not be in a position to be sued if they make default in payment for liquor supplied; but I would remind hon. Members that they would then be in exactly the same position as members of a members' club; and after all a club has other ways, perhaps more condign and salutary methods, for dealing with defaulting members.

The other point is "what is a lodger"? I should hardly have thought it necessary to expatiate on that subject, but I can give hon. Members an assurance that the word "lodger" is a word very well understood legally, a word on which there is an abundance of authority, and I think I can very safely give hon. Members an assurance that the use of that word is not by any means likely to give rise to intricate points falling for decision in the courts of the Colony. We all know what a lodger is, and the legal interpretation of the word is exactly the same as the one we all appreciate so well. I beg to move, Sir, that the Bill be read a second time.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

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

THE HON. CONWAY HARVEY: Your Excellency, at a well attended meeting held on Monday, Elected Members quite unanimously decided to support the principle of this Bill. Unfortunately, Sir, one of our Members—the learned gentleman on my left (the hon. Member for Nairobi South)—was not present, owing to the fact that he lost his way in the clouds and was quite unable to establish contact with the terrestrial regions in which our meetings are held. Now, while we do welcome this measure most sincerely, inasmuch as it must inevitably represent the first step towards reducing to some extent anyhow, the indiscriminate credit which does undoubtedly encourage extravagance and all the misery which extravagance brings in its train, nevertheless, Sir, there are certain interests which must inevitably be affected by this measure and we think it only right and proper and fair and reasonable that such interests should have an opportunity of making any representations they may desire to a Select

Committee. We would therefore suggest for Your Excellency's consideration that a small Select Committee be appointed at which interested parties will have an opportunity of representing their views.

CAPT. THE HON. H. F. WARD: Your Excellency, I should like to make a short personal statement in this matter and to say that I was not present at the meeting to which the hon. Member who has just spoken referred and that I have taken no part, one way or the other, in this resolution, nor do I intend to.

THE HON. THE ATTORNEY GENERAL: I have Your Excellency's authority to say that the Bill will be referred to a Select Committee consisting of the hon. the Commissioner for Local Government, Lands and Settlement, the hon. the Provincial Commissioner for the Coast, the hon. Members for the Lake and Nairobi South, with myself as Chairman.

THE HON. CONWAY HARVEY: Your Excellency, might I suggest the substitution of the hon. Member for Plateau North for myself as a member of this Select Committee? He has a considerable knowledge of the subject. That would meet with the approval of Elected Members.

HIS EXCELLENCY: I am most anxious to get the best possible advice. I shall accept the substitution.

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

The question was put and carried.

THE FOREIGN PRISONERS DETENTION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Provide for the Imprisonment within the Colony of Persons Sentenced to Imprisonment elsewhere be read a second time.

The circumstances which gave rise to the drafting of this legislation, Sir, are that the Government of the Protectorate of Uganda found that European prisoners incarcerated there were in surroundings and confined under circumstances which were deleterious to their health, and the Governor of Uganda some short time ago, asked this Government if they would receive and imprison within the Colony European prisoners sentenced to imprisonment in Uganda. Such a transfer would be possible, Sir, under the Uganda Order in Council if an Order of His Majesty in Council approving of Kenya as a place for detention had been passed. There was no such Order and in that particular case this Government had no option but to inform the Government of Uganda that the

transfer and imprisonment within the Colony of persons subject to Uganda would be illegal and that if a Writ of Habeas Corpus were applied for in respect of any person brought here that must inevitably succeed.

The alternatives then were, Sir, to get an Order in Council, an Order of His Majesty in Council, under the Uganda Order in Council, which would enable this Colony to receive and detain prisoners sentenced in Uganda, or to adopt a wider measure, the measure which is now in the hands of hon. Members, which will enable this Colony to receive prisoners from any adjacent Territories: not only from British Territories but from any adjacent Territory, the conditions being that Your Excellency must approve of the transfer in each individual case and that the Colonial Secretary, under his hand and seal, must certify that the person to be detained has been convicted by a competent court and is to be detained under the provisions of this legislation. It is axiomatic, I think, Sir, that if a person deserves punishment it is only right and proper, firstly, that he should undergo the full term of that punishment unless the power of clemency is exercised, and equally, secondly, that the health of the prisoner sentenced to imprisonment should not be impaired by reason of the restriction on his freedom of movement. Those conditions are probably difficult to comply with in certain parts of the East African Territories; those conditions do not arise—the second condition and the more important condition does not arise in the case of prisoners in this Colony and therefore, Sir, I think it is but right, both in the interests of the true administration of justice and in the no less important interests of the health of offenders against the law, that it should be possible, by transferring prisoners sentenced elsewhere, to, we will say for the sake of example, Nairobi Prison, that both the law should be carried out, that punishment should not only be awarded but should be administered, and also that the health of the offender should not be impaired. The consent of Your Excellency to the transfer of prisoners will enable this Government, Sir, to attach conditions to the transfer of any individual from any other country; that will enable this Government to see that no financial burden is imposed on this Administration by reason of the transfer of any prisoner. In other countries, where similar legislation is in force, Sir, a *per capita* figure is arrived at, and I can assure hon. Members that in at least one Colony, where similar arrangements are in force and are not infrequently used, the revenue of the Colony certainly does not lose by it.

The principle of the legislation will probably commend itself to hon. Members. It may never fall to be used, but a case actually has arisen in which, for the lack of this legislation, it has proved inconvenient to the Government of a neighbouring Territory. I beg, Sir, to move that the Bill be read a second time.

THE HON. T. D. H. BRUCE: 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. KENEALY: Your Excellency, there are two points I wish to make. The first is that I think it is dangerous to accept this in its present form unless we have an assurance that it will not be applied to political offences. There is a danger of that. Our very powerful neighbour in the north might attempt to offload upon us certain political prisoners. I think, Sir, that when one deals with a court of competent jurisdiction one should deal with the court and segregate from its activities political offences. It is dangerous to accept these offenders. England has been for hundreds of years the refuge for political prisoners from elsewhere, and politics have so little significance in the practical world that actually political offences are venial indeed. I should like a reassurance on that point, Sir.

The other one is that prisoners who come here, who are convicted of offences elsewhere, should be returned to their country of origin on the expiration of their sentence in this country.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the first point made by the hon. Member for Kenya was one reason of which I am grateful to him for, but I cannot help feeling that the point which I have already emphasized, Sir, that the transfer of prisoners is contingent on the consent of Your Excellency in each case, might have been regarded as sufficient safeguard against the transfer for detention and imprisonment in this Colony of prisoners who, in the eyes of this country, have been guilty of an offence which is no offence against them. Before Your Excellency can give permission, can give consent for the detention of a prisoner here, Your Excellency has got to be satisfied that the prisoner has been sentenced by a court of competent jurisdiction in another country. I feel sure, Sir, that where the offence alleged is of such a nature as would not be regarded as an offence in any

part of the British Empire, that consent could properly be withheld. I make no assumption that there are courts in parts of East Africa adjacent to this Colony where political offences are punishable by the courts and where the powers of those courts are likely to be used—or even, I might say abused—to the extent suggested by the hon. Member. There must be a conviction by a competent court and there must be the desire to transfer that prisoner. The transfer means publicity and advertisement; there must further be the concurrence and accord of the Governor of this Colony before the provisions of this Ordinance can be made effective. Those, I should have thought, Sir, were quite ample and sufficient safeguards.

The second point, Sir, is covered by the Colonial Prisoners Removal Act which provides that in the case of prisoners transferred from a Colony to Great Britain or from a Colony to another Colony they are entitled to be repatriated to the country in which they were convicted and sentenced. No Act of the Colonial Legislature to the contrary can override this provision of the Imperial Statute.

CAPT. THE HON. H. E. SCHWARTZE: On a point of order, Your Excellency, might I ask what the Attorney General means by the word "entitled"? If they do not want to go, must they go?

THE HON. THE ATTORNEY GENERAL: No Sir. The Colonial Prisoners Removal Act provides that if a Colony in which a prisoner is convicted transfers that prisoner to Great Britain, the Colony is bound, if the prisoner desires, on the expiration of the sentence, to return him to the Colony in which he was convicted. The Colony is bound to pay the expenses of his return and to admit him, anything in the Immigration Restriction Ordinance to the contrary notwithstanding. You cannot, of course, force him to come back, Sir.

CAPT. THE HON. H. E. SCHWARTZE: At the risk of wasting time, I do ask Your Excellency not to take this second reading question to-day because a very serious position arises. If a very undesirable person is sent from another Colony to here because it is impossible for him to be imprisoned there, it must be clearly understood that we cannot keep him once he is released. If he were not in this Colony he would be a prohibited immigrant under the Immigration Restriction Ordinance, but if he were released in this Colony you could not get him out. We do not want people like that here.

THE HON. THE ATTORNEY GENERAL: Perhaps Your Excellency would prefer me to report progress at this stage and to suggest an amendment empowering this Government to return a prisoner to the country in which he was sentenced on the expiration of his sentence.

HIS EXCELLENCY: With the leave of Council the Attorney General will move to report progress.

*Council adjourned till 10 a.m. on Thursday,
20th November, 1930.*

THURSDAY, 20th NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 20th November, 1930, HIS EXCELLENCY, THE ACTING GOVERNOR (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 19th November, 1930, were confirmed.

NOTICE OF MOTION.

THE HON. F. J. COULDRY: Your Excellency, I beg to give notice of the following motion:

That in view of the serious and urgent position and immediate prospects of the maize industry this Council requests the Government to call a conference of the representatives of all parties interested in that industry with a view to co-operative action sufficient to tide over the present crisis.

ORAL ANSWER TO QUESTION.

EXTRANEOUS ACTIVITIES OF THE DIRECTOR OF AGRICULTURE.

LT.-COL. THE HON. J. G. KIRKWOOD asked:

1. Will Government state what action has been taken regarding the recommendation of the Agricultural Commission, para. 24, page 8, re the extraneous activities of the Director of Agriculture?
2. Will Government furnish details of such activities?

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Government has noted the recommendation of the Agricultural Commission that the extraneous activities of the Director of Agriculture should be reduced to a minimum and effect is being given to it wherever possible.

The Director of Agriculture is a member of the following Boards and Committees appointed by Government:

The Inter-Colonial Railway Advisory Council, the Land Advisory Board, the Kenya Advisory Committee, the Central Committee on European Education and the Central Agricultural Advances Board. He is, in addition, Chairman of the Joint Maize and Wheat Consulting Committee, the Coffee

Consulting Committee, the Stockowner's Consulting Committee, the Pig Industry Committee and the East African Stud Book Committee; and President of the Royal Agricultural and Horticultural Society of Kenya. With the exception of the Central Committee on European Education, on which his services will terminate if and when the Education Bill is passed, it will not, I think, be suggested that the work of these bodies is extraneous to the duties of the Director of Agriculture.

HON. CONWAY HARVEY: On a point of order, Your Excellency. Elected Members would be glad if Government would expedite answers to questions which have been in for a long time. They all feel that Government is unduly lethargic in connexion with this matter.

HIS EXCELLENCY: I will ask the Clerk to let me have a list of outstanding questions.

MOTION.

REPORT OF SELECT COMMITTEE ON THE LAND BANK BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move:

"That the Report of the Select Committee on the Land Bank Bill be approved."

In the first place, Sir, I would ask leave to say a few words regarding the form in which the reprinted Bill now in the hands of hon. Members has been prepared. The Bill initially represents the original Bill read a first and second time in this Council a considerable time ago with the approved recommendations contained in the first Report of the Select Committee on the Bill incorporated therein. On the left-hand page is shown the recommendations of the Select Committee contained in their second and third Reports, and the Bill shows the alterations which fall to be made in consequence of those recommendations, deletions being shown in brackets and underlined and additions being shown in italics. The final Bill, therefore, Sir, is represented by the right-hand pages of the print in the hands of hon. Members, ignoring those portions which are bracketed and underlined and including those portions which are italicised.

The Land Bank Bill, Sir, has been before this Council for a very prolonged period. It embodies principles which are very dear to the hearts of Members of this Council. The principles and detailed provisions of the Bill have, I am sure, been very carefully considered by all Members and I do not imagine that any Member expects me this morning to give a detailed résumé of the whole of the provisions of the Bill. On the motion in the form in which it stands in the Order

Paper anything of the sort would be improper. My function, as I apprehend it this morning, is to explain as clearly and lucidly as I can the further amendments which are recommended by the Select Committee to the Bill in the form in which it was last approved by this Council. It is to those amendments only that I propose to confine my attention this morning, but I need not say, Sir, that it will be competent to any Member to raise any point on any of the detailed provisions of the Bill, and should anything of that nature occur I shall do my utmost to deal with the points and to meet any objections.

The amendments which have to be considered this morning, Sir, are few in number and, with relatively few exceptions are quite unimportant. There are one or two amendments to which I think it is right that specific attention in some detail should be directed. The first of these amendments, Sir, is that the scope of the Bill has been considerably enlarged by the inclusion in the purposes for which the Bank is empowered to make advances all native agriculturalists. Hon. Members will find in clause 18 of the Bill that the Bank is now empowered to advance money to natives in accordance with the provisions of section 26 of the Ordinance, and section 26 sets out in detail what those circumstances are in which such advances to native agriculturalists may be made. Hon. Members will observe that in the case of agriculturalists farming in a Native Reserve the consent of the Local Native Council concerned is an essential prerequisite.

The second point, Sir, is that funds for the Bank may now statutorily be raised by loan, either within or without the Colony, raised either by the Colony or by the Bank, with the approval of this Council. That is a new provision. It is a very considerable extension of the previous provision; it is a provision which I confidently expect no hon. Member will view with anything but complete favour.

A third and more important point, Sir, is that which is raised in clause 25 of the Bill. All advances, as the Bill was drafted, had to be made on first mortgage and on first mortgage only, with the sole exception that advances could be made on property already encumbered under the Land Bank Ordinance; that is to say, if a farmer had already received an advance it would be competent to the Board, notwithstanding that advance and the charge created by reason of that advance, to make a further advance, but in no other circumstances could anything in the nature of a second mortgage be taken. Those provisions have now been enlarged in two ways. It will now be competent to the Board to make an advance although the applicant for an advance has already received assistance from the Agricultural Advances Board; and further

and more important, Sir, it will be competent to the Bank to make advances for the specific purpose of extinguishing prior encumbrances which in the opinion of the Bank are of an onerous nature, with the limitation that advances for such purposes cannot normally exceed £2,000, although they may, with the consent of the Governor in Council, be for a sum not exceeding £3,000. The maximum advance which may be made for any purpose is normally £3,000 and in special circumstances, with the consent of His Excellency in Council, £5,000.

Then, Sir, the fourth and last important alteration made in the part of the Bill dealing with the special advances for purposes of fencing and cattle cleansing. As the Bill was drafted it was quite proper for anyone reading it to form the assumption that all advances made for those purposes were to be made on first mortgage having priority over all existing charges. There was a distinct dubiety in the wording of the Bill; that, Sir, has now been cleared up and in making advances for purposes of fencing and cattle cleansing the Bank will now make those advances on a charge taking priority over all prior encumbrances only in the cases of compulsory fencing and cattle cleansing. Hon. Members will recollect that both the Fencing Ordinance and the Cattle Cleansing Ordinance, both of which were passed towards the close of last year, make provision enabling farmers by a form of local option to have certain districts proclaimed as compulsory fencing or compulsory cleansing districts. In that event every farmer within such a district is under a statutory obligation under a heavy penalty to fence or to erect dipping tanks as the case may be. So long as provisions such as these exist in the law, Sir, it is but right that State assistance to enable farmers to comply with their statutory duty should be available. Equally, Sir, as I contend with all confidence and all conviction, it is but right that a Bank such as is being established under this Bill should not be compelled, should not be put in the invidious position by reason of the compulsory provisions of those other statutes, of accepting security which normally such a Bank, run, it must be remembered on business lines, could not dream of accepting. The prudent and careful policy of the Bank in making advances is clearly defined in clause 25 of the Bill. With the exceptions which I have already mentioned, advances must be on first mortgage and on first mortgage only. Presuming that, Sir, the point at issue is a very simple one. Because we have provided for compulsory fencing, because in certain events we have provided for the compulsory erection of dipping tanks, is the Bank justified—a Bank which is using public monies; a Bank which is responsible to the public for the proper handling and proper usage of those monies—is such a Bank justified in making advances

under the compulsory provisions of those two Ordinances on any security but the best? Quite confidently, Sir, I submit that the answer is "No." If in ordinary circumstances nothing but the best is good enough for the Bank, I see no justification for departing from that policy in the case of advances under the compulsory provisions of other laws—advances which, unless we have priority, would not infrequently be made on no security at all. The position, if I may put it correctly, Sir, might quite easily be this: A farmer in a district which becomes a proclaimed fencing area has a first mortgage on his farm; has an overdraft from the Bank which is secured by the deposit of the title deeds; and has a bill of sale on all his chattels. He is bound to fence. He is compelled to fence. He goes to the Bank and says, "Because you have compelled me to fence my land it is only equitable that you should make an advance." Of the equity of that demand we are fully aware. The equity of the demand we have recognized in the principles embodied in Part IV of this Bill, but is the Bank entitled in such cases—and they may be not infrequent, Sir—to depart from the principle of sound and wise finance? The answer embodied in this Bill is emphatically in the negative, and therefore, Sir, so far as advances for the purposes of enabling a farmer to comply with the compulsory provisions of the Fencing and Cattle Cleansing Ordinances are concerned, the Bill includes a provision that such advances shall rank in priority of existing charges.

I have no doubt, Sir, that I shall be told that we are interfering wantonly, and improperly interfering with the sanctity of contract. Are we, Sir, when we come down to concrete propositions? The advances are limited to £200 for either of the purposes—£200 for fencing; £200 for the erection of dipping tanks—and I do not think there is any Member of this Council, Sir, who will be prepared to dissent from the proposition that the expenditure of such relatively small sums on works of such immediate utility as fencing and the erection of cattle dipping tanks is going to do anything but enhance the value of the land, certainly to the extent and amount of that relatively small advances of £200. The fencing itself, the dipping tank itself, will represent a considerable proportion of the amount advanced. The whole security for any existing charge will be immediately and obviously enhanced. That, in itself, Sir, I submit is a justification for the departure from what must admittedly be a primary principle that only in exceptional circumstances should the sanctity of contract be interfered with. I shall no doubt be told that we can get over the difficulty by seeking the approval of all existing encumbrancers. I do not think we can, Sir. We are complying here—we are seeking to enable farmers to comply with compulsory

penal provisions, and I do not think it would look well to legislate for a manifest absurdity, to legislate for a situation in which any recalcitrant mortgagor might hold out or stand out, and, by standing out, render the whole of the compulsory provisions of the Fencing and Cattle Cleansing Ordinances entirely nugatory. Assistance must be given to enable the people concerned to comply with statutory obligations, and yet, Sir, assistance must be given on safe and prudent financial lines. The only way in which I personally can reconcile those two obligations is the way which has been adopted in this Bill, Sir, and I do sincerely trust that, in view of the time that this Bill has been under consideration, the prospect of our at last being able to place it on the Statute Book within a very short time will materialize. I do sincerely trust, although I cannot hope to escape adverse comment on those portions of my address which deal with this specific point, that those comments will be conscientious and honest and in no way captious.

I beg, Sir, to move that the Report of the Select Committee on the Bill to establish and regulate the management and control of a Land and Agricultural Bank for the Colony and Protectorate of Kenya be adopted.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Land and Agricultural Bank Bill be approved.

THE HON. CONWAY HARVEY: Your Excellency, in view of the vital importance to the Colony as a whole of this Land and Agricultural Bank, inasmuch as it will go far towards placing long-term agricultural credits on a sound economic basis, and in view of the fact that arguments for and against the more controversial clauses of this measure have been worn threadbare in this House, in the Press and at many meetings of public bodies throughout the Colony, I do not feel that any very useful purpose would be served by going over them again this morning. Everybody knows, Sir, that agricultural advances, dependent on the good-will of the private banking houses, who do not want the business, assisted by banking houses from overseas which are highly susceptible to changing world-wide conditions, are unduly precarious; and had Kenya had a land and agricultural bank instituted a year ago there can be no shadow of doubt that that would have obviated recourse to the somewhat unusual emergency measures which have been found to be necessary, and which can only be accepted as temporary expedients, valuable though they have been in tiding us over the emergency.

It is as well, I think, Sir, to stress the provision that there will be no undue interference with existing mortgages. They will only be replaced when the Board is absolutely satisfied that they are of an onerous character, and even then Sir, I trust I am right in saying, it will be a matter of arrangement mutually between the mortgagor and the mortgagee, without whose consent I imagine it will be quite impossible for the bank to operate at all in that respect. There have been so many misunderstandings about clause 38 (2), Sir, that I think it as well again to emphasize that the land bank only gives priority to the limited extent explained so lucidly by the learned mover. He mentioned many grounds on which it is justified, Sir, but there are others. In addition to improving the value of the security by considerably more than the amount of the charge imposed, it is as well to emphasize that this statutory obligation under the Dipping and the Fencing Ordinances is a charge on the land. It does not matter, where there is a mortgage, whether it is owned by the mortgagee or the mortgagor, or both in partnership, in the interests of the pastoral industry—the industry of the Colony as a whole. This fencing and dipping must be done and the charge must be on the land.

Now, Sir, similar fears to those already expressed by a very limited minority were very vocal in South Africa and Rhodesia when a similar measure was introduced in those countries. But, Sir, everybody knows that the moment the bank got working those fears were found to be absolutely groundless and that this priority provision, unusual though it may appear to be in theory at first sight, in actual practice imposes no hardship whatever on anybody, and there is no reason whatever to suppose that Kenya will present difficulties which have not appeared in other countries.

Now, Sir, as a member of the Select Committee, whose report this House is asked to approve, I associate myself absolutely with every word of my friend, the learned mover, and I support most cordially the motion before the House.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, it is with very real regret that I have to be, I think, the only one to raise a note of discord on the motion which is before the House, and my regret is still greater because I do realize how vitally important it is that this Bill should at the earliest possible moment become law. I realize just as much as anyone in this House or country that it is essential—more essential to-day than it has ever been for the land bank to be instituted, and I believe that if there is any further delay it may have the gravest possible effects on a large number of our fellow countrymen who are suffering so acutely at the

present moment; and it is because of my realization of the urgency of this measure that I do not propose to adopt the course which, under ordinary circumstances, I should have adopted, which would have been to move an amendment to delete from the Report of this Select Committee their proposals with regard to the advancement of monies for the specific purposes mentioned by the hon. the Attorney General, such advances to take priority over all existing mortgages and charges. But at the same time, while for the reasons which I have stated, I do not propose to move an amendment and force a division, I should, I think—and I think hon. Members on both sides of the House, whether they agree with my views on the principle or whether they do not, will at least agree that I should be completely false, both to my own settled convictions and to the views of those I represent, if I did not protest against that particular provision in the Bill and if I did not give my reasons for so doing. I have very, very carefully considered, Sir, what attitude I should adopt and how best I could place before this House my objections to this particular provision in the Bill and, at the same time, not be the cause of any postponement in the third reading and passing of the Bill, and I have come to the conclusion that my right course is as I am doing now, or about to do—to say why I object to this particular provision and then to refrain from voting when this motion is put. I shall, of course, if and when the motion is carried, naturally support the Bill.

I do not propose to vote against this motion approving the Report of the Select Committee because any such action on my part might be misunderstood, if not in the Colony, at least outside the Colony, and I wish to make it abundantly clear to everyone, whether in Kenya or outside, that my sole objection is to this particular provision and that, apart from that, I am as whole-heartedly a supporter of the general principles of a Land and Agricultural Bank as anyone else in the Colony.

Now, Sir, I have been asked not to be captious. If I wished to be captious I should say that my hon. friend the Attorney General's laboured defence of this provision was so pathetic as to be unworthy of him; but as I do not wish to be captious I will not say that (laughter). What did he say in one part of his speech? He said we must take care not to break the sanctity of contract in any but exceptional cases. Just fancy a law officer of the Government making a statement like that. Is a government entitled to break the sanctity of contract in any case? I suggest, no. His whole argument is based on the fact that if only the best is good enough for the bank in every case, surely only the best is good enough for the bank in this case. Are we to consider

only the bank and not consider the first mortgagee? We all like the best of everything for everybody if we can give it them, but sometimes somebody else wants something, and I suggest that to deprive the mortgagee of the basic security on which he has lent his money is commercially unsound and immoral.

It is admitted by the hon. the Attorney General that it is running counter to and breaking through the sanctity of contract. At least we have that admission, and hon. Members, in supporting the Report of this Committee as it stands, must realize that they are approving the violation of the sanctity of contract. There is no getting away from it; the mover himself has admitted it. I hear an hon. Member behind me murmuring. No, but I suggest to him that he will find it difficult to prove that it is anything but what I have said it is. It has been stated both by the hon. mover and by the hon. Member for the Lake that there is really no harm; there will be really no damage done because the value of the property will be so improved by the erection of fences or the construction of dipping tanks that the first mortgagee's security will, in effect, be the same, even though a prior charge comes ahead of him. Why should not Government take the second mortgage? They are apparently secured because the value of the property has been increased. That interferes with no contracts and exactly the same result is achieved. It has been said by the hon. Member for the Lake that a small vocal minority opposed this provision in South Africa and Rhodesia. I do not suppose he knows in the least how vocal or how numerous that minority was. That is an *ex parte* statement which I am not prepared to accept. I admit they were in a minority because I understand that eventually those provisions were included, but I do not think that anyone will seriously suggest that a Legislature, discussing the provisions of a Bill, can argue that because something has been done somewhere else that therefore it either must be good or bad. We have, Sir, to take the provisions as they affect us and as we see them and as we feel them, and I say without fear of contradiction that the principle is thoroughly unsound. I am not suggesting that this is a trick; that this is the thin end of the wedge. I do not believe that Government will ever propose that all advances made should take priority. I am quite certain that if they did every Member on this side of the House would oppose such a suggestion. I am not, therefore, suggesting that this is the thin end of the wedge at all, but I am suggesting, Sir, that the Legislature must be extraordinarily careful before they signify their assent to a principle which is

commercially unsound and which is admitted by the mover himself to violate the most important of all commercial principles, the sanctity of contract, for it is upon the sanctity of contract that commerce has been built up in this great Empire of ours.

CAPT. THE HON. H. F. WARD: Your Excellency, as an opponent of this measure for some years past I should like to take this opportunity of explaining a change of attitude. The hon. Member who has just spoken admits the vital necessity of this Bill to industry and the Colony at the present moment and I entirely support that statement as being urged upon us by every Member on this side of this House. Feeling, therefore, as I do, Sir, I do not propose to go as far as he has in one direction and I propose to go a little further in another. In other words, I intend to support this Bill, and I do not intend again to reopen any of the arguments or to press the convictions which I hold just as strongly as he does.

Sir, my objections to the Bill when I first sat as a Member of the Select Committee fell under two heads mainly. I do not propose to give the details of those objections because at that time I did send in a minority report in the committee stage and put those views in writing to Government. The main objection was this, that in those days the Colony was exceedingly well served by credit of every form and description. The carefully estimated amount of loan to agriculture in the Colony approximated the sum of £4,500,000, which, taking into consideration the acreage under cultivation and the number of cultivators, was a very generous supply compared with any other part of the world. In addition to that, commercial houses were giving credit which varied from nine months to eighteen months, a state of affairs which I do not think was ruling then in any other part of the world. In addition to that, we were in the middle of a programme of expenditure by both Government and private investors of such magnitude in a small country like this as completely to influence the revenues of the Colony. I should say too, Sir, that in my own humble judgment, our industries were not, in the strict business terms, fully established. I felt, Sir, that to support a Bill in those days which was going to increase settlement on what I must call a false basis, in that the State was going to participate with the cultivator and help him with the funds of the Bank, was unjustified in our then state of development. A second provision of the Bill—the Fencing and Dipping Acts—was only adding to the general welter of expenditure then going on. The estimate of expenditure under that Act—I believe the hon. the Director of Agriculture gave it to me at the time, but I had it from an authoritative source—was in the neighbourhood, when fully completed, of some three

millions sterling, and the first instalment under that Ordinance was estimated at approximately £125,000. Now, Sir, I ask you, how could anybody like myself, who disagreed with that programme of expenditure, who voted against the Colonial Loan, agree to a further extension of the same programme and, if I may say so, on a very much weaker basis? That was my objection in those days, but to-day the position is completely changed. The whole world has had to tighten its belt and get down to the details of working costs. In fact, everywhere you look it is a matter of how you are going to live over the next twelve months. There is not a market in the world that is not in the same state of chaos, more or less. There is hardly an item of raw material that can be sold at a profit, and a very large proportion of the raw materials of the world, as everybody knows, are being sold at a loss. This Bill means life or death to at least one industry in the country, and it probably means the difference between collapse and maintaining industry over the difficult period we shall face next year in most of our industries. Further, private resources have dried up and capital is not available from any other source. I can see no logical attitude to pursue but to give the fullest possible support to anything that will maintain our industries over the critical period that they now have to face.

The second heading in the matter of detail was a matter of great principle but subsidiary to the main argument, and that was the question of the priority charge created under Part IV of the Bill. Well, Sir, as I feel so strongly that we must make every possible sacrifice to allow this Bill to go through, as I said in the opening part of my speech, I prefer not to deal with the details of such a proposal because I feel that if we are to get this Bill through the least said soonest mended. But I do think, Sir, that Government, viewing the provisions of this Bill under Part IV, viewing the tremendously heavy expenditure that must fall on District Councils, on Native Councils, on Government itself in its forests and roads, under the Fencing Ordinance, should have been generous enough at least to give some indication to the House as to their intentions in that respect, because, as I view it to-day, it will be many years before the country can or should afford expenditure under that head.

Sir, I beg to support the Bill.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I support the Report of the Select Committee but I wish to comment on clause 37 which has come under discussion. I submit, Sir, that economic philosophy is not an isolated factor. It is not a static factor. It is a voluntary one and we have got to recognize that it is a social one as well. And because that is so, we have got to view the application of economic

philosophy in this way, in its relationship to morality and the ethical considerations from the point of view of the common wealth, the common weal, of the country. We must lose the debating society atmosphere. Sir, and come down to the practical application of common sense in our daily lives. I suggest, Sir, that other countries have found that the practical application of common sense embodies this particular principle which has been under dispute, the principal of the State's priority as mortgagee over other mortgagees. I think, Sir, that it is unwise to suggest that the embodiment of this provision is an immoral one. I myself do not consider it an immoral one, nor am I likely to agree that other countries which have adopted this policy are guilty of immorality in their legislation. I think, Sir, that we should refrain from making a charge such as that in a House which does occasionally or frequently manifest a certain amount of dignity. (Laughter.) In the application of the particular principle, Sir, I suggest that one should view it from this point of view, that if one sees a drowning man in a pool in which bathing is prohibited one should lose sight of the significance of the fact of bathing being prohibited and pull him out. That seems to be the first consideration which the drowning man is entitled to.

I am happy to see, Sir, in this Bill a provision which Elected Members have continually urged that the native of Africa should participate in the advantages of the Land Bank have now been secured for him.

I support the motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in rising to support the motion I should like to point out that I think the greatest argument in favour of the absolute necessity of this Bill becoming law is the attitude taken up by my hon. friends, the Members for Nairobi South and Nairobi North. Those of us who have been in close touch with them know how very strongly they have felt on certain matters of principle and on the whole question of this Land Bank, and the fact that, in spite of feeling as strongly as they do on these matters of principle, they realize the absolute necessity of some such measure is, to my mind, an irrefutable argument in favour of the passing of this Bill.

I do not wish to criticize the Bill in any details, nor am I going to argue on the ethics of clause 38 (2). The only point I should like to make is that I regret it was found necessary to limit the funds originally to £240,000, with the consequent result of limitations of the amounts advanced, which I should have thought would have been better, instead of being limited to a definite sum, to have been apportioned according to the security offered. Those are the only comments I wish to make, and I support the motion.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I most heartily support the Bill, and in view of the desperate condition of many of the farming community I trust Government will expedite the establishment of the Bank.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, needless to say the Bill before the House has my heartiest support. As a Member of the Select Committee which has been sitting at different dates for two and a half years, the only criticism I have to make is that the Bill was not put on the Statute Book at least two years ago. It is forgotten, I think, by the only two hon. Members who have raised their voices somewhat in opposition, that this Bill is the keystone to the future prosperity of this Colony. It is also the keystone to two Bills which I believe the two hon. Members voted for—that is to say, the Fencing Ordinance and the Cattle Cleansing Ordinance—and I suggest it is rather late in the day, having voted, as I believe they did, for those two previous measures, which implied compulsory fencing and dipping—and that automatically implied that you could not compel a land-owner to fence and dip unless he had the funds to do it with—to raise their voices in opposition, as the only way out, the only logical way out, was for Government to take the responsibility of advancing the money to the limited amount of £200 on each item.

With regard to sanctity of contract, I would point out that it does increase the asset of the mortgagee and one can easily imagine cases in which the whole of the asset will be saved by compulsory fencing and dipping, that is, a saving of the only asset of pastoral land. If it cannot carry cattle, it is no asset whatever, and I suggest that as those compulsory clauses were contained in those two previous Bills, their opposition should have started when those two Bills were before this House.

I do not propose to go into detail. I think there is a great deal to be said for the excellent exposition by the hon. the Attorney General. I welcome the Bill whole-heartedly and I am very pleased to think that to-day it will be on the Statute Book of this Colony. It will then be for the Council, when they think fit, to vote it further funds, as it must be obvious to anybody that the sum of £240,000 will eventually be quite inadequate for the service of the Land Bank of this Colony.

CAPT. THE HON. H. F. WARD: On a point of personal explanation, may I say I was not a Member of this House when the Fencing Ordinance was passed.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I am satisfied as to the vital importance of this Bill to the whole country and also especially to our own—to my own part of the country, though it is a sparsely populated one. I wish to support most whole-heartedly this Bill and I would deprecate very deeply any attempt or suggestion to make in any way whatsoever at the present time any alteration in the Bill. I wish to support it thoroughly.

THE HON. F. A. BEMISTER: Your Excellency, as a representative of an urban area I want to thoroughly dissociate myself from the views of the hon. Members for Nairobi. In fact, Sir, their case is so weak that I really thought it was captious. In fact, Sir, having in my earlier days followed many comic people in music halls, I really expected them to join hands and sing:

Let trade and commerce and agriculture go by,
So long as you leave us Nairobi.

They have nothing in their minds at this stage but the interests of, they allege, their constituents, and by that, when you examine their whole arguments, I presume they mean the mortgagees of farms in this Colony. I have had a lot to do with these Scotsmen—at least Scotsmen in so far as they are descended from the Jordan Highlanders—and I certainly think that there is not one of them in Nairobi at least who would hesitate to support an idea that the Government should assist any of their debtors to improve their property and allow the cost of that charge to rank ahead of their mortgages.

Presently, Sir, we are going to discuss a town-planning Bill and the actual effect of this Bill is reflected in that. There are many occasions in town-planning where landlords are forced by statutory obligations to alter the alignment of their property. It becomes practically, therefore, a first charge, and anything that the Government imposes by law must necessarily be a first charge. If a property was so managed that the very grass could not be eaten by the sheep, the rates have still got to be paid and the Government could seize the whole of that property and the property on it for any of their rates. Here we have a case where the law imposes a definite obligation, which was passed by this House and applauded by the whole of the country, and yet it is suggested that any assistance given by the public to any individual must not be secured as a first charge over any mortgage that exists. I am confident that had this Bill been in force one or two years ago a great deal of the difficulty of to-day would have been washed out. I can quite understand how the Members for Nairobi years ago opposed this type of legislation, yet the

situation to-day has forced them to alter their opinion. It seems to me to be like the suggestion, "Don't put any life-boats on a ship until she has sunk." I hope every possible support will be given to this Bill and I heartily commend it to the support of the House.

CAPT. THE HON. A. C. HOBY: Your Excellency, in rising to support the motion I would just like to say that I, as one of the Elected Members, do regret very much some of the most undesirable points of speech I have ever listened to in the previous speaker. Sir, we have had a lot of difficulty in committee over this Bill and the two hon. Members for Nairobi, Sir, have made certain objections and having definite principles on which they stood they have been absolutely consistent. But they have been good enough to recognize the other point of view which has been put forward, namely, the absolute and extreme urgency of getting this Bill into operation to save a very heavy percentage of people on the land. Sir, as one of those people on the land, I do think our thanks are due to them for the very helpful attitude they have adopted throughout on this Bill. Sir, I support the motion.

THE HON. F. J. COULDREY: Your Excellency, I also should like to support the motion and associate myself entirely with the words uttered by the hon. Member on my right (the hon. the Acting Member for Plateau South). I support the Bill.

THE HON. A. H. MALIK: Your Excellency, I am convinced that the necessity for the establishment of a Land Bank is long overdue. Agriculturalists as a race, Sir, all over the world are sometimes very unfortunate people as they have to depend on the vagaries of nature. The state of affairs that exists to-day in the country with the farmers is really one that needs every assistance that can be given to them, Sir. There have been one of two schemes before to assist the farmers of the country in the form of agricultural advances and certain subsidies, which had my heartiest support, and now, Sir, in view of the same circumstances under which those measures of assistance were given, I have no other alternative but to support this measure, Sir.

I would, however, state, Sir, that I do not like the clause that gives a priority charge over all other charges that might have been in existence before, but in view of the urgency of the matter and the good that is going to accrue to the Colony I feel, Sir, that no real hardship will be experienced by the mortgagees.

There is one point, Sir, that I should like to deal with, with your permission, and I trust the Attorney General will make it clear in his reply. That is, Sir, whether the Indian farmers are also eligible under this measure or not. I should have thought, Sir, from the wording of the clause that every farmer would be eligible, but a clause has been inserted by the Select Committee making special provision for advances to natives. That just put into my mind, Sir, that perhaps it is only intended for a particular class of farmers. I do trust it is for everybody who is in this trade. I support the motion, Sir.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there are two points which have been specifically raised on which I would welcome an opportunity of making a few remarks. The first was that made by the hon. Member for the Lake, who asked for an assurance that the provisions of onerous mortgages would firstly be correctly and temperately construed and interpreted by the Bank, and secondly that there would be no improper interference in the relations between mortgagor and mortgagee. I can give the hon. Member an assurance on both those points. The meaning of "onerous" in connexion with a mortgage is not only well understood but there are most valuable textbooks prepared in connexion with the operations of a similar bank in South Africa which deal exhaustively and extremely lucidly with the matter.

On the second point, Sir, I desire to be particularly emphatic. There is no intention, there is no power, there is no desire whatever, to interfere with the relations between mortgagor and mortgagee, but if a mortgagor is legally in a position to discharge his obligation to his mortgagee, and if, though not legally in that position, the mortgagee is prepared to permit him to do so, it will be competent for the bank to step in. But there will be no interference in the relations between mortgagor and mortgagee except in those circumstances.

The other point, Sir, is that made by the hon. Indian Member. Indian farmers are eligible for assistance from the Bank exactly in the same way as any other farmer is so eligible. The reason, Sir, for the specific reference to native farmers is quite different. Specific reference to them has to be made, Sir, because the native system, the native conception of land tenure, is essentially different from the form of tenure under which farmers of other races hold land in the Colony. The European farmer, the Indian farmer, holds his land under a title deed which is negotiable if he desires to raise money thereon. The same cannot be said of a native farmer, and therefore it was necessary to make specific reference to natives and to incorporate in the Bill specific provisions

enabling the natives to obtain advances although they have not got anything in the nature of title in the current European conception on which he could normally obtain an advance either from the Government or from any other source.

In conclusion, before I resume my seat, Sir, I would like to endorse as emphatically as I can what the hon. Member for Plateau South has said. That there would be opposition to some of the provisions of the Bill was inevitable, but I would like to say, Sir, that I personally, and I am sure every Member of this House with me, have every appreciation of and sympathy for the motives that prompted the opposition of the three Members who have spoken against that one provision (hear, hear), and that for the attitude which they have adopted towards this vital measure none of us can fail to have every admiration.

HIS EXCELLENCY: The question is:

"That the Report of the Select Committee on the Land Bank Bill be approved."

The question was put and carried.

BILLS.

THIRD READING.

THE LAND BANK BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to establish and to regulate the management and control of a Land and Agricultural Bank for the Colony and Protectorate of Kenya be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

SECOND READINGS.

THE NORTHERN FRONTIER POLL TAX BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to make provision for the payment of a poll tax in the Northern Frontier Province be read a second time.

Of the necessity for this measure at this moment, Sir, there can be, I think no two views, inasmuch as I understand that provision has been made in the Budget for the coming year on the revenue side for the sum of £8,000, the proceeds

of the tax imposed by this Bill, and correspondingly on the expenditure side for the total figure representing the cost of the collection of that tax. So, Sir, I think there is some justification for the view that, inasmuch as the principle of the measure must for these reasons already have been accepted, anything in the nature of a speech on second reading is superfluous. There are, however, one or two points which, without unduly taxing the patience of hon. Members, I think I can properly say a word on.

The position in the Northern Frontier Province is one which is well understood and appreciated by every Member of this Council. The majority of the inhabitants of that frontier province are not natives for the purpose of the Native Hut and Poll Tax Ordinance. They cannot be called upon to pay that tax but they are, speaking from the strictly legal point of view, liable to pay the non-native tax imposed by Chapter 53 of the Laws. But when it comes to practical considerations, Sir, it is quite impossible ever to hope to levy and collect that tax from nomadic peoples such as those who inhabit the Northern Frontier Province. The reason for that, Sir, is this, that whereas the Native Hut and Poll Tax Ordinance contains provisions for penalties in default of payment, penalties by way of costs, of fines and of imprisonment, the Non-Native Poll Tax Ordinance contains no such provisions, but merely provides that if the tax is not paid within the prescribed period the non-native shall be liable to double tax. A liability such as that, Sir, the nomadic peoples of the Northern Frontier Province cannot unnaturally afford to smile at and disregard. If tax is to be collected in the Northern Frontier Province it must be collected along lines similar to and analogous to those which obtain in the case of the Native Hut and Poll Tax, and so, Sir, this Bill provides not for a Hut and Poll Tax—the average hut in the Northern Frontier Province is a negligible quantity—but for a poll tax in a sum not exceeding twenty shillings, which is to be paid by each adult male person over the age of sixteen years belonging to any proclaimed tribe or in any proclaimed area. In detail, payment provisions exactly parallel to those which obtain in the case of the Native Hut and Poll Tax are introduced, and the Bill further provides that Your Excellency may make a composition, an agreement, with the authorities of a proclaimed tribe for the payment of a lump sum in respect of all the adult taxable males of that tribe, a sum which, I may mention in passing, Sir, must not exceed the aggregate of the individual taxes which those adult males would have been liable for. In default of such an agreement, and if that agreement is not loyally and punctually kept by the authorities of the tribe, then there falls upon them the liability for a sum double the amount of the tax, with provision for recovery of that double

sum by means of distress. If negotiations with a proclaimed tribe break down or if negotiation is quite impossible, then, Sir, there is the further power vested in the Governor to order the payment of a lump sum which is fixed by the Governor, subject again to the same maximum to which I have just drawn attention, and that sum also, if not paid, may be recovered by distress in the same manner as the agreed sum is recoverable. There is the power of remission in the case of the aged and infirm, similar to that which exists at present under the Native Hut and Poll Tax Ordinance, and there is a further power of remission in the case of wounded or infirm officers, non-commissioned officers and privates of the King's African Rifles, native carriers, combatant and non-combatant natives, and a further proviso that if any tribesman, if any member of a proclaimed tribe, has elected, as he is under the law as it now stands entitled to elect, to pay non-native tax, and if he has paid that tax in respect of any year, then he is exempt in respect of that period from payment of the tax imposed under this Bill.

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

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

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

THE HON. CONWAY HARVEY : Your Excellency, Elected Members have decided to support this Bill in principle, as we all feel that it is high time that the residents in these areas made some contribution towards the revenues of the Colony which have been very extensively drawn upon for a very large period of years in the interests of these people, many of whom can easily afford to pay. I trust, though, Sir, that Government will agree to having the detailed provisions of this measure carefully examined by a Select Committee as there are a few minor points which we consider require very close examination.

In the first place, Sir, we are all quite definitely of opinion that far too much power rests in the hands of the Governor. We feel that he is being endowed with powers which should far more properly rest in the hands of the Legislature. We would also invite the attention of the Government to the desirability of introducing a time limit, an experimental period for the application of this Ordinance. There is a precedent for that, as Your Excellency is aware, in the case of the legislation dealing with Native Tribunals which passed through this House a few weeks ago. While, Sir, we recognize that it is highly desirable to invoke the co-operation of the chiefs in imposing this taxation for the

first time—and we understand that similar attempts in years gone by have proved a ghastly failure, possibly due to the fact that the assistance of the chiefs was not invoked—we feel that Government should be very very careful indeed and provide every possible safeguard against the authorities and powers of the chiefs being abused if they are entrusted with the collection of this revenue. I suggest, Sir, that it is quite an innovation in Kenya for the taxation, for the collection of Government revenues, to be farmed out in this way, and I do consider for that reason that a definite time limit should be set out to the activities which will follow the introduction of this measure.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, I wish to support the statement made by my hon. friend who has stolen my thunder. It has been suggested, Sir, that this legislation should be applied because these people are nomadic and that circumstance will be persisted in. But Sir, that I think is a suggestion which should be reviewed. I maintain, Sir, that when the water supplies of this area have been developed and when Government has prepared for the immigration of alien races, who will pay with capital for their grazing and water supplies, and when Government adequately protects these nomadic inhabitants from raids from Abyssinian and Sudanese territory, then their nomadic propensities will be limited and they will become far less nomadic. The danger of this legislation, Sir, is that it empowers the Governor, without reference to this Council, to impose certain rates by agreement. What is the definition of an "agreement"? One sees in clause 9 the mention of the word "agreement," but one sees in clause 11 that no appeal from the Governor's decision as to what is meant will be tolerated or can be submitted even to the courts. Well, Sir, that is not an agreement. An agreement which is made by force is no agreement; it is dictation, and I think this House should be very chary of ceding its powers for revenue collection and the types of taxation and the mode of imposition on the natives of this country to the Governor; and although it limits the amount which the Governor in his wisdom may dictate as being equitable from the native, it does not say by how much that amount may be reduced. If, in the opinion of the Governor, only one shilling could be collected from the tribe, that, Sir, since it deals with revenue, might be disputed and properly disputed by this House. That is one reason for its demanding consideration in committee.

I think, Sir, that this Bill should remain in operation for a period of three years after it has passed and no longer. I think, after three years have passed, it should be revised, and although one agrees with the necessity for introducing some such measure of this kind for the collection of revenue in this

area I think one is entitled to voice the doubts that exist in one's own mind in the application of this measure. I support the Bill with those limitations, Sir.

THE HON. A. H. MALKI: Your Excellency, there is one point in this Bill, Sir, which I am not particularly clear about. Clause 10, sub-section (2), says, Sir, that if the tax is not paid within the prescribed time it becomes automatically doubled and is recoverable by distress on each and every member of the tribe. This surely, Sir, does not seem to be very just because there may be some tribes who have members who probably do pay their share of the tax. There does not seem to be any provision that if the amount that is fixed by the Governor is not paid in full but only a certain portion of it is paid that the proceedings shall be confined to the balance. It does not seem to be very clear, Sir. Supposing £100 is levied on the tribe. The representatives of the tribe pay a tax of £50. There is a balance of £50, and there is no provision here whereby the collector is entitled to accept this part payment and leave the other £50 to be recovered. And if it is to be recovered whose property is to be distressed, Sir? That is the point I am not very clear about.

HIS EXCELLENCY: If no other hon. Member wishes to address the House, the House will adjourn for the usual interval before I call upon the Attorney General to reply.

(Council adjourned for the usual interval.)

On resuming:

THE HON. THE ATTORNEY GENERAL: Your Excellency, I should like first to take this opportunity of dealing with the point made by the hon. the Indian Member, a point on which I think I can disabuse his mind very briefly now. As I understood his speech, he seemed to be under the impression that there was no provision for taking part payment under agreement though part of the total due was still outstanding. I do not wish to accuse the hon. Member of not having given due study to the provisions of the Bill, but I think, if the hon. Member will look at the last portion of clause 10 (1) he will find that distress can be levied only in respect of the amount of any tax due and that the provision for double liability falls only in respect of the amount of which default has been made; so that, if part payment is made within the period prescribed for payment and default of the balance is made, then distress can only be made in respect of double the amount of the short-fall in payment of the original amount payable.

The suggestion has been made, Sir, that this Bill be referred to a Select Committee. I hope I shall be permitted, Sir, to express the opinion that it is surprising that at this stage there should be such complete *rotte face* towards the provisions of this legislation, which after all is primarily merely implementing the means of raising additional revenue which I understood had been readily and some time before this agreed to by all Elected Members. It is a surprise that at this late stage, after Government has been at pains to bring down the Provincial Commissioner of the Northern Frontier Province in order that he might address the Elected Members on the methods of raising this tax and on the necessity for this tax—that at this late stage the suggestion should be made that this is not really an urgent measure—because, without this legislation it will take years to raise the revenue which has been agreed to and accepted—that at this late stage we should be asked to appoint a Select Committee. I have Your Excellency's authority, however, for saying that Government is prepared to commit this Bill to a Select Committee consisting of myself—

The Hon. the Acting Colonial Secretary (Chairman).

The Hon. the Chief Native Commissioner.

The Hon. the Provincial Commissioner, Kikuyu.

The Hon. the Elected Member for West Kenya.

The Hon. the Elected Member for Nairobi South.

The Hon. the Elected Member for Plateau South.

I should like to add, however, Sir, that it is extremely essential that this measure should pass at an early date. As the tax is to be imposed from the beginning of January, 1931, it is essential that the fact that this legislation has been passed should reach the tribes concerned before that date, and Government express the confident hope that the Members of that Select Committee will make a point of meeting at an early date and dealing with the Bill as a matter of urgency.

I beg, Sir, to move that the Bill to make provision for the payment of a poll tax in the Northern Frontier Province be read a second time.

THE HON. CONWAY HARVEY: On a point of explanation, Your Excellency, I know of no other stage than the second reading of a Bill when a Select Committee may be asked for. We are very anxious to see this measure made law but we want it made law in a form in which it will be effective and accomplish the purpose for which it is designed.

THE HON. A. H. MALIK: On a point of order, the point I raised was . . .

HIS EXCELLENCY: It is a point of explanation, is it?

THE HON. A. H. MALIK: A point of explanation, Sir. My point was that if half the tribe had paid their tax when distress had to be levied, would it be levied on these people also—was there any means of exempting them?

HIS EXCELLENCY: The question is that a Bill to make provision for the payment of a poll tax in the Northern Frontier Province be read a second time.

The question was put and carried.

THE TOWN PLANNING AND DEVELOPMENT BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, the Town Planning Law is contained at present in three Ordinances—Chapter 85 of the Revised Edition of the Laws and two amending Ordinances passed in 1926 and 1927. The Bill now submitted to Council is submitted in substitution for all those Ordinances. There is a threefold need for, amending our town planning legislation here. In the first place, the establishment two years ago of a definite system of local government makes it desirable to overhaul the structural machinery provided in the principal Ordinance, namely, Chapter 85, that Ordinance having been passed before any local municipal authorities were created. In the same place, in dealing with small urban areas it is thought desirable to provide some means which will provide a definite sanction to a plan of development for those areas and yet which will avoid the intricacies connected with the preparation and approval and carrying out of a statutory scheme prepared in accordance with the provisions of this Bill. Lastly, there are certain points of detail, and important detail, which we want to revise, and some provisions which are new and which we want to introduce. I propose, Sir, to deal briefly with the Bill on those lines.

The occasion for introducing some Town Planning Law in Kenya arose with the need for replanning Mombasa. When that Ordinance was framed the English Town Planning Act of 1909 was taken as the model, but in the absence of any fully constituted municipal authorities which would be in a position to carry out the scheme, modifications were required, not only in that way but in other ways, to suit local conditions. The authors of the Bill, contemplating that responsible authorities under the Ordinance would have to be constituted largely of Government officers and that those authorities would, in the absence of any municipal status, be in effect but advisory bodies to the local government officer, no doubt were therefore not so sparing in the powers which they conferred upon

responsible authorities as they might otherwise have been. That position is now changed. In the four principal towns of Kenya we have properly constituted municipal authorities, and at the Head Office of Government we have an organization especially appointed to deal with local government affairs. It has been thought desirable, therefore, to amend the position of local authorities in this respect and to give them the definite right of preparing schemes. That right, Members will find, is conferred in clause 5 of the Bill, and as a corollary thereto Government retains the power, in clause 22, to ensure that local authorities adequately perform their duties. The matters which a local authority may take into consideration in dealing with their schemes are shown in clause 4 and in the first schedule. The first schedule is a lengthy schedule; it contains the number of fields of activity from which selection can be made according to the special needs of each particular case. On the other hand, the Government will retain the right to specify to local authorities what matters should be dealt with, both in preparing their schemes and, if occasion arises, what matters may not be dealt with by them. A local authority under this Ordinance, Sir, finishes its work when it has obtained Government's approval to its scheme. One of the essential features of any scheme is the nomination in the scheme of the authority which shall carry it through; that authority throughout the Ordinance is referred to as the "responsible authority." It may be assumed, I think, that at least in the four municipal areas which have been established, the responsible authority named in any scheme prepared will undoubtedly be the same authority as properly constituted under our local government system. It will often be that the local authority and the responsible authority will, in fact, be the same body of persons.

The powers proposed for a responsible authority are divided into two sections. In the body of the Ordinance, in clauses 12 to 19, certain powers are proposed for them, and other powers will be found in clauses 12 to 19 of the first schedule. An exercise of the powers in the first schedule depends upon the fact whether or not in preparing the scheme the local authority has received sanction to deal with such matters. And again, the same power as for a local authority is retained by Government in the 22nd clause to ensure that a responsible authority properly observes its duties.

In regard to the second point, Sir, that is covered in the Bill in one clause, No. 23. If hon. Members will turn to that clause and also to clause 2, they will find that in clause 2 a local authority may be, in the case of a township which is not constituted as a municipality, any body of persons appointed by the Governor, and it is to be assumed that in the larger

townships such as Kisumu and Kitale, a body of persons will be constituted in that way, and any town planning schemes which are produced by them will rank as fully statutory schemes under the Ordinance, but it is in regard to the smaller areas that this clause is especially prepared. In the great majority of townships I would propose to proceed under the powers granted in that clause if it is finally approved.

Mistakes in lay-out are always costly. They can never be entirely avoided, but they will not be avoided at all unless an effort is made at the commencement of an urban area's growth, no matter how small the urban area is at the commencement, to provide, so far as one can, at the time for the growth which may occur in that area.

Then, Sir, as regards the changes in the technical parts of the Bill, it is proposed by Government that this Bill should be remitted to a Select Committee, and I therefore do not propose, at this stage, to go very fully into that part of the Bill. There are one or two points to which I think I might direct special attention. Members will be familiar with the pooling clauses possibly in the existing law, and if they look for those provisions in this Bill they will find they have been completely omitted. The pooling provisions in the principal Ordinance were based on a calculation designed to apply in Germany to meet a particular case. Their inclusion as part of the Ordinance of 1919 made it obligatory on the part of any local authority which wished to make use of them to observe those calculations to a nicety; that is to say, if any authority wished to make pooling arrangements and found it was impossible to make the pooling arrangements in the precise way described in the Ordinance, it was debarred from making those pooling arrangements at all. It is now proposed that the specific provisions of the Ordinance in regard to pooling arrangements should be omitted, and there is no reason, I think, to doubt that in the future, if an authority wishes to have recourse to compulsory pooling, that arrangements can satisfactorily be made between the owners and the authority.

Some important amendments were made, Sir, in 1926 and 1927 in regard to compensation. I should like to explain that from the drafting point of view it was thought desirable to repeal the whole of the provisions of the three Ordinances and submit one composite Bill, but the provisions of the amending Ordinances of 1926 and 1927 are preserved in the provisions of this Bill with the exception of minor amendments in regard to pooling.

In clauses 8, 9 and 10 an effort has been made to clarify the position in regard to the payment of compensation. A distinction is drawn which is new between compensation due for damage done by the making of a scheme and compensation

for damage done in the execution of the scheme. That is a new provision which, I am sure, will be fully discussed and debated in the Select Committee. Another provision which is new is in regard to claims for betterment. The present law in regard to betterment is if a responsible authority in the making and carrying out of its scheme enhances the value of privately owned land it may only claim one half of that enhanced value, whereas if it is proved that by the operation of the scheme private property has been reduced in value the private landowner has the right to claim the full decrease in value. We now propose to make the situation even for both sides: that where there is injurious effect there is repayable the complete amount of that injurious effect, and similarly an increase in betterment can be claimed by the responsible authority equally to the full amount.

There is one amendment that I wish to introduce in Select Committee, Sir, and that is in respect of clause 15, where I propose an amendment which will have the effect of making that clause subject to the Local Government (Rating) Ordinance of 1928.

Since the Bill was published there have been one or two criticisms received on points of detail in the Bill which will also be remitted to Select Committee.

I should like to say, Sir, that the Bill has been prepared by the Town Planning Engineer attached to the staff of the Commissioner for Local Government, Lands and Settlement, and that he will be in attendance during the sittings of the Select Committee to advise Members on any points on which they may require further information. I beg to move that the Bill be read a second time.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

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

THE HON. F. A. BEMISTER: Your Excellency, I much appreciate the attempt Government is making to clarify the position in regard to town planning but I am awfully sorry to hear that the idea of compulsory pooling is not to be incorporated in the Bill. In a town such as Mombasa, where plots have grown up in most terrible kinds of shapes and forms, it is practically impossible to arrange for a decent lay-out in any given area unless compulsory pooling or the compulsory taking over of the purchase of land is enforced. One very serious position has happened there, but where pooling did take place in Kilindini Road a most satisfactory lay-out was

afterwards engineered. It is only a small point, Sir, and it may not affect other places so much as it does an old town like Mombasa.

With regard to the suggestion about the levelling up of the injury and the improvement, I would suggest, Sir, that the other system is more just, because injury can be definite and is definite, but improvement is very often problematical. It is very difficult to say how much a property has increased in value by reason of entry or new roads and that sort of thing but it is definite when you are losing actual roads and where roads are cut through for the layout of a definite area. I would be glad if this suggestion could be given further consideration.

CAPT. THE HON. H. F. WARD: Your Excellency, I expect on the points I have to raise I shall be told by the hon. mover that these points are already incorporated in the existing legislation. At the same time, a new Act, incorporating previous Acts, gives one the opportunity of raising various points.

Sir, I am glad to hear that this Act is to be referred to a Select Committee because at first glance there seemed to be quite a number of points that required talking about and required quite grave consideration. I will briefly sketch one or two.

Section 22: is that the ordinary power conferred on the Governor of a country in respect of old-established municipalities? At first glance it seems quite beyond the bounds of anything which is necessary as the old-established corporation can be relied upon to do these acts of its own volition and without pressure.

I was not quite clear as to the amendment which the mover intended to introduce in section 15. Did he refer to 15 (2), which, at the moment, makes him judge, jury, defendant and everything else?

The other point, Sir, which I have in 13, at the top of page 7, where, if land is required under the Indian Land Acquisition Act, no additional allowances for compulsory purchase as provided in the said Act shall be payable. I think that wants a great deal of justification before it can be adopted.

My final point, Sir, I think—my hon. friend who has just spoken has touched on it—is section 8 (2). That again requires very grave consideration because it might be possible under this section to improve a man out of all recognition and to bankrupt him at the same time.

HIS EXCELLENCY: If no other hon. Member wishes to address the House I will call upon the Commissioner for Local Government, Lands and Settlement to reply.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I think perhaps I may have given a wrong impression in regard to what I said with regard to pooling. What I meant to convey was that the detailed provisions which exist under the present law will disappear but not that there is no power left to make arrangements of this sort. That is provided for, but we do not lay down any definite ratio by which they shall act.

The points raised by both speakers in regard to betterment are matters for argument and I am fully prepared to have them argued out in Select Committees. I would like, however, to call attention to this fact, that there are provided in the Bill definite time limits in which claims can be made by the authorities concerned. In the case of a local authority, if it is proposed to take any action in regard to compensation or betterment through the making of a scheme, it has to prescribe for a time limit within which compensation may be claimed. Similarly, in the body of the Ordinance, in clause 8 (2), it will be found that the responsible authority must make its claim within a definite period from the exercise by it of its powers.

The effect of my proposed amendment to clause 15, it may please the hon. Member for Nairobi North to know, will be to elide sub-clause 2 altogether. The section will then become subject to the Local Government (Rating) Ordinance in so far as that Ordinance deals with the raising of special rates.

His point in regard to clause 13, that where land is compulsorily acquired for town planning purposes the additional amount of 15 per cent obtaining under the Land Acquisition Act does not apply, is an old-established principle. It is a principle which is already embodied in the Ordinance of 1919 and I see no reason at the moment why we should go back on a piece of legislation enacted so long ago in that particular respect.

I propose, Sir, that the Select Committee to deal with this Bill should be composed of:—

The Hon. the Attorney General.

The Hon. the Director of Medical and Sanitary Services.

The Hon. the Solicitor General.

The Hon. the Provincial Commissioner, Nzoia.

The Hon. the Elected Member for Mombasa.

The Hon. the Elected Member for Nairobi North.

The Hon. the Elected Member for Plateau South.

The Hon. the Elected Member for Rift Valley.

With myself as chairman.

HIS EXCELLENCY: The question is that a Bill to consolidate and amend the law relating to Town Planning be read a second time.

The question was put and carried.

THE TOWNSHIPS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the law relating to townships and to provide for matters incidental thereto be read a second time.

I doubt if there is any part of the Empire, Sir, where the word "township" has quite such an elastic meaning as it has in Kenya. Places like Gazi and Kijabe are equally townships with large almost municipal places, such as Kisumu and Kitale, and inasmuch as that is the position in the Colony, it will need few words of mine, Sir, to bring home to hon. Members the necessity for the introduction, in place of the present provisions of Chapter 82, of more up-to-date provisions relating to the administration, the powers and the financial duties of those who are placed in authority in townships throughout the Colony, be they large or be they small.

The present Bill, Sir, in principle, introduces no new provisions at all. It does, however, considerably clarify existing provisions and though there may be many matters of detail arising in the course of this fairly lengthy measure which will be the subject of criticism, I propose at the moment to devote my attention solely to the main principles embodied in the Bill, for the reasons that in this case also, Sir, it is Government's intention to commit the Bill to a Select Committee, when full opportunity will be given for the consideration of the detailed provisions thereof.

Very shortly, Sir, the principles embodied are these. Provision is made for the establishment of townships and in that Part—Part I of the Bill—it is declared that those townships already existing—which are set out in the first and second schedules to the Bill—shall be deemed to be townships under the new legislation. That is an easy and simple method of applying all the provisions of this new legislation to existing townships. It is also competent for a township as it grows and reaches adult status to be transferred from a second-class township to a first-class township, and equally if, through the movement of population or the movement of industry and commerce, a first-class township declines, then it is competent to declare that township for the future to be a second-class township.

Boundaries of townships may be altered, may be enlarged or decreased or varied in any way. Townships of the first class are to be administered, Sir, by the District Commissioner

with the advice of a township committee appointed under the provisions of clause 6 of the Bill. That township committee must include persons resident within the township and—unless the township is situated within a Native Reserve, in which case there can of course be no District Council in the neighbourhood—it must also include representation from the District Council which has jurisdiction over the area surrounding or abutting on the township. Townships of Class B will be administered by the District Commissioner as the township authority.

The second part of the Bill, Sir, is relatively unimportant. It deals with the powers of township administration in regard to licences and prescribes that licences may be refused on certain specified grounds, either that the applicant for a licence is of known bad character, that the premises are unsuitable, or that the applicant, having previously had a licence, has abused his licence and has been convicted of contravention of township regulations in his capacity as licence-holder; or fourthly, that the granting of a licence will be contrary to public policy. Further grounds are introduced in the case of certain specific licences—licences for theatres, music-halls, dance halls, restaurants and eating houses.

The important part of the Bill, Sir, is I think Part III, which deals with the financial position of a township. It is provided that all townships may have township accounts, financial accounts. At the present time only the most highly developed townships can have an account or can have Estimates of any sort. Smaller townships may, as a matter of convenience and satisfaction, impose charges for services rendered but it is not possible for them to keep any accounts showing the profit and loss as a township—they form part of the general accounts of the Colony. It will now be competent for any township to show separately the revenue derived from the activities of an area as a township as apart from an integral part of the Colony. On the revenue side, Sir, will go all rates and charges which the township is empowered and may choose to impose, all fees and licence fees, one half of all fines imposed by courts of justice in respect of breaches of township rules, any sums directly reimbursed to the township in respect of services rendered by the township to the Government of the Colony, and any sums which may be voted by this Council from general revenue for the betterment of the township; and on the other side, Sir, will fall to be charged to the township account, in addition to the ordinary expenditure on personnel and on the rendering of services for which charges are paid, interest and redemption charges in respect of any loan funds which may be devoted to the township, and provision in respect of depreciation or replacement of Colony assets used by the township. It

will be the duty of the District Commissioner to prepare Estimates in each year, and these will be dealt with, Sir, both the main Estimates and Supplementary Estimates, exactly in the same way as the main Estimates and Supplementary Estimates of municipalities are at present dealt with under the Municipalities Ordinance of 1928.

Part IV calls, I think, for no comment, Sir. It is quite impossible to legislate along lines such as these without having to impose provisions relating to legal procedure, and penalties for the wilful and deliberate default in carrying out and complying with any of the provisions of the legislation.

Part V may at first sight seem to be extremely lengthy and unwieldy in a Bill such as this, but experience has shown that it is extremely difficult to foresee all the multifarious purposes for which the township may sooner or later desire to pass rules, and it is extremely difficult in general terms to phrase the rule-making section sufficiently widely to comply with the ordinary requirements of justice with regard to township rules or by-laws and at the same time to cover all the various points which may from time to time crop up. Therefore it has been thought best to embody here under the rule-making power practically the whole of the powers for which, under municipal legislation, municipalities may at the present moment make rules. It is obvious, Sir, that most of these powers will be quite unnecessary for many years to come in the case of the smaller township; it is equally obvious that in the case of the larger townships such as Kisumu and Kitale, where the dividing line between them and a municipality is more one of theory than of substance, rule-making powers will probably require to be just as wide as they are in the case of municipalities.

As I have stated already, it is the intention of Government to refer this Bill to a Select Committee, and I therefore do not apprehend that at this moment it is necessary for me to embark on any more detailed consideration of principles, and I shall content myself with moving the second reading of the Bill.

THE HON. THE ACTING 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.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, there are a few points on which I wish to comment—they are four. The first one is in the definition of "premises." It

is not a matter of detail, it is a matter of principle. The principle involved is that this definition includes streams, lakes, dams, pools and other water interests which I maintain should be regarded as State property and should come under ordinary water legislation and should not be definitely in the control of townships.

The second, Sir, deals with Part III, and that is there appears to be—I am not quite certain whether there is—an intention to dispose of State revenue without the consent of this Legislative Council. I do not know whether that is so or not, but from reading it it appears to be so. It is clause 16 (3).

The next is Part III also, section 20 (2). It is quite a small thing, Sir, but we on this side of the House are committed to oppose any new taxation, and although the new taxation involves the sum of only two shillings, I think it should be recorded that we oppose it.

The next one is in Part V, section 34. Again I am not quite sure as to the meaning of that. It states that the Governor may, by rule, impose a fine or imprisonment. Whether that means the Governor may draw up a schedule of fines or imprisonments or may actually personally impose such fine or imprisonment I do not know, but I think it should be clarified. If it means the Governor may actually in his person impose a fine or imprisonment, I mean to resist it with all the strength in my power.

THE HON. THE ATTORNEY GENERAL: The answer to the hon. Member for Kenya's last point is that it does not. The provisions of section 34 are merely a necessary compliance with the provisions of the Interpretation and General Clauses Ordinance regarding the power of any authority to make subsidiary legislation.

The other points which the hon. Member mentioned, Sir, were, if I may say so with all deference, it seems to me entirely matters of detail, but I should like to say, with regard to the definition of "premises," that there is no intention whatsoever to take the consideration of any water matter, the control of any source of water, away from the authority appointed under the Water Ordinance. At the same time, Sir, it is, I think the hon. Member will agree, rather necessary to see that a ditch or a drain should be "premises" otherwise a notice served to abate the nuisance on certain premises would be extremely difficult to enforce in respect of an open sore such as a stagnant drain. The powers in regards to premises are merely those of making rules for ordinary sanitation and to levy ordinary charges on the property of the occupier as a home, if I may use a non-contentious word.

The other points which the hon. Member has taken, Sir—rather, in so far as section 16 (3) is concerned, I would give the hon. Member an undertaking that that point will be carefully considered in Select Committee. There is no intention, I can assure the hon. Member, of infringing in any way the rights of this Council in the direction of voting public monies for the purpose of a township or for any other purpose.

The new tax which the hon. Member foresees in clause 20 of the Bill is not a new tax. Exactly similar provisions exist, and have existed for a considerable time, in the case of municipalities. In this case we are definitely limiting the incidence of this charge to townships in which a rate or charge has in fact been levied. It may be news to the hon. Member that the fee of two shillings is chargeable in the case of municipalities even though a rate or charge is not levied.

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

The question was put and carried.

THE SHIPPING BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to make provision with respect to Merchant Shipping and matters relating thereto be read a second time.

This is a portentous document, Sir, consisting of six parts and 106 clauses, with a schedule, but I should like to give hon. Members an assurance that I have no doubt they will welcome that I do not propose to embark on a detailed consideration of each of them. It is, I think, a strange thing that a Colony such as this, with quite an extensive seaboard, should have got on as well as it has for as long as it has without any legislation relating to shipping. There are certain parts of the Imperial Merchant Shipping Act which are applicable and have been applied to the Colony but at the present moment if a shipping casualty were to occur or if a wreck occurred on the coast or in the territorial waters of the Colony I should be extremely reluctant to advise Government as to the proper procedure to be followed. There is, in fact, no statutory provision for dealing with either of those extremely important matters. That gap this Bill will fill, Sir. The Bill is modelled almost entirely on the Imperial Merchant Shipping Act. If hon. Members will turn to the comparative table I daresay they will think it is rather a patchwork inasmuch as the source given for much of the matter, for many of the provisions of the Bill, as shown in the comparative table, is not the Imperial Merchant Shipping Act. But, Sir, where we purport to have taken provisions from the Merchant Shipping legislation of any of the oldest established West Indian

Colombia, we have gone to Trinidad, to Grenada and to Saint Lucia for various provisions—I can assure hon. Members that those provisions do not in any way essentially vary the corresponding provisions of the Merchant Shipping Act. They are merely more conveniently worded for the purposes of Colonial administration, and instead of translating the Merchant Shipping Act into terms of Colonial interpretation ourselves we have profited by the work which has been done and which has stood the test of time a considerable time in each of those old-established Colonies. The basis of the whole of this legislation is the Imperial Merchant Shipping legislation. In one respect we have gone further than the Imperial Merchant Shipping Acts have gone. We have got in front of the Imperial Parliament and it—his Bill in its present form is passed we shall be witnesses of the novel spectacle of having the Imperial legislature next year following the example of Kenya (laughter), with regard to clause 19, Sir, where we have recognized and the Imperial Parliament has not recognized the existence of oil fuel for shipping.

The Bill, Sir, falls—ignoring the last penal part of the Bill—to be considered under five separate heads. The first part, including the first nineteen clauses of the Bill, deals with the methods of detention of unsafe ships. At the present moment we have practically no such powers at all. We certainly have no such powers in respect of ships flying any flag except the British flag. At the present moment a foreign vessel is entitled to come into a port in the Colony for any purpose although its load line is completely under water, although it manifestly has not got what we, who are accustomed to Board of Trade standards, recognize as adequate provision either of lifesaving apparatus or lifeboats, or of water or of food. That, at all events, is remedied by this legislation, and because although the provisions of the part apply primarily only to British vessels, clause 19 of the Bill does make them applicable to foreign vessels which come in for any ordinary purpose unless they come in in distress. If they come in to disembark or embark passengers, if they come in to take mails, if they come in to take in water, stores, bunker coal, oil fuel or any other form of fuel, then they are subject to the provisions with regard to unsafe ships just as much as a British vessel is. I would point out to hon. Members that not only are the provisions with regard to unsafe ships in themselves salutary but provision is made for any member of the crew of any vessel appealing to the authority established under this Ordinance alleging that the ship is unsafe to ask for a survey.

The second part, Sir, deals with shipping enquiries and shipping enquiry courts. If it is necessary to have an enquiry it should be held by one of the prescribed officers in the first place. The prescribed officer, I may say, is the Port

Manager in the case of Mombasa. He in turn can call upon a magistrate to hold a formal investigation and the magistrate has the power of dealing with and suspending the Board of Trade certificates of the officers of any vessel if, after full formal enquiry, he holds that a shipping casualty is due to the incompetence or wilful neglect of that officer. That power, needless to say, Sir, is subject to confirmation by the Governor and by the Board of Trade, but the power, which is a useful and necessary power, does devolve upon the local authority dealing with the certificates of incompetent master mariners or officers in the mercantile marine.

Part III deals with the survey of steamships—clauses 34 to 36. The provisions are applicable to all vessels carrying more than twelve adult passengers, with, of course, an appeal from the decision of the surveyor or engineer surveyor in turn to a special court of survey which is appointed under the Bill; and it is this part which deals with the two most important matters connected with the safety of life at sea, the recording of the draught of water and the marking of deck lines and of load lines.

Part IV is perhaps the most important part of this lengthy Bill, Sir. These are the provisions in regard to wreck and salvage. They follow, and follow closely, the corresponding provisions of the most recent provisions of English legislation on that subject. Receivers of wrecks may be appointed with very wide powers—powers which experience has shown it is necessary they should possess. Wreck is made liable to duty, and provision is made not only for unclaimed wreck but for the destruction of wreck, a power which I daresay many of us think it would have been a very good thing if this Government had had long ago. Wrecks, unsightly wrecks, which disfigure the beauties of the coast, may now be destroyed by Government at the expense of the owner.

Part V, Sir, is also important, though extremely short. It deals with the subject of repatriation of seamen and provides that if a seaman is left behind—is engaged in the Colony and left behind at a port outside the Colony, unless at his own request or in consequence of his own desertion, the seaman shall be repatriated by the Colony to the place of his engagement, and the cost of that repatriation falls upon the owner of the vessel.

There is one more word I should like to say, Sir, before I formally move the second reading of the Bill, and that is that the provisions of the Ordinance deal with ocean-going vessels. They have no application to vessels plying on lakes and rivers in or abutting on the Colony.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: If no other hon. Member wishes to address the House I will put the question.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: In this case also, Sir, I understand Elected Members would like a Select Committee. Perhaps Your Excellency will allow me to defer any statement on that until to-morrow morning?

HIS EXCELLENCY: Yes.

(Council adjourned till 10 a.m. on Friday,
21st November, 1930.)

FRIDAY, 21st NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 21st November, 1930, His Excellency the Acting Governor (MR. HENRY MONCK-MASON MOORE, C.M.G.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 20th November, 1930, were confirmed.

NOTICE OF MOTION.

On behalf of the Hon. Conway Harvey, Lieut.-Col. the Hon. Lord Francis Scott gave notice of the following motion:

"In the opinion of this Council Government should take immediate steps to eliminate unfair and uneconomic road competition with the Railway."

MOTION.

ESTIMATES OF THE KENYA AND UGANDA RAILWAYS AND HARBOURS FOR 1931.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES): Your Excellency, I beg to move:

"That the Estimates of Revenue and Expenditure for the Kenya and Uganda Railways and Harbours for the year 1931 be approved."

Your Excellency, for the first time since 1922 the Railway Budget is being introduced during a period of acute financial strain, and I think, therefore, it will be useful if I preface my remarks with a brief reference to the position as it then existed compared with the position to-day, in order that we may better gauge the assistance which the transportation system brings to these Colonies during their present difficulties.

Hon. Members will remember that in 1922 we had some 700 miles of line. Our gross revenue was in the neighbourhood of £1,000,000 and our capital expenditure £7,000,000, while the tonnage moved amounted to something like 300,000 tons per annum. Moreover, the line itself was badly maintained and badly equipped as a legacy of the former system of control. To-day, Sir, the picture is somewhat different. To-day we have a line operating over 1,600 miles;

our gross revenue is in the neighbourhood of £2,500,000 and our capital expenditure has risen to £20,000,000 and we are moving a tonnage of over 1,000,000 tons per annum. Moreover, the line is well equipped and well maintained and at its port of entry we have a harbour which perhaps for its size is one of the finest and best equipped harbours on the coast of Africa. In six or seven short years, Sir, this remarkable growth has been brought about and those of us who have been privileged to assist with that work value greatly the experience and we are proud to have been connected with it. Moreover, as I have testified on many occasions, those of us who served under him, valued the wise leadership of our late General Manager, Sir Christian Felling, whose memorial was recently unveiled in the new Headquarter Offices by the late High Commissioner as one of his last acts before leaving the Colony.

When the post-war slump occurred, the first duty of the Railway at that time was to put its own house in order and to reduce its cost of working to something approximating what it had to do. To-day, however, our position is somewhat different. We have, as I have stated, a fine Railway and a magnificent harbour, and if our reserves are kept up we are in a sound financial position. The question you will therefore ask me to-day is, what are we doing to help these countries during this present difficult time?

The first point I should like to make in that connexion is that we are endeavouring to give the public the fullest possible information in regard to the work that we are doing and at what cost we are carrying it out. Our annual report, published for last year, is probably the most complete report that has so far been issued in that connexion and it contains a mass of figures which will enable the public, if they read them, to understand what has been done and to appreciate some of the problems that now face the Railway Administration. I know that these reports are issued at a time when many other reports are also published and the Colony is faced with having to analyse a mass of figures which very few people have time really to study. I may say, however, Sir, that during the past six months I have had opportunities of discussing this report with many technical authorities at home and in South Africa and with the technical railway officers of other countries, and all have been extremely complimentary with regard to the way in which these figures have been presented.

Now, Sir, hon. Members will remember that last year, in introducing the Budget, I endeavoured to give them certain key figures to enable them to appreciate the real meaning of the rather bulky mass of figures before them. To-day I wish to quote two figures only in order to help them to judge the position. The first figure, Sir, deals with

the average charge that we make to the public in booking goods on the Railway. As I have many times pointed out, we are operating with a very unbalanced rates tariff and, as hon. Members are aware, a great deal of our traffic—in the downward direction particularly—is carried at an extremely low rate; in fact, many of them are actually below cost. We are therefore dependent on our up-traffic to restore the balance, and in these circumstances we must naturally charge higher rates on our import traffic. That is a policy which has been accepted during the past seven or eight years and a policy which I understand generally meets with the approval of the country. But it brings this difficulty. It is very difficult indeed to judge exactly what rates charges are and how they compare with other countries. The only way in which that can be done, as I have explained on previous occasions, is to take an average, and I have been trying to work out for you the average cost per ton mile to the shippers. In 1929, Sir, that figure was 10.5 cents per ton mile, a very favourable figure, and one which motor transport under present conditions cannot approach in any way. This figure too, Sir, has shown a steady downward trend since 1922 when the corresponding figure was over 15 cents per ton mile. That is a figure which is at least 50 per cent higher than the present charge. I may mention, perhaps, in passing, that the present charges on the Nigerian Railways, as far as I can get them from the last annual report, closely approximates—in fact, I think is very slightly higher than our charges in 1922.

The other figure, Sir, which I wish to mention is the average working cost. I will leave out loan charges and depreciation charges because they are figures which do not concern the efficiency of the system, but the average working cost, exclusive of loan charges and depreciation charges, works out for 1929 at the satisfactory figure of 5.5 cents per ton mile. That compares with over 12 cents in 1922, so that that figure has gone down to a very great extent. That, Sir, is my first answer to the question that you will ask me. The average cost to the public is an extremely favourable one and the actual cost of working is a satisfactory one. Reference to the annual report for 1929, Sir, will show that the improvement in operating efficiency by which these reductions have been brought about amounts to something like 30 per cent in the past four years.

Now, Sir, with that introduction I should like to give to hon. Members some idea of our position to-day as a result of this year's working, so far as we at present know it. I am afraid the figures will be somewhat disappointing. To the end of August our revenue was considerably lower than

estimated and since that date it has still further decreased and, as far as I can see at the present moment, we shall probably end the year some £900,000 or £350,000 below our estimate. This position, Sir, became fairly apparent early in the year and before I proceeded on leave in May last I left instructions with the Acting General Manager that every possible effort was to be made to cut down expenditure in all directions where savings could possibly be found, and I should like to take this opportunity of saying, Sir, that the Acting General Manager and the Heads of Departments have responded to that appeal in a very thorough way. So far as the spending departments, such as the Workshops and Engineering Departments, are concerned, it was possible definitely to restrict output and to stop work going on. In that way we are able to cut down expenditure considerably. When we come to the Transportation Department, however, it is not possible to restrict output. We cannot refuse to carry the traffic that is offered, and I was therefore in some difficulty in that respect because actually, although our revenue is so badly down, the work done to the end of August exceeded the previous year's total by over 10 per cent for the same period in the previous year. Now, a curious point about that is that the downward traffic—and that is the traffic for which our rates are extremely low—increased no less than 22 per cent over the previous year for that period. On the other hand, the tonnage upwards from the Coast, on which we depend for such a large proportion of our revenue, decreased to the extent of some 12 per cent, and thus we have the position of a 22 per cent increase in cheap downward traffic and a 12 per cent decrease in the better paid upward traffic, while we have a total increase in the work done of some 10 per cent.

The way we measure our work, as hon. Members are aware, is by our ton mileage figures. Now, Sir, the cost per ton mile, which is to some extent a measure of the efficiency with which this work was done, has decreased from last year's figure of 5.3 cents to 5.2 cents. Now this does seem small but I may mention, in order that you may have some idea of what this means, that 1 cent rise or drop over the year's traffic corresponds to roughly £200,000. I think, over the period that I have been dealing with, owing to the decrease in the actual cost of doing the work we have saved something like £41,000, of which £20,000 can perhaps be directly credited to the Transportation Department. These figures, I think, Sir, emphasize the fact that considerable economy has actually been brought about, but I would like to sound a note of warning in this respect. I do not think that it will be possible for the figures at the end of the year to be quite so favourable as they have been up to the end of August because

the traffic has still further dropped away since these figures were obtained. Many of our wagons are now running empty in one direction or the other, and that is bound to affect our average working costs.

Turning to the revenue side, Sir, I would state that the average receipts have dropped from last year's figures of 10.5 cents per ton mile to a figure of 9.3 cents per ton mile; that is the average figure paid by the public to us. When I was presenting the Budget last year I mentioned that the average figure of the Rhodesian Railways which carried traffic almost double ours was 9.25 cents per ton mile. That drop in average receipts per ton mile represents a serious position because, although the work is increasing, the revenue that we obtain for it is decreasing at a rather rapid and serious rate. As has been explained very fully in the annual report, that drop is due to reductions in rates and to the rapid increase in low rated commodities. This factor represents a very serious problem to the Railway Administration and the position will require very careful watching. Should this tendency increase during the coming year it may be necessary for us to review the whole tariff policy of this Railway.

One other factor, Sir, is operating to accentuate this position, I refer to motor competition. I am very glad to note the notice of motion which has just been read to this Council this morning. I have dealt rather fully with the problem in the annual report and I think I have made it quite clear there that I am not in any way averse to economic motor competition. Motor services are serving a useful purpose to the public as a whole but I am very strongly against wasteful motor competition, that is, competition serving no useful public purpose but which, in fact, is tending to cripple our whole tariff policy.

Last year, Sir, when discussing this question, I estimated that our losses due to motor competition were estimated at from £10,000 to £20,000. It is obviously a very difficult thing to estimate closely but this year my enquiries lead me to think that the figure has risen to at least £50,000, if not more, and that there is a very marked tendency for it to increase. In fact, I believe organizations are being created to still further endeavour to take away our high rated traffic from the Coast and to cut out all what I call "pirate" competition amongst themselves. This is a point, Sir, which has been stressed considerably in previous years. The need for some sort of control is necessary in the early stages to prevent vested interests acquiring rights in an uneconomic area. I again suggest to this House, Sir, that unless some action is taken to remove this form of competition from our doors, the Railway will be

forced at an early date to suggest some change in the tariff policy. I look to hon. Members opposite, Sir, to give a definite indication as to which alternative they prefer. To my mind there is no question about it, and I do not think it is in the general interest of these countries to alter it, if we can possibly avoid doing so, but the question is quite clear, because it is

... say that ... and his ... about ... be less ... is a very ... Sir, ... and the ... in the railway abstracts, I find that after meeting all loan charges and depreciation, not only will there be no contribution to the Betterment Fund this year but we may possibly, and I think in all probability, have to draw upon our Reserve Account to balance our accounts. The position therefore requires very careful watching indeed, but I think I may say that at this period, when everybody is suffering from financial difficulties and restricted output, this Railway's record does not compare unfavourably with the records of other railways in other parts of the world.

Now I would briefly like to review the works we have in hand or have recently completed during the present year. The first thing I should like to draw attention to is the fact that No. 5 Berth and Oil Jetty should be completed by the end of January next. On the completion of those two works, Sir, that will finish our present programme at the Port, as it has been decided to call a halt in further developments until future requirements are more clearly defined. In that connexion, Sir, I should like to take this opportunity of complimenting the Resident Engineer, Mr. Florde, and his staff, and the contractor's staff represented by Mr. Pollard, on the excellent work they have carried out during the period they have been at the Port. I think everybody will agree that they have carried it out in first class style and that the money has been very well spent. They will be missed, not only because we have become accustomed to seeing work on a large scale carried out at the Port, but also for personal reasons, by their many friends on the Island and in Nairobi. I hope it will not be very long before we can again ask them to tender for the completion of the work which they have so well started.

Leaving the Island, hon. Members will have noticed considerable changes in the section between Macupa Causeway and Mazeras. There we had very heavy 2 per cent grades

and it was decided to eliminate them by regrading and to reduce the grades to the normal rate existing between the Coast and Nairobi. It was a matter of considerable difficulty but it has been exceedingly well surveyed and planned and the work is now nearing completion. The completion of that work will lead to considerable saving in working costs because we shall not require to use pusher engines for our heavy trains.

During the year the Nanyuki extension of the Thika-Nyeri branch was completed and opened to traffic, and Nanyuki now occupies an honourable place on the map of Africa.

The Kisumu-Yala line was also completed and is open to traffic under open line conditions.

With regard to the Kampala extension, Sir, the work there has progressed very satisfactorily indeed, and the railway side of the work has been practically completed. With regard to the bridge, hon. Members will remember that we anticipated originally that the work would be completed by the end of the present year. Owing to delay in the shipment of materials from home, however, we later thought we should not finish before February or March. However, the construction engineer and his staff have been working day and night to overcome these delays and for all practical purposes the bridge will be completed by the end of the present year, the original date for the completion of this work. I think that is a very creditable performance indeed and I believe, although I have not seen it, that the bridge is a remarkably fine one and the work exceedingly well done. The exact date for the official opening has not yet been fixed.

On the Kagera River a considerable amount of dredging and work of that nature has been done and the bar has been opened at the mouth to permit of lighters and tugs entering the river. The Uganda Government have also constructed a road down to the port at the head of navigation, and the work of constructing the port itself is now in hand. It is hoped, therefore, that we shall be able very shortly to open a tentative service on this river to help the mineral and tin industries in the interior. We have already on order a special tug with two additional lighters to deal with the service that we hope to start after its arrival.

On Lake Albert the "Robert Coryndon" was completed recently and launched and ran its trials. These have been entirely satisfactory and this ship is now in regular commission. The standard of accommodation supplied by this ship is now considerably in excess of anything we have hitherto had.

Turning now to the Estimates, Sir, I do not propose to discuss them in detail because very full explanations have been printed and, as is our usual custom with these Estimates, I shall be only too glad to answer questions to the best of my ability if they are put to me afterwards. There are, however, one or two main points to which, I think, I ought to draw attention. The first is that in accordance with the usual practice these Estimates have been given the very fullest possible consideration, not only by the Railway Administration but also later by the Railway Advisory Council, and these Estimates then, after having been passed by the Railway Council, received the approval of the High Commissioner before their presentation to the Legislative Council to-day. I should like very much to convey my appreciation to the Acting General Manager for the work he did in this connexion, and also to the Railway Council for the careful way in which they examined these Estimates when they went before them.

The first point, Sir, to which I should like to draw attention is in connexion with the Estimates of Revenue. That, of course, is a very difficult estimate to make very often half way through the year before the Estimates are applied, but I think, taking everything into account, the figure now shown is a very reasonable and fair one. In connexion with the preparation of the Estimates every possible attempt has been made to avoid the creation of new posts or extensions of services under the present conditions, and to work out additional economies wherever we can possibly find room for them. It will be noticed that the Budget has been balanced without any contribution to the Betterment Fund. I have already mentioned the fact that, owing to the serious drop in revenue that I have referred to, I think we shall get no contribution at all to the Betterment Fund this year, so that means for two years this Fund will have nothing added to it. The effect of that, Sir, is this, that many works that we should carry out in improving facilities that are provided on the line will have to be postponed. Some of the more urgent ones that cannot be postponed will have to be met by providing money out of loan funds for which, of course, interest and sinking fund charges have to be paid. However, in the present circumstances we have no alternative and I think that quite rightly the Budget has been balanced in that particular way.

There is a note under depreciation, Sir, and it is shown that the amount allowed in the Estimates is that recommended to the Secretary of State for his approval. We have had, during the past year, a considerable amount of investigation into the correct amount for depreciation and our final

recommendations on the subject, considering all points of view, to the Secretary of State, were 2 per cent on the value of our wasting assets. That matter is still under consideration, Sir. While I was at home I had many interviews with officials of the Colonial Office in connexion with this question, and I have every hope that they will eventually come round to our point of view.

In connexion with the Interest Reserve Fund, it has been pointed out that the name of this Fund is somewhat inappropriate; as we have seen this year we are already drawing upon it as a general reserve, and they therefore suggest that the name should be changed to "Reserve Account". I believe "Fund" is not right because we do not invest this Fund in the ordinary way and interest is not received because it is used for other purposes, so that "Reserve Account" is the proper name, and that is the name that will in future be used. In connexion with the Reserve Account I have already stated that we may have to draw on that account this year to balance our accounts.

Another accounting alteration that has been approved by the Secretary of State is with regard to what we have hitherto called the "Stores Reserve Fund". It was pointed out that for accounting reasons that is a wrong title and it is in the wrong place. The account in future will be shown under Capital Account under the heading of "Working Capital—Stores" as a contribution from revenue. It is purely an accounting change.

With regard to the Port Estimates, Sir, they have been framed with the same conservative outlook as the Railway Estimates have been, and the same care has been taken with regard to the question of expenditure. In spite of a reduction in the working costs which is foreseen for next year, the loss will be increased owing to the fact that we shall have to bear additional interest and sinking fund charges consequent on the completion of No. 5 berth and the oil jetty.

Now, Sir, a word or two about next year's prospects. Our minds turn principally to the position with regard to the cotton crop in Uganda. As far as present indications go we anticipate a good crop in Uganda, but we cannot forget our experience in the present year. It will be remembered that at this time last year we anticipated getting a cotton crop of something about 200,000 bales. Owing to unfavourable weather during the last two months of the year

and in January that crop dropped to something in the neighbourhood of 120,000 bales. We hope that will not occur for next year, and some of the more optimistic forecasts have mentioned 220,000 bales as a possibility. In connexion with that cotton crop the position will have to be very carefully watched indeed because if in January next year we find the crop has again failed like it did this year then still further cuts and economies will have to be worked out and reductions in services would have to be made such as the elimination of the Fort Bell-Kampala line and the laying up of the "Clement Hill"; services of that sort will have to be eliminated. I have every hope, however, that the cotton crop will not fail us again and that if we do get the amount estimated now, something in the neighbourhood of 180,000 to 200,000 bales, our financial position at the end of next year should not be too unsatisfactory.

In regard to new extensions, Sir, hon. Members will be aware that recommendations have been sent home for funds to be allotted for the construction of the Kericho Branch. Approval has already been received to extend the Kisumu-Yala Branch from savings from other constructions. It has also been agreed to build the Donyo Sabuk Branch but there has been some little delay in forwarding the project owing to the need to verify certain cost figures. The matter has now been cleared up and I understand the recommendation will go forward shortly to the Secretary of State.

With regard to the suggested extension of the line from Kampala westwards towards the Congo border, I have to state that we have had survey parties in the field all the year. All the survey work itself has now been completed, and these parties are preparing their reports and plans with regard to the project. The Uganda Government at the same time appointed a committee to go into the economic justification for building this line, and I understand also that the report of that committee will shortly be available. In this connexion I may say, Sir, that it is quite impossible for the Railway Administration to meet any demands for interest or sinking fund or working costs on the extension of such a line, and if such a line is built it can only be done with the assistance of the Colonial Development Fund and under guarantees from the Government of Uganda. As I say, we are not yet in a position to put forward definite recommendations in regard to that line.

In this connexion I should like to refer to a meeting that I had in Belgium with the Belgian authorities in regard to their railway plans in the Belgian Congo. I should like, first of all, to correct an impression, a wrong impression, that has been created by a somewhat inaccurate cable report that

was received out here. There was no definite undertaking of any sort in Brussels in connexion with this line. In fact, I did not go there with any intention to try to make any definite undertaking but solely with the idea of exchanging information. I went with such information as had been already collected and I placed all that before the Belgian authorities, and they, in their turn, gave me all the information they had at their disposal in regard to their services and their ideas. I should like to take this opportunity, Sir, of publicly thanking the Belgian authorities for their great courtesy and hospitality to me while in Brussels. Hon. Members will be aware that Monsieur Charles, the Secretary General of the Colonies, is now in Nairobi on his way to the Congo. We welcome this opportunity, Sir, to show Monsieur Charles our facilities at the Port and on the Railway for handling the Congo traffic that passes over our system; quite a considerable tonnage now passes by Butiaba and Kasenyi. The ultimate aims, Sir, of any extension from Kampala westwards must keep Stanleyville in the forefront, and whatever is done on both sides of that frontier should bear the fact in mind that Stanleyville is one of the most important centres in the Belgian Congo. The Belgian Government's aim at the moment has been directed in a more northerly direction to their rich area towards the Kilo and Moto Mines and Juba. I understand they propose putting survey parties in the field during the next year or two still further to investigate the possibilities in this direction. That, of course, would tend to make us look to a northern connexion with their line rather than a southern one such as the one I have been dealing with, but until the Egyptian Government decide to build a dam at Packwach, which I believe is one of their future projects, it will be hardly worth our while to build further extensions to the north. I believe the dam question is one very much in the dim future, and therefore it is not likely that we shall be suggesting further extensions northwards at the present time. The important point, however, about our proposal to give a southern connexion, that is, south of Ruwenzori, is that even should the Belgians build their line northwards to begin with a connexion can be made from that line to join up with ours south of Ruwenzori. I think I must point out that the delay in the construction of a Belgian line to a point on our system would help us considerably in the initial stages because it would eliminate any competition in the development of that district in the earlier stages. The important point, however, to bear in mind is that if a line is built to south of Ruwenzori it can in due course, when traffic requires it, be connected up with Stanleyville. There are indications,

Sir, that there are minerals in considerable quantity on both sides of the frontier in the Ruwenzori-neighbourhood. Copper is already being found on the Uganda side and gold is indicated on the Belgian side. I understand from the Belgian authorities that they are very hopeful that that district will develop in a similar way to the Kilo area. It is, of course, too early yet to be able to say to what extent this can influence the building of this railway.

Also, one word in regard to the question of gauges, because that has received some prominence in the newspapers. It will be known that our system and the Tanganyika system are both metre gauge systems, whereas South Africa, Rhodesia, the Belgian Congo and the Sudan are all 3 ft. 6 in. Sooner or later, therefore, we shall achieve contact with one or more of those systems and it is necessary to study what changes may have to be brought about in our own system of gauges. I imagine that the first pressure will be brought to bear from the south, possibly through Rhodesia connecting with the Tanganyika system. Tanganyika, therefore, will first have this point to consider in detail. A great deal can be done in the intermediate period, principally in designing track and bridges and so on in such a way that conversion to broader gauge can take place with the minimum amount of trouble when it is required. We have been experimenting with different types of sleepers that can be used for both gauges so that if any lines are built in a direction which may attain contact with a 3 ft. 6 in. gauge system we can use sleepers that can be changed over quite easily. The Nile Bridge, for example, is designed also for strength to take 3 ft. 6 in. loading, should that ever be required. Beyond making general preparations of this nature it is not a problem that will concern us for many years, and even if it is decided to build the line from Kampala westwards there will be no question of a break of gauge at the present time. As I have stated, it may be many years before the Belgian connexion is actually made, and in the meantime, of course, we shall carry on with our own gauge.

In conclusion, I think it will be evident from the figures that I have quoted to-day and the figures which have been published in the annual report that the greatest need of this Railway is increased traffic, and that can only result from greater production. It is not competent for me to suggest how that greater production can be brought about, but I notice in the papers and elsewhere that various suggestions are put forward by which greater results can be obtained. References have been made to stock farming and mixed farming and dairy farming in European areas and so on, and I have no doubt that those possibilities will be examined by

the authorities in due course. In addition to the suggested developments in the European areas I feel that there is a great deal to be done in connexion with African development from the railway point of view. My hon. friend, the Director of Medical and Sanitary Services, could show, if he were here this morning, that there are many extremely interesting developments taking place to-day amongst the Africans, all of which tend to increase their usefulness and to increase the amount of trade and business arising from their activities. I may perhaps mention one or two which give a general indication. The natives, I understand, have taken to ploughing in considerable numbers, also to better farming; they have taken to fertilising and digging pits for burying their refuse; better houses, some even of brick, involving also roofing materials such as corrugated iron, and furniture, and even crockery and enamel plates and that sort of thing. That sort of development, the raising of their standard of living, does mean additional trade to everybody and additional tonnage for the Railway to carry. I think it will be seen that there are considerable possibilities in that direction; also, I understand that as a result of the improvements made in sanitation and hygiene the numbers of the population are already increasing at quite an appreciable rate, and it seems to me that we should take every care to see that that increased population is taught how to be useful and how to be productive. As I say, this is somewhat outside my province, but from a railway point of view it is important for us to see if there is no way in which development and trade generally can be increased in order that traffic may be produced. As I pointed out last year, we have a Railway with a capital commitment of £20,000,000, which is very closely equivalent to the Rhodesian railway system; but we only carry at present about half their traffic.

Finally, Sir, our relations with the public have been excellent throughout the year. The system of representation on Chambers of Commerce and other organizations has worked admirably and I am told there are signs that the public generally are appreciating the service that we are trying to provide for them and that they also understand more fully some of the problems that confront us. I am sure it is only by careful study of all the aspects of these problems that we are going to arrive at any suitable solution that will meet the needs of this Colony. I also wish to thank the Press for their valuable co-operation and assistance on all occasions.

I beg to move, Sir :

"That the Estimates of Revenue and Expenditure for the Kenya and Uganda Railways and Harbours for the year 1931 be approved."

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is :

"That the Estimates of Revenue and Expenditure for the Kenya and Uganda Railways and Harbours for the year 1931 be approved."

LIBERT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, it is always a little difficult for Members on this side of the House to make any critical comments on the Estimates for the Railways under the constitution as it stands, and most of the points which have come to one's notice when one is studying the draft Estimates have been so very lucidly explained by the hon. and gallant Member, the General Manager, this morning that there is not very much that I can see to say on them. All that we can do, as I see it, is to make suggestions or criticisms which may help to the common object of increasing the revenue of the Railway and so having what is the main artery of this country on the soundest possible basis.

Now, Sir, to go through just few of these points, the first one which the hon. General Manager referred to was the question of road versus rail. As he said, he has no wish to interfere with legitimate and sound economic trading on the road, but it is necessary to deal with uneconomic competition of the road versus rail. It is a vital thing for this country, as the Railway is a State Railway and we are all dependent on its well-being, that that question should be tackled. He tells us that there is possibly a loss to the Railway in this connexion of somewhere about £50,000 this year, which is a very large sum, and when finance is in such a critical state as it is to-day that is a very material amount. Now, Sir, two years ago nearly, or a year-and-a-half ago, there was a committee appointed to deal with this very question. I understand the Committee has never yet sat. I do not quite know why, but I understand it has not sat, and this morning I have given notice on behalf of my hon. friend, the Member for the Lake, dealing with this question, and I trust Government will accept that motion and tackle this question immediately.

Now, Sir, the next point which has come before the public recently and which the hon. the General Manager did not deal with this morning is the question of the wages of labour. I do not know the facts but there are certainly rumours going round the country that the ordinary labourers on the Railway are paid a very much higher rate than is customary amongst even such industries as the sisal industry, which seems to be higher than most other industries in the country, and that if their wages can be brought to the level of such an industry as the sisal industry—take that as one industry which is not paying very low wages—there will be an enormous saving to the country. I do not know the facts and I only mention this as there is a rumour in the country that that is so. Perhaps in his reply the General Manager will deal with that matter.

Another question: as the General Manager says, the great thing we have to aim at is to get more goods carried on the Railway, and with that goes the question of the publicity and advertising which I notice has been somewhat reduced this year. I should like to hear whether he is satisfied with the services which are rendered by the office in London or whether he would agree with the view held on this side of the House that we want a reorganization of that office in such a way as to detach the work of the Overseas Trade Department from the work of publicity and advertising in which the interests of the Railway are so intimately connected with the interests of the country at large and the question of settlement and tourist traffic and all such matters.

I believe, Sir, though it was not mentioned, that there were some very expensive coaches being constructed for tourist traffic. I believe I have seen pictures of them and they look very luxurious and delightful to travel in but I should like to hear whether the General Manager thinks at this present time of depression when a certain amount of tourist traffic certainly comes from the United States of America which is being badly affected by the slump there—whether at this moment that expenditure is justified or whether it should be postponed.

Now, Sir, to come to the question of increasing the amount of goods carried on the Railway and consequently increasing production, we there come up at the present moment to a most difficult question. At the present moment there are certain commodities which are being produced at such a very low rate of remuneration that it is questionable whether it will even pay the farmers to harvest their crops. I am referring specially to maize because at the present price of maize, which is under Sh. 3 a bag, it may just pay a farmer to harvest, shell, and, if he is not too far away,

transport his stocks to the Railway, and then have about sixpence a bag left over. Now that sixpence a bag has got to feed himself and his family, pay off any debts which he owes to Banks or others who have advanced money, and replant his land for the coming crop, which of course is a thing which is quite impossible and cannot be done. It is one of those serious questions, Sir, which does not affect the Railway very much, but if they can reduce the rates on some of those commodities they may be able to carry them though it might show a further loss to the Railway. On the other hand, if they do not they may not get the stuff to carry at all and that naturally affects them to a certain extent but has a much bigger effect on the imports which come in as a result of the sale of those commodities. It is a very difficult problem and one which has to be faced and dealt with on very broad lines. The one industry which I think does pay very heavily on the Railway and at the present moment is producing at a loss is the sisal industry. I do think that, if it is possible, the Railway might be able to help there because the sisal industry is one of the biggest in the Colony and, if it is kept in a flourishing condition, it means a great deal of goods being imported into the country, whereas, if a lot of sisal goes out of cultivation and closes down, it must be a very great loss to the revenue of the country and to the Railway in the form of imports.

I was very pleased to hear from the hon. and gallant General Manager that the branch railway programme is being proceeded with and I am specially glad to hear that the difficulties—which seem to be ever-recurrent—with the Donyo-Sabuk line are at last overcome and that that line is definitely going ahead.

Now, Sir, with regard to native production, might not a good deal be done to help that and get the results of that production on to the line by improved marketing facilities within the Native Reserves? It seems a point which has not been tackled quite as thoroughly as it might have been.

Looking at the Estimates before, one got a little bit confused as to the actual state of the reserve accounts—how they stood and what they actually represented. Since the hon. and gallant Member has made his speech I think I have got a better understanding of it, but perhaps in his reply he might even further explain a little bit what the actual reserve does represent; whether, for instance, the Stores Reserve is merely a trading reserve or anything more than that.

I should like to congratulate him on the way they have got the working costs of the Railway down to such a figure as to compare so favourably with other railways in other parts

of the Empire, and I trust he realizes that any criticisms which come from this side of the House are criticisms made in a helpful spirit, because we are all fighting for the same object and the criticism is not in any way meant as obstructive or destructive criticism.

CAPT. THE HON. E. M. Y. KENYALY: Your Excellency, one has to deal primarily with policy as expressed in these Estimates, and we on this side of the House are very happy to see that the Railway Authority has now been converted to agreeing that our present rating policy is the correct one. That has been definitely stated, that it has found acceptance in the minds and hearts and spirits and souls of the Railway Authority.

In regard to the native problem and the revenue that the Railway could gain by increasing native production, there, Sir, I hope the Railway will extend its benevolence to that important item and apply country produce rates even more intensively, so that the interchange of commodities between native tribes and between natives and Europeans throughout the country may be made easier. After all, trade is a habit, and if the native of Africa can learn that habit—and he has not yet learnt it—the ultimate results must mean an increase in the carriage of goods which pay a far higher rate than the locally transported ones, and in this difficult matter you should arrange for a very nice balance between the low-rated internal transport and the high-rated importation. I think it should be dealt with in an optimistic spirit.

Now, Sir, there are a few minor points of criticism in regard to policy. We have heard that the suggestion that the line should be extended into the Congo is one which should receive our consideration because of that mineral area—rather, that mineralised area—which is of great significance, but, Sir, the policy of the Government of this country definitely interferes with the policy of the Railway in its recognition of our own mineral resources. I maintain, Sir, that our great new railway to Nanyuki should be extended still further to the north into that highly mineralised area. That highly mineralised area, it is suggested by the Government of this country, has not yet demonstrated its quality, but that is due to the restrictions that the Government of this country and not the Railway of this country has imposed upon mineral exploration.

There are one or two details which I should like statements upon, Sir. One is we have had the proposed extension of branch lines commented upon. Now, Sir, when the Nanyuki line was built, when that extension was made, I believe that certain alterations were made in Sagana which

involved a certain amount of capital expenditure, and also I believe that those alterations were charged to the Nanyuki extension. If that is so, Sir, I think that it requires explanation and possibly revision. I should like more information on that point because if that policy is going to be applied generally to the construction of branch lines they will cost a good deal more than we on this side of the House think they should.

There is one point, Sir, of general application, and that is it would be more helpful if we could have a more complete explanatory memorandum with these Estimates. There is a certain amount of explanation and if one reads it in conjunction with the Railway report one is still further assisted, but the explanations are really not adequate to the intellectual capacity of Members on this side of the House. Perhaps it is their limitation. I am speaking for all of them, Sir.

Now last year we were told that the commitment to the country in regard to the provision of funds towards the recreation grounds of Railway employees was a final one, and yet we see a provision of £400; it is only a small thing but I think it is a matter where an undertaking has been given and where the House is entitled to an explanation.

One sees, Sir, a very large increase in the cost of water to the Railway. I maintain, Sir, that that is due to a very large extent to Government's lack of policy and lack of activity in providing water as branch lines are extended. There should have been a State provision of water at Nanyuki and the Railway should not have been called upon to find facilities at Nanyuki; there the Government policy must be criticized in relationship to the Railway expenditure.

I suggest, Sir, that some slight economy might be effected by abolishing the refreshment room at Punda Milia. I think it is not very much used, and perhaps the Railway Authority might consider it desirable to abolish that.

In this Budget, Sir, we see the beginnings of the cost of legislation which was submitted to this House yesterday. There is a provision, quite a small provision, for ship surveys. I should like to ask the hon. the General Manager, Sir, if there will be any revenue to counter-balance that from fees.

One thing which distresses me, Sir, very intensely, is the reduced provision for advertising. I question the wisdom of reducing that provision, but if the total vote must be reduced I suggest that it would be better reduced by abolishing the salaries paid and increasing the sums spent on actual advertising.

Then, Sir, in Abstract "B" there is an increase in the sum provided for overtime and trip allowances. I do hope, Sir, that that is not putting a premium upon running trains late. I should like an explanation as to how these overtimes are paid because I am a little sceptical about the advisability of increasing such provision.

Last year—I think it was last year, or the year before—there was a large increase in the provision for locomotives and yet, although we scrapped, I think it was, sixteen locomotives of an unsuitable type, one sees that there is an increase in the provision required for the maintenance of engines. One would imagine that with the old unsatisfactory engines scrapped and the purchase of a lot of new engines that there should be a decrease in that. May we have further information, Sir?

In matters of detail, so far as they affect the public generally, the public let me say, is extremely dissatisfied with the Railway's action in regard to the publication of tenders. The public feels that it is entitled to know the name of the successful tenderer and the amount of the tender. There is no written railway regulation. We are told that the procedure laid down was one verbally agreed to by the late General Manager. Well, Sir, I suggest the time has now come to revise that dictum and I do hope that the Railway will consider the wishes of the public in this matter because, after all, they are the servants of the public, and in future make available to any person interested, if they do not wish to make the announcement general, at least make available to persons interested the conditions of the successful tenderer.

In the same way, Sir, another matter which definitely concerns the public is with regard to the provision of weighbridges. I do feel that the Railway, a public service, should comply in a more sympathetic manner with the representations made by the public. If the public require a weighbridge in a certain area and if they are prepared to pay for the services of that weighbridge, I think the Railway should rather more sympathetically consider the provision of such a thing and not merely quote the fact that it has not been provided in the past and that it is hardly their responsibility. I differ, Sir, from that view, and I do hope that these matters and matters of a similar nature which definitely concern the public in an intimate manner will be dealt with more satisfactorily.

In regard, Sir, to the statement, or the fears, of the hon. the General Manager that there could not be much decrease in his cost per ton mile, I am happy to say I have greater faith in his capacity than he himself has, and I think, Sir, that that capacity will not be challenged to too high a degree

because, after all, we have spent a lot of money in regrading that portion of the line between Mombasa and Mazaras and that must enable the Railway to do its hauling at a smaller cost. I think that will be represented in next year's Estimates.

On the whole, Sir, the Railway has produced a Budget, which is in conformity with the wishes of the public and we on this side of the House are definitely prepared not only to take action ourselves but to overcome the inertia of Government in regard to the provision of legislation which will secure our asset against the attacks of possibly foreign competition in road transport.

CAPT. THE HON. H. F. WARD: Your Excellency, there were a number of points which I should have liked to have touched upon and obtained further information upon, but I propose not to do so because I think my time will be better employed in emphasizing one point. Before I do that, I would suggest to the hon. and gallant General Manager of Railways that in his own interests and especially in the interests of the producers of the country a much fuller statement than he gave us should be made in respect of the Reserves as outlined on page 114. As he knows, as probably everybody knows, in these times of crisis producers definitely are looking for assistance in every direction they can possibly get it. The Railways and Harbours have helped them before and without any doubt every possible pressure will be brought to bear on the hon. gentleman to help them again. I will give him a very brief outline of the sort of information we require. Sir, I suggest we see the Renewals Fund at the end of 1931 is estimated to be left in credit of nearly £600,000, but if the full debit from the Betterment Fund, that is to say, the difference between the amount estimated to be expended and the amount in reserve at the end of 1931 under Betterment is placed against Renewals, the net result will still be a fund of £450,000 or slightly in excess of that in credit. What is the position in regard to that fund? Are the contributions statutory? How far can it be used to reduce rates to help depression, to help the producer? We find, too, Sir, that the Insurance Fund will still be in credit slightly over £27,000. We fully understand the position in regard to the Stores Reserve Fund which, as the hon. and gallant gentleman has explained, should not be here at all, but what is the final position in regard to the Interest Reserve Fund? As far as we can see, reading over these statements, there will still be £266,000 to the credit of that account, and between that and Renewals there should be an ample opportunity for further assisting producers in this Colony. I, Sir, have taken—and particularly taken—the point of view of the ordinary man

in the street. I have a certain idea of the answers which the hon. gentleman will give, but I do suggest to him that at this stage he should give the fullest and frankest statement on that point that he possibly can.

The point I wish particularly to take up, to emphasize, is the point raised by the hon. and gallant gentleman himself in regard to whether or no we were making the most of the native agriculturalists of this Colony. In my view, Sir, and it is the view Elected Members on this side have held for some time, we definitely are not. The position as I see it hangs for the moment almost entirely on the marketing systems placed at the disposal of the native agriculturalist or provided for him. I speak with the utmost deference but I do say, from my own experience as sitting for some seven years as a Member of this House, I know it is a subject that has never properly received the consideration of Government. The only service that our native agriculturalists have in respect of marketing is a relic of the last century; it is really an extension of the trader penetration from the Coast by road, a scattered system of irresponsible, small, undercapitalised merchants all over the country. On the other hand, thanks to the hon. the Director of Agriculture and others, there is a wealth of science that could be placed at the disposal of our native agriculturalists provided they can ever reach that point. The block definitely is in the marketing system for the native produce in the Reserves. I ask any hon. Member of this House to put himself in the position of a native agriculturalist and imagine what his feelings would be if he could not receive anything but a small proportion of the value of the product that he has got out of the ground, and could never get into touch thoroughly and efficiently with modern science. Would he or would he not continue growing his crops? Would he or would he not fully understand the value of his crops? Would he or would he not try to improve his crops? I submit, I do suggest without any fear of contradiction, that the present barrier in the lack of a marketing system is enough to damp off the enthusiasm of any agriculturalist, white or black.

Sir, this question, to give an idea to the House, is not a new one. It was first raised by Elected Members on this side of the House in the year 1927 on the Budget for 1928. Certain Elected Members on this side of the House were asked to go further into the matter and even attend a meeting with Provincial Commissioners, as they were then called. As far as we can see, we had the support of Government; we had the support of the administrative officers; but in 1928, when the subject came to be reviewed again, nothing had been done. It had to a certain extent been confused with another

subject altogether, important but not of primary importance, and that is the grading of produce. In 1930 we find the position is exactly the same as it was in 1927. Literally nothing has been done. I mention that history only for the reason of taking a full opportunity of emphasizing this point of marketing and I do hope that hon. Members who are going to reply to this debate or deal with this particular point will not confuse with marketing grading and other subsidiary points, because obviously you cannot get any results from grading or other methods of improving the qualities of the produce until you have got that marketing system right. I would appeal to you, Sir, as our Governor and as High Commissioner for Transport, to use your influence to see whether even now we cannot get ahead with this very necessary improvement.

Council adjourned for the usual interval.

On Resuming.

THE HON. F. A. BEMISTER: Your Excellency, there is just one question I would like to put to the hon. the General Manager of Railways. He did not mention anything about the delays in putting up the new station at Mombasa and I would like a public announcement in regard to that because it has very serious consequences to the Municipality.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I have one or two hardy annuals that I should like to mention, all in connexion with the remarks this morning by the hon. the General Manager of Railways. In answer to a question in the early part of this session this House was informed that any financial commitments on the Congo extension would be put before this House. We have been told that there is a survey going on at the present time and that, I presume, means financial commitments. I should like to know how far it is proposed to commit Kenya to a Congo extension before any information is given to this Legislative Council.

A motion has been moved this morning by Elected Members with reference to motor traffic versus railway. I think I can say that it has the sympathy of every Elected Member, but in case it has raised false hopes I would like to warn this House that in my view Elected Members could not agree to say, a road and traffic Ordinance unless there is an unofficial majority on that Board. That was one of the stumbling blocks when the Bill was first introduced and discussed during last year. We are willing to help but we are not prepared to make the mistake, which was made in 1927 when the Railway was taken outside the control of this

Legislative Council, of handing the roads over to be administered in any shape or form by the Railway and I hope that the Government, if it wishes to get the Road Traffic Ordinance on to the Statute Book, will bear that in mind and realize that Elected Members—I think I can speak for them to that extent—are prepared to consider a measure that will prevent uneconomic competition by motor transport with our Railway provided our point of view is conceded.

I have been told by a Railway authority that motor transport is carried on in Uganda by the Kenya and Uganda Railway at 50 cents per ton mile. I cannot verify that, but if that is correct, I should like to ask the General Manager to consider putting on motor traffic from Kitale to Elgon, on that part of the road for which an extension of the branch line has been asked, with a view to my mind of first of all assisting the district, and secondly—and probably the primary one from the General Manager's point of view—to testing out by motor transport the possibilities of the extension of that line. If that can be done it will be a great help to the producers between the town of Kitale and Mount Elgon. I take it it would be an advantage to the Railway and would lead to some definite and concrete information as to whether the extension is advisable or not.

The General Manager also expressed a pious hope that produce and production of traffic would increase during 1931. I heartily join with him in that wish but I would like to point out one or two factors over which he has a certain amount of control that are mitigating against that wish being realized. I refer to branch line rates. In Kenya, I think, we have six branch lines. In Uganda there are no branch lines. Personally, I cannot see the difference between the Namasagali Line in Uganda or the Soroti Line and the branch lines of this Colony. We have all sorts of anomalies and definitions. For instance, the Kisumu Line was the main line. The line now running through Eldoret to my mind should now become the main line. We have the line from Thika to Nanyuki—a main line to Thika, and then continued on under the designation of a branch line. To my mind that is Gilbertian. It would seem that having once got the designation for the termination of the Kenya and Uganda Railways from the Inter-Colonial Railway Council it is their policy not to admit of a mistake; and I believe that is one of the troubles, if not the principal trouble, in getting anomalies removed. Take the Kitale line, which is a branch line branching off from Leseru to Kitale for a distance of forty-one miles. It passes through the largest maize producing area in the Colony. It terminates at Kitale, which is now the maize town of the Colony, but both the town and the district

are prevented from advancing on an economic basis towards the prosperity they are entitled to look forward to because the branch line imposes a handicap of higher rates. Take any rate on the Uganda line applicable to the goods that have been carried. Once it reaches Leseru, it is charged from there on to Kitale at a rate higher than that on the main line. I think, in view of the general fact that Uganda refuses—I say definitely refuses to entertain the idea of branch lines in their Territory that it is time Kenya sat up and decided whether these anomalies should not be removed and that there should be no branch lines in this Colony. If that object cannot be achieved—and I maintain it should be achieved—then there are other anomalies that are preventing or severely handicapping the districts through which branch lines travel. The anomaly of maximum rates is one. You get a maximum rate, say, on maize of Sh. 2, which means to any intelligent person that it cannot go any higher. In effect that is so, so long as it is carried on the main line; but once it touches a branch line, it is no longer a maximum rate; and that is where the anomaly comes in. The designation is incorrect and the implication and interpretation of "maximum rates" is a very severe handicap in all branch line districts.

Another item is the maximum rate as regards posho. One would imagine that the district, the town which is the maize centre of the Colony, would have such facilities as would enable it at least to compete in the East African markets both of this Colony and of the adjoining Territories. They are definitely debarred from competing in the posho market either in Uganda, in Tanganyika, or even in Kenya, through the anomaly that on the main line, irrespective of distance, you can take a bag of posho for Sh. 2 but if you take it over the forty-one miles of the Kitale branch line it is Sh. 2/47. May I say that that 47 cents is more than the average profit made on posho—and if it is not, it should be. There is one definite and rather illustrating case that I am personally acquainted with, and that is the case of one of our producers in the Trans Nzoia, who is also a Railway contractor, who is now contracting in Tanganyika. To get his posho off his farm to Tanganyika, it will cost him Sh. 2/47, whereas, everything else being equal, he can buy posho forty-one miles away and the Railway rate will be Sh. 2. That is a tremendous handicap and will continue to be so as long as this branch line rate exists, and I suggest that it is put to the Inter-Colonial Railway Council that at least the anomaly of this maximum rate should be removed. I suggest for the General Manager's consideration that he should put up the anomaly to the Inter-Colonial Railway Council and ask their consent to allow branch lines to come on to the maximum

rate and the minimum rate. I am sure, if that is done, that it will increase the prosperity of several districts of this Colony and increase the traffic on the Railway.

I am not wishing to bore you; I would ask for patience just for one moment for another point. As a maize centre like the Trans Nzoia cannot export or circulate their posho throughout these Territories in competition with any other town or district, it means that the General Manager, by insisting on Sh. 2/47 as the maximum rate for the branch line, prohibits that posho travelling over that line, and it compels the district to export their maize over the main line at Sh. 1/25. That is a definite loss to the Railway. I have been told, and I have no doubt I shall be told again, by the Railway that they will not assist them at all. If they cannot get their posho from the Trans Nzoia they can get it elsewhere. That is not a very sympathetic or encouraging way to look at it, and I maintain that is the way to discourage and stifle development in this Colony.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, first of all I should like to thank Members opposite for the very friendly way in which their criticisms have been put forward this morning. I think we in the Railway appreciate that point of view particularly because some of our problems are ones that are not easy to solve and the more that we place those problems before you so that they will be fully appreciated I think the more friendly the atmosphere becomes. It has been my policy, so long as I have had anything to do with this Railway, to do all I can to place information fully and freely before any Member who is interested, and I think that policy is beginning to bear good fruit.

The Noble Lord, the Member for Ukamba, Sir, has raised one or two questions. The first one is in regard to the question of wages of labour. On getting back to this Colony I asked the Acting General Manager whether anything in this connexion had been done, and he assured me that instructions had been issued at once when the question of labour charges came up to reduce the payment of all unskilled labour that we took on in future to the same scale that is being paid by the local farmers in the district, and I understand that has been freely done. Of course, with our skilled labour we are not in such a good position. We do not wish to lose our trained permanent way staff, for example, and we cannot very well reduce their wages below a certain rate, but I have every sympathy with the desire of hon. Members opposite to see that all unskilled labour is taken on at the lowest possible rate.

There was a question in regard to the office in London with which I am in some difficulty. So far as the Railway is concerned our representative there is giving us every possible satisfaction and I think that the payment of his salary and the money that he disburses for us is very well spent indeed. In regard to the larger question of the organization of the office, I am not prepared at the present stage to give an opinion, but I think it is a matter that does come up for enquiry when the question of Closer Union has been finally disposed of.

The Noble Lord also mentioned the question of carriages for tourist traffic. I am not quite sure to which carriages he refers because we have no new orders of any sort for carriages on hand. Any new expenditure that may be going on at the moment is on orders that we placed a year or more ago.

With regard to the question of helping out the maize industry, I imagine, Sir, that will come up in connexion with a motion of which notice was given yesterday, and I have no doubt the Railway will be asked to sit on the committee which they ask to be appointed. I would just like to state that during this past year the sum of £35,000 has actually been paid to the maize industry by the Railway in reduction of charges.

I might perhaps at this point deal with the question raised by the hon. Member for Nairobi South in regard to the question of our reserves because it affects this particular problem very closely. Our reserves are shown on page 114 of the Estimates and they are shown there in different categories, and perhaps if I make it quite clear, or attempt to make it quite clear, what these are for, our position with regard to the extent we can help industries directly will be clearer. The Renewal Fund, Sir, is almost a statutory fund. We cannot interfere with it. It is a fund that is created with the express object of providing money to replace assets as they become worn out or obsolete. The amount shown in the Renewal Fund now is somewhere in the neighbourhood of £600,000. I may say that we anticipate that that Fund will reach a figure of approaching two or three million pounds before we have finished, and although it may seem a very large sum of money it is a sum of money that must be set aside if we are to be able to replace those assets as required. That is all part of the argument that has been sent home to the Secretary of State recently. The Secretary of State—the home Treasury rather—considered that our rate of contribution to this Fund was too low and that it would not in certain periods give us sufficient funds to enable us to replace. The recommendations that we have sent home are, however, on a rather more conservative side and I think give

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us sufficient protection, but even with that contribution our reserve under renewals will reach, at certain periods, a fairly high sum of money. The reason for that is, Sir, that we have certain assets, such as the permanent way, for example, requiring renewals after thirty years' service, which means very considerable expenditure which must be found out of this fund. That Fund is not available, therefore, for any other purpose. If it were raided it would immediately mean that our loan commitments at home would cost a good deal more money than they do at present. Investors look to this sort of reserve before placing money in loans for railway purposes, and it would be a very poor policy indeed if that Renewal Fund was cut down below its proper amount. The Betterment Fund, Sir, on the other hand, is a fund that is accumulated simply to carry out betterment programmes where we do not wish to incur interest and sinking fund liabilities. It is for smaller works, such as cranes, goods sheds, and things of that sort; if we did not have a fund of this nature we should have to finance them out of loan and for that reason I view with some alarm the fact that for two years we shall not be able to find any money in that particular way. It cannot be helped; we have no other alternative: in this coming year, as explained, we shall have to provide certain facilities that must be provided out of loan money. Expenditure under betterment has in the past been very heavy owing to the arrears of work that were necessary to overtake but now the expenditure, as I have frequently explained, is not intended to be heavy, and something in the neighbourhood of £100,000 to £150,000 a year should normally meet all commitments in that way. Actually, owing to the fact that no additions are being made to the Betterment Fund this year or next year we shall have no money left at all at the end of our present programme in that Fund. The Insurance Fund is gradually being reduced. It was built up in connexion with marine services and we are buying, for example, the new tug for the Kagera River out of the Insurance Fund. It cannot be entirely eliminated because we still require some cover. It is a Fund again that cannot be raided for any other purpose. Then the other Fund, called the Stores Reserve Fund is, as the home Treasury have pointed out, more correctly a working capital fund for financing the purchase of stores until such time as those stores can be utilized in works. We have always in stock stores to the value of somewhere in the neighbourhood of £400,000 to £500,000, and this Fund is meant to cover that expenditure. It will, as I have already explained, now come under "Working Capital—Stores." It is not a Reserve Fund in any sense of the word. The other Fund, the last Fund of all, the Interest Reserve Fund, is, in fact, our only reserve fund from the

point of view of general purposes. It is a general reserve fund and that was the reason why the home Treasury have suggested that we should change its name. It was originally thought that this fund would be required to pay interest charges and sinking fund charges in bad years. In actual fact, it is one of the first charges we meet out of revenue and the first call on a Fund of this sort, such as will take place this year, for example, is to make up any balances due to loss in revenue. It is really more in the nature of a rates equalizing fund. It obviates the need of altering rates in any one year simply because we have got a bad year. For that reason it will be called a "Reserve Account" in future and, as I say, that is the one Fund we can play about with. It is intended to cover bad years such as the present one, but it cannot provide money with which directly to assist industries. That is a question of policy, but it is one that we shall have to take into consideration in future. As hon. Members are aware, our policy in the past has been to reduce rates as soon as possible, on the principle that the best interests of the country can be served by giving as low rates as we can provide. If, however, we are called upon in future to assist industries directly we shall have to build up this Reserve Account to a figure much higher than we have previously anticipated. However, that is a question that will have to receive the fullest possible consideration. I hope that makes the position with regard to our reserves quite clear. They are dealt with also in the annual report, and if there is any further information that is required at any time I shall be only too glad to give it to any Member who is interested. It is a question that should be very clearly understood.

The hon. Member for Kenya has raised one or two questions. I am not competent to deal with the suggestion that the Nanyuki line should be still further extended. I have no information before me that will justify that extension.

He raised one point with regard to certain costs at Sagana which are stated to be due to the fact that the Nanyuki line is extended. I do not know the details of that particular point. It is purely an accounting one and I am quite sure that our Chief Accountant and the Auditors watch any question of that sort very closely, and if there had been any wrong debit it is bound to be found out.

A point was raised with regard to the cost of ship surveys. In the Bill I understand that provision is made for the payment of fees which presumably will cover such costs.

I cannot altogether agree with the hon. Member with regard to advertising. I think under present circumstances, where we have had to look in every possible direction for

money, that there is no alternative but to reduce the advertising expenditure to some extent. I hope, however, we shall be able to restore that expenditure in next year's Estimates.

Again a point was made with regard to overtime allowances. I think that is entirely due to the fact that the work being done by the Railway is steadily increasing each year. More engines and more drivers are employed. The same applies to the question of the maintenance of engines. This year, in order to try and effect economy, we cut down the maintenance of engines. In spite of the fact that new engines are continually coming out, and additional mileages are continually being run. Actually also a certain number of new engines which were brought out and used three or four years ago are now becoming due for repairs and that throws up the cost to some extent. The cost is based purely on mileage. The average life of an engine before it goes into the shops for overhaul is about 80,000 miles, and it therefore depends entirely on the amount of traffic we have to haul.

A point was made in regard to the publication of tenders. I will look into this question again. It has been under correspondence with Government and for various reasons publication of all tenders is not considered desirable. There are certain difficulties with regard to that question which I will look up again to see whether anything can be done.

I am familiar with the point about weighbridges, but I imagine that the difficulty is this; that certain individuals wish us to provide weighbridges at some cost to ourselves; but from the Railway point of view, the fees that we could expect to get back in return would not justify the expense. That is a matter we have to watch very closely until such time as funds are more readily available.

I think, Sir, I have answered fairly completely the question raised by the hon. Member for Nairobi North in regard to reserve funds, but if there are any points I have not cleared up in regard to reserve funds I shall be very glad to try and explain them to the hon. Member. The point which should be understood by everybody in the country—because there is an impression that we have a bottomless purse into which we can dip when actually in need—is that at the end of this present year we shall probably not have £100,000 left in our reserve account. It is a very small amount in case of next year being a bad year.

The hon. Member for Mombasa, Sir, raised a point about the new station at Mombasa. Provision for a new station for Mombasa was duly included in the Estimates but after the fullest consideration by the Railway Council, in view of the

present circumstances, it was decided we should not be justified in spending that money. I think that decision was a wise one, but what I should be able to do in the coming year—and I will do so if it can be possibly arranged—is to get out preliminary plans and go into the matter of preliminary lay-out, and have as much information available as possible ready for the time when the question comes up again for consideration.

The hon. Member for Plateau North raised the question of the Congo extension. It is true that some expenditure has been incurred in regard to survey. That was sanctioned last year, Sir, and is not a very large amount. It is part of the policy that wherever we may have to construct a railway we carry out initial surveys and charge them to the Betterment Fund. That policy has been followed in regard to the Kericho-Donyo Sabuk and other branch lines from time to time, but there will be no question of any commitment so far as Kenya is concerned without consulting the Legislative Council. I wish to point out, however, that it concerns chiefly Uganda, who will have to provide guarantees so far as the Railway is concerned before it will be possible to consider these extensions.

The question of branch line rates, Sir, is one upon which I cannot convince the hon. Member for Plateau North. It is purely a question of geographical difficulty. The costs of building a branch line have to be recovered from someone. It is a question of the difference between the cost of providing a branch line and the cost of road transport. It is a curious fact that before branch lines were built we received letters pointing out that the settlers of the districts concerned would be only too glad to pay rates even approximating to road haulage costs if only they could get a branch line, but now they have got the branch line they complain of the branch line rates. The real point is this, that these branch lines do not pay, and therefore somebody must pay for them, and it has been agreed that to some extent the branches themselves should be asked to assist, and so the rates have been slightly increased on these lines. Of course, farmers situated on these branch lines must expect to pay something more for their transport than farmers situated on a main line; that applies to farmers twenty miles away from a station, or farmers ten or fifteen miles away from a station.

The same hon. Member suggested also that the Railway might consider the running of motor transport on the road from Kitale to Mount Elgon. That is a question that may come into the picture in the future, Sir, but at the present moment we have no capital at all for an extension of our activities in that direction. Moreover, we should be liable to

such cut-throat competition that it would be quite impossible for us to maintain a service in that area. Our motor transport service in Uganda is in a different category. That is part of our through route from Mombasa to Kasenyi. I think the actual cost of running this service is indicated in the annual report.

I think, Sir, those are all the main points that have been brought to my notice. I do not propose to say anything in regard to the question of native development. I did not realize when I introduced that subject that I was starting a hare, but I am quite sure it will receive the sympathetic attention of whoever has to deal with that subject.

I beg to move:

“That the Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours be approved.”

HIS EXCELLENCY: Before I put the question as a whole I should like to refer briefly to the subject of native marketing and agriculture. I should like to say, on behalf of Government, how very much we appreciate the attitude adopted by hon. Members and that I will give the matter my personal attention.

The question is:

“That the Estimates of Revenue and Expenditure for the Kenya and Uganda Railways and Harbours for the year 1931 be approved.”

The question was put and carried.

BILLS.

SECOND READINGS.

THE COLLECTIVE PUNISHMENT BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that a Bill to consolidate and amend the law relating to Collective Punishment be read a second time.

This Bill, Sir, falls to be considered from two quite different aspects, inasmuch as it firstly adds a number of provisions to the existing law on the subject of collective punishment, and secondly it omits the provisions of four sections of the law as it now stands. I propose to deal, Sir, firstly with the additions which have been made.

In clause 2 hon. Members will find that paragraphs (a), (b) and (c) have all been considerably expanded with a view to making the provisions of the legislation both simpler and more comprehensive. For instance, paragraph (a) in the law

as it now stands enables a collective fine to be imposed only in cases of collusion with a criminal. The use of the word "criminal" has given rise to practical difficulties, not only because it is not always as easy as at first sight would appear to say what is a "criminal," but also because there is the question of whether the magistrate investigating the case can satisfy himself that the inhabitants of any village or area were aware that the person who came to them was in fact a criminal; and therefore, Sir, in the interests of simplicity it is suggested that there should be added the words: "Any person accused of having committed a crime, concerning which a public announcement has previously been made within the limits of their village or district by an authorized emissary of a district officer or of a native authority." The effect of that alteration will be that, if a person who is wanted by the police is known to have taken refuge in any district and cannot be found there, it will now be sufficient to announce that he is, in fact, wanted, and, if he is not handed over to the authorities of the village or area, the offence will be complete and it will be competent for the magistrate to recommend the imposition of a collective fine.

In paragraph (b), Sir, the offence relative to the suppression of evidence in a criminal case has been expanded to include an investigation, an enquiry or an inquest; and in (c) similarly, property reasonably suspected of being the proceeds of a theft have been included, subject always to a public announcement, as provided in paragraph (a).

When we come to clause 3, Sir, the only elaboration made there is that liability to collective punishment is extended to cases where a serious offence against a person has been committed in any area or district. As the law now stands that liability occurs only where a person is dangerously or fatally wounded by unlawful attack or the body of a person believed to have been unlawfully killed is found within any village, area or district.

Clauses 4 and 5 are completely new. Clause 4 will in effect permit of binding over a community to keep the peace. At the present moment, if a fine is imposed, it is paid and there is no guarantee whatever, except the risk of the imposition of a subsequent fine, that the inhabitants of an area on which a fine has been levied will be at pains to keep the peace. It will now be possible, in the order imposing the fine, to specify that the whole or part of that fine may be repaid to the persons from whom it was collected after the lapse of a prescribed time. That time may, in turn, be extended. There will, therefore, be a contingent liability to pay that fine hanging over the heads of the inhabitants of that area, and if one is entitled in the case of a collective

punishment to draw a line through the ordinary provisions of the criminal law regarding recognizances and securities. I think one is entitled to say that the effect of such an amendment will be to stimulate the inhabitants of any area to be law-abiding, and keep the peace and to avoid doing anything which can be construed as a breach of the Ordinance.

Clause 5 is a salutary one inasmuch as it empowers the imposition of an order to deliver up arms. At present there is no such power, and the taking of such a power is, I think, certainly not unimpractical nor unreasonable, and I feel sure it will commend itself to all hon. Members.

The remaining clauses—with, of course, the exception of clause 11—are taken from the law as it now stands, and they impart no change of any nature whatever.

I stated a few moments ago that there was a second aspect from which this legislation fell to be construed inasmuch as certain provisions of the existing law had been omitted. Sections 6, 7, 8 and 9 will not be found in this legislation, which provide for the imposition of a sentence of forced labour in lieu of the payment of a money penalty. Hon. Members are doubtless aware that under the law as it now stands it is competent for the Governor, in making an order for a collective fine, to say that all adult males shall work off the amount of that fine by work on roads or other public work, and the whole of those provisions are omitted from this legislation. The reason for their omission is that at the recent International Labour Conference at Geneva in the Convention on Forced Labour there occurs the following article, Article 22:—

"Collective punishment laws, under which a community may be punished for crime committed by any of its members, shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment."

To that Convention the British Empire has adhered. There is a further consideration, Sir, a practical one, based entirely on conditions actually obtaining in the Colony here. So far as I have been able to ascertain in recent years no such order has ever been made, but I would remind hon. Members that inasmuch as all orders made under the Ordinance have to be reported for the approval of the Secretary of State it is, to put it very mildly, unlikely that approval would be given to any such order in view of the categorical and expressed provision of Article 22 of the Convention to which I have just drawn attention.

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

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

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

CAPT. THE HON. H. E. SCHWARTZ : Your Excellency, Elected Members support this Bill in principle. They welcome the extended scope to which reference has been made by the hon. the Attorney General and, as I understand it, they have no objection to the parts deleted, more especially in view of the reason for that deletion which has been explained.

Many of them, however, do take exception to the introduction of the new provision contained in section 4 of the Bill. They feel that it is putting too much power into the hands of the Governor to give him power completely to remit a fine which has been inflicted. They feel that it is possible that the benefits to the community as a whole in the infliction of a collective fine may be nullified if the power is given to the Governor completely to remit that fine.

There are certain small points of detail in other clauses with which I do not propose to deal but I have been asked to ask Your Excellency and Government to agree to the appointment of a Select Committee, which cannot waste any time as I think probably it would be dealt with in a quarter of an hour in Select Committee. If Government feels able to meet our wishes in that respect, I have been further requested to ask that the Members on our side of the House to sit on it should be the hon. Members for Kenya, the Coast and Kikuyu.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, it is a matter of regret to us that this Bill is not so well presented as the Land Bank Bill was. It is not so easily comprehensible because of its method of presentation. I hope Government will follow the admirable method adopted in the presentation such as was manifested in the Land Bank Bill so that we can see exactly what is proposed for decision and so on.

In clause 2, I think, Sir, there is an amendment which is required. I shall not deal with that because I hope Government will agree to the suggestion for a Committee, but in regard to clause 4 there is a definite principle involved and a very serious one. After all, Sir, let us study the history of the Northern Frontier, which has recently been taken over

by the civil administration, and see how it applies when this power did not exist. In the past, Sir, the history of our failure to administer the Northern Frontier was based upon just such a situation as is being created under this clause, and that is that where a fine was imposed by the military authorities on a tribe in the Northern Frontier, and the situation was then controlled by the civil authority or by a new member of the military authority who took over, the practice was in all cases first of all to listen to representations from the tribe that they were being hardly treated and could not collect the fine either in the time or to the amount imposed. If those representations were considered the fine was remitted in fact, and eventually that tribe, instead of having the whole fine extracted from them was given a reward for its good behaviour. The following year, Sir, they complained that the reward was not sufficiently large, and the third year they demanded an increase with menaces in the reward. In the fourth year they cut the throat of the administrative officer and the business started from the beginning. That was based on such recognition as is empowered now in clause 4. It has been suggested that this clause is merely the means of exacting from a native tribe a deposit guaranteeing their good behaviour. I suggest, Sir, that such a policy as that is an undignified one for any Government to adopt. A Government should not demand a deposit guaranteeing good behaviour of a native tribe. The Government should have faith enough in its administration of justice to expect good behaviour without recourse to such a method as this, and on those principles I think that this particular clause should be wholeheartedly resisted on this side of the House. Let us at all events maintain an appearance of dignity in government.

In regard to this international legislation being thrust upon us, although one may agree in broad principles of humanity, I think it is entirely undesirable that our particular domestic issues should be affected without reference to their local application, and this, Sir, means that the fines imposed will be limited by the chattels and stock possessions generally in the hands of the tribe instead of exacting a real penalty in the form of collective punishment, work on behalf of that tribe done by the members of the recalcitrant tribe. I do not think it is a really good thing.

In clause 5 I think there should be some addition to the definition of "arms." I hope Government, Sir, will agree to submit this to the consideration of a Select Committee.

With those points that I have raised I support the Bill.

THE HON. C. M. DOBBS (SENIOR COMMISSIONER, NYANZA): Your Excellency, I should just like to say with regard to section 4 that I have had a fairly good experience of collective punishment, probably more than most of the administrative officers in the country, in connexion with the Lumbwa natives, who are pastmasters at the art of annexing their neighbours' cattle. I have always considered that if we could be in a position to impose something in the nature of making them give security for good behaviour on the lines which are allowable in the case of individuals under the existing laws in connexion with other classes we would have tremendous hold over them. I remember once, years ago, asking if I could, when collective punishment had been imposed, tell the natives concerned that the balance of the punishment would not be collected if they did behave themselves. I think we would have a great hold over them. I wholeheartedly support that particular section and I think myself, from what I have seen of the working of collective punishments, that it would have an extraordinarily good effect if one could say: "We have got this five thousand shillings or whatever it is; we do not want to take your money; we do not want to increase the revenues because you are playing up; but we want you to behave yourselves." I think it would have a tremendous effect in forming a public opinion against stock thieving.

THE HON. THE ATTORNEY GENERAL: I have Your Excellency's authority for stating that the Bill will be referred to a Select Committee consisting of the Provincial Commissioner, Nyanza, the Solicitor General, the hon. Members for Kenya, the Coast and Kikuyu, with the Chief Native Commissioner as Chairman.

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

The question was put and carried.

THE DISEASES OF ANIMALS (AMENDMENT) BILL

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Diseases of Animals Ordinance be read a second time.

The point at issue here, Sir, is a very short and simple one. Under section 3 of the Diseases of Animals Ordinance any person who has in his possession or charge an animal affected with disease or suspected of being affected with disease has two obligations thrust upon him. He has to segregate that animal and he has to give notice of the fact that the animal is, or is in his belief, infective. Difficulty has arisen in the case of squatter stock—stock lawfully on

a farm, which is the property of a squatter engaged under the terms of the Resident Native Labourers' Ordinance, 1925—which is roaming on the farm of a settler in this country. Such stock cannot be said legally to be in the possession or charge of the owner of the farm. The practical result which invariably has occurred is that disease has broken out amongst the squatter stock on farms. The stock of the owner has at once been removed in order to minimise the risk of infection of that stock, and in certain cases the stock so removed has been infected and has transmitted the disease outside the boundaries of the farm. So it is proposed by this amendment to provide that for the purposes of segregation of infected stock and for purposes of giving information in regard to squatter stock such stock should be held to be in the possession or charge of the owner of the farm.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that a Bill to amend the Diseases of Animals Ordinance be read a second time.

CAPT. THE HON. A. C. HOEY: Your Excellency, I think it is a very wise provision but I really feel that it is impossible of application until it is taken in line with the existing Ordinance which concerns squatters—the Resident Native's Ordinance I think it is, Sir. I think it would be putting almost an impossible burden on the European owner of the farm unless there was some provision brought in whereby it was explained to the native what his obligations were in this matter. I believe the native at present does not realize, in connexion with stock diseases, his liability towards the owner of the farm. There is nothing under the present Resident Native's Ordinance which necessitates the native informing the European owner of a farm of the existence of disease. Sir, I have some experience of squatters and I believe, until this point is brought home as regards the real obligation which must fall upon the native concerning the notifying of disease, that it will not be possible to work this Ordinance. I would awfully like to see this Ordinance put back until such time as the Resident Native's Ordinance is revised. I understand that action has already been taken to bring about certain amendments, and I would very much like to see this held back, Sir, until that Ordinance is revised.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: I think most Members on this side of the House agree with the principle enunciated in this Bill. The hon. Member for Plateau South has pointed out some of the difficulties in the

THE HON. C. M. DOBBS (SENIOR COMMISSIONER, NYANZA) : Your Excellency, I should just like to say with regard to section 4 that I have had a fairly good experience of collective punishment, probably more than most of the administrative officers in the country, in connexion with the Lumbwa natives, who are pastmasters at the art of annexing their neighbours' cattle. I have always considered that if we could be in a position to impose something in the nature of making them give security for good behaviour on the lines which are allowable in the case of individuals under the existing laws in connexion with other classes we would have tremendous hold over them. I remember once, years ago, asking if I could, when collective punishment had been imposed, tell the natives concerned that the balance of the punishment would not be collected if they did behave themselves. I think we would have a great hold over them. I wholeheartedly support that particular section and I think myself, from what I have seen of the working of collective punishments, that it would have an extraordinarily good effect if one could say: "We have got this five thousand shillings or whatever it is; we do not want to take your money; we do not want to increase the revenues because you are playing up; but we want you to behave yourselves." I think it would have a tremendous effect in forming a public opinion against stock thieving.

THE HON. THE ATTORNEY GENERAL : I have Your Excellency's authority for stating that the Bill will be referred to a Select Committee consisting of the Provincial Commissioner, Nyanza, the Solicitor General, the hon. Members for Kenya, the Coast and Kikuyu, with the Chief Native Commissioner as Chairman.

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

The question was put and carried.

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to amend the Diseases of Animals Ordinance be read a second time.

The point at issue here, Sir, is a very short and simple one. Under section 3 of the Diseases of Animals Ordinance any person who has in his possession or charge an animal affected with disease or suspected of being affected with disease has two obligations thrust upon him. He has to segregate that animal and he has to give notice of the fact that the animal is, or is in his belief, infective. Difficulty has arisen in the case of squatter stock—stock lawfully on

a farm, which is the property of a squatter engaged under the terms of the Resident Native Labourers' Ordinance, 1925—, which is roaming on the farm of a settler in this country. Such stock cannot be said legally to be in the possession or charge of the owner of the farm. The practical result which invariably has occurred is that disease has broken out amongst the squatter stock on farms. The stock of the owner has at once been removed in order to minimise the risk of infection of that stock, and in certain cases the stock so removed has been infected and has transmitted the disease outside the boundaries of the farm. So it is proposed by this amendment to provide that for the purposes of segregation of infected stock and for purposes of giving information in regard to squatter stock such stock should be held to be in the possession or charge of the owner of the farm.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM) : Your Excellency, I beg to second.

HIS EXCELLENCY : The question is that a Bill to amend the Diseases of Animals Ordinance be read a second time.

CAPT. THE HON. A. C. HOEY : Your Excellency, I think it is a very wise provision but I really feel that it is impossible of application until it is taken in line with the existing Ordinance which concerns squatters—the Resident Native's Ordinance I think it is, Sir. I think it would be putting almost an impossible burden on the European owner of the farm unless there was some provision brought in whereby it was explained to the native what his obligations were in this matter. I believe the native at present does not realize, in connexion with stock diseases, his liability towards the owner of the farm. There is nothing under the present Resident Native's Ordinance which necessitates the native informing the European owner of a farm of the existence of disease. Sir, I have some experience of squatters and I believe, until this point is brought home as regards the real obligation which must fall upon the native concerning the notifying of disease, that it will not be possible to work this Ordinance. I would awfully like to see this Ordinance put back until such time as the Resident Native's Ordinance is revised. I understand that action has already been taken to bring about certain amendments, and I would very much like to see this held back, Sir, until that Ordinance is revised.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT : I think most Members on this side of the House agree with the principle enunciated in this Bill. The hon. Member for Plateau South has pointed out some of the difficulties in the

practical application, but still further difficulties occur, Sir—have occurred very recently in the case of some cattle belonging to a resident native on a farm in the neighbourhood of Ulu which were stolen by the Masai, were subsequently found in the Masai Reserve, where they had been for some period; where one of them died of pleuro-pneumonia at Kajiado and the others were sent back, contrary I believe to the Diseases of Animals Ordinance, because the Masai Reserve is full of pleuro-pneumonia and the movement of cattle, I believe, is not allowed from there. These cattle were forced to be sent back by orders of the District Officer, and the resident native who protested against being made to take these cattle was ordered to take them by that District Officer, though he pointed out that one died, another was coughing badly, and that if he took them back it would spread disease amongst his own cattle. He took them back and when I last heard, ten more cattle had died of pleuro-pneumonia. Now, Sir, if this amendment is brought in, I presume that District Officer would not be able to take such high-handed action over the native. He would just have to order the owner of the farm to comply with the provisions of the law, and if that is the case, I think it would be a very great improvement on the existing state of affairs.

DEPT. COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to support the hon. and gallant Member for Plateau South. If it is the intention to revise the Squatters' Ordinance then I suggest that this matter could be well left in abeyance. Further, Your Excellency, I cannot agree that the occupier of a farm should be made responsible for cattle brought on to that farm without his knowledge by natives residing on that farm; and further, Sir, it is difficult to realize the existing implications of the proposed alteration to the Diseases of Animals Ordinance without reading it in its correct context—that is, with the previous Bill—and for these reasons, Sir, I am opposed to the measure at the present stage.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I warmly support the introduction of this measure. I think it is an essential thing that a farmer who has a farm or property in this country should be made responsible and should know what is going on on that property. We will never attain to control of disease in this country if the individual farmer who has squatters on his property is not made ultimately responsible for them. I warmly support the measure, Sir.

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CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, the point has been raised by the hon. Member for Plateau South which I think might possibly be considered by the hon. the Attorney General. As I read this Bill, the placing on the occupier of a farm the duty of segregating the cattle and giving information to the nearest District Officer takes that duty away from the native. Under the Bill as it present stands it is the duty of the native who owns the cattle to segregate those cattle and inform the administrative officer. Under the amendment, as I read it, subject to correction, that throws the duty, at present on the native, on to the occupier of the farm and takes it away from the native. I think what the hon. Member for Plateau South wants is that—he does not mind the obligation being thrown on the occupier of the farm, but he also wishes an equal duty thrown on the owner of the cattle to report, not only to the administrative officer, but to the person on whose farm he is. I do not anticipate any real difficulty in so amending this amending Bill as to meet those views, and if the hon. the Attorney General agrees with me that the suggestion made by the hon. Member for Plateau South is one which will not create very great difficulty, I respectfully suggest that progress might be reported and see if we cannot get down to it and get something which will suit everyone.

THE HON. THE ATTORNEY GENERAL: I have Your Excellency's authority for saying that the further consideration of this Bill will be postponed till a later date.

HIS EXCELLENCY: I understand it will meet the convenience of hon. Members if we meet to-morrow morning for the purpose of finishing off some of this outstanding legislation.

CAPT. THE HON. H. E. SCHWARTZ: That is so, Your Excellency.

HIS EXCELLENCY: The House is therefore adjourned till 10 o'clock to-morrow morning.

*The Council adjourned till 10 a.m. on Saturday,
22nd November, 1930.*

SATURDAY, 22nd NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, 22nd November, 1930. His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of 21st November, 1930, were confirmed.

NOTICE OF MOTION.

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Your Excellency, I beg leave to give notice of the following motion:

"That the Report of the Select Committee on the Estimates for 1931 be adopted."

Giving notice of such a motion as this, Sir, is not usual in this Council, but in the event of Your Excellency adjourning Council possibly till next Wednesday or Thursday and in the event of the report being ready by then, it would not previously have been possible to give this notice. I therefore ask the indulgence of the House in giving it.

MOTION.

REPORT OF SELECT COMMITTEE ON THE BROKERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): I beg to move, Sir:

"That the Report of the Select Committee on the Brokers (Amendment) Bill be adopted."

Hon. Members will recollect that at the July Session of this Council at Mombasa a Bill for the amendment of the Brokers Ordinance was considered and discussed and was referred to a Select Committee of this Council. The point, I think I may say the only point, taken on the debate on second reading, Sir, was whether or no it should be provided that brokers should be under an obligation to keep books in the English language or whether they should be permitted to keep them alternatively in either some Indian or some vernacular language. The Select Committee subject not only the provisions of the amending Bill but the provisions of the Brokers Ordinance itself to very careful review; a number of

witnesses appeared before the Committee and the decision which the Committee took, which is embodied in the recommendations now under review, was that the Ordinance as it now stands on the Statute Book was in effect unworkable and impracticable. The two reasons for forming that opinion are stated. Sir, in the second paragraph of the Report of the Select Committee.

Brokers are of several different kinds. One of the commonest and certainly a very useful type of broker is the ordinary runner who acts as a medium of negotiation between wholesale houses and retail traders. Such people have no premises; they have no stock in trade at all. They are merely asked by a wholesale house to do their utmost to dispose of a certain line of goods. Having done that, the goods then pass directly from the wholesale trader to the retailer. To provide that a broker in such circumstances should carry on his business in certain specified premises would obviously be the end of that business entirely. Similarly, Sir, the provision that all goods taken in by a broker should remain in his hands intact for a period of forty-eight hours has never been held and is not to-day held by the police to have any relevancy to the trade of a money changer. Money changers can, for instance, go on board the vessels which arrive from Bombay. They exchange the currency of this Colony for Indian currency and possibly the same day they go on board another vessel which is leaving this Colony for India and a re-exchange of the notes and coin which they have taken on the first vessel takes place on the second vessel. To insist on their keeping the notes and coin for a period of forty-eight hours would be of no practical assistance from the point of view of police work and would in effect mean that a money changer would have to keep at least double the capital that he at present has to keep, possibly considerably more. From no point of view, Sir, so far as the Committee was able to ascertain, after hearing evidence, would such a provision be of any practical importance.

On the question of keeping books, Sir, the Committee recommends that it should be permissible to keep books in more languages than the English language, that they should be kept in either English, Kiswahili, Gujrati or Urdu, with the proviso, Sir, that all new licensees, all persons beginning the business of goldsmith or silversmith after the end of this year, should be under a statutory obligation to keep their books in English. I think all the gold and silversmiths in Mombasa, with two exceptions, appeared before the Committee, and not one of them had even a nodding acquaintance with the English language. Many of them have only a very slight acquaintance indeed with Kiswahili. The Nairobi gold

and silversmiths are, in very little better case, the sole distinction between them being that the obvious language in Mombasa would be Gujrati, whereas in Nairobi it would be Urdu. The recommendation of the Select Committee, Sir, is, I think, an essentially fair one, although hon. Members will find that there is a minority report by the hon. Indian Member who objects to the proviso relating to the use of the English language in the case of persons who for the first time are licensed on or after the 1st January, 1931.

The recommendations of the Committee, Sir, technically come to this, that the amending Bill be not proceeded with and that in place of it there be adopted by this Council a new Bill entirely repealing and replacing the existing Brokers Ordinance. Therefore, Sir, if the motion to which I am now addressing myself is approved, Sir, I shall ask the leave of Council to move the suspension of Standing Rules and Orders in order that the new Bill may be taken through all its stages this morning. I beg, Sir, to move.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Brokers (Amendment) Bill be adopted.

The question was put and carried.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: With your leave, Sir, I move the suspension of Standing Rules and Orders in order that a Bill to make Provision for the Licensing and Control of the Business of Brokers, Money Changers and Goldsmiths and Silversmiths be taken through all its stages to-day.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended to allow the Bill in question to be taken through all its stages to-day.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, before deciding whether to vote for this motion or not I should like to ask Government whether there is any real urgency for this Bill to be put through its three readings to-day. It is really a matter of principle. If it is not a matter of urgency, I would suggest it should be taken in the ordinary way at the

next meeting of Council. It is hardly a point we feel, or some of us feel, which calls for the suspension of Standing Rules and Orders, which is only used on really important occasions.

THE HON. THE ATTORNEY GENERAL: I am extremely sorry if I conveyed the impression that I regarded it as a matter of urgency in that sense; I regarded it more as a matter of form. The Bill in question has always been an integral part of the Report, the recommendation being that the amending Bill be approved with amendments. It would have gone through its remaining stages this morning as a matter of course and I merely thought, inasmuch as the Bill is not the same Bill which went to the Select Committee, it was more proper, Sir, that it should be formally moved a first and second time. I certainly have no other reason for suggesting that it is a matter of extreme urgency, Sir. If possibly Elected Members could see their way to allow me to renew this motion some time later in the Session I should be quite content.

THE HON. CONWAY HARVEY: Your Excellency, I think it would be for the general convenience of Council if the latter proposal were accepted.

HIS EXCELLENCY: I have no desire to use the suspension of Standing Rules and Orders except in matters of urgency or on agreed occasions, but, as pointed out by the Attorney General, this was more a matter of form than anything else, but if it is the feeling of Council I have no objection to its being withdrawn.

BILLS.

SECOND READINGS.

THE IMMIGRATION RESTRICTION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Immigration Restriction Ordinance be read a second time.

The Bill is an extremely short one, Sir, and there is little or nothing to be said on it. Recently a very large number of immigration officers have been appointed. District Officers throughout the country are now immigration officers whereas before there was only one. The practical difficulty that has arisen is that, where people come across the Northern Frontier they cannot be asked to report to the nearest political officer. They are quite entitled to say: "The law requires us to report to the Immigration Officer and he is in Mombasa,

and we are in process of doing so." It is obviously in the interests of the Colony that immigrants into the Northern Frontier Province and Turkana should be examined as early as possible, and therefore, Sir, this amendment is requisite, the effect of it being that there will be an obligation on such immigrants to report to the nearest political officer to the point at which they crossed the frontier.

In section 16 of the Ordinance one word "if" occurs; that word should be "is", and on the Committee stage I would ask leave to move that purely formal amendment.

I beg to move the second reading of the Bill.

THE HON. T. D. H. BRUCE: 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 LEGITIMACY (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Legitimacy Ordinance, 1930, be read a second time.

It was only in April of this year, Sir, that the Legitimacy Ordinance was placed on the Statute Book of the Colony. When that measure was finally approved for introduction into this Council there was very material variance in its provisions from the provisions of the parent English statute inasmuch as section 3 of the Bill omitted the second sub-section of the corresponding section, which provides: "Nothing in this Ordinance shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born."

The result of that omission, Sir, is that the parents of an illegitimate child which is the offspring of adulterous intercourse are in a better position in this Colony in safeguarding the interests of that child than they are in England, or, so far as I have been able to ascertain, in any other part of the Empire which has adopted legislation similar to this. Inasmuch as domicile is not an essential pre-requisite under our Ordinance, it would be competent to the parents of such a child to come out to this Colony and there legitimate that child with all the consequences of legitimation following on that act, whereas it would not be possible for them to do so in any other part of the Empire, either in England or in any colony or dominion which has adopted the provisions of the English Act. That, Sir, it has been represented, is a

divergence of local legislation which is contrary to public policy; and therefore, Sir, clause 2 of the Bill seeks to restore in our local legislation the provisions which were omitted when the English legislation was taken as a model.

Clause 3 calls for no comment. It is merely a rearrangement of the subsections and the proviso of section 4 of the Ordinance; and equally clause 4 is merely inserting, for the sake of uniformity, the provisions of the English Act which were felt to be not very necessary at the time in the conditions of this Colony. Again, in respect of that clause, I would emphasize that inasmuch as the matter most affected by legislation such as this is that of inheritance, it is an advantage that similar provisions should obtain here to those which obtain in England, as estates may lie partly in this Colony and partly in the United Kingdom, and it is obviously to the general advantage that in such conditions similar provisions should obtain. I am sure no hon. Member will take exception, and I beg to move that the Bill be read a second time.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, it is difficult for me adequately to express the strength of my opposition to the proposed amendment to section 3 of the Principal Ordinance.

I would preface my remarks by reminding this House that when this Bill was drafted by this Government they had before them the English Act, and the omission to which the Attorney General has referred, was no omission done in error but a definite omission, I suggest, after consideration by Government. I suggest that that omission was a right omission and should stand.

I am not concerned with what the law may be in other parts of the Empire where legislation on these lines has been introduced. I am concerned, and I suggest every Member of this House should be concerned, solely with the interests of the innocent child. The whole object of a Legitimacy Ordinance is to protect the innocent child. As the Bill now stands it is a complete protection to the innocent child provided that the people responsible for its birth are eventually married. If this amendment goes through it will be but a partial protection, and while the Attorney General has stated that where legislation has been introduced in other parts

of the Empire it follows the lines now proposed in this Bill, I think I am right in saying that in Scotland it is a question, not of legislation but of canon law applying only to domiciled Scotsmen, but that there the provisions of that canon law are the same as the provisions which are now law in this country—such as became law in April last.

Now, Sir, it appears to me that if it is conceded that the sole object of such a Bill as this is the interests of the innocent child, are we to say—and can we fairly say that that child is any less innocent or any less worthy of protection if the intercourse which gave it birth was an adulterous one or merely fornication? There may be many and grave differences between those two acts but I suggest that the difference should not be taken into consideration in a Bill framed solely in the interests of the person who is not responsible. Moreover, Sir, I would point out one absurdity of the law as it would be if this amendment went through. What is the position to be of a child who was conceived at a time when the parents were able to marry—that is to say, that the actual act which afterwards caused the birth of that child was not adulterous intercourse, because the people were not married, but afterwards, between the time the child was conceived and the time the child was born, the man went and married someone else, so that at the time the child was actually born the parents were not in a position to marry because one of them had already married? I am pointing out, Sir, that it does not necessarily follow under this amendment that a child born at the time one of its parents was already married to someone else is necessarily the result of adulterous intercourse. It is not so at all, Sir.

I would ask Government—and I speak not only on my own behalf but I think on behalf of every Member on this side of the House—in view of the unanimous feeling we have on the lines which I have tried to express, that Government would agree here and now to report progress and refer the matter back to the Secretary of State for the Colonies, pointing out to him the unanimous feeling which the Elected Members of this Colony have, and asking him, for the reasons which I have attempted to give, to reconsider the matter and allow the Bill which is now law in this Colony to remain law without the proposed amendment of this clause.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I wish most strongly to oppose this Bill, particularly on the clause which has already been referred to. I submit, Sir, that it is not Government's function to attempt to thrust morality upon a people. Government's function is to attempt to attain social development along lines which are agreed to. It

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is idle to suggest that any Government can control sexual morality and I maintain that it is brutal and cowardly to thrust that failure upon an innocent child. After all, on what is this measure based, Sir? Is it based on any element of kindness or is it based upon something cowardly and contemptible? I maintain, Sir, that it is based upon a desecrated inhumanity which we on this side of the House cannot agree to and Members on the other side should not agree to. One is not concerned with the ramification of possibilities. The matter has been explained and the variation in possibilities have been dealt with in detail. We are here to deal with the ultimate effect of the passing of this legislation, which would be an inhumanity, and a cowardly and contemptible inhumanity, to an innocent child. I very strongly oppose this and I hope the Government will agree to the course suggested by my hon. friend on my right (the hon. Member for Nairobi-South).

THE HON. A. H. MALIK: Your Excellency, I beg to support the remarks which have been made by other Members on this side of the House, and I honestly feel, Sir, that an innocent child who was born like that—not through any fault of his own—should be adequately protected; and if this amendment goes through, as has been pointed out, that goes by the board. I also feel, Sir, that sufficient protection to an illegitimate child will act as a deterrent also on the two parents who go about in the fashion they should not do. In the interests of morality and society I do trust, Sir, that Government will not insist upon this amendment.

HIS EXCELLENCY: If, as I understand to be the case, the feeling of the unofficial Members on that side of the House is unanimous on this point . . .

THE HON. CONWAY HARVEY: Entirely, Sir.

HIS EXCELLENCY: . . . I am prepared to withhold the second reading of this Bill and make further representations to the Secretary of State.

THE PENAL CODE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Penal Code be read a second time.

This is not the sort of Bill, Sir, on which any coherent speech can be made on an occasion such as this. There is no essential nexus between the clauses. The whole reason for

the Bill—the urgent reason—is that the practical experience of the working of the Penal Code has shown, in the opinion of the judges, the magistrates and the police, that certain offences and crimes were not adequately covered in that Bill. The first of these, Sir, is the offence—which is by no means uncommon in certain parts of the Colony—of deliberately giving false information to public officers, particularly to the police, in the confident hope that that information will be acted upon to the detriment of someone else. That is not an offence, Sir, as the law now stands, and the responsible police authorities have represented that it is becoming increasingly common, possibly, and I feel, certainly, because of the omission of the Code specifically to cover that point.

The second clause deals with a rather different matter—clause 3—and seeks to repeal that provision of the Code—a provision taken from the Criminal Law (Amendment) Act of 1925—which imposes a minimum term of three years imprisonment for rape. Hon. Members will recollect that in 1926, through the medium of the Ordinance to which I have already referred, rape was made a capital offence, and at the same time the provision for a minimum sentence was introduced. Reference to the Hansard of that meeting, Sir, on the 30th June, 1926, shows that my predecessor who introduced the measure stated:—

“To meet such cases the Bill provides the alternative of imprisonment which may extend to life, but which must not be less than three years. In imposing a minimum sentence for this offence we follow the law in force in the United Kingdom and this is a provision which I hope hon. Members will see their way to accept.”

With all deference, Sir, I should point out that the minimum sentence of three years for the crime of rape does not follow the law of England. It is true the sentence, the minimum sentence, of penal servitude which may be imposed for that crime is three years; it is so in the case of every crime. There cannot be penal servitude for a less term than three years, but it is also competent to the court in the case of rape to impose a term of imprisonment which may not exceed two years. The differentiation is a purely technical one. It is due merely to the statutory provision regarding the different forms of incarceration. It is not perfectly accurate to state that a court in England cannot pass a sentence of less than three years penal servitude for the crime of rape. Possibly as a result of that statement, Sir, in the introduction of the Bill nothing appears to have been said in the course of the debate directly on the question of the minimum sentence,

but the Noble Lord, the Member for Ukamba, who spoke immediately after the question had been put, said as follows, Sir:—

"Your Excellency, I am not in any way cavilling at the decision that there should be no racial discrimination. In this somewhat difficult and complicated matter it is probably the right thing to do, but at the same time I do want to stress the point that it is no good trying to pretend that the natives, who are barely emerged from a state of savagery, can be judged by exactly the same standard as the Europeans with hundreds of years of civilisation behind them. I am not trying to suggest that this should be amended in any way to bring in any racial discrimination; all I want to say is that we, on this side of the House, by agreeing that there should be no racial discrimination, do not wish it to be taken as a precedent that in all cases that should be accepted as a permanent fact. There is no question about it. It would not be fair on the natives, any more than on the white man, if he is going to be put on the same level. He has not had time to rise to the same standard and there must be discrimination until the backward races have so far advanced as to reach the civilisation of the old established ones. In this particular case you cannot get away from the fact that the result of some of these offences to a European woman is worse than death, while in some of the tribes it is a matter of comparatively small account."

The hon. Member for Kenya spoke in the same strain, Sir:—

"We view our wives and our female children in terms of absolute value and not in terms of relative value. That is a fundamental difference between the native mentality and European; it is manifest and it cannot be ignored for long. In a native woman chastity is often considered unimportant."

The best authority on a matter such as this, I suggest, Sir, is our own judges, and so far as I have been able to ascertain, Sir, from the judges, they are unanimously of opinion that the present law, by compelling them to pass a minimum sentence of three years, leads to injustices. In a recent case the trial judge informed me that of three cases of rape which he dealt with on circuit justice would, in his opinion, have been met had he imposed sentences of nine months and twelve months. In each case he was compelled, under the law as it now stands, to impose a sentence of three years. The majority of sentences passed are in fact three

years, Sir. That alone, I think, can be taken as evidence that had it been competent to the court to impose a lesser sentence, the sentence would in fact have been one of less than three years. There is no attempt, Sir, there is no suggestion, that the present sentence, maximum sentence, should not stand. If this amendment is accepted rape will remain a capital offence, but it will be competent to the judges, in whom the discretion ought properly to rest, after hearing all the evidence and taking into view and consideration all the circumstances of the case, to pass a sentence which in their opinion is just and proper instead of being forced, as at present, when a verdict of guilty is pronounced, to pass a sentence of three years' imprisonment.

Clause 4 deals with an unfortunate type of offence, indecent assaults on boys and indecent practices between males, which quite inadvertently the Penal Code, in the form in which it was passed, did not cover.

Clause 5 deals also, Sir, with an offence, a practice which became an offence in England in the year 1929, the killing of an unborn child, the preventing of a child from having a separate existence from its mother. I understand, Sir, that the practice is not unknown in this Colony, and if that is so I see no reason at all why we should not provide a salutary punishment for people in regard to the practice of such an abominable thing.

Clause 6 is largely necessitated, Sir, by the trend of certain recent legislation. Both in the Agricultural Advances Ordinance and in the Chartered Transfer Ordinance provision has been made to enable persons to raise money on their chattels which, after the advance has been made upon them, still remain in the possession of the person to whom the advance is made. It is possible, Sir, that some deliberate attempt to make away with these mortgaged goods may be made, an attempt which obviously is not only to the detriment of the person making the advance but to the detriment of others who seek advances from the same source; so this Bill seeks to make such a deliberate attempt a criminal offence.

Clause 7 follows the Criminal Justice Act of 1925 and makes it an offence to make a false declaration for the purpose of obtaining a passport. The reason for the insertion of that provision into the Bill is not, Sir, merely an attempt to obtain uniformity with English law on this subject. It is the far more important one that attempts to obtain passports by such means have actually been made, and it is but right that, as that is so, it should be regarded as a criminal offence.

I beg to move the second reading of the Bill.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

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

THE HON. CONWAY HARVEY: Your Excellency, although Elected Members do most cordially approve of a number of the proposed changes, a very large majority of my colleagues, Sir, do quite definitely find themselves in opposition to the proposed amendment to section 123. They consider, Sir, that judges should only be given discretionary powers in the case of the rape of a native by a native, and that there should be no discretion whatever allowed to judges in a case in which rape is perpetrated by a native on a European lady. We consider, Sir, that this is essentially a case in which racial discrimination, for which numerous precedents exist, should be applied. Those of us who know African conditions must certainly express opinions of greater value than those of the theorists who are quite unfamiliar with social conditions in Africa. While, Sir, the crime of rape is regarded with abhorrence and detestation by civilised communities throughout the world, it is regarded as of no importance whatever in native life, which is obvious when everybody knows that compensation is regarded as adequate to the extent of the payment of two or three goats or a few fowls. We do feel, Sir, most emphatically that judges should be quite definitely given discretionary power in regard to the minimum sentence in purely native cases, but many of us are emphatically of opinion that the proposed amendment should not be passed.

CAPT. THE HON. H. E. SCHWARTZE: Your Excellency, I unfortunately was not present at the meeting of Elected Members when this Bill was discussed, and I am sorry I was not because I am diametrically in opposition to the views now expressed by the hon. Member for the Lake, and I think on reflection he will agree that his arguments certainly do not lead to the conclusions which he stated. Apparently he is willing and agreeable that there should be complete discretion, that is to say, no minimum penalty, in the case of inter-racial rapes, but that this provision should remain in the case of rapes by natives on European women. Does he seriously suggest that the clause as it now stands in the Bill has no bearing whatever on the case of the rape of a European woman by a native? Is it suggested that such a native would only receive a punishment of three years? I suggest it has no bearing whatever on such a case and I do not think that the hon. Member can possibly have meant what he said when he stated: "We are emphatically of opinion that the judge

should have no discretion at all"; that is to say, if it is carried to its logical conclusion, he wishes to make the minimum penalty for the rape of a European woman by a native, death—a quite impossible suggestion that there should be a minimum penalty of death in the circumstances. I do hope that Elected Members, whatever conclusion they may have come to at a discussion round the table, will, before they finally decide to vote, bear in mind the arguments that have been put forward and no doubt will be put forward.

The rest of the Bill I do not think, Sir, calls for any comment. I for myself propose to vote for it.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, let us, in consideration of this Bill recall the circumstances and reason for the introduction of the previous Criminal Amendment Bill. What was that Bill introduced for? That Bill, Sir, was introduced into this House for the protection of European women against native men. That must not be forgotten, and if Government chooses to mitigate in this way the significance of that Bill, I trust it will be unanimously opposed on this side. It would be, of course, because we have already been told by the hon. Member on my right (the hon. Member for Nairobi South) that he does not consider that it should be automatic that a native guilty of rape of a white woman should be hanged. I, Sir, consider without any equivocation that a native guilty of the rape of a white woman should be hanged. That is my opinion and that is the opinion of the majority of Europeans in this country and throughout the British Empire.

CAPT. THE HON. H. E. SCHWARTZE: On a point of explanation, I wish to make it quite clear that I stated that no legislation could possibly include a provision which made the death penalty for any offence a minimum.

CAPT. THE HON. E. M. V. KENEALY: Now, Sir, I refuse to accept the consideration of this Bill in an isolated manner. I maintain, Sir, that it must be considered in relationship to the death penalty amendment. I am dealing with clause 3 which suggests the advisability of the abolition of the minimum of three years for rape. Now, Sir, that clause was a fundamental clause and the Attorney General of that day, Sir, drew attention to the protection that was afforded by the incorporation of that fundamental clause. I do not think, Sir, that we on this side of the House are concerned with the technical ramifications of the application of that clause. The hon. the Attorney General has explained that in certain circumstances it did not mean exactly what it appeared to mean. We accepted that clause in that Bill, Sir, because we

imagined that it did mean what it was said to mean. I maintain, Sir, that the protection afforded there, which was a protection for the European women of this country, was a real one, and if we mitigate it now we shall endanger the safety of our womenfolk in this country. Now, Sir, a great many of us on this side of the House have insisted upon the necessity of racial discrimination in cases of this kind. There have been partial quotations from speeches made, but, Sir, Government is attempting to utilize racial discrimination which will result in the mitigation of the protection given to European women in this country. Government considers that because the native considers the rape of a native by a native a venial offence that the laws of this country should be embraced to give recognition to that significance, but, Sir, surely we are swayed by an idealism higher than that of the native. Why should we accept his opinion as to the importance of a crime that we consider one of great significance? I maintain, Sir, that we shall be betraying our ideals, and we on this side of the House should maintain those ideals in a very high degree of activity by opposing heartily and unanimously this particular section.

If, Sir, the native recognizes that he can escape with a minor penalty for the crime of rape of a native woman is he going to analyse that penalty inter-racially? Is it right to make it confusing to the mind of the native? No, Sir, it is wrong. Let us have a hard and fast regulation. Personally, I am convinced that this minimum sentence is inadequate. I said so at the time and I say so to-day, and experience has proved it to be so. If Government will not agree to the necessity for racial discrimination in matters of this kind, let us protect the European women of this country by opposing this particular clause.

To the rest of the Bill, Sir, I give my assent but not to that clause.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, like my hon. friend, the Member for Nairobi South, I was not present at these discussions of Elected Members and my views are exactly the same as those expressed in 1926 which the hon. the Attorney General has read out. If I thought for one moment that the deletion of this clause was going in any way to imperil the safety of white women against this particular offence I should vote most strongly against it. On the other hand, I entirely agree with what my hon. Friend, the Member for Nairobi South, said, that by passing this we seem to give assent to the view that there might be, possibly that there should be, such a small penalty

as three years given for an offence by a native on a white woman, and I trust that view is unthinkable; and for that reason I am prepared to accept the proposed amendment.

HIS EXCELLENCY: If no other hon. Member wishes to address the House I will call upon the Attorney General to reply.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the hon. Member for Nairobi South and the Noble Lord the Member for Ukamba have left little for me to say, Sir. The arguments I should have adduced, had the debate not taken the form it has taken, are exactly those already stated so forcibly and convincingly by those two hon. Members. There is, however, one point with which I should like to deal. A certain amount has been said about taking away the discretion from the judge and making it impossible for him to impose—even in the case of merely technical rape—and such cases are not uncommon in this country. Sir,—making it impossible for him to impose a sentence of less than three years. On that point I would remind hon. Members that the judge, under the law as it now stands, has far greater discretion, at which no one has cavilled. He need not, even in the most extreme cases of rape, impose the death sentence; he has the alternative at the present moment in that he may impose a term of imprisonment. It has never been suggested that any judge, faced with a task such as that, has failed in his duty or failed to use his discretion. If he is capable of exercising such a discretion as that, surely it is right that in the case of a minimum sentence—a sentence entirely unthinkable in the case of real rape, and equally and obviously grossly excessive in certain other cases which come before the courts—surely a judge may be trusted to exercise his discretion properly in those cases.

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

The question was put and carried by 20 votes to 3.

Agcs.—Messrs. Bemister, Brassey-Edwards, Bruce, Dobbs, Lieut.-Col. Durham, Messrs. Horne, Logan, MacGregor, Malik, Martin, Maxwell, Montgomery, Brig.-General Rhodes, Major Robertson-Eustace, Capt. Schwartz, Lord Francis Scott, Mr. Scott, Sir Ali bin Salim, Capt. Ward, Lieut.-Col. Watkins.

Nocs.—Mr. Conway Harvey, Capt. Kenealy, Lieut.-Col. Kirkwood.

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Criminal Procedure Code be read a second time.

Again, Sir, this is the outcome of practical experience of the working of the Codes, very intricate and complicated measures which I would remind hon. Members, to a large extent fall to be operated and interpreted by lay magistrates.

To the provisions of clause 2, I take it, there will be no opposition. The law provides that a person in the execution of a search warrant may, if ingress to a house is refused him, break in, but it is arguable and possible that, if he is allowed into the house, and the house is then barred against him, he is not—as the law now stands—permitted to break out.

Clause 3 and part of clause 7, Sir, are apparently very innocuous, and perhaps unnecessary amendments are made but they are made designedly to relieve doubts in the minds of certain magistrates who have held that the word "discharge" has only one meaning; that it necessarily means that, having been discharged, the person discharged cannot be recharged. Quite obviously, if you admit a person to bail and say: "You may go home till next week," even though we do use the word "discharge," it is clear he has to come the following week and stand his trial. But magistrates have held that, because we have used the word "discharge," the granting of bail is tantamount to an acquittal. So I think it is much better that we should use a quite colourless word such as "release."

How section 184 (3) came to be left in the Bill during the very lengthy and careful consideration that was given to it in Select Committee I entirely fail to see. Sir, I must take partial responsibility for it, but there were other Members of that Committee. One of the main objects of the Bill was to do away with the cumbersome and unnecessary procedure of reading over every word of evidence taken in an ordinary summary trial. Cases have still to be read over in the depositions of the Supreme Court, but in a summary trial when the full effect of the evidence has already been made on the magistrate's mind it is quite unnecessary that the whole of that evidence should be read over. It constitutes a very great waste of time and is of no practical effect whatever. Somehow or other the provision was left in and now we have to take it out again, and we propose to cut it out now, Sir.

Clause 185 of the Code as it stands creates not only an absurdity but a manifest injustice. If, for the sake of argument, a Luo is on trial before a subordinate court, the evidence is given in Masai, but it cannot be read over to him

in Luo, which is the only language he understands. It must be read over in the language of the court, which is either English or Swahili. Manifestly the accused person is entitled to know what is being said about him, and so we propose to correct what is obviously a mistake and say "a language which he understands" instead of "the language of the court".

Clause 6, and that portion of clause 7 which I have not yet dealt with, remove what has been found to be the one great difficulty in the practical operation of the Code—a difficulty which arises from the considerable distances which people have to travel to court in this country. I can perhaps explain it most simply, Sir, if I take a concrete case. A man is arrested on suspicion of having stolen from a farm and he is taken the following morning before the magistrate, who is twenty miles away. It is the first duty of the police to take that man before a magistrate. There is one police constable at the station—one European police constable and a few men—but, though it is not his duty he takes the man before the magistrate and he asks for a remand. But he cannot get a remand in custody unless there is a sworn information and in cases such as this which I have mentioned a sworn information is impossible because in many cases it is not physically possible to inform the owner of the farm when the arrest has been made that the accused will be brought before the court the following morning. And so the only form of sworn information that we could get would be one by the European police constable, who says: "I have reason to believe that the accused has committed this offence." A sworn information such as that is worth nothing, but as the law now stands, in such cases either the accused has got to be released on bail, which he cannot find unless the bail is made so small that he can find it, or, if it is made in his personal recognisances, he probably will never be seen again. If you want to have him remanded in custody, then you have got to arrange for the owner of the farm to be there to swear that on the night in question certain things were stolen from his farm. That is an obligation which there is absolutely no necessity to place on owners of farms or on any other member of the public when distances are so great as they are in this country. It should be possible to do what is done in every other country so far as I am aware, outline the substance of the charge to the accused and ask for a remand, the accused to go into custody for eight or fifteen days in order that the necessary enquiries may be made. That is a practice which is almost universal and, in accepting this amendment, the law of this Colony will be simply brought into line with that of any other part of the Empire with which I am acquainted.

Clause 8 supplies a small lacuna. Ample provision is made as to what a magistrate has to do on preliminary investigation if he find a *prima facie* case made out and the accused calls for a defence or makes a defence, but there is nothing explicitly to say what he has to do if, at the close of the case for the prosecution, the magistrate believes that no case has been made out. Manifestly it has to be decided whether the case is to be a summary one or a committed one. The Code does not expressly say so at the moment and as long as magistrates have expressed doubts about it, it is, I submit, better that we should regularise the position by saying so in so many words.

Clause 9 deals with an eventuality which I hope will rarely occur here. It may cause a good deal of inconvenience if, in the case of a trial by jury, a trial which may last a considerable time, a juror is taken ill or dies. No matter how far the trial has progressed that jury has to be discharged; the case has to be taken again; all the witnesses are brought back again; there is a great expenditure of time and considerable expenditure of money, and there is very grave inconvenience caused, not only to jurors, but to witnesses and everyone else concerned with the case. This provision will bring the law in Kenya into exact concord with the law in England, so far as it can, by providing that in such an event the trial may proceed with one fewer on the jury than the case started with. If one juror becomes too ill to continue or dies then the trial may continue, in the case of treason or murder with eleven jurors, in other cases with eight.

Clause 10 should not strictly be necessary, Sir. One of the recommendations of the Select Committee on the Code was that where two judges hearing an appeal or a stated case differed in opinion there should be a retrial before three. That recommendation was adopted but unfortunately when the Bill was sent to the printer the necessity for incorporating that recommendation in the printed statute was overlooked, and this clause corrects that omission and brings the law into the form in which it was recommended by the Select Committee it should stand.

The necessity for amending the Schedule in clause 11 is, so far as (a) is concerned an omission to observe that the Penal Code had been amended in Select Committee and that therefore the Schedule should be amended accordingly. In the case of (b), it arises from consideration of clause 3 of the Penal Code (Amendment) Bill which has just been dealt with. (c) is exactly the same as (a); the sentences in that clause were amended in the Penal Code and we forgot to amend the Schedule accordingly. (d) is consequential. We changed the

first "seven years" into ten, and it must be set out *in extenso*. (c) incorporates the remaining portions of the Penal Code Bill which we have just a few minutes ago dealt with.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, there is one point, apart from two small clerical matters, which I will mention now because I may not be able to be present when this is in Committee. I would ask the hon. the Attorney General—I should have spoken to him before—to consider whether it would not be possible either to alter or to delete the present proviso to section 193—that is on the left-hand page opposite page 3—that is, limiting the time for an adjournment in a criminal case to fifteen days. I have found it on many occasions a provision which has worked somewhat awkwardly in this Colony. There may be a case where you know quite well that you cannot get the case heard in fifteen days because there is a witness either out of the Colony or a long way away who cannot get down to wherever the case may be. I think on many occasions the present provision has been more honoured in the breach than in the observance. You do not want, if a man is on bail, to bring him back after fifteen days some distance merely to say: "Go away for another fifteen days." I would ask the hon. the Attorney General whether he does not consider that that might either be deleted altogether or fifteen be altered to thirty. It is purely for a matter of convenience.

The other two points are, Sir, I think, in line 26 on page 3 that the word "a" should go between "in" and "trial"; and whether the word "unanimous" should have "a" or "an" before it I leave to the hon. the Attorney General to consider.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, there appears to be one small point of principle, which may be explainable. If it is, I appreciate it will be because it does not appear to me to have been dealt with; that is, in the explanation given in regard to the application or the obligation necessary in clause 4—I refer to 184 on page 2, left-hand side. This does not make it obligatory in a summary trial side. This does not make it obligatory for a magistrate for his to read over the evidence as recorded by a magistrate for his own guidance. That is what I gathered from the statement

of the hon. the Attorney General, but, Sir, if that summary trial is subjected at a subsequent date to appeal then I maintain that it is necessary that the accused person should be in a position to prepare an answer to that statement by the magistrate, to that summary, which may in his opinion be wrong. I should like to know, Sir, if that is provided for in this, and if it is not if it can be so provided, Sir. That is the only point of principle to which I wish to refer, Sir.

THE HON. THE ATTORNEY GENERAL: If I may deal, Sir, with the point just made by the hon. and gallant Member first, I can assure him that on appeal the appellant is entitled to be present in person, and also he can have counsel, and it is perfectly competent to him at any time to challenge the accuracy of the notes. He has the opportunity of addressing the court on the subject matter of his appeal. The main point is that in summary trials the magistrate hearing evidence makes up his mind on the demeanour of the witness, on the way in which the witness gives his evidence, just as much as on what is actually said. It is nothing, Sir, but a quite unnecessary waste of time to read the whole of that statement afterwards to that witness. If the witness were to cavil at anything put down there it certainly would not do him any good. The effect would be the very opposite.

As regards the proviso to section 193, Sir, I would ask my hon. and learned friend, the Member for Nairobi South, not to press that. I am aware that inconveniences do occur. One is well aware of the type of case where the principal witness is probably out of the country and it is common knowledge that he will not be back for three or four months. It does in such a case seem a little absurd that the accused should be brought up at regular intervals of fifteen days, but the section applies equally to persons who are in custody, and in those particular cases fifteen days is quite long enough, I think, to keep anyone. The period in England is eight days. What does happen I am sure my hon. and learned friend knows as well as I do. What does happen is that the magistrate will say: "Well, I cannot grant an adjournment for more than fifteen days, but when the case appears before me again fifteen days hence there will be a further adjournment granted." There is no necessity for witnesses to appear, for counsel to appear or anyone on the case. That is what, in my experience, happens in practice, but I would urge, Sir, that fifteen days is long enough in cases of persons detained in custody, for anyone to be kept without having reference to the court.

CAPT. THE HON. H. E. SCHWARTZ: Would Your Excellency allow this matter to stand over till after the adjournment, to give me the opportunity of speaking to the Attorney General? I think we could possibly meet his point and mine with some little amendment.

HIS EXCELLENCY: I think that is more of a Committee point. I can put the second reading. The question is that the Bill be read a second time.

The question was put and carried.

Council adjourned for the usual interval.

On Resuming.

THE PUBLIC HEALTH (DIVISION OF LANDS) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I beg to move that a Bill to Amend the Public Health (Division of Lands) Ordinance, 1928, be read a second time.

The amendments proposed in this Bill, Sir, are put up by the Public Health (Division of Lands) Board for the purpose of facilitating the more effectual working of the Ordinance. Attention was called to the fact that under section 6 as it stands in the principal Ordinance the owner of a farm of 1,000 acres, for example, could in fact set up a row of forty-nine shops without infringing the terms of that section as it stands, but completely infringing the spirit and purpose of the Ordinance. It is therefore proposed to insert an amendment under clause 2 of this Bill which will have the effect of preventing the erection of shops or dwellings within 300 yards of each other. The figure of 300 yards square has been taken as being as nearly as possible 20 acres.

The second amendment under sub-clause 2 of clause 2 is for the benefit of landowners. As the Ordinance stands at the moment any minor rectification of a boundary requires to come up to the Division of Lands Board. That consent is not at all necessary and is not required by the Board, and if this provision is agreed to it will release the landowner from the irksomeness of having to submit applications under the Ordinance.

The third amendment proposed, to section 9 of the principal Ordinance, is designed to give the Board more powers than it has at the moment for approving an application in part. At present if it considers that building or further building development is undesirable on any land it only has power to refuse the application completely although it may be

and often is of opinion that some building development is desirable. The effect of this clause will be to give it that further power which will be to the benefit of the applicant in question.

Similarly, in the second sub-clause to section 3 of the Bill, the purpose of that is that where any cases are put up of subdivisional schemes on a fairly large scale, where it should be clearly necessary that reserves should be taken for open spaces, for drainage works, reservoirs, and matters of that sort, to make it quite clear that the Board has the power, in approving the application, to make conditions which will enable those reservations to be binding on the applicants. At present it appears that the Board has not these powers.

The last amendment is merely a consequential one.

I beg to move that the Bill 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.

CART. THE HON. H. F. WARD: Your Excellency, I am getting to become increasingly suspicious of this type of legislation by my hon. friend on the other side of the House from time to time. I can follow him a great deal of the distance but not quite the whole way, and I submit for the consideration of hon. Members who do not live in townships how far this type of legislation is going to affect those outside townships. To give an instance of the difficulties that we in townships live under: in one day a man came and nailed a large piece of iron on my front door; later in the day, when I was enjoying a well-earned rest, another man came and walked over my flowerbeds and measured my house; the same afternoon, when I thought I was going to have the peaceful enjoyment of my property which I believe the Government always guarantees, another man arrived in a motor car and left an intricate form which he insisted upon my filling up. Well, Sir, is it all very necessary? And even if it is necessary, is it necessary to go as far as is provided for under section 3 (2)? Take the instance of a man who wishes—the owner of twenty acres—who wishes to cut off five acres on which his house and property stand, and sell that to somebody else—ten acres to take an extreme case—in that case, “If the Board is of opinion . . . having regard to the health, amenity or convenience of the neighbourhood that any such area or areas should be reserved for any special purpose, the Board may, in approving the application in whole or in part, impose

such conditions as to the reservation of such area or areas as it thinks fit.” As to reservation, the explanatory note says: “The Bill imports a measure of elasticity and discretion into the powers of the Division of Lands Board which is at present lacking, and has been found to be necessary alike in the interests of applicants and of the public.” But in fact I submit it allows, by reason of the fact that the application has been put in, the cutting off of ten acres on which the house stands, allows the Board power to reserve that area and prevents the man living in his house, and taking away the whole of his property.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I am afraid my hon. friend did not specify the delinquencies of which he had been guilty or on whose behalf the visitors entered his property.

In regard to his point that the amendment proposed to section 9 gives far greater powers to the Board than it is entitled to, I suggest, Sir, that the intentions of the Bill are to make provision for the more effectual administration of the principal Ordinance to meet cases such as those which I specified in proposing the second reading, particularly that where large areas are to be sub-divided, and where, in the interests of town-planning, it is essential provision should be made for the reservation of spaces for recreation grounds, drainage schemes, and other matters of that sort. The purpose of the Bill is to provide for such reservation of spaces where it is absolutely necessary.

HIS EXCELLENCY: The question is that the Public Health (Division of Lands) (Amendment) Bill be read a second time.

The question was put and carried.

THE FOREIGN PRISONERS DETENTION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the second reading of the Bill to provide for the imprisonment within the Colony of persons sentenced to imprisonment elsewhere was on Thursday last adjourned in order that I might have an opportunity of considering certain points made by the hon. Member for Nairobi South. Hon. Members will recollect that on that occasion representations were made that it should be ensured that prisoners from elsewhere who were, under the provisions of this legislation, detained and imprisoned in the Colony, should be returned to the place from which they came before their sentence had expired in order to enable us to guard against the possibility of their becoming

undesirable residents in the Colony. I have, since the adjournment, Sir, drafted two additional clauses to the Bill, the first giving the Governor power at any time to return a prisoner to the country in which he was sentenced, and secondly, making it obligatory to return a prisoner to the place in which he was sentenced at such time as will enable him to be there discharged at the expiration of his sentence. My hon. friend the Member for Nairobi South has personally approved of the terms of these two amendments, Sir, as covering the ground of his argument, and he has informed me that Elected Members generally are in favour of the amendments. I move that the Bill be read a second time.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Council go into Committee of the whole Council for the consideration of:—

The Immigration Restriction (Amendment) Bill.

The Penal Code (Amendment) Bill.

The Criminal Procedure Code (Amendment) Bill.

The Public Health (Division of Lands) (Amendment) Bill.

The Foreign Prisoners Detention Bill.

THE HON. T. D. H. BRUCE: Your Excellency: I beg to second the motion.

The question was put and carried.

Council went into Committee.

In Committee.

THE IMMIGRATION RESTRICTION (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 3.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that there be inserted in the Bill clause No. 3 in the following terms:—

"3. Section 16 of the Principal Ordinance is hereby amended by substituting the word 'is' for the word 'if' in the fifth line of the section."

The question was put and carried.

THE PENAL CODE (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2. False information to public servant.

CAPT. THE HON. E. M. V. KENYAL: In clause 2 (a) I suggest that the words "to do" be added after the word "omit" in the first line and also in the second—"to do or omit to do anything." It makes it a little clearer perhaps.

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THE HON. THE ATTORNEY GENERAL: Your Excellency, I would ask the hon. Member not to press that. The Ordinance is taken straight from the Indian Penal Code which all the magistrates have construed for a long time and on which they have text-books. Here we have a form of words which is available to a number of magistrates and fully understood by them and I would ask the hon. Member not to press the amendment.

The amendment was withdrawn.

Clause 3. Amendment of section 123 of the Principal Ordinance.

THE HON. CONWAY HARVEY: I beg leave to propose an amendment, which will take the form of a proviso, in the following terms:—

Provided however that in the case of a native male found guilty of the offence of rape on a European woman he shall be liable to be punished with death or with imprisonment for life or for any term not less than three years with or without corporal punishment."

The subject has been fairly fully debated on numerous occasions but I do, Sir, most certainly think—though I may be in a minority, the European women of the Colony enjoy under existing conditions.

CAPT. THE HON. E. M. V. KENYAL: I beg to second the amendment.

THE HON. THE ATTORNEY GENERAL: I would very sincerely appeal to the hon. Member not to press this amendment. It seems to me that it could normally have only one outcome; that it would be considered by the judicial officers as an expression by this Council of the opinion that there might be circumstances in which a sentence of three years might be adequate for this offence. If I correctly interpreted and understood the debate which took place a short time ago, there was one thing on which everyone was unanimous, and that was that in no circumstances could the crime of rape committed on a European woman by a native conceivably be regarded as being adequately punished by a term of three years imprisonment. The Noble Lord the Member for Ukamba used, at that connection, and yet in my opinion, the word "unthinkable" in that connection, and yet Sir, the amendment in the form in which it stands may be construed as almost an invitation to the judges to visit that crime with a term as short as three years. As it is, there is an unfettered and unlimited jurisdiction vested in the judges in the matter. That discretion has never yet been abused and we do not want to flout invitations of this sort to them.

CAPT. THE HON. E. M. V. KENYAL: As the seconder of this amendment, I trust that the proposer will not—I certainly would not—agree to withdraw it. I maintain it is our duty to insist that there shall be no reduction in the severity of the sentence which may be imposed. I do not give the same leading to this clause as the hon. the Attorney General and although, with the greatest deference, I admit his capacity to give a correct judgment in things legal, in regard to a matter of this kind I submit that the opinion of the country is just as important and probably just as accurate—probably more so—than the opinion of the Attorney General. We have maintained, Sir, that in matters of this kind there should be racial discrimination. If Government will not admit that racial discrimination, we have this opportunity of embodying in this proviso our opinion that in fact there should be racial discrimination. Our main endeavour is to maintain the protection of our women that we obtained for them when the original amendment was introduced in 1926 and from that position, Sir, we shall not recede. I support the amendment.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I strongly oppose the amendment for the reasons which have been given by the Attorney General far more ably than I can; but these are the reasons why I oppose it. If the proposer of this amendment had

proposed that for the crime of rape by an African native against a white woman the penalty should be imprisonment for life, or death, I might have supported it, but to suggest that it is conceivable that such an offence might be adequately punishable with a sentence of only three years minimum is to completely stultify the attitude which we have always taken up in this matter.

THE HON. CONWAY HANRY: Your Excellency, may I point out that the law as it stands in the proposed amending Bill allows a penalty of one day's imprisonment to be imposed. I wish to make it a minimum of three years.

HIS EXCELLENCY: Perhaps it would save the time of Council if I made it clear that Government is not prepared to accept this amendment. If you wish the amendment to stand, I will put it without further debate.

The question is that at the end of clause 3 the following words be added:—

“Provided however that in the case of a native male found guilty of the offence of rape on a European woman he shall be liable to be punished with death or with imprisonment for life or for any term not less than three years with or without corporal punishment.”

The question was put and lost.

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 4. Repeal of sub-section (3) of section 184 of the Principal Ordinance.

CAPT. THE HON. E. M. V. KENYAL: Your Excellency in regard to clause 4, I raised a point and I believe that the hon. the Attorney General is prepared to admit an amendment to this. I do not know the terms of it; may I ask him to provide them before continuing?

HIS EXCELLENCY: Would you state your point?

CAPT. THE HON. E. M. V. KENYAL: The point was that which I raised before, that if a case which was subjected to a summary trial was subsequently taken out of the control of the court that tried it and was tried by a superior court or under our present system which allows of review, I maintain, Sir, that the witness giving evidence should be entitled and should be told that he is so entitled over to ask that his evidence, as recorded by the magistrate should be read over to him.

THE HON. THE ATTORNEY GENERAL: The hon. Member for Kenya, during the adjournment, asked me whether there would be any objection in my opinion to a provision in substitution for the existing in section 184 that if a witness desired, expressly desired, him. I said I think not unnaturally that to such a provision there could be no objection, and I undertook to draft an amendment accordingly. The amendment which I understand will meet the wishes of the hon. Member, Sir, would be that clause 4 read as follows:—

“Section 184 of the Principal Ordinance is hereby amended by substituting for sub-section 3 thereof the following:—

“3. If a witness asks that his evidence be read over to him the magistrate shall cause such evidence to be read over to him in a language which he understands.”

I hope that that will meet the wishes of the hon. Member for Kenya.

CAPT. THE HON. E. M. V. KENYAL: Yes, Sir, thank you, but should not the witness be told that he has that right? I think that is essential, as a matter of fact, because witnesses are very often ignorant persons and do not know their rights.

THE HON. THE ATTORNEY GENERAL: I beg to move, Sir, that clause 4 of the Bill be deleted and that there be substituted therefor the following:—

“Section 184 of the Principal Ordinance is hereby amended by substituting for sub-section 3 thereof the following:—

“3. If a witness asks that his evidence be read over to him the magistrate shall cause such evidence to be read over to him in a language which he understands. The magistrate shall inform each witness that he is entitled to have his evidence read over to him.”

CAPT. THE HON. E. M. V. KENYAL: Thank you, Sir. The question was put and carried.

Clause 7. Amendment of section 193 of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: The hon. Member for Nairobi South raised a question on this point as to the length of the adjournment. I spoke to him during the adjournment and we have, subject to your concurrence, Sir, evolved a formula which, while not inflicting any injustice on persons who are rounded in custody, will permit of a more lengthy adjournment in cases such as those that I indicated. I therefore, Sir, beg to move that clause 7 be amended as indicated, the full stop after the word “section” and substituting a comma therefor, and by substituting the following words for the proviso at the end of the section:—

“Provided that no such adjournment shall be for more than thirty clear days, or if the accused person has been committed to prison, for more than fifteen clear days, the day following that on which the adjournment is made being counted as the first day.”

That will permit of an adjournment in cases where an accused is given bail being, in proper circumstances, for thirty days, but if the accused has gone to custody the position will remain as it now is—

The question was put and carried.

Clause 9. Repeal and replacement of section 277 of the Principal Ordinance. Illness of Juror.

CAPT. THE HON. E. M. V. KENYAL: In clause 9, Sir, I suggest that the words in the nineteenth line “or for any other reason” follow the word “illness.” As it is written here it does not mean anything, Sir. It should be altered, whether it is legal phraseology or not, Sir.

THE HON. THE ATTORNEY GENERAL: As it stands, Sir, the reason is the reason for which the court discharges a juror, and one them—perhaps the commonest one—is for obvious partiality, obvious bias, obvious falsity to his oath, or misbehaviour in the jury box. Those things have happened, Sir, and they may happen again. If we put it in, as the hon. Member has suggested, after the word “illness”, then the ordinary rule of interpretation will apply and it will have to be some reason analogous to illness.

CAPT. THE HON. E. M. V. KENYAL: No, Sir. May I submit that as it stands at present it qualifies the capacity for continuing to act?

HIS EXCELLENCY: Perhaps it would expedite our proceedings if you would let me have your amendment in writing, and I will put it to the Committee.

(The written amendment was passed to His Excellency.)

The hon. Member has moved that clause 9 should be amended by inserting after the word “illness” the words “or for any other reason” and by deleting the words “or for any other reason” where they appear after the word “act”.

The question was put and lost.

THE HON. THE ATTORNEY GENERAL: In line 26 I beg to move that the word "a" be inserted between the words "in" and "trial", and that the word "the" be substituted for the word "a" in line 27.

The question was put and carried.

HIS EXCELLENCY: The question is that the clause as amended stand part of the Bill.

The question was put and carried.

CAPT. THE HON. E. M. V. KESKELY: Further to that particular amendment, Sir...

HIS EXCELLENCY: The clause has been passed by the Committee. On which clause are you speaking now?

CAPT. THE HON. E. M. V. KESKELY: Nine.

HIS EXCELLENCY: The clause has been passed by the Committee. You are out of order.

THE PUBLIC HEALTH (DIVISION OF LANDS) (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 3. Amendment of section 9 of the Principal Ordinance.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: In clause 3 as drafted I have the following amendment to propose:—

"That this clause be amended by the deletion of the words 'by the insertion after the word "application" in the ninth line thereof' and by the substitution thereof of the words 'by the deletion of the last five words of the section and the substitution thereof'."

The clause will then go on to the end, Sir, and the words "it may refuse the application" which are standing at present as the Bill is drafted will be deleted.

HIS EXCELLENCY: Could you read the clause as it will read when those amendments have been carried out?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:—

"The Board shall consider the application together with the documents and recommendations aforesaid, and may require the applicant to amend his plan to fulfil such requirements as the Board may consider necessary, and may, subject to the completion of such amendments, and the fulfilment by the applicant of any undertaking as provided in the next succeeding section, approve the application. If the Board is of the opinion that building or further building development is undesirable on the land which is the subject of the application, or, having regard to the health, amenity or convenience of the neighbourhood, that any division of land shown on the plan is unamiable it may refuse the application or may approve it in part."

The question was put and carried.

CAPT. THE HON. H. F. WARD: Your Excellency, on this section 3 (2), may I ask the hon. the Attorney General if he is satisfied as to the drafting of that section and whether it does not give undue powers to the Commissioner for Local Government Lands and Settlement in regard to the reservation of areas?

THE HON. CONWAY HANCOCK: We have not got to clause 3 (2) yet.

HIS EXCELLENCY: The whole clause is before the Council.

THE HON. THE ATTORNEY GENERAL: As the hon. Member has been good enough to appeal to me, Sir, I feel I am entitled to say powers on the Commissioner, it gets rid of what is an obvious and a most regrettable difficulty at the present time and a of the Ordinance the Board has only two powers. Under section 2 it can disapprove. All that happens under this clause, Sir, is that the Board may attach conditions, it may give a conditional approval which is obviously and definitely quite a desirable safeguard in the interests of the applicant.

CAPT. THE HON. H. F. WARD: Yes, Sir, I can follow that any such area or areas for which the Board has power to reserve wide powers that might easily override the Land Acquisition Act or any other Ordinance in force. There are unlimited reasons for land reservation.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I think the hon. Member is taking not so much the field of these amendments but the primary principle of the principal Ordinance, Ordinance which deals with the method by which the principal and used. To take on any small amendment the main principle of the principal Ordinance I think is not according to the practice in dealing with an amending Bill.

CAPT. THE HON. H. F. WARD: Have I, in fact, done that? The clause starts with the following words: 'by the addition at the end of the section of the following'. All I have disputed is the wide powers conferred under this completely new addition.

HIS EXCELLENCY: I think the point made by the hon. the Acting Colonial Secretary is that the possession of such powers is implicit in Commissioner for Local Government, Lands and Settlement the power to attach certain conditions to that power which he already has.

THE HON. THE ATTORNEY GENERAL: The Board, Sir, not the Commissioner.

THE HON. ACTING COLONIAL SECRETARY: At present, as the hon. the Attorney General has explained, refusal or assent must be given. There may be cases in which it would be quite impossible to give an unconditional consent, and, Sir, that would mean giving definite refusal. This allows for a modification between the two.

HIS EXCELLENCY: The question is that the clause with the amendment already passed stand part of the Bill.

The question was put and carried.

THE FOREIGN PRISONERS DETENTION BILL.

The Bill was considered clause by clause.

Clauses 3 and 4.

THE HON. THE ATTORNEY GENERAL: I beg to move that there be inserted in the Bill the following additional clauses, numbered 3 and 4:—

"3. The Governor may at any time order that a person imprisoned and detained under the provisions of this Ordinance be returned to the place in which he was sentenced to imprisonment.

4. Every person imprisoned and detained under the provisions of this Ordinance shall be returned to the place in which he was sentenced to imprisonment at such time as will enable him to be there discharged at the expiration of his sentence."

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that—
 The Immigration Restriction (Amendment) Bill;
 The Penal Code (Amendment) Bill;
 The Criminal Procedure Code (Amendment) Bill;
 The Public Health (Division of Lands) (Amendment) Bill;
 The Foreign Prisoners Detention Bill;

be reported to Council with amendments except in the case of the Penal Code (Amendment) Bill.

The question was put and carried.

CAPT. THE HON. E. M. V. KENYAL: Your Excellency, I beg to move a recomittal of the Bill to Amend the Criminal Procedure Code for consideration of the last sentence in clause 9 (277).

THE HON. THE ATTORNEY GENERAL: Recommittal must, under Standing Rules and Orders, be moved on the motion for third reading, not at this stage.

HIS EXCELLENCY: Perhaps the hon. Member will reserve his motion for the third reading.

CAPT. THE HON. E. M. V. KENYAL: It will waste a lot of time.

HIS EXCELLENCY: That is my ruling.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the following Bills have been reported to Council with amendment:—

The Immigration Restriction (Amendment) Bill;
 The Criminal Procedure Code (Amendment) Bill;
 The Public Health (Division of Lands) (Amendment) Bill;

The Foreign Prisoners Detention Bill;
 and the following Bill unamended:—

The Penal Code (Amendment) Bill.

THIRD READINGS.

THE IMMIGRATION RESTRICTION (AMENDMENT) BILL.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE PENAL CODE (AMENDMENT) BILL.

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

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THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Bill be read a third time and passed.

CAPT. THE HON. E. M. V. KENYAL: Your Excellency, I beg to move a recomittal of this Bill for consideration of clause 9 (277). In that clause, Sir, the last sentence, where one 'juror has died', and it goes on to deal with a unanimous verdict. If, Sir, the jury cannot agree how is it possible to postulate unanimity in their finding? It may be so, but I should like information on that point.

THE HON. THE ATTORNEY GENERAL: I have every desire to be helpful but the ability to be helpful rather connotes understanding, and I entirely fail to appreciate the point. The wording appears to me to be quite clear. Where one juror has died or has been discharged—the result of that being that in trials for murder or treason there will be eleven, in other trials there remain eight—the verdict of those eleven or eight, where there is no suggestion of disagreement, shall be deemed to be the unanimous verdict; if there is disagreement there is no verdict.

HIS EXCELLENCY: Does any hon. Member second the motion of the hon. Member for Kenya?

The motion fails for lack of seconding.

The question is that the Criminal Procedure Code (Amendment) Bill be read a third time and passed.

The question was put and carried.

The Bill was read a third time and passed.

THE PUBLIC HEALTH (DIVISION OF LANDS) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Public Health (Division of Lands) (Amendment) Bill be read a third time and passed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE FOREIGN PRISONERS DETENTION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Foreign Prisoners Detention Bill be read a third time and passed.

THE HON. T. D. H. BURCH: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

APPOINTMENT OF SELECT COMMITTEES.

HIS EXCELLENCY: Before I adjourn Council there are two Select Committees the appointment of which I have to announce.

The first is the Select Committee on the Townships Bill, with the following membership:—

The Hon. the Commissioner for Local Government, Lands and Settlement (Chairman);

The Hon. The Attorney General;

The Hon. the Director of Medical and Sanitary Services;

The Hon. the Solicitor General;

The Hon. the Provincial Commissioner, Nzoia;

The Hon. Member for Plateau North;

The Hon. Member for Nairobi North;

The Hon. Member for Rift Valley;

The Hon. Indian Member.

The Committee on the Shipping Bill:—

The Hon. the Attorney General (Chairman);

The Hon. the General Manager, Kenya and Uganda Railways and Harbours;

The Hon. the Commissioner of Customs;

The Hon. the Solicitor General;

The Hon. Member for Nairobi South;

The Hon. Member for Mombasa;

The Hon. Member for the Coast;

The Hon. Indian Member.

*Council adjourned till 10 a.m. on Wednesday,
26th November, 1930.*

WEDNESDAY, 26th NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 26th November, 1930, His Excellency, the Acting Governor (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of 22nd November, 1930, were confirmed subject to the words " Penal Code (Amendment) Bill " on page 2, line 23, being deleted and the words " Criminal Procedure (Amendment) Bill " being substituted therefor.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

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

Report of Select Committee on the Collective Punishment Bill.

THE HON. A. H. MALIK: Your Excellency, I beg to give notice of motion . . .

HIS EXCELLENCY: Order, order. We have not got to motions yet.

NOTICES OF MOTION.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to give notice that I propose to move the adoption of the majority Report of the Select Committee of this Council on the provisions of a Bill to Consolidate and Amend the Law relating to Collective Punishment.

THE HON. A. H. MALIK: Your Excellency, I beg leave to give notice of a motion:—

" In the opinion of this Council the system of trial by jury should be extended to the Indian community of the Colony and Protectorate of Kenya."

ORAL ANSWERS TO QUESTIONS.

DINNER SERVICES.

CAPT. THE HON. H. E. SCHWARTZ asked :

Is it a fact—

- (a) that the dinner service supplied to Judges Lodgings was valued at £42;
 (b) that the said dinner service has never yet been used.

If the answer to the above question is in the affirmative will Government dispose of the dinner service for the best price obtainable?

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES) : The reply to the first part of the question is in the negative. The dinner service, which was bought in 1919, cost £11 10s.

The reply to the second part of the question is in the affirmative. Occupants of the quarters have refused to take responsibility for the custody and maintenance of the dinner service, which has remained in store.

The question of disposing of the dinner service by sale is under consideration.

CAPT. THE HON. H. E. SCHWARTZ : Arising out of that answer, Sir, will preference be given to hon. Members of this Council?

COFFEE INDUSTRY BILL.

LIEUT.-COL. THE HON. C. G. DURHAM asked :

What is Government's intention in regard to the introduction of the Coffee Industry Bill?

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM) : The Bill was discussed with the Coffee Consulting Committee on the 31st August and was then referred to the Coffee Planters' Union. A reply from the Coffee Planters' Union was received on the 4th November and the matter is now engaging the further attention of Government.

BILLS.

SECOND READING.

THE EDUCATION BILL.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT) : Your Excellency, I rise to move that a Bill to make Provision for Education throughout the Colony and Protectorate be read a second time.

The objects and reasons for this Bill are attached to the Bill, but it is desirable, of course, that I should amplify and explain the reasons for the introduction of this Bill more fully. Before I do so, may I say a word or two in regard to the existing Ordinance. It is evident to anyone reading the existing Ordinance that that Ordinance was introduced to form, as it were, a framework for educational administration necessary; for instance, it indicated the need to have very systematic organization and to formulate some definite administrative procedure. It created advisory councils from which we all might have the hope that Government would be assisted and that that measure of co-operation which is so necessary between the public and the Government might be secured. The Ordinance further provided for a system of registration of private schools and did something to effect the necessary control of private schools within the limited degree which is desirable. The Ordinance further indicated the necessity for professional qualifications for teachers and it went so far as to hint at the possibility of compulsory education. I say it went so far as to hint at the possibility of compulsory education because on examination of the details of the Ordinance I think everybody will agree that the Ordinance is so difficult to apply if compulsory education were introduced as to make it almost impossible to introduce compulsory education under that Ordinance. These are the circumstances with which we are faced to-day. We do need a new Ordinance in view of the development of the Colony and in view of the altered circumstances of education in the Colony. This Bill is mainly an administrative Bill but there are one or two new principles involved upon which I think I ought to touch, and there are one or two points of policy on which I think I ought to have something to say.

The first principle is the importance of co-operation between the public, those who are directly responsible for the education of their children, and the Government. That principle is far more strongly entrenched in this draft Ordinance than in the existing Ordinance.

The second principle is a principle to which I think great importance should be attached, namely, that those who receive assistance for the management and conduct of schools should be prepared to admit that those schools in respect of which they receive assistance form part of a public system of education in the Colony.

There is the third question, the question of compulsion, which is dealt with more fully in this Ordinance than in the existing Ordinance. Perhaps it would be convenient if I dealt with that in its proper place and if I went through the

different parts of the Bill as shortly as possible and explained the points which seem to me of importance and in regard to which I think possibly some misunderstanding has arisen in the minds of the public.

Part I comprises the definitions of words and expressions used in the Bill. It calls for no special comment save in regard to two definitions. The first of those definitions is the definition of "public school" to which I have already referred as a change of principle. The definition involves this principle that those who are in receipt of public support are to form part of the public system. The second definition which calls for some comment is the definition of "school." I think it will be generally agreed that it is a better definition than the existing definition which is twofold in character. The existing definition says that "a school is a place where secular instruction is given to a body of pupils or a body of pupils under instruction from a teacher." We have had considerable difficulty in regard to the registration of schools which from every educational point of view, or at any rate largely from an educational point of view, are not strictly schools but places of religious instruction and religious instruction only. Therefore the new definition makes provision that the State will only recognize as a school for the purpose of this Ordinance a place where the bulk of the education is not religious.

Part II of the Bill has no counterpart at all in the existing Ordinance. It sets forth the things which the Government proposes to be able to do under the Ordinance in respect of education in the Colony. This part of the Bill aims at being comprehensive but it is not mandatory. It says the Governor may do this and the Governor may do that. Inasmuch as it is not mandatory the Governor can only do those things under certain conditions, and the main condition which is necessary to be fulfilled before he can do those things is that this Council should vote the necessary funds. I should like to stress that point if I may, that right throughout this Ordinance the control of the Legislative Council is supreme in so far as nothing can be done in respect of the provision of educational facilities without the vote of this Council. That applies not only generally in Part II but right throughout the Ordinance. I do hope that hon. Members opposite will realize that this Ordinance does not propose to take from the Legislative Council its great power and its fundamental power of voting supplies and refusing supplies.

Part III of the Bill deals with advisory councils and this is a part of the Bill which seems to me extremely urgent. It replaces the existing vague clause by six far more definite clauses defining the functions and powers of these

councils. Without these councils the first link in popular control is missing. As the councils are at present organized, as is stated in the reasons given at the end of the Bill, the position is extremely unsatisfactory. The Colonial Secretary is at present chairman of the councils and the Director of Education is a member of the councils; as a matter of fact, at present he is also acting as chairman because the Colonial Secretary realizes the difficulty of the position and does not attend the meetings of these Councils. May I say, Sir, what my personal opinion is? I think it is reflected in the reasons given at the end of the Ordinance, and in drafting the Bill I gave effect to my personal opinion, namely, that no member of Government should be chairman of these councils, because it seems to me an unwise thing to make a man chairman of a council which is to advise him, and to advise Government through him. Unfortunately, when I presented this draft to the different advisory councils which at present are operating under the existing Ordinance, every one of them said the Director of Education must be chairman of the council. It was entirely in deference to that popular expression of opinion that the Bill is drafted as it is. If the feeling of this House is that the Director of Education should not be chairman of the council I can assure hon. Members of at least one vote on this side of the House.

I should like to say in passing that the addition of powers to the existing advisory councils and the expansion of their functions indicates what I think we will all agree with, namely, that these councils have done extremely good work in the past, and it is hoped that if and when the new advisory councils are formed some at least of the existing members will remain as members of the new advisory councils.

Part IV indicates an entirely new departure. At present the advice given to Government on matters of European and Indian education comes only from the central committee and the area committees; the school area committees are constituted in respect of areas which are relatively large, and they are concerned with the education in respect of an area and not in respect of an institution. The consequence of that is that in the nature of things they must constitutionally be rather pale reflections of the central committees. You do want some definite nexus with individual schools, and this difficulty has been recognized in practice and bodies called governing bodies have grown up, sprung up, throughout the country. These bodies have no statutory authority whatever; as a matter of fact, they have in practice either usurped or had delegated to them in many cases some of the powers of the school area committees. The aim of this part of the

Bill is to give a real existence in law to these bodies which are performing very useful functions. It is felt, and I think everyone in this House will agree, that the proper body for the central authority to deal with in respect of a particular school at, say, Nakuru or Eldoret, is a local body composed as far as possible of the parents of children attending Nakuru or Eldoret and not parents representing any much larger area. One of the reasons—I want to be quite frank—that I think these bodies are so necessary—and I think hon. Members will agree that they are necessary—is that under a bureaucratic system such as obtains and must necessarily obtain to a great extent in Kenya, the tendency of Headquarters—I speak quite frankly—is to think perhaps too much in *vacuo* or generally in the interests of the Colony as a whole; I say too much because we are rather apt to forget the local interests. On the other hand, the local committee is apt to think too much in terms of its particular interests and to act and to want Government to act too parochially. I hope and believe that the formation of these local committees for individual schools, combined with a central committee, will have the effect of creating a useful and sensible compromise.

In this Part it would be desirable to note that provision is made in one or two cases for the creation of one committee to deal with more than one school. The case that we have in mind is the case of Nairobi where we have, or shall have, four schools, all dealing with the same standard of education roughly; and it is quite conceivable that it might be desirable to have one committee for two or three or possibly even the whole of the schools in Nairobi. But there you have a particular community with the particular interests of that particular community. But we are not bound; it is simply permissive. If a particular school demands its particular committee, it would be rather difficult, I think, to resist its claim. The effect of this part will be that school area committees will disappear, and I am sure that what I have said about advisory councils holds still more in regard to these school area committees. The individuals of these committees have, in the past, given unsparingly of their time and they will still in assisting the Government in the control and management of their schools, and I feel sure that many of them will become members of the individual school committees and continue to give unsparingly of their time.

I come now to Part V, which deals with the constitution of school area committees in respect of Arab and African education much on the lines of the existing Ordinance, save that one important provision is introduced, namely, that Local Native Councils should be represented in the case of

school area committees for native areas. In connexion with African education, I have been asked by Government to make one thing clear in regard to policy in connexion with native education as at present administered. The general policy in regard to native education is that Government welcomes and will encourage all voluntary educational effort which conforms to the general policy of Government. Aided schools should be regarded as filling a place in the scheme of education as important as the schools conducted by Government itself. It is clear that this policy includes the establishment of Government schools and also aided schools. Now that policy of Government schools alongside of aided schools has been exemplified in Kenya in the past—to give you simply one example you had the establishment of a Government school at Mwachakos, with village Government schools outside it, and, on the other side, you have the large grants made as grants for aided schools. During the last few years there has been a tendency undoubtedly to emphasize, and possibly over-emphasize, the importance of mission schools. Fear has even been expressed that reference to this emphasis in the departmental report for 1929 might mislead those who are interested and give colour to the assumption that Government is bound by a policy of purely aided schools. That is, of course, not the case. I have already given examples to the contrary, and provision has actually been made in the Estimates for 1931 for the establishment of Government schools in Kavirondo. It is hoped that this statement will clear away this misunderstanding.

In the same Part, in regard to Arab education, I should like to say one thing, and that is that we do recognize that there are peculiar difficulties in regard to the education of the Arab. Provision is made in this Ordinance for the creation of an advisory council specially for Arab education but it is necessary to explain why. Part V provides for school area committees for Arabs and Africans together. The reason why it is necessary to make this provision is that it is impossible to separate in many cases the Arab and the African in the Coast areas, seeing that they are attending the same schools, and therefore the same school area committee must deal partly with Arabs and Africans. But we do recognize, and we have made provision for the special difficulties of Arab education. And we recognize also, and this is perhaps still more important, that with the present rate of development in Arab education the one thing that is important is that we should secure the co-operation of the Arabs themselves; and I do hope that the Arab Advisory Council on Arab education will bear that point in mind. It is the essential condition of Arab development that we should carry the Arabs with us.

Another point in this Part which requires passing reference is the representation on Local Native Councils. Provision is made in the Ordinance for an equal, at least an equal, number of nominees by the Governor of Local Native Council members. It is desirable to make quite clear that under no circumstances would Government nominees be less than the number of Local Native Council members, because we feel that in the present development of the native it is important that the majority of people on those school area committees should be Government nominees.

Part VI of the Bill deals with the question of compulsory education. Discretion in the draft Ordinance is given to the Governor in Council to prescribe compulsion by proclamation. That is an administrative discretion. The provisions in regard to compulsion are briefly that children of an age to be prescribed by the Governor, or of a race to be settled by the Governor, or of a sex to be settled by the Governor, can be made to attend school compulsorily. The reason the age is not fixed by law is a simple one. In the case of different races, and in the case possibly of different sexes, it might be necessary to have different ages. But assuming that compulsion is prescribed, the law as drafted does make it possible for every child, irrespective of distance from school, irrespective of home conditions, to be provided with schooling in so far as this Council votes the necessary funds. Perhaps I ought to emphasize that point again, Sir; that it can only be made operative if this House votes the necessary funds. The whole control in regard to the introduction and the carrying out of compulsory education lies with this House and with this House alone.

Compulsion may cost the country money in two different ways. It may cost the country money through loss of revenue—through reduction of fees—and it may cost the country money through increase in expenditure owing to the necessity to provide funds for the facilities to which I have referred, or to provide additional teaching staff. With regard to loss of revenue, I think I ought to state for the information of the House that in no case during 1930 has inability to pay fees prevented a child in Kenya from attending school. I want to make that statement here without any reserve whatever so far as the Government is concerned. The authority for recommending a reduction or remission of fees has been the local school area committee, or, in some cases, the local governing body, and I am convinced, and I am quite sure Council will agree, that these bodies have taken a wise and generous view of all applications for remission or reduction of fees and none of the recent applications for a reduction of these fees by these committees have been refused by the

Education Department. In regard to that, I think I should add information which has reached me this morning—which I think is a great tribute to the people who are suffering so much financially this year—that provision exists automatically for the remission of 10 per cent of fees—the actual revenue which has been received up to date provides for the remission of that 10 per cent and no more, so that it is evident that the people are recognizing that the one thing they will not forego at present is education for their children.

The question naturally arises whether compulsion should be introduced forthwith. That is a matter which will have to be considered by Government if and when this Bill becomes law. There will naturally be hesitation in imposing any additional burden either on the community as a whole or any individual member of the community at the present moment. But I would like to offer two observations for the consideration of this House and for the consideration of the Government. In the first place, when a community is prosperous and things are going well with it—and if the community is intelligent, as the European community of Kenya is—children are sent to school almost as a matter of course and the need for compulsion in education is relatively small. I say relatively small because, of course, there will always be some for whom the stimulus of compulsion is needed. Unhappily, it is just when the community is suffering financially that compulsion seems to become necessary because parents, and quite good parents too, are regretfully inclined to withdraw their children from school, and many of them—through natural and praiseworthy self-respect and pride—decline to ask for a remission of fees. I have made that statement in a general form, but unhappily I know that it is not only generally true but I could give the House several instances which have come to my knowledge already. In short, it is a matter for consideration whether it is not paradoxically true that the less apparently we can afford compulsion the more it is necessary to impose it.

The second point I want to make in regard to compulsion is one which is nearly always overlooked. Compulsion does not merely aim at getting children into school, but it aims at getting them to attend school regularly. That costs nothing in money but bad attendance in many cases is almost as bad as non-attendance. In fact, it may be said to be worse, because it injures both the child who attends irregularly and his unfortunate companion who sits beside him on the school benches.

One last thing in regard to the introduction of compulsion. No provision has been made in the Estimates for 1931 for any additional expenditure in regard to compulsion.

If compulsion is introduced, it must be introduced on the basis of the provision made in the Estimates for 1931. The reasons which I have given for the introduction of compulsion are reasons which, I think, ought to be considered and seriously considered without any necessary expenditure of public funds.

Part VII of the Bill provides for the supervision of private schools and hardly calls for any comment at all. It practically re-enacts the existing provision, which provides for the minimum of interference with the activities of those who conduct private schools.

Part VIII deals with the certification of teachers. It simplifies the present procedure and contains one important section which is new. This provides for a form of indenture for teachers undergoing training. It is an important addition, especially in regard to boys who are being trained as teachers for African schools. The present difficulty very often is that we get a boy doing quite well at school. He is going to be a teacher and as he is not indentured he can leave the training college without any penalty whatever.

Part IX of the Bill merely re-enacts the existing provision in regard to fees and their remission.

Part X contains three new provisions to which I think I should refer. The first of these deals with areas to be served by particular schools. The provision is intended to apply to Nairobi. What has happened in Nairobi is that Government has erected three schools in the suburbs and the existing school area committee has, with great trouble, recommended that definite boundaries should be laid down for these schools in Nairobi. That recommendation we are acting on. I am afraid that this will be reported but I cannot help it. We are acting on it without any legal authority. It is very important that statutory authority should be given to this demarcation of school areas as soon as possible because we have expended considerable sums of money on these schools; some of them are not filling up and the tendency is for parents to send their children to a school which is larger, and so flood that school, and leave the smaller school unattended.

The second provision is also an important one and provides for a form of apprenticeship for pupils who are learning trades and so on. At present there is no legal sanction under the Education Ordinance for deeds of apprenticeship. Those deeds of apprenticeship are made under the Master and Servants Ordinance, and it is highly desirable that the position should be rectified. It is obvious,

I think, that a missionary who is educating boys should not be placed in the position of being a master under the Master and Servants Ordinance, which is a position which he very strongly objects to.

Lastly, in this part, advantage has been taken to carry out the recommendation of the Staff Officer of Defence to provide for instruction in musketry, where parents are willing that their children should have it. I imagine that no one will object to that proposal, and if any objection is raised to it I am sure both from an educational point of view and from the point of view of the Staff Officer of Defence the desirability of that provision can be made clear.

Part XI expands and re-enacts the existing provisions in regard to Rule making. The only alteration, apart from necessary additions, is that matters of purely professional routine and technical matters are left in the hands of the Director.

That is the Ordinance which I am asking the House to read a second time to-day, Sir. I recognize that without general co-operation this Ordinance cannot be a success, but I do believe that with that co-operation, beginning in this House and extending throughout the country among parents of children and among those who are appointed as members of advisory committees, I believe that with that co-operation this Ordinance can be a real piece of machinery for the good of education and for the good of the country as a whole.

I beg to move the motion standing in my name.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

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

THE HON. CONWAY HARVEY: Your Excellency, I do not wish in any way to detract from the very deep impression which must have been created by the eloquence of my hon. friend the mover; I wish, however, Your Excellency, to move as an amendment that this debate do stand adjourned. My reasons, Sir, briefly are that at the end of last year Elected Members were persuaded to withhold criticism of Government's education policy on the perfectly clear understanding that the new Education Bill would be introduced for public information and criticism early this year. We suggest, Sir, that the present is a most inopportune moment for the proper consideration of such an important subject of interest to every community, every man, woman and child in

the country, as education. More especially, Sir, is it inadvisable to sandwich such important measures as this into a Budget Session of Council. There are so many new principles involved, Your Excellency, and as the hon. mover has stated, general co-operation by the public is absolutely essential if this Bill is to be made the success which a large number of people anticipate, we feel that the country should be fully consulted before this debate is proceeded with. The present moment, Your Excellency, is a most favourable one, inasmuch as this Council, being on the point of dissolution, Elected Members, who are the best people to perform that work, will be touring their constituencies and explaining to all and sundry the exact meaning and implications as understood by them of all major Government proposals.

There is one final reason, Your Excellency; as every one is aware, two of the oldest members of this House who have always taken a very deep and personal interest in the subject of education are away at the moment. They will return in the course of a few days and we feel that it is highly advisable from every point of view for the Colony as a whole to have the benefit of their counsel and advice in considering this matter. For these reasons, Your Excellency, I beg to move that this debate do stand adjourned.

CAPT. THE HON. H. E. SCHWARTZ: I beg to second the amendment.

HIS EXCELLENCY: An amendment has been proposed and seconded that this debate do stand adjourned.

In view of the fact that this amendment is somewhat sprung upon the Government I will adjourn the debate in order to consider what action the Government will take in the matter.

Council adjourned.

On Resuming.

HIS EXCELLENCY: The motion that a Bill to make Provision for Education throughout the Colony and Protectorate should be read a second time has been proposed and seconded; an amendment has been proposed and seconded that the debate do stand adjourned.

In listening to the speech of the hon. Member moving that amendment I took away, perhaps erroneously, the impression that the intention of that amendment was that this Bill should not be considered by this Council at all but should stand over till the new Council next year. He now informs me that that was not his intention, but that he

merely asked that the debate should stand adjourned till later when we meet again next month and that Elected Members are then willing to co-operate in every way possible with Government to get the Bill on the Statute Book this year. If he will give me that assurance I shall be agreeable for the debate to stand adjourned.

THE HON. CONWAY HARVEY: Yes, I certainly give that assurance, Your Excellency.

HIS EXCELLENCY: The debate is adjourned.

FIRST READINGS.

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

The Fraudulent Transfer of Business Bill.

The Brokers Bill.

The Dangerous Petroleum (Amendment) Bill.

The Kerosene Oil (Repayment of Duty) Bill.

The Lakes and Rivers Bill.

The Land Surveyors (Amendment) Bill.

The Traffic (Amendment) Bill.

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

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE POLICE BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:

"That the Report of the Select Committee on the Police Bill be adopted subject to the following amendments—

1. That recommendation No. 4 in the Report be deleted.
2. That recommendation No. 9 in the Report be amended to read—

"That Clause 16 be amended by deleting the word 'subordinate' in sub-clause (3)."

3. That paragraphs (a), (b) and (c) of recommendation No. 10 in the Report be deleted.
4. That recommendation No. 12 in the Report be deleted.
5. That recommendation No. 24 in the Report be deleted."

It is a little more than a year ago, Sir, that the Select Committee on the provisions of the Police Bill held their several meetings and produced a unanimous report. I now, Sir, have the honour to move that the Report be adopted with five extremely minor amendments, the necessity for which I would ask leave to explain in the first instance/Sir.

The first amendment, that recommendation No. 4 be deleted, is a very obvious one. The word "promotions" is obviously the right word to use, Sir, not the word "increases" in the force, increases in rank or grade within the force. I have tried to charge my memory over a period of a little over twelve months in an attempt to ascertain why that recommendation was ever embodied in the Report; in that I have failed, Sir, but I do suggest to hon. Members very shortly and very confidently that the word "promotions" is the word in common currency, the word which everyone understands and that that word should stand.

The second recommendation, Sir, the amendment to clause 9 arises, as does the third, which amend recommendation 10, from the amendments which, as hon. Members have seen, it is my intention to move on the recommitment on the third reading of the Bill.

Recommendation 12 falls to be amended for the reason, Sir, that in a force such as the Police Force, a force which ought to be as nearly as possible administered along exactly the same lines as the Police Forces in adjacent Colonies and Territories, there is no proper reason for extending at this moment the principle of remission from Hut and Poll Tax. The recommendation of the Select Committee was in effect a very substantial and a very great extension of that principle. The deletion of that recommendation will make no change in the law as it stands to-day. There will still be remission from Hut and Poll Tax for those who have served long and faithfully in the force, but it is felt that there is no justification for the unique distinction in this Colony for an extension of that principle in respect of the wives of those officers after the decease of those officers.

The fifth and last amendment, Sir, that is in recommendation 24, also falls to be considered more properly when the motion for recommitment is agreed to.

Now, Sir, the recommendations of the Report can be run through extremely shortly, I think. The first to which I would draw attention is recommendation 2: The Committee had before it the evidence of a considerable number of Indian gentlemen who did represent that the Asiatic members of the force were under a disability inasmuch as their offices were ranked as subordinate offices. With those representations

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the Committee found itself in complete sympathy, and it is therefore suggested, Sir, that all officers down to "Assistant Sub-Inspectors, first grade," should rank as non-commissioned officers. The adoption of this recommendation, Sir, will make no difference financially to any officer in the force. It is merely a question of status. Many of the officers holding those offices have given long and many years of faithful service in the force, and they feel—and I think it is only natural they should feel—that those long years should carry with them a certain *cache*, that they should be regarded and treated as non-commissioned officers rather than as subordinate officers. I would emphasize that there is no financial implication in this recommendation whatever. The rates of pay, the allowances of those different grades remain exactly as they always have been. It is merely a question of status and title and the recognition which that status and title necessarily carries.

Recommendation 8, Sir, introduces what I am sure hon. Members will agree is a perfectly fair provision. We are in this new legislation introducing quite a number of provisions which are not so favourable from the point of view of the personnel of the force as the conditions under which they now work. Therefore, Sir, it is hardly fair that the provisions of this new legislation should be made operative against all of those officers who are already in the force. The recommendation, therefore, Sir, is that the provisions of the Ordinance, of the new legislation, should apply to all who join the force after the commencement of the Ordinance, but should not apply to those already in the force; with the proviso that when any officer in the force is promoted he shall, by the act of accepting that promotion, automatically come within the purview of the new legislation.

Recommendation 14, Sir, is an important one in that it seeks to bring European police constables, who hitherto and to-day are in a more favourable position than other members of the European staff of the Colony, into line with the rest of the European staff. If they resign at the present moment they are under an obligation only to repay the cost of bringing them out to the Colony. The obligation on every other European officer in the Service is very much greater than that and this recommendation, Sir—that portion of it which is embodied in (B) of Recommendation 14—will in effect bring the European police constable in that regard exactly into line with other officers in the Service. He will in future have to repay, not only the cost of bringing him to the Service, but also all salary drawn in respect of return leave granted in respect of his preceding leave.

Recommendation 19, Sir, embodies the compromise arrived at after very lengthy and full consideration of clause 40 of the Bill. That clause, as drafted, sought to provide that no action should be brought against any European constable or subordinate European officer in the force in respect of any goods supplied. To that provision I daresay hon. Members will remember there was a certain amount of opposition, and it is now recommended that instead of drastically providing that those members of the force should not be subject to legal action in the courts at all, that it should be provided that action may be brought against them with full publicity on their incurring indebtedness but that no salary or allowances paid to them should be liable to attachment or levy or sequestration in respect of a debt for any property or goods supplied while such a person was a member of the force. I would emphasize that that provision, which, as I have already stated, does not go so far as the original provision, is the unanimous recommendation of the seven Members of this Council who sat on that Select Committee.

Lastly, Sir, I would draw attention to Recommendation 30. I am glad to say, Sir, that that recommendation is one of the utmost importance in that it provides for a system of pensions for members of the force with long service, long and good service, instead of the existing provisions whereby a lump sum is given to them, a sum which is not infrequently frittered away within a few days of being received. It is an extremely important provision, one which has been stressed by more than one hon. Member on the other side of this Table in the course of the debate on the second reading of this Bill, and the provisions will, I am sure, commend themselves to the favourable consideration of every Member of this Council.

I beg to move that the Report, with the five amendments on the Order Paper, be adopted.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Police Bill be adopted subject to the following amendments—

1. That recommendation No. 4 in the Report be deleted.
2. That recommendation No. 9 in the Report be amended to read—

“That clause 16 be amended by deleting the word ‘subordinate’ in sub-clause (3).”

3. That paragraphs (a), (b) and (c) of recommendation No. 10 in the Report be deleted.
4. That recommendation No. 12 in the Report be deleted.
5. That recommendation No. 24 in the Report be deleted.

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to propose an amendment in the following terms:—

“That the words ‘be adopted subject to the following amendments’ be deleted and the words ‘be referred back for consideration of certain amendments’ be substituted therefor.”

The Select Committee, Your Excellency, appears to have gone into the details of this Bill very thoroughly indeed, and to me anyhow they appear to have put up a perfectly reasonable report. But as a matter of procedure, Your Excellency, I suggest that it is absolutely wrong, when new amendments are suggested to a Bill which has been examined by a Select Committee or any other competent authority, that such Select Committee or authority should not have an opportunity of scrutinizing any new amendments which may be introduced. It is not quite clear, Sir, in view of the subsequent procedure laid down this morning in regard to this measure, whether on the third reading it is intended to refer the Bill back to the Select Committee which considered the detailed provisions of the Bill or to a committee of this Council. But in any case, Your Excellency, I consider it would be very much better and more proper in every way if these proposed amendments were first of all examined in detail by the Select Committee. Sir, we have them flung at our heads this morning for the first time in many cases, and we are quite unable to see how they fit in with the rest of a very long Bill; and it is very important, Sir, if we have any sense whatever of responsibility, that we should be in a position to thoroughly understand subjects upon which we have been called upon to vote. I beg to move.

CAPT. THE HON. E. M. V. KENEALY: I beg to second the amendment of the hon. Member for the Lake. I hope Government will agree to it, Sir, because it does create a precedent, and that precedent might be used against the interests of the country in the proposed amendments to the Water Bill, which I think should not be submitted first to this House but to the original Committee, in so far as that Committee is obtainable for its comments before presentation to this House. As this does create a precedent, I appeal to Government to acquiesce in the proposal.

HIS EXCELLENCY: The following amendment has been proposed and seconded:—

"That the words 'to be adopted subject to the following amendments' be deleted and the words 'be referred back for consideration of certain amendments' be substituted therefor."

THE HON. A. H. MALIK: I support the amendment, Your Excellency, and I feel, Sir, it is highly desirable that amendments of this nature should be referred back to the Select Committee which originally considered the Bill. I trust that Government will accept this motion.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I am authorised to state for the information of hon. Members that Government will accept the amendment on the understanding that the Select Committee will meet and report before the conclusion of this Session. I would ask also, Sir, that Your Excellency would appoint a member of the Committee in the place of the Provincial Commissioner, Ukamba, who is no longer a Member of this House.

THE HON. CONWAY HARVEY: Your Excellency, I should like to express our very deep thanks to Government for their attitude in this matter.

HIS EXCELLENCY: And you will give us that assurance?

THE HON. CONWAY HARVEY: Yes.

The amendment was put and carried.

HIS EXCELLENCY: The Bill will be referred back to the same Select Committee as before but with the Solicitor General taking the place of the Senior Commissioner for Ukamba, who is no longer a Member of this House.

EXTENSION OF THE AGRICULTURAL ADVANCES ORDINANCE.

HIS EXCELLENCY: I see on the Supplementary Order Paper that there are certain motions down for debate this morning. If it will be for the convenience of hon. Members to take these now, I will call upon the hon. Member for the Lake to move the motion standing in his name.

THE HON. CONWAY HARVEY: I beg to move the motion standing in my name on the Order Paper:—

"That this Council requests Government to extend the operation of the Agricultural Advances Ordinances into the year 1931 and for this purpose to revoke any balance remaining unexpended under this Head at December 31st, 1930."

Early in the year, Sir, it became apparent that agriculturalists in Kenya, especially those more closely identified with cereal cultivation, were in a very bad way. Elected Members, Sir, addressed themselves to the problem as to what steps they could recommend Government to take to help these very deserving people. The subject also was gone into by the Board of Agriculture, on receipt of whose report Government appointed a special committee fully to examine the position and make recommendations. In due course the recommendations of that special committee took concrete shape in the form of a Bill introduced by Government known as the Agricultural Advances Bill. The mover of that measure, speaking on behalf of Government, Your Excellency, stated that this was no attempt to bolster up an ailing and dying industry but to meet the serious crisis in markets for primary products. We all regarded the measure, Sir, as an emergency one, of a temporary character only, in order to give beneficiaries an opportunity of adjusting their affairs to the current economic situation. Everyone hoped at the time, Sir, that the serious situation would be relieved by a recovery in markets in the course of a few months, but unfortunately cereal farmers in Kenya continue to share the distress common to cereal farmers throughout the world.

The Bill was duly passed unanimously, Your Excellency, and was followed by a motion appropriating £100,000 for purposes of advances to those who put up satisfactory cases and for the purpose of meeting the expenses of administration, such as to be a charge against the Colony's surplus balances. I understand, Sir, that slightly over one-half of that sum has been economically and efficiently administered to date by a small central board under the chairmanship of my hon. friend the Treasurer, assisted by district boards in the various districts of the Colony, and advances have been made on various terms and conditions, according to the circumstances of each individual case. I understand, Sir—and this is important—that a very careful check has been kept on the purposes to which advances have been devoted, and I understand also, Sir, that a very large number of payments have been made on a monthly basis. I should like, Sir, here to express the very deep debt of gratitude owing by the public generally to those two boards, more especially the members of the district boards, who, at a very great sacrifice of time and energy—and in some cases money—have stepped into the breach and performed work of a very valuable character indeed, which has been of very great assistance to the central board in making their decisions in regard to the allocation of these funds.

We were told, Sir, that the Secretary of State for the Colonies only approved of the scheme so far as this year is concerned and announced his intention of reviewing the position at the end of this year. Well, Sir, we do regard it of the most urgent importance that there should be no cessation of the Board's activities as the need for assistance may be just as acute on the 1st January, 1931, as it was on the 1st June of this year. In any case, Sir, it is desirable from every point of view to continue to assist those applicants who are showing signs of recovery if Government is to come anywhere near realizing the somewhat optimistic estimate of revenue, and in this, Sir, the Railway also has a very definite interest.

Another very important reason, Sir, for continuing the activities of this board is that unless something is done loans already made may quite easily be seriously jeopardised. We consider, Sir, that every possible step should be taken to prevent a single acre of good agricultural land from going out of cultivation or one single efficient farmer from joining the ranks of the unemployed. For the credit of the Colony, Sir, it is of the utmost importance that land should not be thrown on the market at slump prices. In my humble opinion, Sir, Government has a duty to perform in this matter, and I commend my motion to the favourable consideration of this House.

CAPT. THE HON. H. F. WARD: Your Excellency, I beg to second the motion. As the case has been so well presented by my hon. friend there is very little need for me to add anything to it. Sir, as he has said, this measure is still vitally necessary for the relief of many of our industries and particularly to one of our main industries, and Sir, I do think, in fact I am sure, that anybody who considers fully the position to-day will be definitely satisfied that if we are to endeavour to maintain the anticipated revenue of Government this is one of the measures that must be extended over that period for which it was first designed.

There is one further point, Sir, and that is the indirect good that this measure has done in stabilising conditions in the industries to which it had been applied. It has put a different outlook upon those who are handling and administering those industries and I do submit to Government that it would be very dangerous to alter that by letting the measure lapse at the end of the year.

There is a point of order I think I should refer to, Sir, and that is I do hope that if this measure is again to be discussed early in 1931 permission will be given under Standing Rules and Orders, No. 34.

Finally, Sir, I do hope that if Government will accept this motion they will reconsider the rate of interest that is charged under the Ordinance, as, when industries, through no fault of their own but purely due to world conditions, get into the condition in which some of our industries are and have to be helped as is provided for by this Ordinance, it is not the least good putting such a high rate of interest as that provided under the Ordinance. It is similar to throwing a noose over the neck of a drowning man and saying: "We are going to save you from drowning but we propose to hang you instead."

HIS EXCELLENCY: The question is:—

"That this Council requests Government to extend the operation of the Agricultural Advances Ordinance into the year 1931 and for this purpose to revoke any balance remaining unexpended under this Head at December 31st, 1930."

As, by implication, the effect of this motion is to make a charge on any part of the revenue arising within the Colony, such a motion can, under Standing Order No. 32, be only proposed with my consent. I am only too willing to give that consent as the Government is in sympathy with the terms of the motion.

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Your Excellency, I have very little to say on this motion, particularly in view of what Your Excellency has just said. There is one point, however, which I think I must, on behalf of Government, make quite clear, and that is with regard to the date, 31st December, 1930, which, as stated by the hon. mover of the motion, is the date imposed by the Secretary of State for the time limit of this scheme. That was the date actually proposed by this Government and approved by the Secretary of State as the suggested limit, the point being, of course, that this Government, in putting the proposals to the Secretary of State, naturally had to suggest some time limit, and that was thought to be the most proper one. However, Sir, this Government at the same time has foreseen the position as it now appears to arise and for that purpose it has already furnished the Secretary of State with a report on the workings of the scheme from the date of its inception to the present, and that report should be in the Secretary of State's hands. He will, therefore, be able to deal with the application of this Government for an extension of that date. In other words, Sir, Government I think, cannot be accused of not taking the necessary precautions in advance.

I have only to State, Sir, further, that such representations as are indicated in this motion will be made at once to the Secretary of State, and finally, Sir, that this motion is accepted by the Government.

HIS EXCELLENCY: The question is:—

“That this Council requests Government to extend the operation of the Agricultural Advances Ordinance into the year 1931 and for this purpose to revoke any balance remaining unexpended under this Head at December 31st, 1930.”

The question was put and carried.

MAIZE INDUSTRY.

THE HON. F. J. COULDBREY: Your Excellency, I beg to move the following motion:—

“That in view of the serious and urgent position and immediate prospects of the maize industry this Council requests the Government to call a conference of the representatives of all parties interested in that industry with a view to co-operative action sufficient to tide over the present crisis.”

Sir, in speaking to this motion I do not feel any very great advocacy is needed. The Government must be aware, I am sure they are aware, of the parlous condition of the maize industry. At the same time, Sir, I believe that no one who does not live cheek by jowl with the agricultural community or is in fact one of them can possibly appreciate how really acute this crisis is. Maize to-day is worth about Sh. 16 a quarter in the world's market, and in the studied and considered opinion of those people whose duty it is to dispose of this commodity no immediate rise can be expected, anyhow, before April or May of next year. Now, Sir, Sh. 16 a quarter represents in Kenya Sh. 2/65 a bag at the grower's station if the grower lives on the main line, and it may be of interest to know that on the 1st December last year the value of a bag of maize at the grower's station was Sh. 10/47 a bag. In other words, maize to-day is worth to the farmer about one quarter of what it was worth twelve months ago.

Now, Sir, the position in the maize industry is this: after months of cultivation and, of course, the expenditure of quite a lot of money, probably Sh. 40 to Sh. 50 per acre, the maize is ripe in the shambas ready to be harvested. It has still to be gathered, dried in cribs, shelled, winnowed, bagged and carted to the station, and when it is carted to the station it is worth to the farmer about Sh. 2/65.

The cost of these operations which have still to be performed I estimate—and I consider this is a very conservative and low estimate—must be at least Sh. 2/15 a bag. That this way: it costs 80 cents to harvest and I link it up with maize: 75 cents is the cost of the bag for the maize; and 60 cents represents other transport and incidental charges. Now, Sir, if a farmer lives a long way from the station or for some reason he cannot get his costs down to that figure it definitely will not pay him this year to reap his maize, and unfortunately, Sir, evidence is accumulating that a great many farmers are perforce having to take that step. It will not be necessary for me to demonstrate how irremediably disastrous that course must be. Obviously, if the farmer cannot reap his maize he cannot afford to plough it in, and that maize will stand in the shambas and harbour every stalk-borer and every bug known to the entomologist and endanger the whole countryside. Take the case of the farmer who can reap his maize and who does get a few cents for it, say 50 cents a bag—taking an average crop of eight bags per acre, this means Sh. 4 an acre for his maize.

The Board of Agriculture recently issued a memorandum in which it said that it cost Sh. 64 an acre to bring maize into maturity. I personally think that is too high, but obviously Sh. 4 an acre on which to keep himself and his dependents, pay his interest charges and bring another crop into maturity is absurd. The inevitable result must be, Sir, that unless the farmer can get more for his maize at least 50 per cent of the farmers must go out of business ruined and the land go out of cultivation. This figure of 50 per cent is not a guess, it is not a wild estimate; it is arrived at after consultation with the directors and the general manager of that big co-operative society, the Kenya Farmers' Association. Of course, Sir, it can be argued, and I think argued properly, that if an industry cannot pay it is uneconomic and should die out; such, Sir, was the case of the flax industry in this Colony, but I do submit that that argument cannot be applied to the maize industry. The hon. the Director of Agriculture has stated publicly on many occasions that Kenya is a Colony pre-eminently suited to the growing of maize and we can already grow maize here as economically and as well as in any part of the world. Moreover, Sir, of course, this crisis in the maize industry is not confined to Kenya alone. In every country in the world where maize is a considerable industry the Governments of those countries are realizing the necessity of very materially assisting the maize industry, more particularly in Rhodesia and in the Union of South Africa. Again, Sir, I submit that maize is a basic industry. In this Colony over one-third of

the Europeans engaged in agriculture are engaged in growing maize; 32 per cent of the total cultivated area is under maize. It is the main, the staple, food of the Colony, and in this respect during the last twelve months, excluding the amount of maize grown in the Native Reserves, the natives themselves have not grown 50 per cent of the maize necessary for posho to ration the labour forces distributed throughout the Colony. Now, Sir, if this industry is not assisted and it does die, I do not think it needs a very fertile imagination to visualise what must happen. The farmer who is lucky enough to be able to remain will, of course, grow maize, probably on a restricted area and probably only about sufficient to provide for the internal consumption. Naturally, the price of maize will soar and there will be a very largely enhanced price of posho at the end of next year; and that will be the last straw to break the back of the coffee and sisal industries, as well as adding very materially to the labour costs of both the administration and the Railway. I have not mentioned the fact that the maize industry exports, it should export this year if the harvest is reaped, over one million bags, worth in normal time about half a million pounds sterling to come to the country.

Your Excellency, I have been at pains to be punctilious not to overstate or to exaggerate this case. It would, Sir, be very easy for me, or certainly so for a Member with more experience in addressing this House than I have, to paint a very vivid picture, a very distressing picture of the trials and struggles, and the actual privations, which too often are the lot of the maize farmer to-day. I do not want to stress that point, Sir. I certainly have no mandate to come down to this House in the guise of a mendicant, cap in hand, and I believe the farmers of the country would be the first to repudiate me if I did, but it is a point that cannot be lost sight of. If the farmer does not get more for his maize and if the industry does die, the problem of what to do with something like 500 to 600 farmers and their families, absolutely penniless, will be a problem that this Colony will have to face; but, as I said, we do not want to consider that point because I do not believe that such an incredible state of affairs would be allowed to eventuate.

I ask in this motion, Sir, that Government should summon a conference—a conference of everybody interested in this industry; the Government itself, the Railway, the shipping companies, the banks, and of course, the farmers themselves and members of the co-operative society, and other merchants interested. It may be said, Sir, that as this Government just now agreed to the extension of the Agricultural Advances Ordinance therefore that may deal with the

case and there will be no necessity for further steps. That, of course, is a matter that this conference would have to explore, but as a matter of fact, Sir, I am afraid that the Agricultural Advances Ordinance cannot assist the maize farmer very much. To begin with, the amount of money available has to be spread over applications from all branches of the agricultural industry, and secondly, the fact has got to be faced that a good many of these farmers cannot put up the security necessary to cover advances under that Ordinance.

One point more, Sir, that I would like to mention: I ask that this conference be summoned as quickly and expeditiously as possible. Time is undoubtedly an essential factor in this case and I firmly believe that any scheme of assistance that can be formulated must be formulated immediately and brought into operation as quickly as possible in order to give relief to this industry. I commend this motion to the House.

CAPT. THE HON. A. C. HOER: Your Excellency, I beg to second the motion. I cannot help thinking, Sir, after hearing the speech of the mover, that there can be little doubt in the minds of hon. Members as regards both the necessity and the urgency of calling this conference. Sir, it does not, as the hon. Member has said, it does not require any very great sense of imagination to visualize what is going to be the position in this country unless we can get some improvement as regards the maize industry. I believe, Sir, that unless something is done, nothing but disaster faces the industry; and if this industry, Sir, is lost to the Colony, let us think for one moment how it is going to affect commerce, customs and railways. Sir, it will have the most deplorable effect on revenue besides leaving in its wake a number of the best settlers who ever came to this country—men who have put in every ounce of energy they possess in the hope of building up a home in this country and of becoming a part of Kenya.

The position of the industry to-day, Sir, as regards the people on the land is approximately this. There are about 1,000 settlers engaged in growing maize. They have under cultivation, Sir, an area of approximately 250,000 acres, which represents 32 per cent of the total cultivated European area in the Colony. Now, Sir, this is no time to plead for charity, nor do I think you have the type of settler in this country who is prepared to accept it; but the position is such that unless something can be done to tide over this position, nothing but disaster can follow. Sir, in putting forward this request for a conference, it must be remembered that in dealing with maize, it is different from most of the

CAPT. THE HON. H. F. WARD: Your Excellency, I wish briefly to rise and support this resolution because I too have been able to follow the position and understand how very critical it is. In doing so, Sir, I think it is only right that a Member representing one of the town constituencies should pay an effective tribute to the Kenya Farmers' Association. That is an Association, Sir, whose merit has been well proved, whose work is known and the efficiency of its work can be trusted and relied upon by the Government and the community as a whole. I think, Sir, that this question would have been in a very difficult position to-day had that industry not been organized and controlled by the efficient body of men that it has.

The case has been before the public in the clearest and fairest terms since the industry first began to run into difficulties and it is possible now to present their case with clarity founded on fact owing to that organization.

I am sorry, Sir, to hear the remarks made by the last speaker because I think perhaps a wrong impression might be given to the Government or to anybody else who listened to him, as it is unfair—it is not intended as unfair, obviously—it is apt to be misleading to quote the temporary financial accommodation that an organization of that sort carries from time to time on a large volume of exports, and undoubtedly the figures which he referred to were in respect of that temporary accommodation.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: On a point of explanation, Your Excellency, if I may make one, I hope nothing I have said with reference to the Kenya Farmers' Association will be taken as criticism. I have only quoted the fact to make Government realize the situation as regards the maize growers and the Association.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, my only excuse for intervening in this debate is because I think it cannot be too much emphasized that persons living in the towns, commercial men, are just as much affected by the crisis which is affecting this industry as any other portion of the community. It is sometimes forgotten that we in the towns are complementary to the producer and practically entirely dependent upon him. It may also be argued that he is dependent on us; that is true, and that is why I used the word "complementary". When you get crises of this sort in one or other of the agricultural industries of this Colony it is immediately reflected in the towns and any person living in Nairobi, any person, whether a merchant or a professional

man, will tell you, and with truth, that he is being tremendously affected by the crisis which at present is facing this Colony. He is, of course, not so adversely affected as the actual producer whose position has been so graphically outlined by the hon. mover and the hon. seconder, but I wish, Sir, as one of the Members representing a commercial constituency, to make it quite clear that I understand and those I represent understand that their prosperity is bound up with the prosperity of the producer; their interests and our interests are on these occasions identical.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I have very little to say here also. The maize industry in this Colony and elsewhere is in a difficult position; it is as well known to Government as it is to anybody else in the Colony.

As regards the particular proposal put forward in this motion, I should like to say, Sir, that the method suggested is one which commends itself to Government as a reasonable one, indeed as a reasonable method of dealing generally with these questions of industries in difficulty. I think, Sir, it will be difficult to suggest to them a method which would be more likely to give Government an accurate appreciation of the opinion of the various elements and various interests which combine in the maize industry, and indeed in other industries. I have only, therefore, to say, Sir, on your behalf, that the motion is accepted and that I am authorized to say Your Excellency proposes to call a conference at an early date as may be convenient.

HIS EXCELLENCY: The question is—

"That in view of the serious and urgent position and immediate prospects of the maize industry this Council requests the Government to call a conference of the representatives of all parties interested in that industry with a view to co-operative action sufficient to tide over the present crisis."

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, as I understand there is a proposal—and as the hon. Member for the Lake is not in his seat—that this Council will not meet to-morrow, and I understand, Sir, hon. Members—I may have made a mistake . . .

HIS EXCELLENCY: I think as I understand the position it is that we have a certain amount of legislative work of a minor character to-morrow which could be done and got

out of the way, and that after that the Colonial Secretary would like an opportunity of meeting the Select Committee to put certain matters before them if that would be convenient to Members.

CAPT. THE HON. H. F. SCHWARTZ: I beg Your Excellency's pardon. I understood we were not going to meet to-morrow; I was going to suggest you might deal with these non-controversial second readings now, but if we are going to meet to-morrow it can be done to-morrow.

SELECT COMMITTEE ON THE TOWNSHIPS BILL.

HIS EXCELLENCY: There is one announcement I wish to make before adjourning Council. Through inadvertence, when the Select Committee was appointed to consider the Townships Bill, the hon. the Chief Native Commissioner was not appointed a member. His name should be added.

*Council adjourned till 10 a.m. on Thursday,
27th November, 1930.*

THURSDAY, 27th NOVEMBER, 1930.

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Thursday, 27th November, 1930, His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORS, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 26th November, 1930, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:

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

Report of Select Committee on the Provisions of a Bill to make Provision with respect to Merchant Shipping and matters relating thereto.

NOTICE OF MOTION.

Notice was given by the Hon. the Attorney General that at a subsequent meeting of the Council he would move a motion that the report of the Select Committee appointed to consider the Shipping Bill be adopted.

ORAL ANSWERS TO QUESTIONS.

FAMINE RELIEF MEASURES.

CAPT. THE HON. E. M. V. KENEALY asked:

Will Government state what amount of money due by natives for famine relief measures has been collected, what amount has been remitted, and what further amount it is expected that Government will collect?

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): The following amount has been collected on account of Famine Relief: £37,843.

The following is the approximate amount which has been remitted: £15,000.

A balance of £900 approximately remains to be collected.

NAIROBI EUROPEAN HOSPITAL

THE HON. THE ATTORNEY GENERAL:

1. Is the Report of the Committee appointed by His Excellency the Governor on the subject of the Nairobi European Hospital has been completed?

2. If the Report has not been completed would the hon. Member be prepared to introduce a new scale of fees lower than at present in force, as from January 1st, 1927?

3. Is the hon. Member prepared to include in his estimates sufficient funds to proceed at once with certain very necessary alterations and equipment required immediately at the Nairobi European Hospital, and without increasing the total amount of his vote for 1927?

4. Is there any likelihood of the acceptance of maternity cases at the European Hospital in the immediate future?

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GRAY):

1. The Report of the Committee appointed to consider and make recommendations concerning the European Hospital, Nairobi, was completed on the 11th November and is awaiting consideration.

2. Pending a decision as to a possible reorganization of the control of the European Hospital, Nairobi, it is not proposed to vary fees as to do so would affect all other European hospitals, where the cost of maintenance of a patient is greater than the fee charged. The accounts for 1925 show that the daily cost of keeping a patient in the European Hospital, Nairobi, amounts to Sh. 27.50, without including depreciation, repairs, the cost of medical assistance other than that of the Resident Surgical Officer or of the administrative and secretarial work performed at Head Office, including the collection of fees. Any reduction below the present fee would mean that patients will be able to pay for their maintenance would be charged less than the cost thereof.

3. The equipment at the European Hospital, Nairobi, is satisfactory and no special provision is necessary in the estimates for 1927 to make additions thereto. Votes for buildings or alterations to buildings do not appear in the Medical Department Estimates. It is hoped that loan funds will be available for additions or alterations to the hospital. In this connexion I would add that the requests are for the

provision of a maternity ward, a children's ward and additions to the general accommodation. Extra staff would require to be provided if effect is given to the foregoing and additional eight nurses will require to be permanently on duty at the hospital and this will entail altogether the provision of ten nursing sisters over and above those at present allowed for in Estimates.

4. It is not possible to accept maternity cases at the European Hospital, Nairobi, until the necessary building is provided.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE COLLECTIVE PUNISHMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the majority report of the Select Committee appointed to consider the Collective Punishment Bill be adopted."

Copies of this Report, Sir—it is really three reports—are in the hands of hon. Members, who will see that the first Report, which is signed by all the Members of the Committee, recommends only certain purely formal, verbal amendments to the Bill. Then, Sir, comes a very direct cleavage. In the opinion of the Official Members of that Committee, Sir, no further amendment is requisite. The Elected Members, however, who sat on the Committee, are of the opinion that the Bill requires amendment in three other clauses, all the amendments arising from the one short point; should it or should it not be permissible for the Governor, under the provisions of the Ordinance, to remit the whole or part of a fine imposed on a native community on condition that that native community for a specified period has been of good behaviour; and purely subsidiary to that point, Sir, should it or should it not be possible to express the whole of a fine under the Collective Punishment Ordinance in terms of arms?

Clause 5 of the Bill provides that the Governor may, in addition to or in lieu of a fine, direct that a specified number of arms of specified design shall be delivered up by the offending community. That, Sir, very shortly, is the point on which there is this acute and complete divergence of opinion. The provisions of clause 4, which is the clause chiefly in dispute, are, and have for some years past, been chiefly in dispute, are, and have for some years past, been proved to be of real and salutary effect, and I hope, Sir, that it will not be argued that they will not be equally applicable

to conditions which obtain in the native areas in this Colony. Furthermore, Sir, I would point out that the provisions are entirely permissive. A fine may be imposed with or without conditions. If a fine is imposed without conditions, clause 4 makes it permissible for the Governor by a subsequent order to inform the community that the whole or any specified part of the sum which they have paid will be returnable to them after the lapse of a specified time if during that time they have been of good behaviour. Furthermore, it is possible for the Governor to extend that period in the interests of peace and order, with a view to ensuring the continued good behaviour of the community in question. Surely, Sir, those powers—which I reiterate are permissive only—can be and are obviously useful and salutary. They need not be invoked except in suitable cases; they will not be invoked except in suitable cases. But where suitable circumstances do arise, surely it is only right that we should explore every avenue that may possibly lead to enforcing a community which has proved in the past to be truculent and law-breaking to be law-abiding and peaceful; and I think there is no more obvious way of doing that than by imposing financial obligation on the community concerned, saying to them: "You have had to contribute a large sum of money, but if you behave yourself for the next twelve or twenty-four months you will get that back." That is the position, Sir, and frankly I find it difficult fully to appreciate the motives that led Elected Members to oppose that provision so whole-heartedly, so stubbornly and so stoutly as they did.

The two auxiliary, ancillary points, Sir, are: is it right that the whole or part of a fine should in any circumstances be returnable, and is it right that the whole of a fine should in any circumstances be expressed in terms of arms? On these points, Sir, I would remind hon. Members that nothing which is done in the course of the consideration of this Bill can affect the Governor's power of clemency, which he exercises directly and personally as a representative of His Majesty. That power exists; that power must remain. It cannot be curtailed or whittled away in any way by any provision made in this or in any other statute; and that power does enable His Excellency in any circumstances where he sees fit to remit the whole of any penalty. Circumstances may arise, Sir—again the power is enabling only—where obviously the imposition of a fine is unjust. Then, surely, Sir, it is only right that there should be the power to return that penalty. Circumstances may arise, where the community which is being fined has obviously repented and mended its ways, when the whole of the penalty

should be returned. Again, Sir, I find difficulty in appreciating the whole-hearted opposition that there was to enabling the Governor to return the whole of the fine, and similarly, Sir, when we come to the question of arms the position is exactly the same. If a fine is to be expressed in arms, if a fine can properly, in the interests of the community as a whole, be expressed in arms, then it is better for it to be expressed in arms rather than partly in money and partly in arms. The effect of the latter alternative obviously would be to leave in the possession of that community a certain number of arms, which might lead them, might induce them, might predispose them to further lawlessness. If it does then the safest and the most salutary and condign form of punishment is to take the arms from them. But, Sir, if we miss out the words "or in lieu of a fine" it will not be possible to do that, if the quantum arrangement which they deserve can be properly and justly expressed by a certain sum and they express arms and misuse arms to the value of the whole of that sum. These are the points, Sir. I am not optimistic enough to think that anything I have said in the last few minutes is likely in any way to affect the position. I have put my case, Sir, and I beg to move that the majority report of the Select Committee be adopted.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is—

"That the majority report of the Select Committee appointed to consider the Collective Punishment Bill be adopted."

CAPT. THE HON. E. M. V. KEENEALY: Your Excellency, there was, as the hon. the Attorney General has stated, a direct and very wholesale cleavage on this matter. It was wholesale for this reason, Sir, and it was maintained by Elected Members because here we see the introduction of a new and dangerous principle. We have maintained in the past, Sir, and we maintain to-day, that this particular type of legislation is one which should not lightly be invoked by the administration or the government of this country. We maintain, Sir, that the Governor's powers of remission of a fine or punishment should remain and should not be extended in the application of an Ordinance of this nature. The Governor of this country, Sir, has that power now to remit a punishment or a fine and since he has that power, I maintain, Sir, that it will enable the Governor to forego it in this particular Ordinance dealing with an extraordinary situation.

and we on this side of the House, Sir, are utterly opposed to that. If the Government of this country, Sir, finds itself in the position where it has to take action against a native tribe and it has to take action against that native tribe under the provisions of this Ordinance, we maintain, Sir, that that demonstrates that that particular tribe has misbehaved. That misbehaviour has embarrassed Government's dignity and probably has involved the State in expenditure in checking it. We maintain, Sir, in the words of the hon. the Attorney General, that where a tribe has been truculent and law-breaking, that the general social administration of this country has been in danger and that that tribe is worthy of being punished. We maintain, Sir, that when that tribe has so behaved and when this Ordinance has been so invoked that the fine imposed should not be remitted. The tribe has been guilty of an offence and it is only right that the tribe should suffer for it. On this side of the House, Sir, we insist that that fine should not be returnable except in the very extreme situation where the Governor, exercising his right as the representative of the King, may remit that fine. He is not likely, Sir, lightly to do so. He will realize, Sir, that his action will come in for a great deal of review and a very minute scrutiny, and the circumstances would have to be circumstances such as those suggested by the hon. the Attorney General. Where a fine has been wrongfully imposed, Sir, the native tribe must suffer. The Government must then use its discretion and no one in the country would criticize the use of that discretion.

In the minority report, Sir, the acceptance of which is the alternative to the acceptance of the majority report, Elected Members as a whole have expressed, and I think fully and fairly and rationally without any exaggeration, expressed the salient features on which their opposition to this measure in the form suggested by Government is based. Elected Members, Sir, have not suggested that there should not be embodied in this legislation provision for the deposit of a security for good behaviour. Elected Members view that as necessary and they favour the imposition of that, but, Sir, it has been suggested that Government may impose the very very small fine of one shilling or two shillings and impose a large deposit. I say, Sir, that Government would not dare to do that because it would make Government ridiculous in the eyes of every settler in this country. If a fine is imposed that fine has got to be in relationship to the seriousness of the offence which has provoked the invocation of this particular Ordinance. We are absolutely clear in that regard. We do not wish, Sir, to penalise unduly the native tribe that has been truculent or law-breaking. We suggest, Sir, that the

proper method of handling the situation is to impose a fine and thereafter to collect that fine, and to impose, if the administration considers it necessary, a deposit too. The extension of the time over which good behaviour is demanded from that tribe is a matter of administrative discretion and we do not propose to interfere with that. We consider that that is absolutely essential, and we are prepared to leave that entirely in the hands of the administration.

In regard to the collection of arms, Sir, there is a danger we have suggested that the collection of arms should be an additional penalty in addition to a fine which should be returnable. I think we are logical in our suggestion that that is the correct method of handling this situation. It may suggest, Sir, that there are certain tribes in this country which have already larger collections of arms than is advisable in the interest of common safety. That may be so, but I suggest that by the invocation of this Ordinance those arms could be reduced in their numbers, and I think that that would be an exceedingly unfair way of dealing with the situation if the tribe is a well-behaved one in spite of its possession of arms. I maintain, Sir, that this would enable the administration to collect arms against an eventuality which is not an immediate or imminent one, and I think it is wrong to provide against the possibilities of ill-administration because where a native tribe does get out of hand and become law-breaking and truculent it means a failure in administration. I do not necessarily say that the administration of this country is responsible for that; it may be outside its control, but there is undoubtedly a failure. We consider, Sir, that the collection of arms should be subsequent to misbehaviour by a native tribe and not in anticipation of that misbehaviour.

I think, Sir, that the opposition on this side of the House is based on rationality and is based on an understanding of the psychology of the native tribes of this country. We admit that administratively it is necessary to have certain powers for dealing with an abnormal situation and, Sir, we agree to give those powers, but we agree to give those powers under the control and commonsense and a knowledge of native psychology. I trust, Sir, that other Members on this side of the House will support what I have said. We are unanimous in this, and let me say, Sir, the country, the thinking portion of the country, is increasingly behind us in our opinions to-day.

MAJOR THE HON. R. W. B. ROBERTSON-ECSTACE: Your Excellency, I wish to associate myself entirely with the remarks just made by the hon. Member for Kenya. I think

he has covered pretty well the whole of the points coming from our side. Personally, Sir, I have not changed my views on this matter. I cannot see how we are in any way interfering with or curtailing the powers of administrative officers or causing any harm to any tribe by the suggestions we have put forward that a bond should be taken as security from them for good behaviour. I can see no reason whatsoever for thinking that there can be any hardship on them whatsoever. As regards the unjust fine, that I cannot imagine can take place. Naturally, if a person is unjustly fined the fine should be repaid to him; we do not object to that in the least bit. I wish to support the amendment.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, unlike the hon. the Attorney General I am optimistic enough to believe that what I am going to say will, if not convert him, at least give him pause for consideration and persuade him perhaps not to push, not to ask Government to force, this motion through without such further consideration.

In my opinion exactly the same result is achieved, or practically the same result is achieved, whichever method is adopted; whether that proposed by the majority report of the Select Committee or the minority, but I have no doubt in my own mind that the procedure proposed in the minority report is not only the more logical but is also the more convenient. There are two distinct procedures in ordinary criminal law. One is to fine a man for an offence which he has committed; and the other is to bind him over to be of good behaviour, and if he is not of good behaviour he forfeits the amount of his bond or the amount of his deposit, but it is not usual to combine the two and make the fine part of the deposit or the deposit part of the fine, nor is it usual when you fine a man for an offence committed to let him off that fine provided he does not commit a similar offence in the future. I do very seriously suggest that the right course is to inflict the fine for an offence which is passed and at the same time to say: "We are going to take good care you do not commit a similar crime in future; we therefore propose to take a deposit from you and if within the period laid down you do not commit a similar crime you will get your money back." You therefore have the result of achieving the object of two sentences in a criminal court: (i) punishment inflicted for the crime, (ii) a deterrent to anyone in the future, whether the same person or another person. Furthermore, it is somewhat illogical to pass an Ordinance specifically giving powers to the Governor to do something which he already has got power to do, as has been pointed out by the hon. the Attorney General, in his capacity as direct representative of His Majesty. I do really earnestly ask the

hon. the Attorney General to consider whether there is any harm in having a scheme of procedure by which a fine is inflicted for an offence committed and a bond or deposit taken against the recommitment of such an offence by the same person in the future. The only real difference between the two procedures is that in one case you cannot take the whole of the fine which has been paid for an offence in the tribe, and that is really—where we feel so strongly; we feel it is quite wrong that if a fine, which we presume is necessary, is taken first that it is to be returned because a similar offence is not committed in the future. It is weakening the administration of this country and must necessarily weaken it in the minds of the natives who do not understand these technicalities. I seriously ask the hon. the Attorney General if he will not allow this motion of his, or ask Your Excellency to allow this motion of his, to stand over for further consideration, be it only for a day or two.

CAPT. THE HON. H. F. WARD: Your Excellency, what I do not understand in this matter is the stubborn, whole-hearted opposition by the majority members who signed this report. Sir, if I may say so—I speak with deference—this legislation cuts across the line of thought, the outlook, of the native peoples. What they can understand very definitely is a Government enquiring into an alleged offence; what they can also understand is Government's detailed reasons for finding them guilty of an offence; what they can further understand is Government inflicting a severe penalty for that offence; what they cannot understand, I submit, is Government, with its full authority, changing its mind and saying: "Well, after all, you are not so bad as we thought you were when we first went into these things; we are going to remit a portion of your fine." Sir, I do submit that the hon. the Attorney General's argument provided for any case where any injustice is inflicted on any of the native peoples by Your Excellency's powers of clemency. I suggest, Sir, that this matter ought to receive the further consideration of Government.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I oppose the remission of fines. I am of opinion that if fines are remitted the tribes concerned will only look upon Government's action in remitting those fines as a sign of weakness. It must always be borne in mind, Sir, that the case should have been very very seriously considered and the fine should not have been inflicted if it had not been richly deserved. I cannot agree with that clause upholding remission and I support what has been done by the minority.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am in opposition to the majority report; I am definitely in agreement with the minority report and the opinion on this side of the House. I think it is a mistake in dealing with natives to show any sign of weakness or hesitation or doubt either in your decision or in your legislation. Once having imposed a fine one has got to assume that the administrative officers concerned are competent to judge what that fine should be. It should be applicable to the circumstances and surroundings of the case. Having imposed that fine it would only be taken as a sign of weakness and foolishness on the part of the *Wazungu* if any part was remitted, and it would not be understood or appreciated. I see no reason why there should not be the alternative to go hand in hand with that fine, and that is a fine and also, if it is considered necessary, a deposit for future good behaviour to be returned after a certain period. I submit that to return a fine, once having imposed it, would create a calamity in this Colony. For that reason I am in favour of the majority of opinion on this side of the House.

THE HON. THE PROVINCIAL COMMISSIONER, NZOLA (COL. O. F. WATKINS): Your Excellency, I have listened with interest to the arguments, which sometimes carried me a long way back to the days when we all considered that everything was either good or bad, and that the man you liked was a good man and the man who did not do as he was told was a naughty man. So, apparently, some hon. Members seem to think that among the tribes of this Colony you have good tribes and naughty tribes and you have to have very exact measures to deal with very exact offences. That is not the problem with which we have to deal. Our trouble is, not that the tribes are good or bad, but that in every tribe there are law-abiding and orderly people—generally a majority of law-abiding and orderly people—and a minority of disorderly people. But unfortunately the orderly people usually adopt the attitude that the actions of their disorderly brethren are really no affair of theirs. They are purely supine and the question is how are we going to educate public opinion to interfere in matters of this kind? I will give you one case. On the borders of Marakwet not very long ago there was a theft of a safe from a settler's farm. The theft was engineered by a gentleman who was engaged as night watchman. He was a stranger to the area but he had two intimate friends of a neighbouring tribe whom he had persuaded to help him, and he got sufficient assistance to carry that safe into the neighbouring Reserve, where, to the credit of the people who made it, it was opened with a *panga*. The money was distributed around the Reserve but,

with the aid of the tribal police and the chiefs, we have recovered, I think, all of it. But in investigating this case I was told by the owner of the farm that he has been having a lot of trouble with these people just over the border. He has had three or four attempts at stealing calves and on the last occasion the Masai herdsmen who was protecting those calves had a poisoned arrow shot at him. He tells me that sooner or later that Masai will be murdered by the neighbouring people. I am at some loss to deal with a case of that kind. It is really obviously only a disorderly minority there but one is inclined to impose some sort of penalty on the whole of the community round. You can, as the hon. Member for Nairobi South told us, you could probably deal with that to some extent by binding them over to keep the peace in some form, but actually, if you come to think it out, neither form is exact. We are thinking in European terms and we have to choose between two courses, neither of which is really entirely logical—they are both rather illogical. Those people did not commit the offence in any way—they were probably just a few youngsters round about who were out of hand—and yet somehow we have to make the whole community take an interest in their proceedings. What is the best way of doing it? You collect bond. Say you bind them over for good behaviour but you do not actually collect that money till long after. Actually you merely send to the chiefs and headmen and say: "If you go on like this you will have to pay a fine." That is all very well but it is somewhere in the future and it is a vague threat, and if you are unlucky you may be dead before the fine is collected. The community does nothing at all, but you impose a fine which is collected all round and you say: "Now, if you ever want to see that money again you have to see that nothing happens to that Masai herdsmen for the next two years," and you may be pretty certain that nothing will happen to that Masai herdsmen during the next two years. It seems to me an excellent way of educating public opinion, which is merely all you want to do in matters of this kind.

Actually, Sir, as I have pointed out before in legislation of this kind, we administrative officers have to deal with these things whether the law allows us to do so or not. In a case such as this, if there were no legislation, one might perhaps do something outside legislation, just to make sure that that settler and his herdsmen are protected and that the lesson that Government is all-powerful is impressed upon the offending community.

I would ask you to remember that a power of this kind should be in somebody's hands. It ought to be in the hands of the administration, and the responsibility for it ought to

be borne, not by the man himself who is up on the borders of some pioneering district and is continually meeting troubles of this kind, but it should be provided for by legislation, so that he is covered in every way. I think that is all I need say, Sir, on this point.

I sincerely hope hon. Members will withdraw their opposition. If I may say so, it is a bit of a puzzle to me why those who continually have to deal with matters of this kind—who may be said to some extent to be experts in administration, in so far as experience makes anybody an expert—should be opposed by gentlemen who have not been very far from Nairobi in many instances.

CAPT. THE HON. E. M. V. KENIALLY: Question.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, might I point out that the hon. the Provincial Commissioner for Nzoia in his speech referred to the hon. Member for Plateau South. I suggest he intended to say Plateau North.

HON. MEMBERS: Nairobi South.

THE HON. THE PROVINCIAL COMMISSIONER, NZOIA: Nairobi South. I beg your pardon.

THE HON. CONWAY HARVEY: Your Excellency, I associate myself entirely with the minority Report, and I suggest, Sir, in reply to the last speaker, that it would be the bounden duty of whoever is trying the case in the first instance to give very full consideration to all the points which the hon. Member suggests might justify some revision of the sentence at a later date.

I think, Sir, there is very great danger that this legislation suggests the very easy imposition of a fine without proper consideration being given to the justice of such fine. I feel very strongly, Your Excellency, that there is a very grave danger that it may reduce discipline to a farce and bring the Government of the Colony into contempt. I think nothing could be more damaging, Your Excellency, to the prestige of Government than these constant changes of front, and it becomes all the more dangerous, Your Excellency, in the absence, so far as we have been able to ascertain, of any definite concrete native policy. I have had thirty years' experience of this, Your Excellency. A very small portion of that experience has been spent in Nairobi and the bulk of it has been spent amongst native tribes, and I do know a little about the subject. I suggest, Your Excellency, that

nothing would be more readily misunderstood by natives, and I go further and suggest that it might very easily act as an incentive to natives to break the law.

THE HON. THE PROVINCIAL COMMISSIONER, NYANZA (MR. C. M. DONDS): Your Excellency, after what the Provincial Commissioner for Nzoia has said I have very little to say on the subject, except that I entirely agree with him. Dealing with natives who live a communal life, and dealing with Europeans and others who live an individualistic life are entirely different things. If a non-native commits an offence, we know that the individual is proceeded against, but when natives commit offences we have to deal with the community and try and educate public opinion in that community. Certainly in collective punishments a certain number of natives who are punished are innocent and a few are guilty. What we want to do is to try and make a public opinion among the community against the evil doers and I think that this system by which you can impose a fine—which in reality may be regarded as a deposit for good behaviour—is an excellent method for achieving that object. I do not think really at the bottom that there is very much difference between both sides in the matter. The whole thing is the word "fine" I think. I support this section and section 5.

THE HON. THE PROVINCIAL COMMISSIONER, COAST (MR. H. R. MONTGOMERY): Your Excellency, it seems that everything has been said by the Provincial Commissioners for Nzoia and Nyanza. My chief objection to the minority report is the fact that if you impose a fine and a security you greatly add to the security. The security presumably would have to be collected and the fine and you are holding up money for an indefinite period. A fine can be imposed and would be probably a heavy one. You can after a couple of years' time return part of it if the behaviour has been good.

THE HON. THE PROVINCIAL COMMISSIONER, KIKUYU (MR. E. B. HORNE): I have nothing much to add to the opinions of the three Provincial Commissioners who have already spoken. The people who generally commit an offence are the younger members of the tribe and not the elders. The fine does not really affect them; it affects the elders of the tribe, and if that fine can be held up and the young men induced to good behaviour themselves by the elders, it is hardly right that the fine should be actually imposed on the people who have not actually committed the crime. This money could be held over the heads of the community to endeavour to make their young men behave and that, I think, is a very good procedure.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, having listened to the words of wisdom from the Provincial Commissioners, Sir, I feel that there must be even sounder reasons on our side than before owing to the complete lack of arguments which they have put up against the minority report. The Provincial Commissioner, Nzoia, if I understood him rightly, said that if this legislation was not enacted Provincial Commissioners would carry it out anyhow; so I presume this legislation is required to control the actions of the Provincial Commissioners and not the natives. So really I cannot help thinking that what the Provincial Commissioner, Nyanza, said, was nearer the mark. There is not a great deal of difference between us. The difference is in method more than in principle. We believe that this legislation should not be lightly enforced; it should not be used for minor offences but for more serious ones, and when it is used for a definite punishment in the form of a fine it should be quite distinct from the deposit of security for good behaviour. That is, I think, the whole point of the argument on this side of the House. I do not think there is really any argument which has been put up against that. We do not wish to prevent the possibility of tribes being called upon to give security for good behaviour which I think is the argument of the Provincial Commissioner for Nzoia. We agree with that but we do think the two things ought to be kept separate, just as the hon. Member for Nairobi South explained in much clearer language than I can that it is the custom of their law not to mix up securities for good behaviour with definite punishment for offences committed.

CAPT. THE HON. A. C. HOER: Your Excellency, I would like to associate myself entirely with the remarks of the hon. Member for Kenya. Sir, I believe when you talk about remitting a fine that has already been collected you are getting Government into a very dangerous position as regards the prestige by which Government are held from the native point of view. I think it would be accepted by the natives as a direct weakness. I believe, Sir, that these additional powers which are asked for really only come down to an admission of being unable to administer properly the Native Reserves.

Sir, I think there is another very dangerous point and that is that if a fine is inflicted and a part of it is collected and the officer of that district is then transferred to another district a new administrative officer comes along with an entirely different outlook and he says: "What awful injustice has been done to these people," and recommends the remission of that fine. There can be no continuity of policy

if that sort of thing does take place, and I think it is a very grave risk indeed. On that point alone I think Government ought to be very, very chary of bringing in a measure which can be misunderstood from the native point of view.

THE HON. F. J. COULDER: Your Excellency, I would like to associate myself with everything that has been said from this side of the House. I do not wish to repeat those arguments, but I think there is one point that has not been made, and that is that the hon. the Attorney General pointed out that the possession of arms by those natives might be an inducement for them to use them improperly; we think that the possession by Government of the power to remit fines might also be used improperly, and for that reason we wish to oppose that provision.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Your Excellency, I only hope that, as has been suggested by the other side, there is not really very much between us. I am rather strengthened in that hope, Sir, because it occurred to me that one of the speeches that was made on the other side of the House was such an excellent argument in favour of the Bill as it stands. There is no new principle, Sir. It is a principle, as has been suggested by the hon. Member for Nairobi South, of our criminal law that a fine may be imposed in the case of an offence or the court may take the step of binding the offender over to be of good behaviour. It may also do both; more frequently it does one or the other. As has been pointed out by the Provincial Commissioner, where an offence of the nature which usually is met by the imposition of collective punishment has been committed, it is usually the case that the offence has been actually committed by the younger and more unbalanced members of the tribe and is frequently quite without the knowledge and certainly without the consent of the more responsible elements. Their failure, as has been pointed out by the Provincial Commissioner, Nzoia, is rather one of supineness than of active participation in the offence, but when it comes to collecting a fine and possibly levying on property such as stock, the property levied upon is usually that which is in the immediate possession possibly of the elders, the younger people having at best, we may say, a reversionary interest in it. If we can create sound public opinion among the natives that it is not a good thing to commit these offences then we have gone a long way.

Now, I think a point has escaped my hon. friends on the other side where they say that the subsequent repayment of a fine would be taken by the natives purely as an indication of weakness for I do not think they have quite read the

first two lines of this contentious clause 4. The whole point of that clause is that the Governor may either by the order imposing the fine or by a subsequent order make these remissions. That means that the imposition of the fine which he makes an order that in certain contingencies it would be paid back is actually in effect binding the people over and no more but the difference in treating native communities from European individuals is this, that it is no good saying: "Well, if you do not behave yourself we shall perhaps later on collect a fine from you." We say: "No, we will collect it now to show we mean business, but if you on your side mean business and are going to behave yourself you may get it back, but you have got to behave yourself." That is the whole point of this section.

It has been suggested, Sir, that the powers under this Ordinance will be lightly used. I can assure hon. Members the powers under the Collective Punishment Ordinance are never lightly used. In every case there is a very careful magisterial enquiry first; the evidence of that enquiry is submitted to Headquarters; it is carefully looked into by the Law Officers of the Crown, and the whole matter then goes to the Governor. I can assure this Council that those powers are never lightly used. They are used with the greatest care and circumspection. Every case is always reported to the Secretary of State. I hope, Sir, that the clause will be allowed to stand.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have listened with very real and considerable interest to the debate that has taken place on this motion, and I would like to take this earliest possible opportunity of expressing my indebtedness to my hon. and learned friend, the Member for Nairobi South, for the very clear way in which he supported what in effect is the main argument in favour of the Bill. The hon. and learned Member, whose opinion in a matter of this sort is deserving of every weight and every consideration, was at considerable pains to remind this House that in the case of the criminal prosecution of an individual the magistrate or judge in his discretion could impose a fine or could, whether by way of bond or by way of deposit, take security for the good behaviour of the offender, but the hon. Member reminded us that it was not usual to combine the two. That, Sir, is the very thing that the minority is asking us to do. It is the very thing that the Bill as drafted seeks to avoid. The Bill as drafted in the case of a communal offence vests in the judicial power exactly the same discretion which is vested in a magistrate or a judge who has to undertake the trial of an individual. It is not usual to combine the two, but, Sir, the second paragraph of the minority

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report specifically says: "A deposit as security for good behaviour should also be imposed." Paragraph 3 says: "This safeguard should be 'in addition to', but in no case 'in lieu of,'" and so I think it is not unjustifiable to say that though Members on the other side of this House have been most consistent in their opposition they have not been completely consistent in the grounds on which that opposition is founded, and that at least one hon. Member on the other side of this Table has very definitely thrown in his lot with the majority.

I would like, Sir, before I resume my seat, to endorse and reinforce if I can do so what has been said by my hon. friend, the Chief Native Commissioner. The suggestion has been made, first by the hon. and gallant Member for Kenya, equally by the Noble Lord, the hon. Member for Ukamba, and in a slightly different form by the hon. Member for the Lake, that this Ordinance may be lightly invoked. The minority report begins in that way, Sir, "That this Bill should not lightly be invoked." The hon. Member for the Lake also said the trend of legislation would, he feared, also lead to the easy imposition of fines. I should like to say emphatically, Sir, I think I can say emphatically inasmuch as every proceeding under this Ordinance has to pass through my hands I would like to say with all the emphasis at my command that there is no piece of legislation, Sir, where fines are less lightly invoked or imposed, where the provisions are more scrupulously and carefully observed, where the safeguards in the interests of the accused are so abundant and so great. Not only is a full enquiry by a magistrate necessitated; there has then to be a full examination of the proceedings and a full recommendation on all the facts by the Provincial Commissioner of the Province; there is an examination by the Law Officers of the Crown; a pronouncement by the Governor; and then, Sir, not only is the order reported to the Secretary of State but the proceedings themselves have got to be transmitted to the Secretary of State. It is only after all that has been done that the fine is made effective. I do not think, Sir, in the light of that that it can be seriously suggested that the trend of this legislation will be to lead magistrates lightly to invoke its assistance.

One point was made, Sir, by the hon. Member for Kenya on which I should like to disabuse him. If I understood the hon. Member correctly, he suggested, Sir, that a fine in terms of arms might be imposed in anticipation of misbehaviour and not subsequent to misbehaviour. That, of course, cannot be, Sir. The fine can only be imposed if it is proved after full judicial enquiry that the persons to be fined have been guilty

of an offence against either clause 2 or clause 3 of the Bill. There is nothing in this legislation which will empower any political officer or any officer of Government to impose any penalty on anyone in anticipation of an offence which he thinks they are about to commit.

HIS EXCELLENCY: The question is:—

“That the majority report of the Select Committee appointed to consider the Collective Punishment Bill be adopted.”

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, may I move an amendment that the majority . . .

HIS EXCELLENCY: The question has already been put. You are out of order.

The question was put and carried by 19 votes to 11.

Ayes.—Messrs. Bale, Brassey-Edwards, Bruce, Dobbs, Fitzgerald, Dr. Gilks, Messrs. Holm, Horne, Logan, MacGregor, Malik, Martin, Maxwell, Montgomery, Brig.-Gen. Rhodes, Messrs. Rushton, Sikes, Sir Ali bin Salim, Lieut.-Col. Watkins.

Noes.—Messrs. Bemister, Couldrey, Lieut.-Col. Durham, Messrs. Conway Harvey, Hoey, Capt. Kenealy, Lieut.-Col. Kirkwood, Major Robertson-Eustace, Capt. Schwartze, Lord Francis Scott, Capt. Ward.

Council adjourned for the usual interval.

On resumption.

COMPASSIONATE PENSION TO MR. DARIA SINGH.

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, I would seek permission to hold over the motion standing in my name on the Order of the Day for consideration at a later date. I find there is one point of some importance on which I have not got full information and I should like to investigate that point.

HIS EXCELLENCY: The motion is by leave withdrawn for consideration at a later date.

ROAD VERSUS RAIL COMPETITION.

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

In November, 1937, Your Excellency, the Roads and Traffic Committee was requested to discuss the policy to be pursued in respect of the competition of road traffic with railway traffic, competition which in many cases was held to be detrimentally affecting railway finance. The problem, Sir, is no new one. It has arisen in most countries and has always proved to be a most difficult one to deal with. The establishment, Sir, of motor services for the conveyance of goods along roads parallel with railways is due primarily to two causes: firstly, the differentiation of railway rates by which bulky goods of low unit value are carried at freight rates below cost, this less being made up by high freight rates on luxuries and other goods of high unit value; and secondly, the advantage of greater rapidity of transport and avoidance of some handling and inconvenience of booking and taking delivery at railway stations. The second reason, Sir, will command the sympathy of most of us but so far as the first is concerned, if the Railway revenue is to be maintained, it seems to me that there are but two alternatives; either a reduction in upward rates, which would mean a corresponding increase in coastwise rates, which is clearly not in the best interests of the Colony as a whole, or complete prohibition of competitive road transport. Railways, whether privately owned or whether the property of the State, are common carriers to the extent that they are obliged by law to carry all descriptions of traffic for all persons without discrimination, and they must, Sir, provide and maintain expensive tracks, rolling stock, equipment and staff. Road transport is under no such obligation to the public. It can choose its routes, its times, and its class of traffic, while at the same time it lacks entirely the liability of the common carrier.

The taxpayers of Kenya, Sir, have invested many millions of pounds in the Kenya and Uganda Railway, with a recurrent expenditure of very nearly two millions annually, and there can be no doubt whatever that the Railway will be necessary for the evacuation of our produce for many years to come. In my humble opinion, therefore, we should take all reasonable steps to discourage wasteful and unfair competition, while very closely watching Railway expenditure in every direction; and motor services, Your Excellency, which are exploiting the roads financed by the general taxpayer to the detriment of the Railway, which is a public asset, should only be permitted with the consent of an impartial tribunal whose duty it would be to safeguard the interests of the public. The Roads and Traffic Committee, Sir, pursued its investigations over a period of two years and after most exhaustive enquiries into the procedure in other countries, most of which have legislation on the subject, recommended

the introduction of the Motor Services Bill which was published for general information in May, 1920. The principles of this measure were approved by public bodies all over the country, by the Associated Chambers of Commerce in June, 1923, and by the Nairobi Chamber in June, 1929, but the latter body, Sir, suggested deferring further consideration of the Bill for twelve months in order to allow concrete figures to be obtained setting out the present effect of such competition and estimates of possible future effects to be prepared and evidence taken by an *ad hoc* committee.

There did not appear to me to be very much object in appointing a further committee to go into this matter after the very exhaustive enquiry which had already been held by the Committee appointed by His Excellency the Governor. Anyhow, Sir, such a committee was appointed and I have no doubt the Government will explain its policy of masterly inactivity in connexion with this matter inasmuch as that committee has never sat. I think it only fair to say here, Sir, that no aspersions whatever are cast on the Chairman of that Committee, my hon. friend the learned Attorney General. We all know that he has been snowed up with work of divers character, but I do suggest, Sir, that there are other people capable of taking the chair if the gentleman appointed is quite unable to find time for what is a very important public work.

Since then, Sir, the position has got steadily worse and it is estimated that a loss of no less than £50,000 during the past twelve months has been sustained by the Railway owing to the competition of motor transport traffic between Mombasa and Nairobi. The road transport rates from the Coast to Nairobi of Sh. 12 per 100 lb. compare with the Railway Class I rate of Sh. 18/24 and the Class II rate of Sh. 13/40. This is exclusive of a cartage charge of 15 cents per 100 lb., so that it will be very easily seen that the Railway is at a great disadvantage with the road competition. It is important, Sir, to bear in mind that the consumer derives no advantage whatever from these competitive road rates which are picking the eyes out of railway traffic, the only people who score being those interested in motor lorries. The predatory organization, Sir, is already spreading its tentacles further afield towards Eldoret and Kisumu, and even as far as Uganda, and the vested interests which are being created, Sir, will be more and more difficult to dispossess as time goes on. I therefore urge the importance of immediate action.

There is yet another aspect of this problem, Sir, and that is the devastating effect of these heavily laden lorries on Kenya roads, and in this connexion I would suggest that as a general rule lorries should only be allowed on roads for the

transportation of goods to the nearest point on the Railway system. A sound principle, Sir, of vehicle taxation is that it should be very closely related to its destructive effect on roads, while revenue so derived might very well be earmarked for road maintenance. Practically all civilized countries, Sir, have taken steps to avoid this uneconomic competition in transportation services; some impose complete prohibition and a carefully summarized statement of what has been done throughout the civilized world exists in the archives of the Public Works Department. Perhaps the country with conditions most nearly approximating to those of Kenya is the Union of South Africa where, following exhaustive enquiries of a special Commission appointed for the purpose, legislation has been recently introduced setting up an independent board to whom applications must be made for motor service licences, the object being to avoid unfair and uneconomic competition with the Railway. In view of previous discussions on this subject in this House it will be interesting for Members to hear, Sir, that that legislation specifically debars any railway servant from being included in the personnel of that central board. In addition to this, Your Excellency, the South African Railways and Harbour Administration imposes an additional wharfage charge of a penal character amounting to no less than £1 per cent *ad valorem* which has to be paid by goods which are transported by any service other than the Railway to any point on the Railway.

It is obvious, Sir, that this problem is an inter-colonial one. We are very deeply concerned with the attitude of Uganda in regard to this matter, while the attitude of Tanganyika is not without interest. We should like to hear at some stage, Sir, what representation the Kenya Government has made to the Governments of those two countries and what the general attitude is. If it is admitted, Sir, that the Colony cannot do without railways, then it is in the Colony's interests that wasteful competition with the Railway, which, if allowed to increase, can only result in the railway rates on the country's main products having to be increased, should be definitely controlled by legislation.

In conclusion, Sir, I submit that any such legislation should embrace two main principles. Firstly, that no mechanically propelled vehicle intended to be used for the conveyance of public traffic, whether passenger or goods, be allowed to ply unless they are specially licensed for the purpose. And secondly, where Government decides to issue such licences, it shall impose such conditions as are necessary to ensure the safety and protection of public interests.

I beg to submit my motion to the favourable consideration of the House, Your Excellency.

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

HIS EXCELLENCY: The question is:—

“In the opinion of this Council Government should take immediate steps to eliminate unfair and uneconomic road competition with the Railway.”

THE HON. THE ATTORNEY GENERAL: Your Excellency, I am very sincerely grateful to the hon. Member who moved this motion for the very kind things he said about the way in which I have endeavoured, in the first few months which I have been here, to learn a little about the country and keep pace with the volume of my legal work. It was very kind of him to say so, Sir, but at the same time I do wish that he had not talked about the masterly inactivity of the Government because such inactivity as there has been, whether it deserves the adjective “masterly” or not, is entirely mine. For that inactivity I must take full responsibility. It is true, as the hon. Member has suggested, that another chairman might have been appointed. I am sure that he will admit, Sir, that the motion for the appointment of such another chairman would naturally and most properly emanate from myself. No such request has ever been made; I have never been in any way desirous of shirking my responsibilities, and they will be heavy responsibilities as chairman of this committee; I am anxious indeed to undertake them. As one very much greater than myself said years ago: “Peccavi”. I say it quite openly and honestly—there has been delay, the delay has been entirely mine. I can only promise true repentance and say that a meeting of the committee has been summoned for the morning of Monday, the 8th December. So far as it lies within my power as chairman of that committee I will do my utmost to endeavour to expedite the submission to its report.

I would like to say, further, Sir, that the committee is extremely fortunate in that it includes in its personnel the hon. Member for the Lake who obviously has garnered a very considerable mass of most valuable information. It will become public as a result of what he has just said this morning, Sir, and will be of great interest to the public. It will be of the very greatest interest and importance to the committee of which I am proud to see he is a member.

In view of the fact which I have just announced, that a meeting of the committee has been called for the 8th December, I hope that the hon. Member will see his way to withdraw this motion.

CAPT. THE HON. H. E. SCHWARTZ: May I also express the hope, as expressed by the hon. the Attorney General, that the hon. Member will withdraw his motion? I think to a great extent I was one of those responsible for getting this committee appointed. I could not vote for this motion as it stands at present; it cuts away the whole of the work of the committee and binds me to the absolutely definite decision to eliminate this traffic, and I do not think one could do that until this committee has sat and we have really got down to facts, figures and necessities. For that reason I hope the hon. Member will do as the hon. the Attorney General suggests.

THE HON. CONWAY HARVEY: Your Excellency, although I find my learned friend's humility somewhat embarrassing, under all the circumstances I shall be only too delighted to withdraw my motion. The sole object of it was, Sir, to get something done.

HIS EXCELLENCY: The motion is by leave withdrawn.

I understand it would meet the convenience of Members if the Council was to adjourn now to give the Select Committee an opportunity of discussing loan matters with the Colonial Secretary. If that is their wish I am happy to adjourn, or otherwise we will continue with the Bills on the Order of the Day. I am in their hands.

THE HON. CONWAY HARVEY: I think the majority of Members would like to follow that course, Sir.

*The Council adjourned till 10 a.m. on Friday,
28th November, 1930.*

FRIDAY, 28th* NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 28th November, 1930, His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Temporary Nominated Official Member:

MAJOR JOHN ROYES GUILD, Acting Officer Commanding the Northern Brigade.

MINUTES.

The Minutes of the meeting of 27th November, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

BY THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN):

Report of the Select Committee on Draft Estimates, 1931.

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

Report of the Select Committee on the "Liquor (Amendment) Bill.

Report of the Select Committee on the Northern Frontier Poll Tax Bill.

NOTICES OF MOTION.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to give notice that I intend to move:

"That the Report of the Select Committee appointed to consider the Liquor (Amendment) Bill be adopted."

"That the Report of the Select Committee appointed to consider the Northern Frontier Poll Tax Bill be adopted."

COMMUNICATION FROM THE CHAIR.

MARAGUA-TANA ELECTRIC POWER SCHEME.

HIS EXCELLENCY: With reference to the notice of motion which I see stands in the name of the hon. Member for Nairobi South, I have the following announcement to make.

I have been informed by the Secretary of State that the East African Power and Lighting Company, without prejudice to their original application, have applied for permission to proceed immediately with that part of their scheme which involves development on the Maragua only. This scheme is understood to involve no flooding and only minor adjustments of the small power reserve which is already available. Government is advised that there is no objection to the proposal on technical grounds and the Company is therefore being requested to make application at once to the Governor for submission to the Central Native Lands Trust Board so far as the utilization of any land within the Native Reserve is concerned. It must be understood that the grant of any such application will not commit Government in any way to approval of the full Maragua-Tana scheme as originally presented nor to any alternative schemes of further development involving the use of the Tana River which are at present the subject of correspondence with the Secretary of State.

In view of the terms of the announcement which I have just made and which I have reason to believe may perhaps be not unacceptable to the Company concerned, I do not know whether the hon. Member wishes to proceed with the motion.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I would ask that my motion should not be put down on the Order Paper for debate until after the adjourned meeting of Council and should be postponed indefinitely if by the time of that adjourned meeting this application has been made and granted.

MOTION.

REPORT OF SELECT COMMITTEE ON DRAFT ESTIMATES, 1931.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, in pursuit of the notice given I beg to move:—

“That the Report of the Select Committee on the draft Estimates for 1931 be adopted.”

I do not, Sir, propose to inflict on this Council a speech of the length or of the sort which I had to deliver a month ago. There are few Members in this Council, I think, who have not played some part at least in the production of this

Report; they are, therefore, generally speaking, familiar with both the details of it and any principles which underlie those details. On the other hand, Sir, there is one remark which I think I should make to explain what differences there are between the Budget as now more finally presented and that which was presented a month ago.

After the Budget was presented to Council two measures were initiated, I think in both cases by Members opposite, which have necessarily had a considerable effect somewhere or other on the Budget and which are reflected in this Report. The first is in respect of the Revenue Estimates. It is true that the difference between the Revenue Estimates as now presented and the Revenue Estimates as presented a month ago only amounts to £40, but it will be, I think, within the recollection of Members that considerable doubt was expressed on the other side of the House by Members as to the likelihood, or indeed the possibility, of some of those figures being realized next year. Well, Sir, I am glad to say that hon. Members opposite considered those Estimates very carefully and they came to the conclusion that so long as they felt assured that Government is exercising due forethought and would exercise in the future due forethought in the matter of supporting the agricultural industry it would not be unreasonable, imprudent, to let those Revenue Estimates stand as they are.

On the other side, on the Expenditure Estimates, another motion was introduced since the introduction of the Estimates in respect of a Civil Service Commission. Now, Sir, it is quite obvious that if a Commission on a large scale is going into the whole of the terms of service in the Colony and is likely to operate during the year to be budgeted for, there must be many items in the Budget which would be looked at somewhat differently than if there was to be no such enquiry at all. There must, in fact, be certain items which must be held in abeyance or not provided for at all if the possibility of their grading and so on—not so much their grading but the possibility of their amounts being questioned.

The net effect of these changes on the Expenditure side is a reduction of £31,113; taking into account the £40 decrease in the Revenue Estimates. The net improvement therefore, in the balance of the Budget is £21,073. Of this figure of £21,113, which is the net reduction on the expenditure side, £10,213 is a reduction in the recurrent expenditure and £10,900 is a reduction in the non-recurrent expenditure, so that it will be seen that each of these two important divisions of expenditure has been mulcted pretty evenly. Of

the non-recurrent expenditure of £10,000 it is, of course, inevitable that practically the whole of that should be effected in connexion with Public Works Extraordinary.

The proposal which was accepted by the Government in connexion with the Provincial Administration has also had its effect on the Budget in the sense of allowing caveats to be laid down in respect of certain appointments so that the matter can be revised when this Committee actually gets to work.

I will not go further at the present stage into the details of the Budget, but if further questions are raised I can, of course, answer them in my reply.

There is one matter, Sir, I would refer to before I sit down and that is I should like to give notice to Council that I shall presently move the formal Appropriation Bill after this Report has been dealt with instead of doing it at a later stage. As everybody knows, this Bill is a pure formality and merely reflects the figures in the Budget before Council. This year we have taken the Budget so very late that it would hardly be possible to defer taking this purely formal measure any later, I think, than the present month.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Draft Estimates for 1931 be adopted.”

In view of the remarks made by the Acting Colonial Secretary I think it would probably meet the convenience of all Members if, as on a previous occasion, any further debate on the Estimates could take place now on this motion and that, as suggested by him, the Appropriation Bill should then go forward as a formal matter.

THE HON. CONWAY HARVEY: I think that would be for the general convenience, Your Excellency.

Your Excellency, in supporting this motion I do not wish to add materially to the very good Report compiled by the Clerk to the Select Committee which, in my opinion, constitutes a very fair record of the discussions by that body. The supplementary observations of the hon. mover, Sir, enable us to see at a glance so far as the real meaning financially of this Budget goes. I should like, however, Sir, to make a few brief comments and emphasize one or two points in the Report which seem to me deserving of emphasis.

It is very important indeed, Your Excellency, to bear in mind all the time that the whole Report is definitely based on Government's assurance that everything possible will be done to keep agriculture on its legs during 1931. In this connexion, Sir, I should like to express the gratitude of Elected Members and the people of the country for the spirit of compliance which has already been shown by Government in regard to the expeditious passage of the Land Bank Bill and the acceptance of the two motions, one for a conference of maize growers to be convened by Government and the other for an extension of the facilities granted under the Agricultural Advances Act. I suggest, Sir, there are one or two other directions in which Government might quite materially assist the agricultural industry in tiding over the present period of depression and one of those, Sir, representations in regard to which have reached me from two or three up-country farmers' associations, is that Government might consider, in regard to land office rents for next year, an extended period of payments and possibly a remission of the ordinary statutory penalties which are imposed when rents are not paid in due date after notice.

In view of the fact, Sir, that the Civil Service Commission is likely to be appointed and that a committee of enquiry into travelling allowances will also go into that important question, Elected Members did not challenge any details in regard to those two matters in the Estimates under discussion. They thought, Sir, quite rightly in my opinion, that it would be improper to prejudice in any way the findings of those bodies.

There are, Sir, one or two detailed items which I venture to criticize again as I have in the past. We all consider that it is quite improper from every point of view for the Annual Report of the Native Affairs Department to be printed in England and issued as, I believe, a non-Parliamentary paper. We still adhere to our recommendation of last year that such a report and all departmental reports in Kenya should be printed in this Colony and first made available to hon. Members of this House.

There are several small items in this Budget, Your Excellency, which to my mind are definitely vulnerable, one of which is an item of £360 paid to the Tanganyika Government for services described as “veterinary patrols in connexion with Masai trespass.” It is alleged that these patrols, Your Excellency, have some effect in stopping the spread of disease from one country to the other. I suggest, Sir, with all respect, that this is utterly ridiculous inasmuch as for hundreds of miles all along the border the flocks and

herds of the Tanganyika Masai have intermingled with the flocks and herds of the Kenya Masai, and they will probably continue to do so until the end of time.

Another point of detail, Sir, is that we still consider that there are far too many Kenya police in the Native Reserves and we consider that these could be replaced in many cases by tribal police. We consider that that would make for economy and greater efficiency for reasons which must be fairly obvious to anyone who considers the subject at all.

We consider, Sir, that very great economies could be effected in Government expenditure by a very careful scrutiny with a view of modifying the terms and conditions under which natives are employed. There appears to be no shred of co-operation, Sir, and there is very great disparity between various departments in each district, and inter-district disparity too. It is, Sir, utterly unreasonable for *shamba* boys to be paid Sh. 32 per month, while the Education Department has a super-sweeper at an emolument of no less than Sh. 70 a month.

Another point of principle, Sir, in connexion with the payment of ordinary subordinate labour is that in a great many cases we consider it highly desirable that Government should follow the practice of ordinary non-Government employers of labour throughout the Colony. This applies more especially to payment on a thirty day ticket—in other words, payment for a day's work only instead of payment by the calendar month. I understand a committee is to be appointed to go into this matter too and I hope they will get busy very quickly. There is no doubt whatever that a strong case for substantial reductions can be made in this form of expenditure, more especially having regard to the enormous fall in the price of native foodstuffs.

So far as the water-boring operations of Government are concerned, Your Excellency, we consider that most valuable work is being done and possibly there are few Government activities likely to exert a more profound influence on the future and proper development of Kenya, but we suggest, Sir, that there is a very great discrepancy, so far as one can understand these figures relating to boring in this Budget, between spending—the cost of boring—and the money collected for services rendered in this direction. We suggest, Sir, that we should be furnished with quite definite figures at some convenient time in the near future showing quite clearly the various proportions of boring charges borne by Native Reserves, Settled Areas and Crown Lands, together with a note of the expenditure in those three areas.

Elected Members, Your Excellency, desire most strongly to stress the desirability of local recruitment in order to fill such Government posts as may be deemed essential and such posts as may fall vacant during the next twelve months. We feel very strongly, Your Excellency, that there are a very large number of qualified people out of employment who could quite well be given an opportunity of filling such posts as Government must fill during the next twelve months.

I understand, Sir, that great exception was taken in Forest Department circles to my strictures on Government forest policy at the time of the motion on the introduction of the Budget. Well, Sir, I withdraw nothing; I qualify nothing. I believe that everything I said was amply justified, and since I made those observations, Sir, I have had no less than three letters from people living near forest reserves up-country who complain that I did not go nearly far enough; and I take this opportunity of requesting Government to give very definite orders to the Forest Department to do what they can to prevent the denudation of forests by forest fires, more especially at the sources of streams in the Western Aberdare Forest. There is no doubt, Your Excellency—and I have the authority of Professor Troupe for saying it—that water conservation is a most important aspect of forest policy which is frequently ignored.

In conclusion, Sir, I trust that Government will exercise every possible economy, starting right away. It can be done by lengthening tours of service, by watching house allowances and travelling allowances very carefully, and we feel that many posts which are not absolutely imperative might very well be left unfilled until times improve.

CAPT. THE HON. E. M. V. KENYALU: Dealing with settlement, we have made two gains. They are not material in their mental significance, but they are material inasmuch as they demonstrate to the country that Government has at last overcome its inertia. In this regard they seem to be trivial but I think as an indication one can accept them gratefully. One sees that there is a small extra provision for advertising. One gain is that we have gained our point and got representative representation—we had representation before but I always suggested that it was not real representation on the Land Board; and another gain is that Government has agreed that farms which have been put up for sale and have not fetched their upset price will remain in the market for a reasonable period at the upset price. It seems a reasonable thing to comment on, Sir, but since I have always urged the settlement of this country as an alternative to increased taxation I recognize gratefully that Government has overcome a certain amount of inertia in giving us that.

Now, Sir, we have been told that we are awfully grateful to Government for the undertakings it gave but I suggest that these undertakings have been given to us in terms of vagueness and indefiniteness, and because they are so vague and indefinite I am not prepared to accept so general and vague an assurance that things are well with us. After all, we are justified in judging Government's intentions and sincerity and good faith by its actions in regard to the domestic requirements of Kenya in the past, and, Sir, what do we see? What is the position of the Water Bill, a Bill of the utmost significance to Kenya's well-being and development? That has been held up for years. It was a Bill—I think it was a most excellent Bill, one of the most excellent Bills of a domestic nature that have been passed in this country. It is a Bill whose application is required every day in this country and Government not only has not applied it but has postponed further consideration to the amendments to that Bill. Government has made no provision for giving effect to the carrying out of that Bill. I withdraw the statement that Government has made no provision: the Government has made totally inadequate provision for giving effect to this very important, in fact, absolutely essential, domestic measure. The lack of the application of this legislation is costing this country tens of thousands of pounds every year, and I feel I am justified in insisting and maintaining that Government has betrayed the country very sadly in regard to its developmental aspirations in this matter. I request Government to call together the late committee or the new committee immediately to consider amendments to this legislation and to formulate the Rules under which this legislation should be applied. I have asked for that for a good many months and I am making that public request now, Sir, and I hope Government will accede to it.

Then, Sir, another very important matter is the Mining Bill. Here is another Bill of a domestic nature which is of great significance to this country. Government, I maintain, Sir, has continually obstructed mining exploration in the Northern Frontier and Government at the same time has put down a certain revenue as accruing from mines, and I really, Sir, hate to see that revenue accruing from early mining activities because it means there is a penalty imposed on the geological investigations of mining possibilities in this country and there should be no such penalty. We should do everything we can to encourage mining and instead of that we are acquiescing in a policy which is directly hindering mining development. Well, Sir, what is the position in regard to mining already existing in this country? I will refer to one mine at the Coast. I asked for an explanation

about that and I obtained it, and I found it was unsatisfactory. The position is somewhat complicated by the introduction of the Native Lands Trust Bill. The status of that mine and the terms under which it was held have been injuriously influenced by the passage of that Bill. That is an intolerable position. Government has its responsibilities towards the domestic requirements of Kenya and Government is not fulfilling those responsibilities.

Then, Sir, we have had a statement in regard to the Maragua-Tana scheme to-day. That again is a matter of great domestic importance to this country. We suggest on this side of the House that Government has had ample evidence to show that that scheme was a desirable one and Government should have carried that scheme through. No doubt there may have been opposition . . .

HIS EXCELLENCY: Order, order. So far as I am aware there is no item on the Estimates relating to the Maragua-Tana scheme at all. I do not wish to prevent the hon. Member from dealing widely with all aspects of Government revenue and expenditure but that scheme is not incorporated in the Budget.

CAPT. THE HON. E. M. V. KENALY: I was drawing attention to its lack in a category of the domestic requirements of Kenya. I considered—and wrongly, of course, according to your ruling, Sir—that I was entitled to mention the lacks in domestic provision in Government policy.

Then, Sir, a matter which is drawn attention to in this is the salt position. The farmers of this country, both cattle and sheep farmers, must have salt, and also the native population for its own stock and pastoral requirements require salt. The introduction of a policy of taxing salt was, we are told, inadvertent and not purposeful on Government's part, and, Sir, we have made representations for over six months and although we have had a further assurance that it will be given attention to in the meantime the pastoral industry and the stock industry of this country is suffering. Government has not the right, when a mistake has been made, to delay so long in rectifying that mistake.

Then, Sir, there is a long category of Government's failures in improving the domestic requirements of this country. We have had no action in regard to the destruction of roads by stock; we have had no action in regard to the settlement of forest glades; we have had no action in regard to the representations of the Forest Department in regard to the control of forests in Native Reserves. Those are all,

domestic matters which are significant, and because Government has not dealt with them I am a little sceptical in regard to Government's undertakings to meet our requirements for agriculture next year.

My hon. friend, the Member for the Lako, has already drawn attention to the harshness of Government in demanding rents which are due next year and which may have accumulated during a bad year. I do hope that Government will give some consideration to that. There are persons in this country who are suffering and if Government would make some provision to meet their suffering Government should put that in an administrative act and that is postpone the collection of back rents and, if necessary, rents due next year.

Then, Sir, in this report fencing and dipping and Government's agricultural commitments are commented upon and I am afraid with the acquiescence of a majority of Elected Members the provision for a Fencing Inspector and therefore the giving effect to Government's fencing and dipping intentions has been cut out. Now, Sir, dipping and fencing—the passage of the dipping and fencing Bills has already been proceeded with. Government has some commitments in regard to the fencing of public roads and persons have involved themselves in expenditure on the hypothesis that this provision would be made. Although it is possible that provision will be made out of Land Bank funds it was Government's duty to introduce the appointment of a person capable of carrying this out. Government has failed in that respect too.

Then, Sir, the Land Bank has been passed, but, Sir, we have not made adequate provision for it. It is generally recognized that we have not and we are inhibited from increasing that provision. Two years ago a unanimous resolution—I think it was unanimous—by Elected Members in regard to the disposal of Surplus Balances was arrived at; Government, after agreeing to that resolution, subsequently ignored it or accepted dictation from elsewhere and the Land Bank to-day has an insufficiency of funds.

Then, Sir, in regard to the Administration, we have consistently for years urged that Government should take action in regard to the disposal of surplus stock which has been progressively destroying the Native Reserves; Government has done nothing and Government next year proposes apparently to do nothing. Sir, the position is iniquitous. Government has responsibilities towards the native population of this country and it should not be necessary for Members on this side of the House to accentuate Government's responsibility in that regard. We have offered in every

possible way to assist Government. We have offered to provide funds even out of current revenue, I believe, anyhow we have offered to do so out of loan, and yet owing to Government's inability to face the administrative issue no provision is made.

Sir, my hon. friend, the Member for the Lako, has already commented on Government's inactivity in regard to road and rail. Our position, Sir, as producers in this country, whether they be European or native, may be endangered by that inactivity. We have had a statement from the General Manager of the Railways in regard to the danger of the position and, Sir, we must urge Government to take action in that regard.

Then, Sir, another matter of domestic significance is one which I hope Government will soon give attention to and that is the transfer of the King's African Rifles from Meru to Nanyuki. That will involve us in a saving. The hutments are portable and the advantages of being there are strategic. The Administration agrees that it is desirable and a saving might be effected. Let us proceed.

Now, Sir, one of the other responsibilities of Government is to its nationals in an issue which although it has a domestic significance no doubt has international ramifications, and that, Sir, is our protection of the population in Turkina. Let us review the position shortly. The triangle between Rudolf and Uganda is territorially Sudanese, but the Sudan Government does not administer it, anyhow it does not administer it satisfactorily from our point of view, and the position is farcical. All these Sudanese nationals are taxed by Abyssinia and since they can get no protection from the Sudanese and no protection from us they come over to us and raid our nationals so as to earn money enough to pay the tax that is demanded of them by Abyssinia. The position reems ridiculous. It is undignified and Government should take action in a matter of this kind. That is the position. Government will admit it, I think, and I hope Government will this year make some representations in that regard and anyhow ask for some contribution from Sudan.

In regard to the judicial vote, which is another domestic matter, Sir, Elected Members generally, I think, Sir, are very disturbed in regard to the policy of revisional judgments. The position is an undignified one and I consider, Sir, that it is a wrong one and it should be put right by the abolition of revisional judgments and the incorporation in the possibilities of legal procedure of an increased appeal.

I dissociate myself entirely from the view expressed by the hon. Member for the Lake in regard to the increase of tribal police and the decrease of Kenya police in the Native Reserves. That, Sir, is a most dangerous policy. I have spoken against it from the inception of the tribal police. I realize that it will involve us in a very dangerous situation and I hope Government will reconsider the policy which is at present in vogue and go back to the old policy. I do not think I had better elaborate this, but I warn Government and the country generally that it is involving us in a dangerous situation.

Then, Sir, we have imposed on the Lumbwa, a native tribe, a levy, the cost of a levy, to control, to pay for a police force to control, the situation there. I maintain, Sir, that that shows an administrative failure. Whether the Administration was responsible for that failure or whether it was out of their control we are not concerned with, but, Sir, I honestly believe it is an unfair way of dealing with the situation. We had yesterday Government's ruthless ignoring of the representations of Elected Members in regard to collective punishment, and I maintain, Sir, that Government may decide on that point to remit the cost of this Lumbwa levy to the Lumbwa and charge it to general revenue. It is a dangerous situation. That is a possibility and I think it is rather a likely possibility. However, we made our representations in regard to collective punishment yesterday, and I had better not continue with that.

In regard to the statement that—may I read something, Sir, it is not very long?—

"The Acting Colonial Secretary undertook that Government would give consideration to schemes for the promotion of agriculture which might be placed before it and would announce Government's intentions in regard to them as they appeared."

Now, Sir, that is the statement. The schemes are there, they have appeared, and we have not yet had Government's intentions. Perhaps in the reply to this debate we shall have something definite in regard to that matter. But, Sir, since we did not have anything definite when this Report was finally brought to us—semi-finally brought to us—I definitely urge and ask for the support of other Elected Members that we should not budget for a surplus balance next year, that we should utilize what we anticipated would accrue as a surplus balance towards the amelioration of agriculture generally in this country. That, Sir, would have meant a sum of over £70,000 which, with the addition of the sum which is carried forward on agricultural credits, would have

given Government over £100,000 to meet the immediate requirements of agriculture. I maintain, Sir, that that would have been an earnest of Government's intention to meet the requirements of agriculture during 1931. I maintain that we are unlikely to meet a year of greater financial stringency or depression than next year is likely to be in the future. I maintain our policy is a wrong policy if, in the worst year that we are likely to encounter, we are going to budget for a surplus. The policy is wrong.

We are going to the London market for the raising of a loan—I wish to comment on that a later stage, but, Sir, it is absurd to give the appearance of security and destroy the actuality of security, and this Budget is attempting to give an appearance of security at the expense of security itself. It is paradoxical and because it is paradoxical it is ridiculous not only because it is paradoxical. We have no control over the terms of the loan; we have no control over the amount of the loan. It seems phenomenal . . .

HIS EXCELLENCY: Order, order. If the hon. Member wishes to refer to loan expenditure perhaps he would reserve his remarks until the loan motion is before the House.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir. There is a mention, Sir, of our loan position—where is it?—on page 14 or 18 or 17. I know that, Sir. No, I cannot find the reference; I am sorry, Sir.

HIS EXCELLENCY: In that case will the hon. Member kindly confine his remarks to the motion before the House.

CAPT. THE HON. E. M. V. KENEALY: One sees, Sir, in the State method of handling malaria a very welcome recognition by Government that it has begun efficiently to control malaria. The incidence of malaria was grossly exaggerated and the subject of hysteria in the past, and by this reduction of provision one recognizes gratefully that a higher degree of sanity has been attained and also that malaria, although it was never of great significance, is of still less significance to-day.

I should like, Sir, to approve the Report generally with the very few reservations I have made, subject to an amendment of the Estimates by which all allowances other than contractual allowances and including allowances to Elected Members should be subjected to a reduction of 10 per cent.

LIEUT. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in rising to support the motion before the House I should like to accentuate two fundamental points which are

put forward in this Report, Sir. The first one is on page 3, under Revenue Estimates. Subject to the amendments to which reference is made, Elected Members broadly agree to Revenue Estimates as printed on the understanding that Government will take all necessary steps to ensure the maintenance and extension of agriculture on which these Estimates are based. That, Sir, is the fundamental fact which we have got to see to during this coming year. Unless agriculture is maintained and kept going this year, not only the Revenue Estimates will fail to materialize but the Expenditure Estimates, which are based on the revenue anticipated, also cannot be carried out. I understand, Sir, that Government are prepared to take what necessary steps they can and it is to enable them to be able to do something in that direction that we have worked very hard during the last few weeks to try and increase the estimated surplus which my hon. friend on my right (the hon. Member for Kenya) objects to so that it can be added on to the Colony's general surplus funds as shown under "Estimated Excess of Assets over Liabilities for December 31st, 1931," amounting to £634,650. To earmark that surplus, as he suggests, for definite measures for the benefit of agriculture when those definite measures have not yet been decided on seems to be not a very sound method of framing a Budget.

Now, Sir, the other main point I would like to refer to is on page 1 where it is pointed out:—

"In considering the draft Estimates for 1931, the Committee did not deal with general matters affecting the terms of service in view of an announcement by the Acting Colonial Secretary to the effect that Government was prepared to accept in principle the suggestion that the terms of service for Civil Servants in Kenya should be subjected to review by a Commission of Inquiry and that the Colonial Office would be asked to depute a Chairman."

Sir, we are grateful to Government that they have accepted our point of view on that subject which I believe will effect far greater economies, and will probably increase efficiency more than anything else we have had in this Colony and at the same time. Sir, lower down on the page, it is noted that the intention of Government is to appoint a committee to enquire into the question of transport and travelling allowances. That committee, I trust, will be appointed with the least delay so that they can have their report ready before the Commission on the greater question sits as I think there is little doubt that there is enormous wastage in the Colony to-day under the heading "Transport and Travelling."

Now, Sir, the next point I should like to accentuate is one that has been already referred to and that is we feel very strongly that wherever possible during this coming year Government should employ local applicants to fill any vacancies and not introduce other people from overseas. It is no good blinking the fact that this is going to be a hard year for the country. There are going to be many people, excellent people, who will be out of jobs, people with experience of the country and with good records, who, through no fault of their own, have lost the employment they had got, who could be employed admirably by Government in various positions.

One argument, Sir, in favour of increasing Administrative Officers is that if there are not sufficient Administrative officers much revenue is lost because it is not possible to collect the revenue. I consider Government might very well employ some of the local inhabitants of good record for the purpose of assisting Administrative Officers in collecting Hut Tax without necessarily increasing the establishment of Administrative Officers on a permanent basis.

Now, Sir, on page 4 once more we reiterate our belief that every effort should be made to abolish Estate Duty in Kenya. There was only one dissident and that was because no alternative method had been put up to replace the revenue lost, and I do sincerely trust that during the coming year the people concerned will produce some scheme acceptable to Government to take the place of this Estate Duty and I have not the shadow of doubt in my own mind that it will be one of the soundest financial moves to be made in this country. We are free of Income Tax at present and to make us free of Estate Tax will be an enormous attraction to capital in other parts of the world where they are so heavily taxed in this particular way.

Another thing which came up very much during our discussion was the necessity of Government co-ordinating their different departments in the employment of African artisans who had been trained at considerable expense to the country and many of whom are now available. In the course of our investigations it appeared there are three different departments concerned—the Native Affairs Department, (the Native Registration Department), the Education Department, and the Public Works Department—and it seemed to us that there was a great lack of co-ordination between them and that there was a great lack of some bureau or place where it would be possible for these artisans to be able to get into touch with employers who might utilize their services. I trust Government will go into that question and see if not

only more use can be made of these native artisans but more opportunities given to them to continue in the trades which they have learnt.

Another question, Sir, which came up and which seems in a very unsatisfactory state is the question of the residence of natives on Crown land which they are not entitled to be on. The Administration told us that it was not their job and the Police said that they could take action only if they got instructions from the Administration. The result is that nothing is done and the consequence is that we have some of these very difficult cases which have been brought up in this House on more than one occasion; and I do trust that the whole question will be thoroughly thrashed out and, if necessary, some amendment of the law brought in and the question settled on a sound basis in the future.

With reference to the Fencing Ordinance, I think my hon. friend on my right (the hon. Member for Kenya) was not correct in what he said. It was not a Fencing Inspector who was coming out but a Fencing Superintendent. He was not to inspect the fencing but to undertake all the administrative work at the Headquarters of the Agricultural Department. The reason for that was that it is doubtful whether during the coming year the financial position will admit of this Act being put into force.

While dealing with agriculture, Sir, many of us have grave doubts as to whether we are getting our money's worth from the Amami Institute. I believe there are great improvements in the administration of it now but the question is, is Amami, from climatic or other points of view, the most suitable place to have the experiments done and whether we would not get better results from that money if it were put into one of our own institutions? And also with reference to the Coffee and Sisal Bills, the people interested in the coffee industry are very anxious that Government should expedite what I may think I may call the modified Coffee Bill. The original Coffee Bill which was discussed did entail considerable financial commitments but I understand the modified Bill will not entail these financial commitments; it will put the coffee industry on a sounder basis with a more representative Board to speak on their behalf, and I trust Government will take early note of it and get that Bill brought forward.

I also trust that the Director of Education will soon be able to visit the residents of Nakuru and Eldoret so as to explain the whole situation, which has given cause for considerable doubt and, I think, a certain amount of misunderstanding, with regard to the establishment of the school at Kabete. I believe he is shortly going up-country, and I am very glad to think he is going to do so.

There is one last point, Sir, which perhaps is rather a personal one, that Elected Members have agreed to reduce the fees paid them for their attendance here from £3 a day to £2 a day. Sir, we have done that because we recognize how hard times are and that we should share our part of the burden with everybody else, but I should like to accentuate, Sir, that in my opinion—and, I think, in the opinion of most Members—the present remuneration is not in any way excessive. If there is not sufficient allowance made it does limit very greatly the numbers of people who can possibly undertake the duties of being Members of this House, Sir, which I think is a very bad thing for the country, and I trust this will only be taken as a gesture at the present moment and it will not be understood that we have permanently agreed that the new rates of remuneration should be sufficient always in future. I wish to support the motion.

CAPT. THE HON. H. F. WARD: Your Excellency, I desire only to emphasize one point. The communities that hon. Members on this side of the House represent have to a very large extent faced up to the storm of present-day conditions and under extreme pressure have had to reduce the rates of salaries paid to their European employees, the wages paid to the African personnel and, more regrettable still, have had to reduce establishments; and I hope Government will recognize—perhaps the hon. Member will recognize it in his reply—that we on this side of the House, knowing the conditions and knowing the difficulties of the future, have not interfered or attempted to interfere with any contractual engagements of Government or attempted in any way to add one more to the list, to the rapidly growing list, of unemployed. I do think, Sir, that in view of the course we have pursued on this side of the House, Government should take every possible step by appealing to the servants of Government to exercise economy, because if it is only by the strictest possible economy in every direction available that we can hope to keep, that the Government can hope to carry through its present establishments during the year 1931. And I would further ask that Government make a special point of this and urge that no economy is too petty or too small, and emphasize the dangers which face the servants of Government in 1931.

I just, Sir, would like briefly to touch on the subject of fencing which was mentioned by the hon. Member for West Kenya, and to suggest to him and to Government that it is very much better to try to concentrate on trying to carry present establishments of Government rather than to attempt to force Government to increase that establishment. I

think the first task is going to be quite difficult enough without adding to it, and with that failure of Government in this respect I should like to associate myself.

I would like especially to associate myself with the remarks made by the hon. Member for the Lake when he thanked Government for the close consideration given to measures for the relief of industry in the present crisis and as long as the crisis lasts. I am fully satisfied, Sir, with one exception, Sir, that full provision, as far as it is possible to make it at this stage, has been made, but I did hope, Sir, that the hon. member would have made some reference to legislation designed to give status to agricultural co-operative societies. That, Sir, is a very necessary auxiliary to the measures already taken or contemplated by Government, such as the Land Bank Bill and other measures, and I feel that unless that is done the full measure of relief contemplated by Government will not be completed.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, under ordinary circumstances I should not have found it necessary to take up the time of this House because, firstly, our views have been very clearly expressed in the Select Committee's Report and, secondly, those which required further emphasis have received it at the hands of other speakers, but the line of argument adduced by the hon. Member for Kenya has compelled me to say a few words because I think that however much one may have in the past attacked Government as an opposition and however much it may be necessary to do so in the future, I do not believe it to be the duty of the opposition invariably and on every occasion and without exception to treat the Government as being nothing but a lot of rascally liars. The hon. Member's whole speech was based on the assumption that no undertakings that had been given within the last month, that no actions that Government had taken during the last month, could be treated as serious, could be treated as anything but suspicious and double-edged because of certain things that had happened in the past, and he then proceeded to enumerate a large number of instances. I am not concerned with those instances. It seems to me not to be relevant to the discussion but I do believe—I am not going to be accused of throwing bouquets—but I do genuinely believe that Government have realized the nature and the situation of the Colony and have tried to meet the demands of Elected Members in every possible way. We asked for the Agricultural Credits Bill to be advanced into 1931—Government accepted that motion. We asked for an immediate conference to be called to deal with the whole maize situation—Government accepted that motion, and I presume no one will consider that they do not

intend to call that conference and call it immediately. We asked for a Commission of Inquiry to go into the whole question of the terms and conditions of the Civil Service in this Colony—that motion was accepted. We asked for a committee to go into the question of the Administration and Government agreed to that. I do not think you should necessarily judge the bona fides of the intentions of Government by what has happened in the past when different people were responsible for giving assurances. I am putting it precisely as I feel it. I personally am prepared to do so, and I believe that most Members on this side are prepared to accept the definite assurances that have been given us during the past month, and in this respect I would say on my own behalf, and I have a hope on behalf of everyone here, that we do really owe a debt of gratitude to the hon. the Acting Colonial Secretary for the patience and courtesy and ability with which he has conducted the meetings of the Select Committee. The fact of the matter is that the hon. gentleman on my left (the hon. Member for Kenya) suffers from over-exuberance of youth—not in terms of years, of course, but he has the enthusiasm of youth and he also has the complete lack of the sense of proportion of youth. I may say this is the first occasion on which I have seen the hon. Member blush.

CAPT. THE HON. E. M. V. KENYALY: Surely it is . . .

HIS EXCELLENCY: Are you rising on a point of order?

CAPT. THE HON. E. M. V. KENYALY: Yes, Sir, on a point of order, it is contrary to the usages of this House to impute motives, evil motives, such as blushing, to an individual.

CAPT. THE HON. H. E. SCHWARTZ: I do not know whether it is. One does not necessarily blush only because of evil; one sometimes does so when someone is saying something over nice.

I will leave this subject now but I would seriously suggest to the hon. Member that although sometimes the minority may be right and although Sir Herbert Beerbohm Tree once said the minority was always right and the majority always wrong it is not really so. It is difficult to work as a team, as we have been trying to work during the past month, if one is always to find one dissident. I leave it at that.

The hon. Member, in dealing with the question of the Land Bank, said that the provision for the Land Bank was inadequate and the reason for that was that a resolution passed by the Select Committee some two years ago that the funds

for the Land Bank should be found out of surplus balances, which was agreed to by Government and which Government did not follow out afterwards, was the cause of that inadequacy of funds; but I would suggest that that is not so. I quite agree that the funds are inadequate but the figure agreed to be taken out of Surplus Balances was precisely the same figure which it is now proposed to take out of loan—£330,000. As to the question of whether it should come out of loan or surplus balances, I will remind this House that the Secretary of State for the Colonies has written us on many occasions last year and it is my belief that unless we are prepared to put it in a loan schedule we never should have had the Land Bank on the Statute Book to-day.

The question of the Surplus Balances, whether we should budget for a surplus or not, has already been dealt with by the hon. Member for Ukamba, and I will not refer to that again.

There is only one paragraph I wish to refer to in the Select Committee's Report, which is that at the top of page 24, with the marginal note "Pumwani Child Welfare and Maternity Centre," where it says:—

"The Committee wishes to make it clear that the payment of any part of this additional grant should be made conditional on Government being completely satisfied with the arrangements for controlling the institution and that additional funds should not be made available unless the necessary steps are taken to ensure that they are properly applied."

I merely mention that, Sir, because it is a mere iteration of the 8th clause of the Select Committee of this Council of the conditions which were laid down on the whole question of Government grants, where it says:—

"That before a Government contribution is made there must be good reason to anticipate that funds and staff will be available for satisfactory conduct of the institution."

I think, Sir, that the fact of having to repeat that there shows that the Committee, the whole Committee, felt that this paragraph which I have just read out did require emphasizing actually on this particular case, and really it cannot require too much emphasis. It seems to me that when these grants are given Government should be absolutely satisfied that the money is being well and properly spent.

I do not believe, Sir, in repeating arguments or dealing with matters which have already been dealt with except in very exceptional circumstances, and it is because I do think

that these exceptional circumstances exist that I wish very briefly to refer to two matters that were raised by the hon. Member for Ukamba. The first is the question of filling posts by local applicants. I do not think that too much emphasis can be given to that and I feel certain that Government will realize that especially at present it may be of very great help to many individuals, and moreover it may be the start of what eventually I hope will be a locally recruited service.

The last point, which has already been dealt with, is the question of what are commonly called death duties—Estate Duty. I feel—I will not say even more strongly than the Noble Lord for I do not think that would be possible—but I feel as strongly; I am absolutely convinced if Government would agree to treat the matter with favourable consideration—I am absolutely convinced that if you could let it be known that there would be no Estate Duties payable by people coming and making their homes here when they died, that with the present financial situation all over the world you must inevitably get a large number of settlers with considerable capital coming into this Colony. I believe there is nothing more calculated to increase the immigrant European population in this Colony than a complete annulment of the Estate Duties.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, this Report has been dealt with from cover to cover except in one little item, and that is the King's African Rifles. Sir, although I welcome the reduction made, apart from the reduction of £2,000, on the vote I still hold that the Supply and Transport is over-staffed. I maintain, Sir, that it is unnecessary to have twenty-four Europeans, officers and mechanical staff, to supervise seventy drivers and a few details. We were told, Sir, that these seventy drivers were all expert at their jobs—native drivers—and that they could take their vehicles to pieces in the middle of a desert and put them together again without any assistance. That is why they were so highly paid. In spite of that, Sir, we find no less than thirteen on the staff of mechanics. To my mind, Sir, that is over-staffing when you realize that you have only got fifty-four lorries to look after—twenty-four Europeans to look after fifty-four lorries.

Then a further item, Sir, that is the charge made by the King's African Rifles to the Civil Administration for transport. The trouble in our Committee was that both sides denied having had anything to do with the figures produced at all. Sir, I submit something was wrong there, and I

hope the matter will be followed up. It seems to me entirely wrong to submit figures to this House and not be able to substantiate them or tell us where they came from.

With that, Sir, I simply wish to speak as strongly as possible in support of the encouragement to local applications for Government service, and I hope that in future years this will be added to very extensively indeed.

LIET.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I do not propose to detain the House more than a few moments but I would like to associate myself with the remarks made by Col. Durham . . .

HIS EXCELLENCY: Order, order.

LIET.-COL. THE HON. J. G. KIRKWOOD: . . . the hon. Member for Kikuyu in reference to the transport, Sir, of the King's African Rifles; I would point out that the personnel of what is known as the Northern Brigade is little more than the establishment of a fighting battalion and I think that the enormous amount of transport that they have for the purpose of their Supply and Transport for that unit is quite unnecessary. I will undertake myself to remove a British Brigade with less, much less a handful of coloured troops such as we have in this Colony. Also we are told, Your Excellency, that the transport of the King's African Rifles has been performing the transport of Civil departments. One outstanding incident I would like to mention. There was £2,900 on the Police vote for transport in connexion with the King's African Rifles transport. When I asked how that amount was estimated and who put it on, the Acting Commissioner of Police could give no details. He said he was not responsible for the £2,900 in the Budget. The Officer Commanding the Brigade was asked how that amount came to be allocated. He could not give any details. It is an astounding incident, Sir, and I suggest it requires seriously looking into. The amount is on the Budget and nobody will take the responsibility.

I do not wish to go into unnecessary details in connexion with the Transport personnel, etc., but I seriously suggest—and I think I am in a position to suggest, with the experience I have had in military transport—that there is a very large expenditure in this connexion which is absolutely unnecessary. It was suggested that it was necessary to get the transport up to more establishment. Quite obviously it is enough, and I think everybody would be satisfied that all the transport required for the King's African Rifles could be got in Nairobi within a few hours if it was necessary.

The amount of ton mileage done for Civil department was 237,770 ton miles. It sounds like a trek round the world. Sir, to me, much less the transport in connexion with this unit.

I would like to associate myself with the remarks passed by the hon. Member for Nairobi South complimenting the Governor on the excellent relationship between the Government side of the House and the Elected Members, both on the Select Committee and in Council during this Session, but I would ask Your Excellency's serious consideration in view of calling this the Budget Session to consider the advisability, as far as possible, of cutting out all other measures. It is a serious matter to some of us to be away from our own affairs for six weeks as I have been, or shall be, after the next three days. My own affairs have to be scrapped for the time being while I am performing my duty to my district in Nairobi, and I think it is a suggestion, if it can be accepted, which would be highly appreciated by most of us on this side of the House.

I would like to refer shortly, Sir, to the additional grants to Local Authorities. There is a minute, No. 14, on page 21, which I think I can say was the outcome of a memorandum put up by the Trans Nzoia District Council. It is realized by Government that that additional grant bears no proportion to the traffic that is carried on the roads for which those grants are made and I seriously hope that Government will see their way to accept the suggestion in that minute to appoint a committee at an early date to consider the matter. It is only necessary for me to point out that a district like the Trans Nzoia, which has over 100,000 acres under cultivation, is on the same *pro rata* basis as Naivasha which has 200,000. There is no relationship to the ton miles which are transported over the road for which the grants are made. I take it the minute, having appeared in this Report, will be given serious attention.

I would also like to ask, Sir, that a committee should be appointed in connexion with civil aviation. I hope the suggestion will be accepted and that the committee will be appointed at an early date. There are many centres deeply interested in aviation at the moment and it is very difficult to get landing grounds under present conditions. There is a small sum in the Budget available and I suggest that should not be allocated until the committee has been appointed and reported to Government as to how that money should be allocated.

With reference to the Land Bank, Sir, there has been a great deal of criticism throughout the Colony in respect of the £340,000 which has been allocated, but for the information of those critics I would like to say the Select Committee gave it very serious consideration and eventually decided to recommend to Government in their Report that this amount be accepted as it did allow of the Ordinance passing its third reading and becoming law and preventing several months' delay. I believe myself that if we had pressed for a further amount and had been prepared to waste several months an additional amount would have been granted. But we thought the essential thing was to get the Bill passed through its third reading and I hope that will satisfy some of the criticism which has been made on the financial side, but I would submit that the provisions in that Bill to my mind are inadequate to meet our agricultural requirements, but as provision for further amounts has to be sanctioned by this Council I do not think it is a matter we should be very disturbed about at the moment.

THE HON. F. A. BEMISTEN: Your Excellency, this is a most depressing meeting of Council for a Member who represents Mombasa. I have thought that when entering the Committee at Government House a ticket should be handed to the Member for Mombasa with the words on: "Abandon all hope if you enter here." Right through this Budget there is not a single hint of help or assistance in any way for Mombasa. We heard the General Manager of Railways tell us the other day, when his financial statement was being discussed: "nothing doing". We had expected that our hospital would be considered during this Session, and I may frankly tell you, Sir, that I came up with the greatest hopes that that great measure for the amelioration of conditions in Mombasa would have received at least some consideration, but not a word, not an item, not even a suggestion, that it will be considered during 1931. All I can do is to go back to my constituents and say that your only remedy is to try and get more members or better members.

There is only one item in the Report which I wish to emphasize, Sir. It relates, on page 2, to the clerical organization in governmental offices. Coming, as I do, from the most efficient town in the Colony, it is obvious that efficiency should be our watchword, and I am going to tell you, Sir, that I consider that until this investigation and reorganization takes place the Government is running on a very, very dangerous line. The congestion and overwork in the headquarters staff of the Government is simply appalling. This can be proved by the fact that on November 17th I asked through the Elected Members' Organization for the date of a

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cable or a letter which I understood had been sent to London and eleven days afterwards I have not got a reply. Right through the investigations in the Committee questions were asked—I asked them—of practically every Head of every Department and it was shown quite clearly that owing to the peculiar organization there was practically no one man who could assist in another man's position when he was on leave and in every case it was said that when one was on leave another one has to come up to his position and get an acting allowance, and so on throughout the Service. There is not a business firm that would run five months with such an organization and the sooner this committee is appointed which is emphasized here, not as you have already had it, but a really *pukka* investigation—it will take months to do and then you have to gradually organize work in your office, but directly the report of that committee comes out, Sir, you will be able to save thousands and thousands of pounds.

THE HON. A. H. MALIK: Your Excellency, my compliments are due to the Government, Sir, for realizing the necessity of making a provision in the Select Committee for Goan Education. When the draft Report was being considered, Sir, early this week I protested against the inclusion of this vote under the sub-head of "Indian and Goan Education," and I have felt, at the moment, Sir, that the conclusions of the Committee were that one-line votes should be added instead of its inclusion under the common head of "Indian and Goan Education." The reason for this was the fears that I had that, if not during the next year possibly at some later date, encroachments may be made on the provisions which are by no means sufficient for the Indian education, and I am really under the impression that that was the feeling of the Committee over it. Perhaps the hon. the Acting Colonial Secretary who was in the Chair would recollect that that was so, that this vote was to be shown in the Estimates under a separate heading. The only reason that was given by the hon. the Director of Education for the inclusion of this vote under this common vote was that which I have just referred to that probably there might be some savings in the Indian education which might be allocated for the Goan education, and to meet that I find, Sir, in this Report a paragraph of a few lines inserted which reads as follows:—

"A vote of £250 should be provided for Grants-in-Aid to Goan Education and, as it understands that there is a possibility of savings of between £40 and £50 being

found in certain eventualities on the vote for Grants-in-Aid for Indian Education, it would offer no objection to such savings being utilized for adding to the Grants-in-Aid for Goan Education during 1931."

So, Sir, I trust that this vote will be shown under a separate heading—"Goan Education." I have also disagreed, Sir, in the Committee with the Elected Members that this grant should be considered on an *ex gratia* basis. I am convinced, Sir, that the Goans in this country have definitely a claim on the revenues of the country for the education of their children, and it is not just to say that this is just a grant which is actuated by a mere sense of benevolence. I have gone into the accounts of this institution, Sir, which is especially for the Goan children—I find they are running the school at a loss of about £600 per annum, and therefore I consider that the present grant is absolutely insufficient and I do trust, Sir, that when the Estimates go to the Secretary of State for the Colonies—I do not know whether he is entitled to make any additions or alterations to the Budget—but if he is, I trust, Sir, that he will do so.

There is only one small item that I have to refer to and that is in relation to the vote for provision for the registration of births and deaths. I have agreed, Sir, to a deletion in view of the financial position of the country but I do trust that next year that money will be available to start these very useful statistics.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I have a note here of a very large number of points which have been touched upon by Members opposite during this debate, but with a very few exceptions they are all points which I think have been better dealt with and more concisely dealt with in this Report than I could deal with them now. I take it that the reason, they have been dealt with now in the debate in addition to their having been dealt with in the Report is that particular emphasis is desired to be put upon them. I can only then say, Sir, that, treating them all together, Government will recognize that emphasis and bear it in mind.

There are, on the other hand, Sir, one or two other points which do not appear quite so clearly in the Report which I might perhaps deal with separately and briefly. An assurance was asked for—and I think this is the most important point, Sir—from Government that it would exercise next year every possible means of economy during the course of that year. I can only say that I can freely give that assurance on behalf of Government.

Another point was raised, Sir. The hon. Member for Nairobi South was kind enough to make references to the attitude of Government during the past month in respect of various needs and troubles in the Colony. I should like to thank him on behalf of Government for what he said on the subject. In connexion with that his fellow Member, the hon. Member for Nairobi North, suggested that I should say a word on the attitude of Elected Members to the service as a whole and their recognition of the needs of departments and their disinclination either to try to starve a department or to make it uneconomic or unnecessary. Well, Sir, the proof of the pudding is in the eating, and I think that Members who look down the lists will see that where Government attached special importance to quite considerable increases in certain departments they will find—particularly in the Administration, the Education Department, the Education Department in relation to African and Indian Education—they will find that Elected Members have had in fact that proper appreciation of essential needs.

I should like, Sir, in return, to thank them for their co-operation in what, after all, has been as usual an arduous sitting of this Select Committee, and this year it has not been the less arduous because conditions have been such as in no way to create, what shall I call it, a light-hearted atmosphere.

Finally, Sir, a point was raised by the hon. Member for Plateau North. He deplored the fact that this Session should be congested by such a large number of Bills. Sir, it is true that we have had to take a large number of Bills this Session but I would remind him that this Council dies very shortly and if those Bills had not been tackled at this Session such of them at any rate as were still on the stocks in so far as this Council was concerned, would have to be started again from the beginning when the next Council came into being.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee on the Draft Estimates for 1931 be adopted."

Before I put the question I should just like to make it quite clear on the question of the Commission into terms of service. I have already written a despatch to the Secretary of State which, I hope, will go home by this mail, and that of so far as the domestic committees on travelling and transport and provincial re-organization are concerned, there is in my opinion no reason why they should not go ahead in anticipation of the appointment of any such Commission.

I should also like to express on behalf of the Government the Government's gratitude for the manner in which Elected Members have dealt with the admittedly difficult Budget this year. I should also like to join with them in congratulating the Acting Colonial Secretary on the able manner in which he conducted their deliberations.

The question was put and carried.

HIS EXCELLENCY: I think it would perhaps be for the convenience of Members if, before we adjourn for the usual interval, we now take the Appropriation Bill as a purely formal measure, suspending Standing Orders for that purpose.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency. I beg to move that Standing Rules and Orders be suspended in order to enable the Appropriation Bill, the Specific Loan Bill and the Local Government (Municipalities) (Amendment) Bill to be taken through all their stages to-day without due notice, and also that a resolution on the subject of Treasury Bills, copies of which are, I understand, in the hands of hon. Members, should be taken to-day without due notice.

THE HON. T. D. II. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

The question was put and carried.

BILLS.

FIRST READING.

THE APPROPRIATION BILL.

On motion of the hon. the Acting Colonial Secretary the Appropriation Bill was read a first time.

SECOND READING.

THE APPROPRIATION BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move that a Bill to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1931, be read a second time.

Your Excellency, I have already explained the reason for taking this Bill now and I do give my assurance that the figures in the Schedule of this Bill are strictly in accordance with those in the motion which we have just passed.

THE HON. THE ATTORNEY GENERAL: 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 HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that this House resolve itself into a Committee of the whole Council to consider the provisions of this Bill clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

The question was put and carried.

The Council went into Committee.

In Committee.

THE APPROPRIATION BILL.

The Bill was considered clause by clause.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Appropriation Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill to Apply a Sum of Money for the Service of the Year ending the 31st day of December, 1931, has been considered in Committee of the whole Council and reported without amendment.

THIRD READING.

THE APPROPRIATION BILL.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that a Bill to Apply a Sum of Money for the Service of the year ending the 31st day of December, 1931, be read a third time and passed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

Council adjourned for the usual interval.

On resuming.

FIRST READING.

THE SPECIFIC LOAN BILL.

On motion of the hon. the Treasurer (Mr. H. Rushton) the Specific Loan Bill was read a first time.

SECOND READING.

THE SPECIFIC LOAN BILL.

THE HON. THE TREASURER: Your Excellency, I move that a Bill to Make Provision for Raising a Loan of Three Million Three Hundred and Sixty-four Thousand Eight Hundred and Fifty-two Pounds Sterling for the Construction of certain Public Works and Other Purposes be read a second time.

Time is short and I propose to be very brief. There was a meeting yesterday of Elected Members at which one or two figures were asked for and these I propose to give this morning.

Since the 1928 Loan was exhausted we have been sanctioning Public Works out of advances made by the Crown Agents pending the raising of a further Loan. We are now advised that the time has arrived when we should pass legislation to cover our commitments and this Bill seeks the necessary authority to do that. The time appears to be favourable owing to the industrial depression at home and the fact that large sums of money are awaiting investment in Colonial stocks and other gilt-edged securities. The statement of affairs in regard to Loans, Sir, is set out in the October Loan Statement and from that statement it will be seen that the total amount authorized is £2,913,318. The amount estimated to be spent this year was £2,167,198, leaving a balance of £756,180. The whole amount provided for in the Bill exceeds the amount in the October Loan Statement by a sum of £451,534. That includes several items which have been formally approved, one or two items which have been informally approved or informally discussed, and a number of reallocations. A statement has been given to each Member setting out the particulars of that difference of £451,534. I should like to make it clear, Sir, that after the Bill and the Schedule attached are passed then all the amounts shown in the October Loan Statement and in the Memorandum which I have issued to Members will be fully and finally approved and we shall be able to raise this Loan with a clean sheet. All questions of authorities and reallocations in the past will have been settled and if further reallocations are necessary they will have to come before the proper authority.

It is not at all certain yet what amount will actually be raised. That will be settled by the Secretary of State on the advice of his financial advisers, but if the whole amount is

raised it might be interesting to Members to know what our Loan commitments will be to date.

The Colony's commitments to date will be approximately £3,816,254, and Railways and Harbours £13,293,598, making a total of £17,114,852. That, of course, is not including the original capital expenditure on the Railway. Those commitments will carry a total annual charge against the Colony of £223,478 and Railways and Harbours of £832,842 in interest and Sinking Fund, a total of £1,056,320.

The effect on the Colony's Budget will not be marked. It is difficult to give any sort of estimate of what the effect is likely to be in the first year. We do not know when the Loan will be raised or the terms of that Loan but assuming that the Loan is raised at 4½ per cent and issued at 95, and allowing for certain recoveries, such as the Land Bank Interest and Loans to Municipalities, the ultimate result will be an increase of interest on the Colony's account of £64,000 per annum. That is the full amount if the whole Loan is raised and after the whole of it has been spent. Then three years later there will be an additional charge of £21,000 per annum for Sinking Fund at 1 per cent, so that the total increase which it is necessary to contemplate is £85,000 per annum. I myself think that the charge for next year will be somewhere in the region of £1,000 to £12,000, depending on the amount of Loan raised and the terms on which it is raised. The Crown Agents have just raised £1,400,000 in Treasury Bills at three months. They have paid off the £1,000,000 raised about three months ago. It is unlikely, I think, that they will raise this new Loan before the maturity of the Treasury Bills.

It is particularly interesting, Sir, to note that the new issue of Treasury Bills has been somewhat more favourable than the last. 2½ per cent is the charge.

That briefly, Sir, is the position as regards loans and, as I have said I would be brief, I will be brief. I hope that I have said enough, in conjunction with the printed information before Members, to explain the position as it stands to-day and that it will be sufficient to induce them to support the Bill.

THE HON. THE ATTORNEY GENERAL: I beg to second the motion.

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

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in dealing with this Bill one should consider not only the Bill but also the circumstances in which it is read and one should analyse them with a view to ascertaining whether it has any political significance or is merely a financial provision. Well, Sir, I suggest that every effort is made to shroud in mystery—not by the hon. the Treasurer, Sir, because I think he has been very candid in the analysis of them—but I think Government generally has made every endeavour to shroud in mystery legislation of this particular type. If one lifts the skirt of the mystery one finds the wooden leg of political manipulation beneath it. What is the wooden leg of political manipulation to which I refer? It is this, Sir, that in the past we have been lulled into a sense of security by having a traditionally accepted sum as a floating credit appertaining to this country of from two to two-and-a-half millions. Now, Sir, this Loan is for a specific amount. Can it be seriously suggested that our advisers at home can adjust to so minute a degree of nicety a recommendation in regard to the general advantage of floating a Loan for a certain amount? If that is not so, then we must draw a conclusion which is adverse to our security. I suggest, Sir, that there is insufficient provision even in the Schedule in its monetary significance and there is an insufficiency of liquidity and insufficiency of items in the Schedule too. I maintain, Sir, that item (b) in Schedule I is insufficient. There should be a greater provision. Item I in Schedule II: there is no provision, Sir, for branch lines which have been considered and favourably considered and recommended by this Government. There is no provision, Sir, for a great many other things which I think should be scheduled. After all, in clause 6—I think it is clause 6—no—anyhow I do not remember the clause, but there is the ability of the Governor to make readjustments between items and I maintain, Sir, that at this stage, particularly when the agriculture of the country is in jeopardy, that that ability should be given a very wide latitude. There should be provision in increased items, and in the adjustments there should be allowed a great deal of elasticity. One does not know how far that adjustment is permissible. I suppose it is based on tradition. I suggest, Sir, since we have had no information to the contrary from our advisers, that this Loan should be raised to five millions at least, which would give us a greater sum, because we have no assurance as to the continuity of our borrowing capacity on our floating credit to which reference has been made. I maintain, Sir, that it will be suggested, of course, that we shall be paying interest on money which we are not actually needing at the time, but I maintain, Sir, that we can profitably use that money as soon as we borrow it in the Land Bank. If we do increase our

demand by a million-and-a-half that money could earn revenue by lending it to the Land Bank and could be very profitably invested by the Land Bank towards the amelioration of agricultural conditions in this country.

Now, Sir, we have had an analysis of the advisability of maintaining unanimity of action in dealing with Government but I maintain it is useless our attaining unanimity by fraternizing with the Government beyond the terms to which the country would agree to our going. I maintain that generally that is the policy we have adopted and if the minority on this side of the House voices its opinion it is not voicing the opinion of its own entity, but the opinion of the country generally that we with our eyes open, I will presume, are being out-manoeuvred in this particular matter as we have been in the past. If Government is willing to admit our claims for the larger monetary provision for the maintenance of agriculture I find it difficult to see how Government can resist our suggestion at this stage that this Loan should be raised by a million-and-a-half and that we should not agree to a specific amount in pounds but agree to a general amount to meet the situation generally. It is an indefinite situation and the way to deal with it is to make a generous provision for meeting such a disability.

In this connexion, Sir, it must be remembered that in 1934 there will be a revision of our commitments in regard to Railway provisions, the capital cost of the Railway. That is in direct relationship to the present proposal to limit this to three-and-a-half millions roughly. I understand that since we have that intention of Government hanging over us we must, if we are wise, secure a margin of safety in our future position and we can attain that only by increasing our Loan commitments at this stage to cover the demands and the general developmental demands of Kenya in 1931—not 1933, Sir.

I do hope Government will agree to this suggestion that this should be increased by a million-and-a-half, and if not that it will demonstrate to this side of the House why it cannot agree to that, Sir.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I think the hon. mover of this resolution has satisfied one that some such loan must be raised now. There are only two points on which I should like to be satisfied. Firstly, whether a loan, whether the financial advisers in London who, after all, must be the best judges even if they are sometimes wrong—it is no good putting one's lay opinions against the expert financiers of the City of London—whether their advice is that a loan of £3,500,000 is the wisest one

to raise now or whether it would be wiser to raise one of slightly larger dimensions, say £4,000,000. I do not think I should go quite so far as £5,000,000.

The other question is, Sir, that if this Loan is limited to the exact amount of what is in this Schedule will there be definitely financial facilities provided for the construction of the two branch lines which have already been approved and, if necessary, for the increased capital of the Land Bank which is also strongly recommended by the Select Committee which dealt with the Land Bank?

I should like to have an assurance on those two points and I hope perhaps the hon. the Treasurer can give it in very clear terms.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I have no intention of explaining the wooden leg of Government but I would ask Government whether it would be advisable to communicate with the authorities at home as to whether or not the time is not ripe now to raise an additional amount over and above the sum now indicated, largely, Sir, to cover the expenditure forecast by the hon. Member on my right (the hon. Member for Ukamba), and that is the building of these additional branch lines that have been sanctioned by Government?

THE HON. A. H. MALIK: Your Excellency, the other day in Select Committee I was told that provision for an Indian Hospital at Nairobi was included in the Loan Schedules. All I want to know is this, Sir, whether this Loan is a Loan which includes provision for such a hospital, and if this is not the Loan under which provision is made I should like to know which is.

HIS EXCELLENCY: Perhaps I can explain to the hon. Member that this Loan is really funding resolutions that have already been approved by this Council except for certain items which are in the paper before the House. It will probably give him the answer to his question.

THE HON. A. H. MALIK: That is the information I should like to have from the hon. the Acting Colonial Secretary.

THE HON. THE TREASURER: Your Excellency, in replying to one of the comments of the hon. Member for Kenya I should like to say there is no mystery about the sum provided in the Bill at all. It is quite obviously the aggregate of items which have from time to time been approved together with the items shown on the memorandum which was circulated.

The Noble Lord, the hon. Member for Ukamba, asked whether it was wise to raise £3,500,000, whether we had been advised by the financial advisers at home that it was wise to raise any given sum of £3,500,000 or £4,500,000. The opinion we have at present is that it would be unwise to raise at the present time more than £2,500,000, but that opinion, of course, is liable to variation and will probably be varied right up to the time they decide to go on the market.

With regard to the matter of the two railways, I think that has already been explained. There is provision for one in the Schedule, but for the other two there is no provision. They have not yet been finally approved, but it in no way affects the matter that they are not included in this Bill; it in no way affects the construction being commenced. As soon as they are approved there will be monies available. I am speaking now of actual cash. On the raising of a loan there will be monies available; the Treasury is not entirely without reserves which can be used temporarily. The accounts are the same. The cash may be used once it is approved by this Council and the Secretary of State. Moreover, there is no reason to suppose that the Crown Agents, when we have raised this Loan, will immediately close down all advances. In fact, there is no need to. They will continue to give advances if we want them to. I can assure hon. Members there is nothing at all in the financial position which will prevent the construction of these two lines immediately; the necessary approvals have been received from this Government and the Secretary of State.

In regard to the point made by the hon. Indian Member, I would refer him to the October Loan Statement together with the statement which was handed round yesterday. They contain the whole of the proposals included in this Loan in detail.

HIS EXCELLENCY: Before I put the question I should like to make it very clear, in view of the questions asked by hon. Members, that in this matter we are acting absolutely after the best advice obtained from home as to the state of the market. I should like to reinforce what the Treasurer has said that the Secretary of State and his advisers consider that the amount shown in the Schedule is the amount which should stand, the maximum amount which should stand at the moment, and that, as stated by him, it is a question whether or not market conditions will make it desirable to float the whole of that figure or approve a smaller figure, but as hon.

Members know market conditions fluctuate from time to time and the action now taken has only been done after the very closest consideration.

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

The question was put and carried.

THE HON. THE TREASURER: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council to consider the Bill clause by clause.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

The question was put and carried.

The Council went into Committee.

In Committee.

THE SPECIFIC LOAN BILL.

The Bill was considered clause by clause.

THE HON. THE TREASURER: Your Excellency, I beg to move that the Bill be reported to Council as having passed the Committee stage without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill to Make Provision for the Raising as a Loan of Three Million Three Hundred and Sixty-four Thousand Eight Hundred and Fifty-two Pounds Sterling for the Construction of certain Public Works and Other Purposes has been considered in Committee of the whole Council and reported without amendment.

THIRD READING.

THE SPECIFIC LOAN BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move that a Bill to Make Provision for the Raising of a Loan of Three Million Three Hundred and Sixty-four Thousand Eight Hundred and Fifty-two Pounds Sterling for the Construction of certain Public Works and Other Purposes be read a third time and passed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

28th November, 1930

MOTION.

TREASURY BILLS.

THE HON. THE TREASURER: Your Excellency, I beg to move:—

That pursuant to the provisions of section 2 of Colonial Treasury Bills Ordinance, 1923 (Chapter 49 of the Revised Laws of Kenya) this Council hereby authorizes His Excellency the Acting Governor to request the Crown Agents for the Colonies to borrow by the issue in London of Kenya Treasury Bills a sum not exceeding in the aggregate £3,364,852 to be applied to the services scheduled below and the said Crown Agents are hereby authorized out of the proceeds of a further Loan or Loans to be raised for these services, immediately on flotation, to repay any Bills so issued.

And be it further resolved that the borrowing powers authorized under the resolutions dated the 22nd December, 1926, and 21st December, 1928, be hereby rescinded, and that the Treasury Bills already issued thereunder be included in the authority now conveyed.

SCHEDULE.

Colonial Development—	£	£
Public Buildings	...	1,275,318
Loans to Local Authorities	...	250,578
Water Supplies	...	225,800
Communications	...	240,275
Land Bank	...	240,000
		2,231,971

Railways and Harbours—

Railways:	
Branch Lines	... 913,000
Rolling Stock	... 25,000

Port:

Construction of Quays and Oil Jetty	... 695,339
Port Improvements	... 99,542
	1,192,881
	£3,364,852."

I think hon. Members are fully acquainted with the need for this motion. It is a matter of flexibility in financial operations. It conveys no additional authority over that contained in the Bill but it is advisable that the Crown Agents have an alternative method of raising monies temporarily.

The usual procedure is that Colonies having large surplus balances fund them in what is known as the Joint Colonial Fund which is managed by the Crown Agents, and from that fund Colonies such as Kenya needing to borrow in advance of the raising of loans get their money through the Crown Agents. It has proved an extremely useful and extremely economic way of financing Governments temporarily. I think that I have already mentioned that the Crown Agents have at the moment borrowed £1,400,000 until February next but the provisions of this motion which is necessary would also ease the provision of additional funds after the Loan is raised if we need them for such things as those additional branch railway lines. If the Joint Colonial Fund is still depleted owing to the general depression they will be able to raise money by Treasury Bills temporarily if needed to help with any urgent works we may wish to undertake.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is in terms of the motion.

The question was put and carried.

BILL.

FIRST READING.

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Local Government (Municipalities) (Amendment) Bill was read a first time.

SECOND READING.

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Local Government (Municipalities) Ordinance, 1928, be read a second time.

This is an urgent matter, Sir, but fortunately in view of the state of the time an extremely short and simple matter. The unfortunate growth of unemployment in the Colony has led to certain measures being taken by the Municipality in aid of the unemployed. The nature of those Municipal activities is, I am quite sure, too well known to every Member of this Council to call for any explanation from myself, but the awkward position that has arisen, Sir, is that as the law now stands any contribution made, whether directly or

indirectly, in aid of unemployment by the Municipality is made without any statutory authority. It is obvious that the Municipality, if they are in a position to make contributions towards unemployment relief, should be encouraged to do so. It is equally obvious that that encouragement should not be a deliberate incentive to the breaking of the law, and so it is proposed to add to the powers of a Municipal Council or Municipal Board under that Ordinance the power to make contributions to committees or other bodies of persons established for the relief of unemployment or of necessitous persons. The Bill provides also, Sir, that that statutory authority should come into effect on the 1st September this year, a date very shortly preceding the date on which this assistance to unemployment was first made by the Municipality.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council to consider the provisions of the Local Government (Municipalities) (Amendment) Bill clause by clause.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

Council went into Committee.

In Committee.

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.
The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Local Government (Municipalities) (Amendment) Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: Order, order. I have to report that a Bill to Amend the Local Government (Municipalities) Ordinance, 1928, has been considered in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Local Government (Municipalities) (Amendment) Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE CO-OPERATIVE SOCIETIES BILL.

HIS EXCELLENCY: I think it would probably meet the convenience of Members if we adjourn now till to-morrow morning to finish off a few outstanding items on the Order Paper. Before we adjourn, however, I should like to make the announcement that I understand the Co-operative Societies Bill is now in draft and that the Attorney General will be very ready to get on with it if meetings can be arranged between all the parties interested to discuss the form of the draft. I understand that Elected Members were anxious that a statement to this effect should be made and the Attorney General, I know, will do all he can to meet those interested in the matter.

*Council adjourned to 10 a.m. on Saturday,
29th November, 1930.*

SATURDAY, 29th NOVEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, 29th November, 1930, His Excellency the Acting Governor (MR. HENRY MONCK-MASON MOORS, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 28th November, 1930, were confirmed.

ORAL ANSWERS TO QUESTIONS.

ECONOMIC UTILISATION OF FOREST AREAS.

CAPT. THE HON. E. M. V. KENEALY asked:

Whether Government is yet in a position to state its intentions regarding the motion by the hon. Member for the Lako on the subject of the greater economic utilisation of forest areas?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): It is proposed that the resumption of the debate on this subject should await publication of the Report of the Forest Adviser, which is being printed.

CAPT. THE HON. E. M. V. KENEALY: Arising out of that answer, is the resumption of the debate to be on the original motion or on the amended motion, which embraced the original motion at a later stage?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I do not know exactly which was the original motion and which was the amended motion.

HIS EXCELLENCY: Would you like notice of the question?

CAPT. THE HON. E. M. V. KENEALY: Could I be informed in writing, as we shall be adjourning to-day?

HIS EXCELLENCY: Yes.

COST TO COLONY OF MARRIED OFFICER.

THE HON. CONWAY HARVEY (in the absence of Lieut.-Col. the Hon. Lord Francis Scott) asked:

A. The total annual cost to the Colony of a married Officer drawing—

- (i) £500 per annum; (ii) £920 per annum; including
 (a) Salary.
 (b) House Allowance.
 (c) Proportion of passage for himself and wife.
 (d) Medical and Dental attention.
 (e) Pension.
 (f) Any other charges.

B. How many of the above charges are contractual?

THE HON. THE TREASURER (MR. H. H. RUSHTON):

A: It is impossible to calculate with any exactitude the actual cost to Government of a married officer, but the following may be taken as a reasonably close estimate:—

(i) The total annual cost to the Colony of a married Officer drawing £500 per annum is approximately £743, made up as follows:—

(a) Salary	500
(b) House Allowance	75
(c) Proportion of passage for himself and wife (based on a normal tour and including family passage allowance)	64
(d) Medical and Dental attention	13
(e) Pension (assuming that the officer completes a minimum period of ten years' service and that his post is pensionable)	86
(f) Any other charges	5
Total	£743

(ii) The total annual cost to the Colony of a married Officer drawing £920 per annum is approximately £1,296, made up as follows:—

(a) Salary	920
(b) House Allowance	126
(c) Proportion of passage for himself and wife (based on a normal tour and including family passage allowance)	75
(d) Medical and Dental attention	13
(e) Pension (assuming that the officer completes a minimum period of ten years' service and that his post is pensionable)	157
(f) Any other charges	5
Total	£1,296

B. Of these items, Salary, Passages and Pension are contractual. The item for House Allowances is partly contractual, the contract providing for Government Quarters free of rent or when such quarters are not available, a hut or other temporary shelter; in certain cases an allowance in lieu of quarters is granted at the discretion of the Government. As regards the item for Medical and Dental attention an officer when in Kenya is entitled to free medical attendance; the estimate of £13 for this item must be regarded as a very rough approximation. Under the item Any Other Charges, a sum of £5 has been allowed to cover the cost of services rendered by the Government Coast Agent and the Transport Officer in charge with an officer's baggage, and also to cover such occasional expenditure as additional luggage allowance on the Railway, etc.

NATIVE POLICY.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, may I be allowed to give notice of a further question which, owing to a clerical error for which I am entirely to blame, did not reach the Clerk yesterday:—

"Will Government be pleased to lay on the Table a copy of Your Excellency's despatch on the subject of amendments which would be required in existing legislation to bring it into conformity with the policy laid down in the Memorandum on Native Policy."

If I may be given a written answer, Sir, at the convenience of Government—the sooner the better—I shall be glad.

HIS EXCELLENCY: Yes.

MOTION.

REPORT OF SELECT COMMITTEE ON THE SHIPPING BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move that the report of the Select Committee appointed to consider and report on the provisions of a Bill to make provision with respect to Merchant Shipping and matters relating thereto be adopted.

Hon. Members will see that the Report in question is of a refreshingly short and simple nature. It suggests the enactment of this measure without amendment. I shall, therefore, content myself with formally moving it.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

The question was put and carried.

BILL.**THIRD READING.****THE SHIPPING BILL.**

THE HON. THE ATTORNEY GENERAL: I beg to move that the Shipping Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

MOTION.**REPORT OF SELECT COMMITTEE ON THE LIQUOR AMENDMENT BILL.**

THE HON. THE ATTORNEY GENERAL: I beg to move that the Report of the Select Committee of this Council appointed to consider and report on the provisions of a Bill to amend the Liquor Ordinance be adopted.

Hon. Members will recollect that, although the Bill in question is a mere two-clause Bill, it was referred to a Select Committee in order that the interests concerned might have an opportunity of making representations, either orally or in writing, to the Select Committee. Notices were duly sent to the Press, both here and in Mombasa. The Committee met and there were no representations, oral or written. The Committee has therefore recommended, Sir, that the Bill be enacted, as printed, without amendment.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

BILL.**THIRD READING.****THE LIQUOR (AMENDMENT) BILL.**

THE HON. THE ATTORNEY GENERAL: I beg to move that the Liquor (Amendment) Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

MOTION.**REPORT OF THE SELECT COMMITTEE ON THE NORTHERN FRONTIER POLL TAX BILL.**

THE HON. THE ATTORNEY GENERAL: I beg to move that the Report of the Select Committee of this Council appointed to consider and report on the provisions of a Bill to make provision for the payment of a Poll Tax in the Northern Frontier Province be adopted.

Here again, Sir, there is little or nothing for me to draw attention to. The recommendation of the Committee, Sir, is that there be no change in the Bill as printed but that there be added to the Bill a section of the legislation relating to Native Tribunals which was read a third time and passed at the July Session of this Council, a clause providing that this new legislation remain in force for three years until the 31st day of December, 1933, unless by resolution of the Legislative Council it is continued in force until a later date.

Hon. Members will appreciate that this, being a revenue measure, is one which must of necessity come under consideration each year when the Budget is under review, and it will then, when the Budget for 1934 falls to be settled, Sir, be a matter for consideration whether the legislation in its present form is to be continued, in which event all that will be required will be a resolution of this Council as to whether or not it shall expire. I beg to move the adoption of that Report.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

BILLS.**THIRD READINGS.****THE COLLECTIVE PUNISHMENT BILL.**

THE HON. THE ATTORNEY GENERAL: I beg to move that the Collective Punishment Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE NORTHERN FRONTIER POLL TAX BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Northern Frontier Poll Tax Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

SECOND READINGS.

THE FRAUDULENT TRANSFER OF BUSINESSES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to prevent certain Fraudulent Transfers of Businesses be read a second time.

There is no more common and certainly annoying experience for a creditor than to find that after having taken out judgment or after the debtor has filed his petition, he is informed that the whole business to which he looked for the payment of his just claims has unfortunately been retransferred, in many cases whole-heartedly, the transfer embracing even book debts, to someone who has left the Colony, subsequent to the transfer but before any steps can be taken to check the accuracy or consideration of the transfer by enforcing his personal appearance before a court of justice in this Colony. It is a very common experience indeed. I speak with every certainty that the hon. Member for Nairobi South will support what I am saying in this connexion. It is extremely common; it is a deliberate piece of fraud in a very large number of cases, and so, Sir, this Bill provides that where a business to which creditors naturally look for security for the sums of money which they have advanced or the goods they have supplied on credit it should be obligatory on the owner of that business to advertise that he is transferring it, stating his name, the place of business, the name of the transferee, and that that transfer should not be effective until a certain time shall elapse, that time being sufficient to enable the creditors of the transferor to be aware of the transfer and to take such action for the protection of their interests as they think best.

Nothing in the legislation can in any way prejudice any honest transfer, but it will, I think, Sir, go a considerable way towards stopping the dishonest transfer of businesses.

The measure has received the support, not only of the Law Society of Kenya and the Law Society of Mombasa, but also of the Nairobi Chamber of Commerce and the Association of Chambers of Commerce of Eastern Africa. It is aimed only at the fraudulent transfers and I repeat that it cannot in any way place any obstacle in the way of honest merchants who desire to transfer their businesses.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second the motion, and in so doing I merely wish to say that this Bill will be of enormous assistance to the commercial communities throughout the Colony. I would just like to say that on two previous occasions in recent years the commercial community has made representations that such a Bill should be introduced. On each former occasion, they were informed by the then Law Officers of the Crown that it was quite impossible and impracticable to introduce such a measure. It is therefore deeply welcomed and I trust that every Member of this House will support it.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency...

HIS EXCELLENCY: Just let me put the question first. The question is that a Bill to prevent certain fraudulent transfers of businesses be read a second time.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the measure is welcomed.

The question was put and carried.

THE BROKERS' BILL.

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

It is unnecessary for me, Sir, in view of what I said a few days ago on the motion for the adoption of the Report of the Select Committee, to take up the time of the Council. I shall therefore content myself with formally moving it.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Dangerous Petroleum Tax Ordinance be read a second time.

This short measure, Sir, is designed to give a very natural and obvious measure of relief to Imperial Airways Limited in respect of the through flight from Alexandria to Cape Town to which this Government is contributing and which we all hope to see start in the not too remote future. Hon. Members are aware that there is a local excise tax in the Colony on dangerous petroleum and as the legislation now stands it would be obligatory on the Company if fuelling at Kisumu, which is a change-over station and a station at which naturally and

inevitably there will be a considerable amount of fuelling, it will be necessary in that event for the Company to pay tax on all fuel which they take, even though quite obviously the great bulk of that fuel is going to be consumed over territories other than the Colony. It is therefore proposed, Sir, to exempt the Company from the payment of that tax in respect of such fuel as they use outside the boundaries of the Colony. I would suggest to hon. Members that the alternative might be very much more dangerous, that unless this measure of relief is given it might be quite attractive for the Company to arrange to fuel either in Uganda on the one side or in Tanganyika Territory on the other side. That would be a much more damaging and dangerous thing for this Colony than this small measure of relief.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I do not wish to take up the time of the House but I wish to draw attention to an agreement which was reached between the Elected Members and the Government some years ago whereby it was definitely agreed that all Bills, in addition to the Objects and Reasons, should have a note at the end showing the financial effect of such Bills. It is very important and I do trust that in future Bills will have a note of the financial effect as promised.

THE HON. THE ATTORNEY GENERAL: I am aware of the agreement, Sir; in fact it is embodied in the Standing Rules and Orders, but I would suggest it is extremely difficult to give anything like a final figure in a matter of this sort in respect of a service which has not yet begun to operate and about which we have nothing but purely hypothetical information as to the quantity of dangerous petroleum which they are likely to require at any time.

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

The question was put and carried.

THE KEROSENE OIL (REPAYMENT OF DUTY) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to make Provision for the Repayment of Duty paid on Kerosene Oil used solely for Agricultural Purposes be read a second time.

It was as recently as early in 1928—Ordinance No. I of 1928—that this measure of relief was given to farmers in the Colony, but attention has been drawn, Sir, in the recent Wade-Mayer Report, to the irksomeness of the methods of repayment, the preliminaries to repayment, embodied in that Bill, both from the point of view of the farmer and from the point of view of the administrative officer. For some reason which I do not understand and do not propose to endeavour to explain, it was an essential pre-requisite under that Ordinance that every applicant for a refund should personally make his way to the nearest District Officer and should obtain from him a certificate stating that he, the farmer, was the owner and user of certain tractors. In most cases, quite obviously, the District Officer had not the faintest idea whether that was so or not, and therefore in the case of the punctilious and scrupulous District Officer it might lead to an impasse, and in the case of the other District Officer the certificate is valueless. But it did entail on the farmer at least one visit to the district office, and possible several visits. It is now proposed, Sir, to abolish that form entirely and embody the provision about tractors in a statutory declaration. The effect of that, of course, is obvious, that it will now be for the farmer himself to swear in a statutory declaration that he is in fact the owner and user of those tractors, and that the imported oil in question has been used solely for the purposes of those tractors which are used in agriculture.

The Bill as printed and in the hands of hon. Members is not quite clear on one point, Sir. The claims have to be made to the Treasury in respect of each quarter of the year and have to be made within one month of the expiry of that period. That provision clearly, Sir, is for the convenience of the Treasury and cannot, I think, place any undue burden on any farmer using tractors, but the Bill as printed does seem to indicate that the imported oil in question has both to be purchased and used within a period of three months. That, of course, is frequently quite impossible. Purchases may have to be made late in March, and part of the oil is used in that month and part is not. So, Sir, I propose in the committee stage to move amendments making it clear that the repayments are in respect of oil used within a certain period and that the time at which it was purchased is quite immaterial so far as the statutory declaration does embody the statement that the oil was in fact purchased and that duty has been paid on it and that within a certain period it has been used purely for agricultural purposes.

I propose also, Sir, in the committee stage to move an amendment to clause 3 (2) to permit of Commissioners for Oaths as well as Magistrates and Justices of the Peace taking

the statutory declaration. That is in consonance with the policy of making things as easy for those who have to claim this repayment as possible. There may be a Commissioner for Oaths close at hand and there may not be a Magistrate or a Justice of the Peace within a reasonable distance.

Finally, Sir, in clause 1 my attention has been drawn to the fact that the provisions of that clause will in fact involve a fee of Sh. 4—Sh. 2 for stamp duty and Sh. 2 for court fees on the statutory declaration. The existing legislation provides for a payment of Sh. 2 and Sh. 2 only; that will be achieved, Sir, if for clause 1 we read: "No stamp duty shall be chargeable." There will then remain the Sh. 2 court fee and the position will be as it is at this moment under the existing legislation.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

The question was put and carried.

THE LAKES AND RIVERS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Regulate Dredging and the Use of Steam Vessels on Lakes and Rivers be read a second time.

The Colony has had on its Statute Book for a considerable number of years a measure known as the Rivers Ordinance. The Bill now before hon. Members is a re-enactment of the Rivers Ordinance with additional provisions in respect of lakes, and it is to those provisions only I apprehend that I need address myself, Sir. It is the only change in the existing legislation which is made. The object of the legislation is to permit of the regulation, and if necessary the prohibition, of the use of motor boats, at the moment on Lake Naivasha, and possibly hereafter on other lakes. Hon. Members are aware that recently Lake Naivasha has been stocked with fish and Government is advised that the use of speed boats, the indiscriminate use of very fast speed boats, is certainly not in the best interests of the fishing industry which very shortly will be an important feature of the Naivasha district, and is incidentally not in the interests either of the bird or the animal life in the lake. So, Sir, this Bill is introduced, the sole changes being, as I have already stated, that the word "lake" is inserted alongside the word "river" wherever it reasonably and properly can be inserted; that there is a new

schedule of lakes which includes only at the moment Lake Naivasha but can be extended; should circumstances warrant such extension; and that the rule-making power now includes power to prohibit the use on any lake or river of steam vessels or of any particular description of steam vessels and for regulating the traffic on any lake or river and for protecting the bird or animal life on or in any lake or river.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

The question was put and carried.

THE LAND SURVEYORS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Land Surveyors Ordinance be read a second time.

This is a short and, as hon. Members will see, entirely an amending measure, the chief object for the amendment being that section 8 of the existing legislation has been proved not only to be deficient in one respect which I shall endeavour to explain in a moment but to import penal provisions without prescribing any penalty for the breach of them. The practical difficulty that has been experienced, Sir, is that there is nothing in the existing legislation to prohibit the replacement of missing boundary marks by unauthorized surveyors, by persons other than licensed surveyors. The result, of course, is twofold. An unqualified person purports to make a survey and replaces the boundary mark, using the official form of boundary mark. The work is inaccurate and no field notes have got to be submitted to the Surveyor General's office so that the replacements may be checked. Obviously, if the practice is allowed to continue, Sir, many of the boundaries of the Colony which are of paramount importance under the existing registration system of the Colony may within a few years become quite incorrect. Not only will the boundaries of the property which purports to have been surveyed be wrong but new boundaries may be put on what is a quite inaccurate beacon.

The other amendments, Sir, are merely formal. Section 10 of the existing legislation permits of a person who has a degree in engineering to become a surveyor. There is no qualification of "engineering". It may be civil engineering,

it may be mechanical or electrical engineering with no knowledge of surveying. "Engineering" does not necessarily connote the qualifications or ability accurately to perform a survey, and so it is proposed that engineering should be altered to civil engineering only, and that a graduate of a recognized university with a degree in civil engineering should still have to submit proof that he has done practical surveying work, both the office work and field work of a qualified surveyor.

The amendments to the Schedule in clause 5, Sir, are merely consequential on the amendment that I have just mentioned.

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

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I have just one question. This prevents the registration of plans in the future which are not authenticated, but, Sir, how is the public protected against such plans as may already be in existence? I should like a statement from the hon. the Attorney General in that regard.

THE HON. THE ATTORNEY GENERAL: I am afraid it is a very difficult question to answer, Sir. If the Government were aware that a survey had been made on any property by an unqualified surveyor, an unauthorized person, then I am sure Government would take steps to check it up, but there may be cases, Sir, where we are in complete ignorance that anything of the sort has been done. In those cases I do not think anything could be done except a complete re-survey of all the titles, and I am quite sure that the hon. Member is not going to press for that.

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

The question was put and carried.

THE TRAFFIC AMENDMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the Traffic Ordinance be read a second time.

This is the type of Bill, Sir, on which no one can make a speech. It consists solely of a number of quite unrelated amendments, purely traffic amendments in the sense that they are for the better government and control of traffic on the roads. They embody practical points of difficulty which have been experienced by the police in their endeavour adequately to control traffic and I propose, Sir, at this stage, merely to move the second reading formally and if points arise, Sir—if hon. Members will bring up the specific points on which they would welcome information I shall do my best to give that information when I reply.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that a Bill to Amend the Traffic Ordinance be read a second time.

CAPT. THE HON. H. F. WARD: Your Excellency, I personally do not quarrel with the provisions of this amending Ordinance, but I do think it is the duty of a town Member to contend that it is not very much use amending legislation which is so completely ignored in some of its aspects as is the Traffic Ordinance. I refer specially to the speeding of lorries and draw the attention of Members who live in Nairobi to the desirability of that provision in the town. It is not much good our going on amending legislation unless Government are determined to put that legislation into effective control.

THE HON. CONWAY HARVEY: Your Excellency, we have no objection in principle to this amending Bill but I do suggest, Sir, for the consideration of Government that the matter be referred to a Select Committee. Elected Members have been so snowed under with a mass of work during the last six weeks that they have not had an opportunity of going into these amendments and ascertaining precisely what their full implication is and we think it would be very much better if that detailed analysis were made by a small Select Committee and I think that would tend to accelerate the passage of this Bill.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I should like to support the appeal of the hon. Member for the Lake. It does not mean any more delay. The Shipping Bill would have taken a very much longer time if it had not gone to a Select Committee and there is no real urgency so long as it passes before the end of the year.

HIS EXCELLENCY : I will put the question. The question is that a Bill to Amend the Traffic Ordinance be read a second time.

The question was put and carried.

HIS EXCELLENCY : I will agree to the suggestion that this Bill goes to a Select Committee and I will announce the composition of that Committee later.

THE ARCHITECTS AND QUANTITY SURVEYORS BILL.

THE HON. THE ATTORNEY GENERAL : The next item on the Order Paper, Sir, is the second reading of the Architects and Quantity Surveyors Bill. Hon. Members will appreciate that though this legislation is introduced as a public measure it is, to a very large extent, in the nature of a private Bill, and therefore it is essentially a matter which Government ought to regard, and does regard, as one of primary importance. Government understands, Sir, that hon. Members opposite are practically unanimous in their opposition to the provisions of the Bill as printed and in the hands of hon. Members. I understand, Sir, that members of the East African Institute of Architects recently met Elected Members on this subject and that certain amendments were proposed which, I think, went some way towards allaying suspicions and removing the difficulties in the minds of Elected Members. But I understand also, Sir, that Elected Members felt not unreasonably that these amendments are so far-reaching that it would be improper to take them in the committee stage of the Bill as printed. They practically reconstruct the three most contentious and difficult clauses of the Bill and they think that the Bill should be reprinted with these amendments so as to give the public an opportunity of expressing an opinion on the Bill in the form in which it will be ultimately introduced. In view of this consideration, Sir, I have Your Excellency's authority for saying that the Bill will not be further proceeded with at present.

CAPT. THE HON. H. E. SCHWARTZ : May I ask on that statement whether it is proposed to introduce the Bill in its amended form next time this Council meets or is it going to be put off until after the next election? I do want it at least to be introduced for second reading if it can be done. It is a perfectly harmless Bill as amended.

THE HON. THE ATTORNEY GENERAL : There should be time to publish the Bill with amendments but I am not prepared to say that the amendments suggested by the Institute of Architects necessarily cure the worst of opposition to the Bill in its present form. There may be

further amendments, but if it is the wish of Council I can have the Bill reprinted. The statutory fourteen days after publication can take place, Sir. We are only in November now.

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : In this case also, Sir, I would ask leave to further postpone the debate on the second reading of this Bill. I undertook to prepare certain amendments and to consult with the hon. Member for Nairobi South. That undertaking I have not been able yet fully to implement. I ask therefore that further consideration now stand over until Council sits again.

HIS EXCELLENCY : Further consideration of the Bill is postponed.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that this Council go into Committee of the whole Council for consideration clause by clause of the following Bills :—

- The Fraudulent Transfer of Businesses Bill;
- The Brokers Bill;
- The Dangerous Petroleum Tax (Amendment) Bill;
- The Kerosene Oil (Repayment of Duty) Bill;
- The Lakes and Rivers Bill; and
- The Land Surveyors (Amendment) Bill.

THE HON. T. D. H. BRUCE : Your Excellency, I beg to second the motion.

The question was put and carried.

The Council went into Committee.

In Committee.

THE FRAUDULENT TRANSFER OF BUSINESSES BILL.
The Bill was considered clause by clause.

THE BROKERS BILL.
The Bill was considered clause by clause.
Clause 2.—Books of account to be kept by licensees.

THE HON. A. H. MALIK : Your Excellency, the Report of the Select Committee was adopted on the 24th November. On a point of order I should like to know whether the motion that the Report of the Select Committee be adopted includes the minority report also, Sir—it should do.

THE HON. THE ATTORNEY GENERAL : The minority report is an essential part of the Bill here, Sir, and the point of difference between the hon. the Indian Member and the other members of the Committee was the point to which I specifically directed myself in my speech on the motion for the adoption of the Report.

THE HON. A. H. MALIK: Your Excellency, I beg to move that this proviso to clause 9 be deleted.

HIS EXCELLENCY: The amendment has been moved that the proviso to clause 9 (1) as it appears in the Bill be deleted—line 45.

The question was put and lost.

THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE KEROSENE OIL (REPAYMENT OF DUTY) BILL.

The Bill was considered clause by clause.

Clause 2.—Repayment in respect of kerosene oil used for agricultural purposes.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in line 6 I move that the word "purpose" be substituted for the word "purposes".

The question was put and carried.

Clause 3.—Time and procedure for obtaining repayment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that in sub-clause (1) of this clause in the third line the words "purchases of" be deleted, and that there be substituted for the word "made" the word "used".

CAPT. THE HON. E. M. V. KENYALU: Your Excellency, this is a point which does require further consideration, Sir, because after all the intention is to use it and it will confuse the issue if the claim is only made in respect of the stuff which has actually been used in the past. It will be rather difficult to ascertain exactly what the amount has been.

THE HON. THE ATTORNEY GENERAL: It is the one essential feature of the legislation, Sir, that the statutory declaration should say: "I have used this purely for agricultural purposes." Repayment cannot be diverted to other purposes than purely agricultural ones.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in sub-clause (2) I beg to move the following amendments: that the word "purchaser" at the end of the first line be deleted and the word "user" substituted therefor; in the last line that there be a comma inserted after the word "magistrate"; "a" be substituted for "or"; and at the end of the sub-clause the words "or a commissioner for oaths" be inserted.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: In sub-clause (3), Sir, I beg to move the following amendments: that the word "purchaser" be deleted where it occurs in the first line and in the fourth line of the sub-clause, and that in each case the word "user" be substituted.

The question was put and carried.

Clause 4.—Stamp Duty.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this clause be amended by deleting the words "A stamp duty of two shillings" and by substituting therefor the words "No stamp duty". The effect will then be to make an all-in charge of two shillings as at present.

The question was put and carried.

Schedule.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Schedule be amended by deleting the words "purchased and" in the last line and last line but one at the bottom of the page

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and by inserting in the first line on the second page of the Schedule as amended after the word "oil" the words "which was purchased by me".

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, will it not be necessary to put the words "Commissioner for Oaths" at the bottom after the words "Justice of the Peace" at the end of the Schedule?

THE HON. THE ATTORNEY GENERAL: I am indebted to the hon. Member for that. I beg to move, Sir.

The question was put and carried.

THE LAKES AND RIVERS BILL.

The Bill was considered clause by clause.

Clause 2.—Interpretation.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that there be inserted in this interpretation clause the following definition:—

"Dredging" means the removal from the bed or banks of any river or lake by any mechanical appliance (other than hand tools) of stones, or any admixture of these materials."

The question was put and carried.

Clause 11.—Rules.

CAPT. THE HON. E. M. V. KENYALU: Your Excellency, merely, Sir, in 11 (c), for protecting bird life—I hope, Sir, that the requirements of agriculture need be considered in this regard. If it is necessary, Sir, to destroy all bird life to attain a better position agriculturally I think the requirements of the protection of bird life on the lake. I think that should be stated as being so, Sir.

THE HON. THE ATTORNEY GENERAL: I am prepared to give the hon. Member the assurance that if we find it necessary to destroy bird life on Lake Naivasha we will not seek to do it by using poison.

THE HON. CONWAY HARVEY: Your Excellency, may I suggest to the hon. and gallant Member the very great danger which follows any interference with nature in this connection. Since people started shooting hawks it has become quite impossible to grow wheat in some districts in the Colony, and there are dozens of other instances, Sir.

THE LAND SURVEYORS (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Repeal and replacement of section 8 of the Principal Ordinance. Unqualified persons forbidden to survey.

CAPT. THE HON. H. F. WARD: Your Excellency, I cannot understand the reason for the amendment in section 8 (b) by the addition of (b). The point I am not clear about is that it is still intended to retain (a). The question I should like to ask is this: how can any plan or attachment to a conveyance, etc., be registered under any registration of lands Ordinance, how can it be passed by the Registrar General, unless that plan was surcharged by the authorities, by the Surveyor General?

THE HON. THE ATTORNEY GENERAL: It is, I think, unlikely that it would be, Sir, but I would remind the hon. Member that this is the existing law that he is now challenging, the provisions of the existing section 8 of the Ordinance; but if there is any possibility of it, Sir, it is conceivable that someone might sign himself as a surveyor and might even go the length of putting some hieroglyphic

in the corner purporting to indicate that the Surveyor General's office had passed the plan. If we can evolve any additional safeguard against the fraudulent registration of bad plans I do not think it is unreasonable that we should do so. That is the law as it now stands, Sir.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that:—

- The Fraudulent Transfer of Businesses Bill;
- The Brokers Bill;
- The Dangerous Petroleum Tax (Amendment) Bill;
- The Land Surveyors (Amendment) Bill;

be reported to Council without amendment, and that:—

- The Kerosene (Repayment of Duty) Bill;
- The Lakes and Rivers Bill;

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:—

- The Fraudulent Transfer of Businesses Bill;
- The Brokers Bill;
- The Dangerous Petroleum Tax (Amendment) Bill;
- The Land Surveyors (Amendment) Bill;

have been considered in Committee of the whole Council and reported without amendment; that:—

- The Kerosene Oil (Repayment of Duty) Bill;
- The Lakes and Rivers Bill;

have been similarly considered and reported to Council with amendment.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that:

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- The Dangerous Petroleum Tax (Amendment) Bill;
- The Kerosene Oil (Repayment of Duty) Bill;
- The Lakes and Rivers Bill;
- The Land Surveyors (Amendment) Bill;

be each read a third time and passed.

• THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bills were read a third time and passed.

APPOINTMENT OF SELECT COMMITTEES.

THE TOWN PLANNING BILL.

HIS EXCELLENCY: I have to announce that I have appointed for the Town Planning Bill Select Committee the hon. Member for Nairobi South in place of the hon. Member for the Rift Valley, who will be vacating his seat on the arrival of the substantive Member for that constituency.

THE TRAFFIC (AMENDMENT) BILL.

HIS EXCELLENCY: I have also to announce the composition of the following Select Committee on the Traffic (Amendment) Bill:—

- The Hon. the Attorney General (Chairman).
- The Hon. the Commissioner for Local Government, Lands and Settlement.
- The Hon. the Director of Public Works.
- The Hon. the Solicitor General.
- The Hon. Elected Member for Nairobi South.
- The Hon. Elected Member for West Kenya.
- The Hon. the Elected Member for the Coast.

The Council adjourned *sine die*.

in the corner purporting to indicate that the Surveyor General's office had passed the plan. If we can evolve any additional safeguard against the fraudulent registration of bad plans I do not think it is unreasonable that we should do so. That is the law as it now stands, Sir.

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The Lakes and Rivers Bill;

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The question was put and carried.

Council resumed its sitting.

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THIRD READINGS.

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The Brokers Bill;

The Dangerous Petroleum Tax (Amendment) Bill;

The Kerosene Oil (Repayment of Duty) Bill;

The Lakes and Rivers Bill;

The Land Surveyors (Amendment) Bill;

be each read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bills were read a third time and passed.

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HIS EXCELLENCY: I have to announce that I have appointed for the Town Planning Bill Select Committee the hon. Member for Nairobi South in place of the hon. Member for the Rift Valley, who will be vacating his seat on the arrival of the substantive Member for that constituency.

THE TRAFFIC (AMENDMENT) BILL.

HIS EXCELLENCY: I have also to announce the composition of the following Select Committee on the Traffic (Amendment) Bill:—

The Hon. the Attorney General (Chairman).

The Hon. the Commissioner for Local Government, Lands and Settlement.

The Hon. the Director of Public Works.

The Hon. the Solicitor General.

The Hon. Elected Member for Nairobi South.

The Hon. Elected Member for West Kenya.

The Hon. the Elected Member for the Coast.

The Council adjourned *sine die*.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES,
1930.

FOURTH SESSION.

MONDAY, 29th DECEMBER, 1930.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Monday, the 29th December, 1930, His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORE, C.M.G.), 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:—

THE RT. HON. HUGH CHOLMONDELEY, LORD DELAMERE,
K.C.M.G., Elected Member for the Rift Valley.

REV. CANON GEORGE BURNS, O.B.E., Temporary Nominated
Member representing the interests of the African
Community.

MINUTES.

The Minutes of the meeting of the 29th November, 1930, were confirmed subject to the insertion of the words: "The Minutes of the meeting of the 28th November, 1930, were confirmed."

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

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

Report of Select Committee on the Traffic (Amendment) Bill.

Report of Select Committee on the Police Bill.

Report of Select Committee on the Mining Bill.

Report of Select Committee on the Townships Bill.

By THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES):—

Annual Report of the Public Works Department, 1929.

NOTICES OF MOTION.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to give notice that I propose to move the adoption of the Reports of the Select Committees on the Traffic (Amendment) Bill, the Townships Bill, the Mining Bill and the Police Bill; and further, that on the motion for the third reading of the Police Bill I propose to move the recommitment of the Bill for the consideration of a small amendment to clause 21 which deals with exemption from hut and poll tax in the case of police officers, limiting that exemption to African subordinate officers who are enlisted before the 1st April, 1931. The exact terms of the amendment, Sir, will appear in the Order Paper for to-morrow.

MOTION.

TRIAL BY JURY.

THE HON. A. H. MALIK: I seek the permission of Your Excellency and that of the House to postpone this motion to a later stage of the present Session.

HIS EXCELLENCY: The motion is by leave postponed.

BILLS.

SECOND READINGS.

THE EDUCATION BILL.

HIS EXCELLENCY: The Director of Education has moved that a Bill to make Provision for Education throughout the Colony and Protectorate be read a second time; the Attorney General has seconded; and the debate has been adjourned.

20th December, 1930

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THE HON. THE ATTORNEY GENERAL: Your Excellency, in normal circumstances my intervention in the debate at this stage would have savoured and rightly have been construed as an impertinence. The most admirable exposition of the principles embodied in this legislation which we all listened to with such interest from the hon. the Director of Education would in itself have been sufficient foundation for a motion for the second reading of this measure but, Sir, the circumstances to-day are hardly normal inasmuch as, firstly it is a month ago—to be exact it was on the 26th November last—that the Director of Education moved the second reading of this measure, and secondly, Sir, on that occasion three hon. Members of this Council, each of whom is very interested in the subject of education, were absent from this House. Therefore, Sir, I would ask the leave of the Council very briefly to recapitulate the main principles underlying this legislation, most essentially not in the hope that I can add anything to what my hon. friend the Director of Education, said, certainly not with any hope that I can improve on anything that he said, but merely, Sir, in the hope that I may serve to refresh the memories of hon. Members on the main principles underlying this legislation, and in so doing possibly to disarm a little criticism.

I would remind hon. Members at the outset that the existing Education Ordinance, the Ordinance of 1924, admittedly was nothing more than a framework on which could be based a progressive educational policy for the Colony. It did not purport to be any more than that, and anyone who reads it with care, Sir, must see that a framework it is and in many ways an excellent framework, but certainly nothing more than a framework, and that as education progresses, as it has progressed and is progressing, in the Colony, further legislation of a more constructive type would undoubtedly be required. That legislation, I make bold to say, hon. Members have before them to-day. The new Bill is much more than a framework, and the Government is optimistic enough to think that the provisions of the Bill are long-sighted enough to meet the needs of the Colony for many years to come.

The main principles, I would remind hon. Members, the main new principles in this legislation are two: the existing system, the existing differentiation between Government schools and assisted schools is swept away; and the Bill introduces a system of public education. If hon. Members will turn up the definition of "Public School" in the first Part, the second clause of the Bill, they will see there a clear indication of what the Colony now requires; what it represents that the Colony should acknowledge is that there is in the Colony and should be recognized by a Statute in the

Colony a system of public education and that there is in fact no real distinction between Government schools and State-aided schools. Each is complementary to the other; each is fulfilling its proper function in inter-relation with the other in a comprehensive educational policy for the Colony. Equally, Sir, it is right that it should be obligatory on those who are receiving assistance for the educational work which they are doing in connexion with State-aided schools to recognize that they are not a separate entity but that they are an integral and essential part of the whole State system of public education.

The second Part of the legislation, Sir, Part II of the Bill, which is entirely new, I need not, I think, refer further to. It was explained at considerable length and extremely lucidly by the Director of Education a month ago and I would but remind hon. Members that the provisions are merely permissive and that in this, as in every other part of this legislation, legislation which is purely of an administrative nature, in this Part as in every other Part, the control of this Council is supreme. Nothing can be done under this Part or under any other Part unless this Council is prepared specifically to vote the necessary funds. There is in this new Part nothing which is not strictly and entirely permissive. There is no power conferred on the executive government of the Colony to which effect can be given unless this Council is prepared to vote the necessary funds to make those powers operative.

When we turn to Part III dealing with advisory councils there is a very real change introduced. We have at present advisory councils working under an extremely vague and nebulous statutory authority. They are extremely important because it is through councils, committees, school committees and school area committees that this measure of popular control which in a measure so dear to the hearts of everyone in this Colony is so necessary is first introduced. The popular control of education is not only salutary, it is essential, and that popular measure of control is introduced through the medium of the various committees which the legislation provides for. Part III deals, as hon. Members will see, with the first of these types of committees, the advisory councils, which deal with the broad lines of the educational policy of the whole Colony.

Part IV deals with another and equally important type of popular body, the school committees. As hon. Members are aware, there is nothing analogous to this Part in the existing legislation and the absence of any such provision in the existing legislation has been so felt throughout the Colony that, as a

matter of fact, non-statutory governing bodies have been set up which have been doing admirable work, and it is very essential indeed, in my submission, Sir, that such bodies should receive statutory recognition and should be enabled to appreciate from the terms of a Statute what their powers and duties are; and so, Sir, it is proposed to appoint school committees for European and Indian schools, committees the duties of which will be to deal with specific schools. The result of that, as hon. Members will see, Sir, is that those who are interested in any one particular school will be enabled to have representation on a body dealing not with general educational problems, not with vague matters of policy or principle affecting numbers of schools, but specifically with the very problems that affect the school which is most dear to their own heart.

There is provision, Sir, as hon. Members will see in clause 13, for the grouping of schools for the purpose of school committees but the intention is, Sir, to limit that to the case of Nairobi in which there are four Government schools, and in the present stage of development of two at least of those schools it may not, at the outset at least, be necessary to have a separate school committee for each of those schools; but, Sir, if a school wants a school committee it will get it. That reservation in respect of the grouping of schools is one of administrative convenience only at the outset; there is no intention, there is no power, to deprive a school of a school committee if it wishes to have one, and it will be through the school committee whose interests are in that particular individual school that the administration of each school dealing with European and Indian children will primarily be administered.

When we turn to Arab and African education, Sir, the position is rather different, and in respect of that form of education provision is made for school area committees. Those bodies exist at present and the innovation introduced in this legislation is in the direct representation on such bodies of the Local Native Councils which are concerned. I am sorry, Sir, that the hon. nominated Arab Member is not in his seat to-day, but I happen to know, Sir, that the provisions which this legislation makes on the subject of Arab education have his full approval and concurrence. It is impossible—it has been proved impossible by experience in the Coast Province—to separate Arab education completely from African education and so provision is made for school area committees dealing with both of those types of education.

Now, Sir, I come to the vexed question of compulsory education. I use the word "vexed", Sir, because a scrutiny of the Press very recently has rather left in my mind the

impression that the provisions of this Part of the Bill have been misunderstood and misconstrued in certain parts of the Colony. There is nothing new in compulsory education. There is in the 1924 Ordinance a whole chapter—chapter 7—dealing with the subject of compulsory education. The principle is one which has been embodied in our local legislation for over six years, but the provisions, Sir, of that measure seem to me, if I may so put it, rather to put the cart before the horse. Compulsory education cannot be introduced unless the Governor is satisfied, not only that there is a general demand for compulsory education, but that there is ample school accommodation to enable compulsory education to be introduced. That, Sir, is unlikely to happen. If there is a general demand for the education of every child, it is unlikely that the school accommodation at any moment is going to be sufficient to make provision for it, and so, Sir, the recasting of the provisions relating to compulsory education was obviously necessary. But I would emphasize this, Sir. Firstly, there is nothing new in the principle; secondly, there is nothing which is mandatory in the principle. The provisions of the whole of this Bill are purely permissive, and because of that, nothing can be done in the direction of compulsory education until this Council has voted the necessary supplies. Nothing can be sprung upon the Colony by the administrative government in respect of compulsory education. When the time is ripe, when the financial position of the Colony permits of compulsory education, either for any race, any sex, or in any area, then these provisions can be put into operation, but until such time as the financial provision can be made nothing can be done without the full consent and concurrence of this House as a whole.

A third point that I would emphasize here, Sir, is that in the provision relating to compulsory education there is no racial discrimination whatsoever. That, again, is not new, Sir. The same absence of discrimination occurs in the 1924 Ordinance. It will be possible when this Council, after full discussion of the issue, has voted the necessary supplies, to introduce compulsory education for the children of any race, for children of either sex, for children in any area and for children above an age which has not been prescribed in this legislation, because, Sir, that age may vary very materially indeed in different parts of the Colony, in children of different sexes and among children of the different communities resident in the Colony.

The provisions of Part VII, Sir, import no new principles at all. A measure of interference with private schools, non-State-aided schools, and a certain measure of control is essential in the interests of those who seek education in such private

schools, but that measure of interference and control is minimized as much as possible. Private schools are, to all intents and purposes, given a very free hand indeed in the conduct of their business as educational institutions. Some measure of control is necessary but no greater measure of control is taken in this legislation than is necessary.

The provisions relating to teachers in Part VIII are, I think all hon. Members will agree, a distinct improvement on the provisions of the existing legislation. The main point, Sir, is that it will now be possible to bind over teachers by a form analogous to apprenticeship indentures, a provision which is necessary in practice, particularly in the case of African teachers. If the State is going to undertake the expenditure of considerable sums on the training of teachers, it is only right that the State in turn should be able to reap the benefit of the training these teachers have had over a specified period after their period of training has come to an end.

The provisions as to fees, Sir, I need not touch on, but when we turn to Part X, Miscellaneous Provisions, there are one or two matters that are worthy of mention. The first is the prescription of areas for different schools, which hon. Members will find in clause 42. That, again, Sir, is a Nairobi provision, and although the provision statutorily is a new one, it is merely giving statutory recognition to a practice which exists to-day and has existed for some time past. If the State provides schools in various convenient centres for the education of children in a town as large as Nairobi, if the necessary muster is provided in these schools and the State staffs these schools adequately to meet the requirements of the children living in the proximity of the school, it is only right that the children living in the proximity should go to that school and not arbitrarily go to another school, which they may over-stay, leaving another school with a greater staff than is actually necessary for the number of children who choose to attend. But the provision is a Nairobi provision only, and will not, at present at least, have any application to conditions outside Nairobi.

Clause 44, Sir, does away with what has proved from a practical point of view to be a considerable disability at the present moment, inasmuch as a person who desires to learn a trade has at present to be bound over or indentured under the Master and Servants Ordinance. The procedure is cumbersome. The provisions of that Ordinance were never intended for such indentures, and under the provisions of this clause, Sir, such persons may be bound over in a form of

apprenticeship to complete training at such a school without having recourse to the provisions of the Master and Servants Ordinance at all.

Lastly, Sir, I would draw attention to clause 45 which deals with instruction in musketry. That was a suggestion of the Staff Officer of the Kenya Defence Force and it is, I feel sure, a provision to which no hon. Member will take exception. Its application applies only to those children whose parents are prepared to consent to their receiving such instruction.

In Part XI, Sir, the only change which is imported is on purely departmental education matters. The power to make regulations is, as a matter of administrative convenience, given to the Director.

Those, Sir, are the only principles in the Bill to which I need, I think, draw attention. I have already, Sir, I think, endeavoured to explain my reasons for intervening in the debate to-day. I can only express the hope, Sir, that I have not unnecessarily again covered the ground so ably covered by my friend the hon. Director a month ago and that hon. Members will forgive me for so far entrenching on their time.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I have been asked by Members on this side of the House to explain as best I can their views with regard to the Bill now under discussion, and I shall attempt to do so as briefly and succinctly as I am able.

I should like to preface my remarks by expressing the gratitude of Elected Members to Your Excellency and the Colonial Secretary for meeting us as you did a month ago and agreeing to the adjournment or postponement of this debate until certain hon. Members who were out of the Colony in the Colony's interests had returned. I think, Your Excellency, that probably one of the reasons which actuated Your Excellency in agreeing to the course which you did agree to was because Government realizes that a Bill of this nature, a Bill of such importance to the whole Colony, was a Bill which must necessarily pass with unanimity and agreement. No such Bill as this could possibly, I submit, become law without a complete measure of agreement between both sides of the House and I have no doubt whatever in my own mind—and if I had had any doubts they would have been lessened this morning by the remarks of the hon. the Attorney General—that that degree of unanimity which we desire can be achieved with goodwill on both sides of this House.

Your Excellency, I would refer to that part of the manifesto issued just on four years ago, and signed by most of the Elected Members present to-day, with regard to the question of education. That manifesto read as follows:—

"To continue to press that the European children of the Colony be given an education which will enable them if necessary to take their place anywhere in the world and properly to fulfil their responsibilities as members of the ruling race here."

I want to say that I quite understand and realize that naturally a Bill of this sort must be drafted so as to be devoid of any racial distinction. We, in our manifesto—and I, speaking here to-day, am naturally chiefly concerned with the children of those persons whom I and my colleagues represent, perhaps I should say directly represent—were appealing to the suffrages of the European community four years ago, and that is the reason the word "European" appeared in our manifesto issued four years ago. Now, Sir, those words which I have just read out, I think, clearly anticipated first of all that every European child in this Colony should be educated, and further they connoted that such education should be of such a nature as to enable the child to take its place anywhere in the world. If I am right in my interpretation of those words, that did mean at that time that Elected Members would approve of a compulsory system of education. But times have changed. A compulsory system necessarily connotes increased expenditure. There must be, as the hon. the Attorney General himself has said, considerable expenditure on adequate school buildings, and there must be further expenditure in connexion with the education of those children whose parents are not in a position to give them such adequate education as is necessary or as they may wish. And so the position that we are faced with to-day is a very different one from what it was four years ago. But, Sir, we realize that this Bill is an enabling Bill, that the passage of this Bill does not mean that automatically upon its coming into force every child, either of one section of the community or of all sections of the community, will automatically come under the provisions in regard to compulsory education. It is because we realize that it is an enabling Bill that we are prepared to support the second reading on the distinct understanding that if those very necessary amendments in principle to which I am about to refer are not incorporated in the Bill as a result of the Select Committee's deliberations, we reserve to ourselves the right to oppose the third reading of the Bill.

Now, Sir, in dealing with the amendments which we desire and amendments which I believe, as a result of what I have heard this morning from the hon. the Attorney General, there will be no difficulty in Government agreeing to—the first to which I wish to refer is the provisions of clause 26 of the Bill. The hon. the Attorney General has told us that compulsory education cannot be applied to any section of the community or to any area without the consent of this Council, without this Council voting the necessary funds. Now, Sir, if that is so I am glad to hear it because then Government will have no objection to clause 26 being so amended as to put in black and white what the hon. the Attorney General has this morning assured us is the case. Clause 26 as it stands gives power to Your Excellency with the advice of your Executive Council immediately this Bill is passed to apply the provisions of compulsory education to any section of the community, to children of either sex and to any area of the Colony or Protectorate. That is a power, Your Excellency, which we object to being placed directly in the hands of any Governor of this Colony. We feel that it might easily be the case that a Governor, being duly advised by his Executive Council, might by proclamation apply the provisions of compulsory education to one or more sections or areas of the Colony, and that having been done it would be necessary for Government to compel this Council to vote the necessary funds. I suggest, to use a simile which my learned friend, the Attorney General, used, that is indeed putting the cart before the horse. What we ask, Your Excellency—I do not propose now to suggest the actual words of amendments—but what we shall ask in Select Committee and what I trust Government will accede to is that the provisions of compulsory education shall not be applied to any section, to any area of the Colony, without a specific motion to that effect being brought before this Council and passed by this Council. I would merely reiterate that if the hon. the Attorney General is correct in saying that nothing can be done without the consent of this Council then there can be no possible harm in so incorporating that provision in place of the provisions existing at present in clause 26 of the Bill.

Now, Your Excellency, I want to deal next, before leaving clause 26, with the very large powers given to the Director of Education, chiefly under clause 27 of the Bill. We realize, Sir, that it must be for the Director of Education to deal with the matters with which he is empowered to deal under the clauses in question but we feel very strongly that there should be an appeal from any decision that he may make. We do not wish in any way to interfere with the ordinary executive powers of the Director of Education. We

realize that you cannot expect a board to go round a country finding out whether this child or that is receiving sufficient education; we realize that it must be the Director who shall have that power, but we ask, and I am sure there are signs that Government will not refuse, we ask that there should be an appeal to a body, probably to the advisory council which is referred to in another part of the Bill, against any autocratic—I use the word *in vno unkindly spirit*—against any autocratic decision of the Director of Education.

Now, Sir, the next clause in the Bill is Part II. On reading this Bill we perhaps not unaturally came to the conclusion that the provisions enabled the Governor of this Colony to give grants-in-aid to schools, public libraries, museums, orphanages, to provide the necessary funds for bursaries, without any reference to this Council. The hon. the Attorney General has told us that that is not so. Again, if it is not so, let it be made clear in the Bill. At present, on reading it, not only to a layman but I think even to a professional man, it is, to say the least of it, ambiguous, for it says in so many words that "the Governor may from time to time establish or maintain or make grants-in-aid to schools"—that is how it starts. What would the position be if those grants-in-aid were made by the Governor without any reference to this Council? The position would be that eventually this Council would be asked to vote the money, but after the Governor had made or announced his intention of making those grants-in-aid and again this Council would be put in a completely invidious position as it would not be able to deal with the question as to whether such grants-in-aid, such funds, should be voted for grants-in-aid in a completely impartial spirit. It would have before it the fact of schools or orphanages or museums or whatever they may be having, prior to this Council agreeing to vote the money, been promised the grant-in-aid, and that really brings one back to a point that arose during the deliberations of the Select Committee in connexion with grants-in-aid, and I would venture to ask Your Excellency to allow me to read the Report of the Select Committee on that point. Under the heading "Grants-in-aid to schools" it says:—

"The Committee understands that the administration of the large vote for grants-in-aid to African schools, for which a sum of £32,637 is inserted in the draft Estimates for 1951, is entrusted to the Director of Education, who makes grants in accordance with the circumstances of each case, and that the detailed list incorporated in the Budget Memorandum indicates only the proposed distribution of those grants during the ensuing year and does not in any way bind the Director

of Education to the details there shown. The Committee realizes that circumstances may arise which necessitate variations from the proposed distribution there shown, which is prepared well in advance of the year to which it relates, but it understands that, in addition to the power of reallocating money proposed as grants between one mission and another or between one school and another, of those shown in the list, there is, under present practice, nothing to prevent the addition of new schools or new institutions to the list of those mentioned in the Budget Memorandum. The Committee is not satisfied that the administration of so large a sum of money should be entrusted to the Director of Education alone and it considers that the details of the proposed distribution should be followed as far as possible, subject to the power of reallocation being entrusted to the Director of Education with the advice of a committee appointed for the purpose, reallocations being in due course reported to the Legislative Council.

The Committee therefore suggests that a list showing the proposed distribution, on the information available when the Estimates are prepared, should be included in draft Estimates in the form of an appendix and that a committee should be appointed to assist the Director in dealing with cases arising during the course of the year which necessitate reallocation within the total sum provided."

Now, Sir, I would draw your attention to the fact that those are the recommendations of the Committee, and the word "Committee" appearing in the Select Committee's Report bears an entirely different meaning from the words "Elected Members"; the Committee, the Government representatives on that Select Committee, agreed to those remarks, and this House unanimously passed the Report of the Select Committee. I submit that if these grants-in-aid to schools are to be dealt with by a committee and that reallocations are only to be made on the advice of that committee that is the right course to adopt. It is absolutely essential to amend the provisions of Part II of this Bill which cut clean across those recommendations if left as they are at present. I had intended to deal at greater length with this Part because, as I say, we understood that it was taking away from the Legislature their inherent right with regard to the voting of money, but I understand that is not so and I am quite certain that the hon. the Attorney General will see that it is made clear in the Bill when the Bill is in Select Committee.

29th December, 1930

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I now come, Sir, to the question of advisory councils, and I would merely, with regard to that part of the Bill, say this, that we realize how very important these advisory councils will be if properly constituted and if, as I am sure will be the case, they have the confidence of the Director of Education, but we ask for an additional proviso to be made to clause 8 which states that an "advisory council shall consist of such and so many members as the Governor may from time to time decide", and the first proviso is that the chairman should be the Director or his nominee. I would ask for another proviso that at least one member of each advisory council shall be an Elected Member of this Council. We ask that because we believe that the functions of these advisory councils will be most important and to a great deal the success of education will depend on the advice they give, and we consider—and I suggest not unreasonably—that one member of each of the councils should be someone with a direct responsibility to the taxpayers of this Colony and the parents of the children with regard to whose education that council is going to advise.

With regard to the question of private schools, there is an appeal given against the decision of the Director to the Governor in Council; I suggest for consideration by the Select Committee that that appeal should be to the same body as we asked should hear appeals from other decisions of the Director of Education and should not be to the Governor in Council but to such body, preferably to the advisory councils, in question.

Your Excellency, we believe—I think unanimously, but perhaps there may be one or two dissentients—we believe that we can in Select Committee obtain a Bill that will meet with the approval not only of this Council but of the whole Colony. We feel certain that Government will meet us with a desire that all parties, all persons, in the Colony should have a Bill of which they approve and to which they consent. It is in that belief that we propose to support and vote for the second reading of this Bill, and I would most earnestly request the members of the Select Committee, whoever they may be, who are appointed on the other side to meet us when they meet us in Select Committee with that desire for goodwill and determination of achievement with which we are going to that Select Committee.

THE HON. T. J. O'SHEA: Your Excellency, I appreciate that there is an urgent need for new legislation to control the development of education in this Colony; I appreciate that a very great effort has been made indeed by the hon. the Director of Education and his advisers to produce a Bill to

meet the immediate needs of the Colony and its likely needs during the next decade, but I must confess that I am rather disappointed with their efforts in certain directions and I do hope that we shall in Select Committee receive that measure of goodwill from the other side of the House for which my colleague on the right (the hon. Member for Nairobi South) has appealed as otherwise the fate of this Bill will be jeopardised.

A quotation having been made to this House of the attitude taken by Members on this side of the House on education some few years ago, I should like to make it perfectly clear that the reference was merely to the subject of European education. Our attitude towards education generally in this Colony is that we will give the strongest support to every need in keeping with the financial capabilities of the country to give education to every community in it according to their needs. I think it must be recognized by everybody that any flat system of education is entirely out of the question in this Colony; the needs of the different communities are altogether different and that principle of differentiation according to needs must be always kept in view.

I was very surprised indeed to read the statement of the hon. the Director of Education in moving the second reading of this Bill that every effort had been made to achieve the largest possible measure of democratic control, and that statement has been repeated in somewhat the same terms by the hon. the Attorney General this morning. Now, Sir, in my humble opinion there is not any shadow of justification for that statement. There is no democratic control whatsoever provided for in this Bill. There is the most specious pretence of democratic control but, strictly speaking, none in reality. If you examine the Bill you will find right through that the Governor and the Director of Education are two autocrats, though a certain amount of advice by the communities is provided. Now I am not saying that that is wrong. I recognize that strong arguments can be used to justify the autocratic position in which the Governor and the Director of Education are placed and I recognize that there is a lot to be said for the limiting of democratic control to the giving of advice, but I do, Sir, most strongly protest against the attempt to deceive people as to what are the actual facts. There is absolutely no democratic control provided for in this Bill.

On the all-important question of compulsory education I gladly give my assent to the passing of provisions for compulsory education on the amended lines suggested by my hon. and gallant colleague on my right (the hon. Member for

Nairobi South), it being clearly understood—and I am glad that the hon. the Attorney General emphasized this point—that these provisions are in the nature of an enablement, that they are put in to provide for the possible requirements of the Colony and Protectorate some years hence, that there is no intention whatever to apply them immediately, that no case has yet been made out for their application. On that understanding, and on that understanding alone, I very gladly give my assent to the passing of that part of the Bill.

Another point, Sir—a minor one—is that the hon. the secondler has very confidently assumed that there is not a single opinion in this House against the inclusion of provision for musketry training in our schools. I sincerely hope that he is entirely wrong in his assumption and I hope I am not the only one in this House who will consider it altogether unnecessary to make any such provision in legislation controlling education. I consider, Sir, that it is entirely unnecessary—apart from every other objection—to make provision in our legislation governing education for the training of our children in musketry. I understand that recent experience has proved that people can be reasonably well equipped in the use of small arms in a comparatively short space of time and why it should be necessary to provide for this training in a comparatively obsolete branch of the soldier's profession I do not know. I should have thought, if any provision of that kind were considered necessary, that it would also be necessary to make many other provisions for the equipment of our children as the soldiers of the future. I do hope that on reconsideration Government will agree that it is altogether unnecessary to make any such provision.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in considering this Bill, Sir, I should like to know which Bill we are considering. I have before me two copies, one as published in the Gazette and one which has been printed and circulated. Which of these two Bills are we discussing?

Another point, Sir, and a major point, is that the compulsory principle has never yet been debated in this House. It has never been debated, and I maintain, Sir, that the method of its introduction to this House is entirely wrong. The compulsory principle should have been singled out and debated on its merits first before being mixed up inextricably with a general Bill providing for education. This Bill should not be taken in one debate; it should be taken in two, or possibly even more than two.

THE RIGHT HON. LORD DELAMERE: One every day I should think.

CAPT. THE HON. E. M. V. KENYALY: Then, Sir, what is the name of the Bill? I suppose the name of the Bill—the name of the Bill is the same in both—"a Bill to make Provision for Education throughout the Colony and Protectorate". That, Sir, implies that there is at present no education in the Colony or Protectorate. That, Sir, is untrue. Therefore, the name of the Bill is wrong. It is misleading and it should be altered. It is suggested in the explanation that the 1924 Ordinance provided for the management of education. We are told this morning that it did not. We are told that this Bill, the 1930 Bill, will provide for education. The object is the provision of education. Now, Sir, nothing but a money Bill can provide for that and it is idle to suggest that a Bill of this kind can provide for education and therefore, in so far as that statement has been made in the Objects and Reasons, that statement has been wrongly made.

Now, Sir, under the present control we have a central advisory committee. What have been the activities of that committee in the past? Has this Bill been submitted to it? Have they given their views upon the provisions of this Bill? Has any report of that central advisory committee been made known to the public? Have their activities been of any value in the past and have their activities been of use to the Education Department of this country? No, Sir, they have not been adequately utilized in the past, possibly because they have not been correctly constituted.

Now, Sir, in regard to school area committees, their very existence is dependent upon the hon. the Director of Education's opinion as to whether they are necessary or not. They are supposed to deal with the schools' domestic problems, and I maintain that these problems exist whether in the Director's opinion the necessity for the constitution of such a committee exists or not. I maintain, Sir, that the parents are the persons who should know and who are best competent to express an opinion as to whether a committee is required.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): On a point of order, Your Excellency, may I ask if the hon. Member is referring to School Area Committees or to School Committees?

CAPT. THE HON. E. M. V. KENYALY: School Area Committees I am referring to, Sir.

Then, Sir, you will see in the same Part that these School Area Committees make recommendations in regard to the remission of fees; in other words recommendations which

affect the current revenue of this Colony, and I suggest it is utterly wrong that these committees should deal with matters dealing with the revenue of the country.

In regard to the control of education, Part II, we have been told, Sir, that what is claimed in this Bill is not meant. Well, I hope it will be rectified if that is so. We maintain that there should be no diminution in the powers of control of finance by this Legislative Council. In this, even if the financial control does lie with this Council, supposing the thing were taken in a block vote, a general block vote of assistance for education might be passed in this House—and I may say, Sir, that Government will always find it easier to pass a monetary measure than to pass a measure dealing with the matter for which the money is asked. It is far easier for Government, having once got a Bill of this kind through, by the exercise of its majority in this Council, to pass a provision for the money against the wish of this side of the House, and I maintain that it is the duty of this side of the House at this stage to protest against any diminution of the powers of this Council.

In clause 4, Part II, we find that the Governor may deal with all kinds of peculiar branches of education, such as the extension of orphanages, public libraries and museums, and crèches, and, Sir, there is already in existence in this country a child-welfare movement. It may be a very necessary movement and it may have its significance and importance, and it may be desirable that a certain amount of money should be devoted to it, but I maintain it would be entirely wrong for us to agree to the interchange of money from one Head to another lying in the hands of the Governor and not in the control of this Council, even with the assistance of a committee in such matters. We have seen Pumwani, the Child Welfare Centre at Pumwani, assisted out of current revenue to a far larger extent than some of us think desirable or necessary. I merely mention that as one of the dangers.

In Part III, Sir, the Governor's power—or the Governor's power and the Director's power—is accentuated at the expense of what is called "popular control". It is idle to suggest that there is any popular control in this Bill. There is none. It must be admitted that there is no popular control. First of all, these advisory councils or committees are appointed by the nomination of the Governor or the Director, and not unless the Governor or the Director considers them necessary. That, Sir, means that the Governor can appoint his own nominees, and not only can he appoint them, but if he does appoint them and then finds that in spite of his having selected them with the utmost care, they will not follow him

through all the ramifications and all the initiations of policy he can then throw them out and they cease to be eligible for membership. That is one of the things we must put right in Select Committee or this Bill will be intolerable to the country. There is no appeal against the revocation of the eligibility for membership. If the Governor tells a man to go, he goes, and his citizenship, in fact, is wrecked by this Bill.

Then, Sir, the public will have no control over the curricula for the children of this country and I maintain that is entirely wrong. After all, it must be admitted that all specialists are mad. That is an axiom and it is true; and even educational experts are mad and have to be controlled by certain factors. Usually these factors are financial ones.

In regard to Part IV, one sees there the absoluteness of control by the Governor and by the Director.

There seems to be no relationship to current expenditure and the funds at the disposal of the State in clause 19, Sir, which deals with functions. The school committees can recommend remissions of fees, remissions of all kinds, which will affect the current revenue of this country, and I maintain, Sir, that they should not have such powers.

In Part V, Sir—I am not very much concerned as a rule with fighting the battles of the missionaries—Sir, we see that in 20 and 21 these may exclude missionary representation, and certainly they do not provide for missionary representation. Now I maintain that in certain areas in this country where the only education provided for the native, and possibly the Arab, inhabitants of an area is that due to missionary endeavour, there should be some recognition, meagre though it might be, by Government that they have done something in the past, and they are entitled to consideration as to the policy to be pursued in the future. That is all I ask for. I think it should be provided. It is not provided.

Then there is the suggestion that Local Native Councils are bodies suitable to nominate members to certain committees. Is that so? I question it very sincerely, Sir. I do not believe it for a moment. Of course the local District Commissioner is to a large extent in control of Local Native Councils, but that depends upon his own personality and force of character and if he has little personality or force of character a most unsuitable nomination might be made from Local Native Councils.

Then, Sir, we find a perfectly delightful expression in clause 22 (c), a charming expression—it is that they should make recommendations to the Director as to the nature and

amount of assistance to be "invited" from Local Native Councils. It is a peculiar expression. Does it mean anything? If it does, then, Sir, there should be provided in this Bill a method of extracting the amount of assistance that is invited from them; either they have got to pay or they have not got to pay. Let us be entirely honest about it. If it is on a voluntary basis then let it be on that basis and let us know. In the past, Sir, the practice of this country has been to utilize contributions from each section of the community for the education of its own community. Has that policy been departed from? Is it in any place in this Bill mentioned? What is the situation? We know very little about Government's intentions; they are not dealt with in this Bill.

In Part VI, Sir, clause 26 (1), we find a reference to Executive Council; that reference I maintain, Sir, should not be to the Executive Council but to the Legislative Council, who should deal with this matter. It should be dealt with in this House by open debate. I believe that this Bill is far too all-embracing. I maintain it should apply to the European section only. After all, one does not want an all-embracing legislation in any way, otherwise we might be doing this and passing legislation saying that Government can do anything for an indefinite time because in the future it may be necessary to do so. I would never agree to that form of legislation; I cannot agree with this wideness of scope of application of this particular Bill—it is entirely unnecessary. It may be necessary and some of us think it is necessary in regard to the European section of the community. If it is necessary and if a case can be made out, the application of this legislation to other sections of the community should be asked for and agreed to by this Council, and granted or refused according to the case made. When further cases can be made out for other communities they should be dealt with by this Council on their merits and accepted or rejected. This kind of all-embracing legislation is a bad kind of legislation and it is particularly bad in the ramifications of control under this particular Bill.

Now, Sir, in clause 26 (1) the application of this by the recommendation of Executive Council to any area would directly over-ride the control by local authorities. I maintain, Sir, that it is wrong for Government, having created local authorities, to over-ride their powers and to impose upon them certain obligations which will entail a raising of the rates in those local government areas. I maintain that this Bill is really morally *ultra vires*.

Then there are many minor amendments which are required which I shall not deal with as I am only dealing with principles.

In clause 27 (2) (a) there is no provision for formal evidence nor for appeal against the decision. In Part VI again, Sir, there is no provision for evidence, nor for judgment, nor for appeal in (2) (a).

In clause 27 (4) Executive Council is to be given the right to advise as to what age limits should be embraced in compulsory education. I maintain, Sir, that that is a matter which should be decided by this House after discussion in this House.

Then, Sir, there are matters of very important domestic interest to the individuals of certain districts; distance from schools again is arbitrarily decided upon the advice of Executive Council. Of course, the Governor is not bound to accept the advice of Executive Council; he can take arbitrary action without reference to anybody in fact.

In clause 32 (a) one sees a limitation of public rights and that is a thing which should be put right, Sir.

In Part VII—I do not know which Bill we are dealing with—in Part VII, Sir, there is an appeal provided to the Governor in Council. I maintain, Sir, that that appeal should lie to the courts of the land and not to the Governor in Council.

In Part VIII we come to one of the most important points and that is dealing with the teaching staff and the terms of service. We have definitely stated, Sir, that we can agree to no form of compulsory education in this country which postulates the retention of the present absurd and expensive terms of service applicable to the Education Department.

THE RIGHT HON. LORD DELAMERE: Who has done that?

CAPT. THE HON. E. M. V. KENEALY: I maintain, Sir, that we cannot agree to this Bill until those matters have been dealt with. We raised them the year before last; we raised them in next year's Budget, and we have had no satisfaction and so, Sir, if we cede ground at this stage we shall have lost the fight in regard to the alteration and amendment of present conditions.

In Part IX, Sir, the Director has power to remit certain fees and, Sir, the Director has in the past remitted certain fees to people against the advice of persons, of the local school committees, who are best able to judge. What security have we against the recurrence of that kind of thing?

In IX, line 40, Sir, that appears to imply that the community basis of financing education has been departed from and it is intended by Government that it shall be

permanently departed from because all fees shall be paid into current revenue. If that is so, Sir, then we ought to be told it is so, that education is to be financed, not on the past basis which was agreed between the various communities, but on an entirely new one. We want information on that point, Sir, and it should be definitely and clearly explained in this legislation.

In Part X, Sir, here are school areas defined by the Director. Now, Sir, it is quite likely that the schools areas defined by the Director would not be the most convenient to the individual. It is quite likely that a man may have a school quite close to him but his business might well be a long distance away and it might be much more convenient for him to take his children some greater distance to avoid going out of his way every day when they were taken to school than to take them back quite away from the line of his ordinary daily travel as laid down in this school area section. I maintain, Sir, that that is a thing—it is only a small thing but it should be given consideration. It deals with a principle.

Part X, clause 44—I maintain definitely that Rules prescribed by the Governor should be approved by Legislative Council. I think it is an essential thing when you are giving such very large powers that at least the Rules should be submitted to this Council.

In Part XI, Sir, especially in clause (c), one sees: "The Governor in Council may from time to time make Rules prescribing the manner by which compulsory attendance at school is to be ensured." Does it mean that the Governor in Council may order the flogging of children to school or, if necessary, the flogging of parents of children in the school? If it does not mean that, what does it mean? We want a far clearer definition of that and we want a far greater limitation of the powers of the Governor in that regard.

We were told by—I forget who it was, but it was someone on the other side—that this particular area, the area limitation of schools, was limited to present Nairobi. We do not know that it will be limited to Nairobi in the future. The medical authority has a very large control of schools and the medical authority might decide that as it was necessary for the school children of a certain area to go from that area to a different area we should, by accepting this Bill, put ourselves in the position of being dictated to by the Medical Department through the Education Department. It is a dangerous thing; it requires limitation. It requires further consideration.

Now, Sir, generally, according to the Elected Members manifesto, Sir, we considered that compulsory education was unwise for communities other than Europeans. I have not gone back on that opinion and I think with a reasonable system of encouragement that we could afford to finance that policy. I consider it necessary and I consider that a case can be made out for that, but in regard to the other communities, I am prepared to listen to them but I do not sincerely believe that a case can be made out. I maintain that it is unwise to have all-embracing legislation. I maintain that the need has arisen for European compulsory education. Let us proceed with that and no more.

I should like to comment on a point raised by my hon. friend on my right (the hon. Member for Plateau South) with regard to musketry instruction. I think, Sir, that musketry is essential in all school training. It is a sport, it controls the nerves and the muscles of an individual. I think it is a highly necessary thing, quite apart from its use in warfare, and I dissociate myself entirely from the remarks of my hon. friend.

Then another very important point is what are the standards of education to be? We have not yet been told that. We have not yet been told who is going to lay down those standards, whether they are to be constant throughout the country or vary from area to area, nor have we been told that compulsion is to be applied only to elementary education; all these matters are most important. We are entitled to have information about these things and until we have that information I think it is our duty to resist this Bill.

The major factor in the necessity for the provision of this legislation, Sir, is settlement. If we have a sufficiency of settlement and a degree of intensity of settlement in this country, which lies very largely in Government's hands, there will be no need for compulsory provision, nor will there be any need for a vast expenditure of public money on education.

HIS EXCELLENCY: Order, order. I must ask the hon. Member to confine his remarks to the Bill under discussion.

CAPT. THE HON. E. M. V. KEMBAI: If schools are very far apart, and if the inhabitants of areas are very far apart, I think I am right in saying, Sir, that it is impossible for the country to finance those schools. I will not quote settlement and I will not elaborate that point, but I shall leave it to the House, Sir, and to you to draw your own conclusions as to what degree of closeness and intensity of school population

is necessary and how it can be effected to make education possible in an area. I do not want to bring in settlement but it does have a bearing on the subject.

Now, Sir, the control lies theoretically with this Council, but with the Government majority on the other side of the House—and the Government operates through its majority to carry any money motion against our wishes—it is incumbent upon us very carefully to scrutinize a Bill of this kind and see its ultimate end. I maintain that if we pass the Bill in its present form we shall be neglecting our duty very sadly. The Bill in its present form is not what Kenya wants or what Kenya needs and if it is not materially altered it should be rejected.

(Council adjourned for the usual interval.)

On resumption.

THE HON. F. A. BENSTER: Your Excellency, I have very little to say on this very important Bill but I want to bring to the House's notice the remark made by the hon. the Attorney General in connexion with alleged misconstruction. I do not think it is fair to say that there has been any misconstruction of the intentions of this Bill because the Bill has been read as printed. The Bill with the amendments promised by the Government is quite a different thing to the Bill as we had it on October 9th and anything which I said at a meeting held in Mombasa was with reference to the printed Bill. Whether he was referring to that I do not know, but what I said then was entirely on the basis of the printed Bill.

Now, Sir, I have nothing to do with European education because I represent Mombasa, where it does not exist, but the part that I am interested in is the section dealing with Arab education; and I would particularly refer to clause 22, which is the one dealing with Arab education.—It says there: "To make recommendations to the Director in regard to the opening, management or closing of public schools for Arabs." Now, Sir, I happen to be a member of the Central Committee on Arab Education, which controls the Arab Committee on Mombasa, and I do sincerely hope that the application of this Bill will alter the conditions obtaining at present because I cannot quite see how any committee can advise on the management of any school unless that committee has access to the reports of the official expert inspectors of the school, and that has been a complaint of mine ever since I have been on that committee. If the Director will give an assurance that in future, to enable the committees to assist with advice in the management of the schools, he will extend that great facility, I shall be most happy to support this clause.

There was one remark, Sir, of the hon. the Attorney General in which he seemed to suggest that the assisted or voluntary schools of to-day did not consider themselves an integral part of the educational system of the Colony. But, Sir, surely that is not really meant in those words, or did I hear aright? I calculate that they are absolutely indispensable in any educational system in this Colony, and if they have not been properly controlled that is not the fault of the assisted or voluntary school; it is the fault of the controlling body or individual, which is the Director of Education. I always do and always have believed in popular public control of popular education. There is no question about it that the greater the control the greater the efficiency, but I do think there should be a larger measure of co-operation, which can easily be extended to the voluntary schools who have borne the burden and heat of the day for many years past and on very meagre funds.

The hon. Member for West Kenya mentioned that he had no brief for the missionaries. I would not say I have a brief but I have a great admiration for them and I have always been exceptionally broad-minded in connexion with anything to do with religious training in schools, and, as the hon. the Director knows, at the present moment the essential part of the success of his new venture at Utunge is absolutely dependent upon facilities for the Mohammedan religion being taught to the scholars. If those facilities are not given the scholars will not go to the school. Now, Sir, is it not fair to ask—I happen to be a Christian—is it not fair to ask that people of my religion should also receive the same benefits, not so much because the Arabs have demanded a very large measure—a larger measure than would have been given even in our own country, but because it is essential, Sir, that some extension of facilities should be given; and it is for that reason that I plead for the most wholesale and wholehearted co-operation with the religious bodies of this Colony who can and do teach a proper moral backing with their ordinary education.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, though I consider that perhaps this Bill is rather premature and is not really required at the present moment by the country, after it has been drastically dealt with by the Select Committee I hope to be able to support it. I wish to associate myself with the remarks of the hon. Member for Mombasa, who is also a colleague of mine on the Central Committee for the Education of Arabs, that it is impossible for us to give advice unless we are furnished with the reports which are supposed to be issued concerning these schools.

One other point I would like to mention. If the Koran teaching—the Koran teaching is not a religious teaching—but if it is included in the curriculum of the Arab School, I would ask that the teachers of the Koran should be included in Part VIII and be licenced as well as other teachers.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I wish to say that I would like to associate myself with all that was said by the hon. Member for Nairobi South, who put the case of the Elected Members very clearly and very much to the point, and I hope that when we go to Select Committee on this Bill that the hon. the Director of Education will bear in mind the words which he used in introducing this Bill that co-operation between the public and the Government is necessary, because it is on that, I consider, that the whole success of this Bill depends.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I apologize to Your Excellency and this House for letting my voice be heard on the first day that I have the honour of being here, but, as this affects me considerably, and those associated with me in connexion with the work of education from the missionary standpoint, may I inflict myself for a moment upon the sense of the House. But first of all, I should like to congratulate the hon. the Director of Education on a very real effort to bring about legislation very long delayed and necessary for education in the country.

There are only two points that I just briefly want to speak about. The first is in regard to compulsory education. I think that is a very wise measure and that it should be brought into operation at once, but as an enabling measure I think it is a very necessary one if we are to look forward to the future of this Colony. We do not in time to come want to have a lot of illiterate men who will not be able to take their places in the business of the Colony and the work that should fall to them when they come to take up the burden laid upon them by their elders. That provision should be brought in at once. From the African point of view it is absolutely essential that some such measure should be brought in at once, and we should have some authority to bring into some towns—more particularly perhaps a town like Nairobi—some measure of compulsion. In regard to the children in the town, we have hundreds of guttersnipes running about and getting into all sorts of bad ways. The parents do not care very much whether they are educated or not. If you go out to Kabete you will find a place chock full of boys who, if they had been educated, would never have reached Kabete Reformatory. When the time comes, whoever the authorities may be—whether it be Your Excellency in Council or the

Board—they should have authority to say to parents: "There is a school—say, a Mohammedan school. You must send your children there, or to Mission schools or to Government schools in towns."

One other point is in regard to State-aided schools and the aid given to those schools by Government. We have those who are responsible for those schools; we have to Budget some considerable time ahead if we want to get the proper type of men to carry on those schools. We have also to try and find them at home and bring them out. We have the expenses of passage and we must guarantee a return passage home, and to have such men and women brought out to the Colony and after a year or a year-and-a-half to fail to make provision for their upkeep and salaries, as has happened in an instance or two in regard to missionaries, would be disastrous to our work. We could not possibly expect to get men to come out and carry on the work of the education of the African, whether technical or literary, unless we could give them some guarantee, and unless the Government can give us some guarantee of stability along those lines it is impossible for us to do the work which we believe we can do, in co-operation with the Government, for the education of the people of these countries.

THE HON. A. H. MALIK: Your Excellency, I want to say a word or two on this new measure embodying the principle of compulsory education. Judging from the speeches that have been made to-day and the speech of the hon. mover, the Director of Education, a month ago, it appears that there is no case whatever for the introduction of such a measure at this stage. The European community has claimed itself to be an intelligent community and with the education and the facilities that they have got to-day they do not need compulsion, but it has been suggested that it is the European community that does need any compulsion. It really amuses one to find that members who claim to be members of the ruling race must do everything under compulsion. If the question of the defence of the country is involved they must have a compulsory measure; they must be compelled to enlist themselves in the Defence Force. When the question of education comes they again want to be compelled.

Now we come down to the other communities, the Indians—I do not think for a moment that the Indian community needs any compulsion whatever. The Indian community in Nairobi, Mombasa and every town of the country and throughout the outlying districts have asked for and are continually asking for increased educational facilities. Your Excellency, when does compulsion come in? It is only

when you ask a person or a body to do a particular thing and they refuse to do it. They lack in taking any interest in such an institution; then there is the time for compulsion. In the case of the Indian community they have always, as I have just said, asked for increased educational facilities, and I can state without any fear of contradiction and no doubt the hon. the Director of Education knows how much demand he receives from the Indian community at various centres for the Indian education.

Now we come down to the native populations: I would say, as the hon. Member who has just spoken representing African interests said, that a case does exist for the native population. I would sooner see a provision made in place of the whole of Part VI wherein it embraced all the communities and said that compulsory education at the earliest possible moment should be brought into force so far as the native population is concerned.

I agree with the remarks made on this side of the House regarding section 26 (1) that if this Bill goes through and if compulsory education still remains in the present form it should be this House and not the Executive Council who should be the deciding factor as to which race, which community or which sex needs compulsory education.

With regard to the plea of the hon. the Attorney General saying that because the voting of the money is in the hands of this Council therefore no step can be taken on the present Bill unless the specific sanction is given by this House—Your Excellency, I submit that that applies to every legislation, to every law, that has been passed by this Legislature. The functions of this Legislature would perhaps be minimised and perhaps confined to one Session where the question of monetary or financial matters came in. As it is not done in the case of others I submit, Sir, that it should not be brought into force in this Bill, and this section particularly should be amended by the deletion of Executive Council and by the substitution in its place of Legislative Council.

Regarding section 45, musketry training, I thoroughly associate myself with the remarks on that section made by the hon. Member for Plateau South.

There are no doubt, Sir, various points that can well be raised in the Select Committee as regards local committees for each school, and so on, and I trust, Sir, that an opportunity will be available in Select Committee to bring these points up.

There is a small point, Sir, that the hon. Member for Nairobi South said regarding section 6, I think—advisory councils. He said that appeals should lie to the advisory

councils from the decisions of the Director of Education. I find, Sir, that the functions of these advisory councils are to advise the Director, and therefore I fail to see how an advisory committee to advise the Director can have the powers to hear appeals; surely there should be some appeal to a higher body.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I think before I discuss the points raised by hon. Members opposite the least I can do is to express my very hearty thanks for the terms in which the Bill has been, I will say, attacked, because I think that is a fair word, and also the terms in which the Bill has been dealt with, because the hon. Members opposite, especially the hon. Member for Nairobi South, and the Noble Lord, the Member for Ukambini, have re-echoed exactly what I said when I introduced the Bill for the second reading, namely, that without some measure of co-operation between us all we shall have a position in regard to a social service, namely education, which would be disastrous for the Colony as a whole. I do think we must all express our thanks for the great moderation which has been shown by every Member opposite, and may I even venture to include in the expression of thanks the hon. and gallant Member for Kenya who was, in my opinion, unusually moderate.

The points specifically raised are mainly those points dealing with the question of compulsion and the question of the powers of the Governor. Those points are clearly points which should be met and dealt with in Select Committee; I can certainly not give the hon. Members opposite any assurance as to what we shall do in Select Committee although they can be certain that those questions will be thrashed out reasonably and without heat.

Perhaps there are one or two points in connexion with this question of powers and popular control which I might clear up. The hon. and gallant Member for Nairobi South raised the question incidentally of grants-in-aid. It was debated at considerable length in the Select Committee on the Estimates. If hon. Members will turn to their complete and final copies of the Estimates they will see that the recommendations of the Select Committee were adopted by Government and that the proposed grants-in-aid for next year are included in a schedule. I myself was asked to give an opinion in Select Committee as to whether I did not think that the Director of Education's control over £30,000 should be limited to a certain extent. As Director of Education I could only give an affirmative reply; as a man I should like to handle that money, but I do recognize that as an official it is desirable

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that one's hands should be tied in some way by some reference to some committee, and I think, generally speaking, whatever we may have in laws, that is the spirit in which most of us do try to administer public funds. We do take into consideration public opinion and public needs as far as possible.

The hon. and gallant Member for Nairobi South also raised an important point in connexion with clause 27 which I think can be cleared up in Select Committee—he feared the autocratic powers of the Director of Education in regard to compulsory education. I think if he had read in conjunction with clause 27 clause 30 which deals with the effect of the Director's decision, he would see there a very definite appeal from the Director's decision, and that appeal lies to a magistrate; the magistrate has power to tell the Director to think again, and when the Director has thought again the magistrate comes to a decision, so that the powers of enforcing compulsory education are not in the hands of the Director but in the hands of the judiciary which is exactly where they should be.

If this is not sufficiently clear to hon. Members or if there is any defect in the Bill, I am sure we can remedy that in Select Committee. The hon. Member for Plateau South and the hon. and gallant Member for West Kenya attacked the Bill largely on the ground that there was a complete lack of popular control. I want to be very particular on that point if I can. I would ask them to compare the provisions of the existing Ordinance with the provisions put before them here. I think that if they do they will admit that this Bill, in regard to popular control, is definitely a move forward. They may remember that when I opened this debate on the second reading I pointed out that in regard to advisory councils I had tried to get the official element off those advisory councils, but every one of the advisory councils was in favour of the retention of the Director of Education on them. That is to say, I wanted to have further popular control and the advisory councils wished to hug their chains. When it comes down to hard tacks, we find in administration that people do want to hug their chains. They want the responsibility but when it is put before them they do not like it. For instance, I asked the advisory councils whether they did not think it much better to have a non-official chairman of these bodies. They said: "No, we want the Director of Education." This Bill tries to move them in the direction of taking greater responsibility by creating, for instance, school committees.

There was one specific point raised by the hon. and gallant Member for West Kenya which I might reply to. He asked

whether this Bill had ever been before the advisory committees. It was considered by every one of these advisory committees and considered in detail, and the fact that it was so considered is perhaps an explanation of the confusion in the hon. Member's mind in regard to which Bill he was discussing, because he has got hold of a copy of the Bill which was sent confidentially to all members of the advisory committees, and a copy somehow has been sent on to him. The only copy of this Bill which was published, was published in the Gazette and distributed to hon. Members.

The hon. and gallant Member raised an interesting point in regard to section 22 (c)—the invitation to Local Native Councils to contribute funds. The position is this: that the natives are contributing towards the cost of education from the taxation which is imposed upon them by Government. We cannot go into the question of whether that taxation is adequate, too much or too little, but the fact remains that they are contributing, as every other citizen, to the purposes of education. In addition to that, Sir, they are, through their own voluntary cesses, contributing money for educational purposes. It is in regard to that voluntary contribution that this invitation will be made to Local Native Councils.

The hon. Member for Mombasa spoke in regard to the education of the Arabs. He asked for an assurance that the committees should receive copies of reports. The hon. Member and myself are at a difference on this point. I have tried to explain to him, unsuccessfully I am afraid, that every report on every school by an inspector is sent to the school area committee. The reason these reports are not sent to the central committee is because it is supposed to be interested less—to deal only with large questions of policy and not with individual school details. In the particular case to which the hon. Member refers the report was not submitted to him because unfortunately the school area committee which functions at Mombasa, as distinct from the central committee, functions very badly. In fact, it is very difficult to get a quorum. The report has not come up for discussion because the committee has not met recently but the actual point raised by him is one which we can settle quite peaceably.

The hon. the Indian Member raised the question of policy in regard to Indians. That, Sir, is a difficult question, but I do want to say this, because I think it is necessary to clear away all illusions from the minds of hon. Members opposite. The hon. Member is not in agreement with the Indian Advisory Committee and I want to warn the House generally that the Indian community are demanding—if we can believe their central advisory committee, and I think we can—are demanding that compulsion should be available

at some time in the not too distant future for the Indian community. I hope I am not unwise in making that reference in regard to what the hon. and gallant Member for West Kenya said.

I would like to thank, and I am sure in thanking the hon. and Rev. Member, the representative of the Africans in this Council, for what he said in regard to education generally and in regard to this Bill that I shall be voicing what I think we all agree with when I say that we welcome him to this House. He raised the question of the stability of grants-in-aid. That, Sir, is a fundamental question because in the administration of education—and I think he must admit that the grants-in-aid are paid in as stable and regular a manner as possible—we do recognize that we are responsible for carrying on work which has been established and established under our auspices. It may be that in certain instances we do let the missionaries down but we do not do so deliberately and as far as I know there is no case of that sort which has happened recently.

May I again thank hon. Members for the generous criticisms they have made and the generous spirit they have shown in handling the second reading of this Bill. I beg to move the second reading.

HIS EXCELLENCY: The question is that a Bill to make provision for Education throughout the Colony and Protectorate be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I beg to move that a Bill to make provision for Education throughout the Colony and Protectorate be referred to a Select Committee consisting of:—

- The Hon. the Attorney General (Chairman).
- The Hon. the Director of Education.
- The Hon. the Chief Native Commissioner.
- The Hon. the Director of Medical and Sanitary Services.
- The Hon. the Provincial Commissioner, Coast.
- The Hon. the Provincial Commissioner, Nzoia.
- The Hon. the Elected Member for Mombasa.
- The Hon. the Elected Member for Plateau South.
- The Hon. the Elected Member for Nairobi South.
- The Hon. the Elected Member for Ukamba.
- The Hon. Unofficial Member representing the interests of the African Community.
- The Hon. the Indian Elected Member.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to second the motion.

The question was put and carried.

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

HIS EXCELLENCY: The Diseases of Animals (Amendment) Bill. The second reading has been moved by the Attorney General. The Director of Agriculture has seconded the motion. The debate has been adjourned.

THE HON. CONWAY HARVEY: Your Excellency, I sincerely trust that all Elected Members will support this measure. Undoubtedly, Sir, it is unfortunate that such a measure should be necessary but the fact remains that it is. Cases have arisen comparatively recently which show quite clearly that in the interests of the stock industry—both the native side and the European side, Sir—some such step is absolutely essential. Undoubtedly, Sir, no great hardship will be imposed upon the owners of farms with resident native labourers' cattle, which have to be supervised by them in regard to diseases under this Bill inasmuch as already, Sir, they must exercise a close supervision so far as branding and counting and registration are concerned. It is quite unreasonable to suggest for one moment, Sir, that a measure such as this will be interpreted at all harshly by the veterinary authorities. They, Sir, like the rest of us, are solely concerned with the promotion of the best interests of that very important section of the agricultural industry and those of us who have had considerable experience in the working of this particular measure, Sir, do agree that it is necessary that some authority should have power to step in and take action when the casual owner of farms with squatter cattle omits to take essential steps to prevent those cattle becoming a menace to their immediate neighbours and the industry as a whole. I support the measure, Your Excellency.

HIS EXCELLENCY: If no other hon. Member wishes to address Council I will call upon the Attorney General to reply.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I think in view of what has just been said by my hon. friend, the Member for the Lake, there is nothing for me to reply on, Sir.

A suggestion was thrown out before the adjournment of the debate that it would be not inequitable to make further provision imposing on the native owner of stock, the native who takes the stock on to the farm, an obligation to report the presence of disease to the occupier. A provision making

that amendment, Sir, is now in my hands, and when the measure is in the committee stage I propose, with your leave, Sir, to move an amendment in those terms. The effect of that will be, Sir, that the squatter who takes cattle on a farm will be under an obligation to report the presence of disease to the occupier, who in turn will be responsible for reporting to the administrative and veterinary officers.

THE RIGHT HON. LORD DELANERE: On a point of order, I think it would be much better taken in the committee stage in the way the hon. gentleman suggests.

HIS EXCELLENCY: The question is that the Diseases of Animals (Amendment) 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 consider the Diseases of Animals (Amendment) Bill clause by clause.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I beg to second the motion.

The question was put and carried.

The Council went into Committee.

In Committee:

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Amendment of section 3 (1) of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this clause be amended firstly by deleting the letter and brackets "(a)" in the fourth line of the clause; and secondly by adding at the end of the clause the following words:—

"Provided that where the animal affected with disease or suspected of being affected with disease was so lawfully taken on a farm it shall be the duty of the native so lawfully taking such animal on a farm forthwith to give notice to the occupier of such farm of the fact of the animal being so affected or suspected of being so affected."

THE HON. CONWAY HARVEY: Your Excellency, there is just one small point in connexion with that. We should like the opinion of my learned friend as to whether the same duty would devolve on the person in whose care the animal is in the event of the person who took the animal on to the farm being away. It very often happens, Sir, that the head of a family brings half-a-dozen cattle on to a farm and after working for a year he may have left to go to some other part of the Colony on his lawful business. I think that point might be made clear, Sir, or the intention of the amendment might very well be frustrated.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I think it is a most dangerous thing to accept this amendment, Sir. It may involve a restriction in regard to the responsibility of the owner of the farm, and after all that is what we want to effect. We want to effect a definite result and that result is the control of disease. If it is going to be an excuse for the owner of a farm who has squatter stock on his farm to quote an excuse for failing to take action and to possess the knowledge which is necessary to control disease, then, Sir, we are going to provide for a danger instead of providing for a safeguard. I am opposed to the alteration of this. I think the thing as it at present exists is an admirable suggestion and I think that any diminution of the responsibility—and I maintain that this second amendment would cause such a diminution—is a danger. I am opposed to such an alteration, Sir.

THE HON. T. J. O'SHEA: Your Excellency, I should like to support the hon. Member for Kenya in his contention. I believe he is quite right in what he says; I will be candid in the matter and confess that I am thinking much as an example in the matter. I know cases in my district where, if this suggested amendment were adopted, you would never secure the purpose for which the original amendment to the Bill was intended. If you leave it to the owner to hide himself behind the reluctance of a native to confess to disease occurring among his cattle, you will never achieve the purpose of such an amendment.

THE HON. THE ATTORNEY GENERAL: May I allay the fears expressed by the two hon. Members who have just spoken? As the amendment is drafted, as the clause with the amendment is drafted, it would be no defence for the occupier to say that the squatter had failed to carry out his part of the bargain and give notice. It might be a matter of execution when it came to the question of the assessment of the punishment but it would not be a defence. The obligation is placed by this new clause on the occupier. If he says the squatter neglected to tell him then it might make a difference in the amount of the punishment. In no other way could it affect the issue at all.

The point made by the hon. Member for the Lake, Sir, would, I suggest, be met if in the amendment after the words "the native so lawfully taking such animal on a farm" the words "or his agent" were inserted. I would like to reiterate what I said a moment ago, Sir, that I put this amendment forward in the belief that it was giving effect to the unanimously expressed wishes of Elected Members on the other side of the Table; if that is not so, I am quite prepared to withdraw it.

THE HON. CONWAY HARVEY: On a point of explanation, may I say I was not present that day and that is the first I have heard of the amendment.

THE RIGHT HON. LORD DELAMERE: Your Excellency, if it does not exculpate the owner of the farm in any way and does give the magistrate or whoever is looking into the case a chance of punishing the native for concealing the disease, what is the objection to the amendment? If it does exculpate the owner, then I think the force of the original amendment to the original Bill would be lost. But it does appear to me that if it does enable the magistrate to punish the native for having concealed the disease and on the other hand does not exculpate the owner for not having taken proper care to see to it that his natives do not get disease on the farm, it appears to me to meet the case.

HIS EXCELLENCY: I should like to explain to hon. Members in respect of what the Attorney General said that the position was that and objection was brought before Council at the last Session, was rather a one-sided business. As I understand it, the Attorney General drafted this amendment with the approval of the Government to meet that objection. Government does not get great store by the

additional amendment and does not wish to press it against the wish of the House; but, on the other hand, as the Noble Lord, the Member for the Rift Valley, has stated, it seems to me that it is only making, as it were, the contract bilateral.

THE RIGHT HON. LORD DELAMERE: I spoke entirely on behalf of myself, not as Chairman of Members; I think a matter of this sort should be left to the vote of the House.

THE HON. THE DIRECTOR OF AGENCULTURE: As I see the case, the amendment proposed by my hon. friend puts the liability on the native as well as upon the employer, and therefore in my judgment you will introduce a greater degree of safety in the matter, and that is what we want to achieve. You have two parties who are now liable to report disease instead of one only; I think there should be a liability on the native as well as the occupier. Therefore I support the amendment before the House.

CAPT. THE HON. E. M. V. KENYALY: In reply to that point, if the occupier is by law required to know if the animals on his farm are healthy or not he will take measures to see to it. If he is not required by law and there is an excuse for him having to rely upon the native to bring information to him, and that native is often not there—his stock are left in the charge of some infant or in the charge of his wife or wives—it will defeat this intention. It will endanger the stock industry. I am astounded to hear the hon. the Director of Agriculture agreeing to any diminution of the responsibility in a matter of this kind being imposed on the owner. It is sentimental folly to do so.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I want to ask what the penalty to the native would be if he failed to report.

THE HON. THE ATTORNEY GENERAL: I fear, Sir, I have not got a copy of the statement here but the penalty is exactly the same as the penalty to which he has been liable and is liable to-day. Under the new legislation, as drafted, the obligation is changed, but to report to the occupier of the farm, to the persons under whom he is serving, whereas the obligation at the present moment is that he should report to the nearest veterinary officer.

CAPT. THE HON. E. M. V. KENYALY: Is a native considered capable of deciding whether an animal is diseased or not?

THE HON. THE ATTORNEY GENERAL: The test is whether he suspects it or not, Sir. It will then be for the occupier to see the animal and form a decision.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: I understand this amendment is not going to take away the responsibility from the owner of the farm, but it also lays the responsibility on the native owner to take extreme care to see that there is no disease. Is that correct, Sir?

THE HON. THE ATTORNEY GENERAL: Yes, Sir, that is correct.

HIS EXCELLENCY: The question is that clause 2 be amended by deleting the letter "(c)" and brackets in the fourth line of the clause and by adding at the end of the clause the following words:—

"Provided that where the animal affected with disease or suspected of being affected with disease was so lawfully taken on a farm it shall be the duty of the owner or his agent forthwith to give notice to the occupier of such farm of the fact of the animal being so affected or suspected of being so affected."

The question was put and carried.

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

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY : I have to report that the Diseases of Animals (Amendment) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council with amendment.

THIRD READING.

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : I beg to move that a Bill to amend the Diseases of Animals 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.

*Council adjourned till 10 a.m. on Tuesday,
30th December, 1930.*

TUESDAY, 30th DECEMBER, 1930

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, 30th December, 1930, His Excellency the Acting Governor (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.*

The Minutes of the meeting of the 29th December, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By **THE HON. THE TREASURER** (MR. H. H. RUSHTON) :
Second Supplementary Estimates, 1930, together with Explanatory Memorandum.

ORAL ANSWER TO QUESTION.

EUROPEAN HOSPITAL, NAIROBI.

CAPT. THE HON. H. E. SCHWARTZ asked :

Will Government publish the report of the Committee appointed to consider the question of the future of the European Hospital, Nairobi?

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN) : The report referred to was made to the Governor-in-Council but in the special circumstances Government is prepared to lay the Report on the Table.

NOTIONS.

REPORT OF THE SELECT COMMITTEE ON THE TRAFFIC (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.) : Your Excellency, I beg to move that the Report of the Select Committee of this Council on the Bill to amend the Traffic Ordinance, 1928, be adopted.

The Report, as hon. Members will see, has at least the merit of brevity. The majority report consists solely of the recommendation that the Bill be enacted without amendment. There is, however, a minority report by the two Elected Members who were appointed to the Select Committee. That minority report consists of the recommendation that section 41

of the Traffic Ordinance, 1928—which hon. Members will find on the left-hand side of page 3 of the Bill—should be amended by inserting in paragraph (b) thereof, after the word "cattle," the words "or dog." That section, Sir, bears the marginal note "Nuisance on roads" and the effect of the amendment will be to make it an offence for any persons to permit any cattle or dog to be at large without being under such efficient control as to prevent their damaging the roads or obstructing traffic.

At the outset, Sir, I would like to say that I acquit the two hon. Members in question of any fears that dogs, if allowed to be at large, are likely to damage the road surface, and so, Sir, I can only assume that the object of the suggested amendment is to prevent the risk of obstruction of traffic. In that case I would appeal to the hon. Members in question to reconsider this matter. Most of us are dog lovers and the effect of this amendment would be that every dog would have to live permanently on a lead; and I do suggest that the risk to traffic from a dog, which is relatively a small animal, is in no way comparable to the risk from cattle, for instance, straying about at night on the surface of the road. I move that the majority report of the Select Committee be adopted.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL) : Your Excellency, I beg to second the motion.

HIS EXCELLENCY : The question is that the Report of the Select Committee on the Traffic (Amendment) Bill be adopted.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, the suggestion of the minority in their Report is not an unreasonable suggestion. It has been quoted that people are dog lovers. Well, Sir, this enunciation of the Ordinance would enable the dog lover to confer a benefit upon the dog. Every year, throughout the world, hundreds of people are killed because they are dog lovers, and because, when a dog is in the way, they will take unnecessary risks and unjustifiable risks in trying to save the life of that dog; and they often do it at the expense of their own families and the passengers in their cars.

It is not our suggestion, Sir, that a dog should be continually on a lead. If a dog is under control it conforms to the requirements of this Ordinance and to this suggested alteration. If a dog is under control, Sir, it will only be necessary for the owner of that dog to show that he has an element of control over it and can discipline the dog. If he can call that dog to heel the dog will leave the road.

It is necessary to maintain some relationship between the law as it exists and the conditions which prevail. Every day one sees the lives of dogs jeopardised, and the lives of people also through a sentimental attitude towards prevailing conditions. If a dog is so out of control that it is necessary for the owner to put that dog on a lead permanently, then I strongly urge upon this Council the advisability of adopting the suggestion of the minority Report in regard to dogs, and I trust the hon. Member for the Coast will support this recommendation.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE : Your Excellency, I do still wish to support the amendment. I think, if you take the number of cases of accidents in which people have been run over by motor cars trying to avoid dogs, you will find the number is something enormous, as well as the number of deaths which have occurred from that cause.

LIEUT.-COL. THE HON. C. G. DURHAM : Your Excellency, I am afraid I cannot agree with the minority Report. I can only visualise the enormous cost entailed by the country in controlling these dogs. Most of the offences occur in the Native Reserves. The place is teeming with dogs there. In fact, I killed one this morning coming down. It is nothing to laugh at. I hate killing animals but the dog charged me. How are you going to enforce the law in the Reserves? It passes my comprehension.

THE HON. T. J. O'SHEA : Your Excellency, I recognize the motives underlying the minority Report are of the very best but I think it must be borne in mind that where dogs are most numerous there are other methods of exercising control. It will be unnecessary to apply these restrictions throughout the country in the rural areas. I am rather surprised to hear that the nuisance is greatest on the roads passing through the Native Reserves. I should have thought it was greatest in the township areas, and in those areas by-laws are imposed to lessen the nuisance. I think it would be very inadvisable to apply a law such as this throughout the country as a whole.

I entirely agree with the hon. mover of the majority Report that in the rural areas it would be a hardship upon the owners of dogs, and an unnecessary hardship upon the dogs themselves, to insist that they should be kept under an effective control, which I regard as being kept under a lead.

HIS EXCELLENCY: The question is that the majority Report of the Select Committee on the Traffic (Amendment) Bill be adopted.

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE TOWNSHIPS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee of this Council appointed to consider the provisions of a Bill to consolidate and amend the law relating to Townships and to provide for matters incidental thereto be adopted.

This was a large committee, Sir, with a personnel of ten. I am glad to say first that the Report is a unanimous one, and secondly that the Report embodies no amendments either of principle or indeed of substance. There is attached to the Report, Sir, a reservation by my hon. friend, the Chief Native Commissioner, but, as hon. Members will see, that reservation suggests no amendment to the Bill whatever. It merely points out what, in the Chief Native Commissioner's view, is the necessity for reconsidering the boundaries of townships lying within the Native Reserves, many of which have at present a merely conventional area. The power of reconsideration and of amendment of boundaries of these and all other townships is, as the Chief Native Commissioner points out, conferred upon the Governor under clause 5 (4) of the Bill.

The Report, Sir, as I have said, contains no amendment of substance, but there are just a few points in it which I might perhaps very briefly explain. The necessity for the inclusion of the word "vessel" in the definition of the word "premises" in Recommendation No. 1 is on account of the state of affairs which arises and which is likely to arise in such a place as Kisumu. The effect of this amendment will be to bring the definition of "premises" in the Townships Ordinance into line with the definition in the Public Health Ordinance and will enable the township authorities to deal with the breeding of mosquito larvae within the boundaries of such a township as Kisumu.

Recommendation 2, Sir, is a more important one. Clause 8 deals with the personnel of the Township Committee and provides that in a township which is not situated in a Native Reserve the committee shall include members of the district council, if any, having jurisdiction in the area bordering on the township. It was recommended to us, Sir, that that provision would be a severe, and might be unduly severe, tax upon the time of those gentlemen who very willingly give a good deal of their time to service on a district council

and that if the personnel of the township committee were limited to the members of the district council it might be difficult to induce members of that body to spare further time to serve on the township committee. And so it has been recommended that instead of saying "members of the district council" we should say "persons nominated by the district council." That would include all the members if they are willing to serve but it gives an extra degree of elasticity if the members of the council find it impossible to give up the time for personal service, and it enables them then to nominate the additional persons to serve.

Recommendation 4 (clause 13 of the Bill) provides that every township shall keep a township account. Townships in this Colony, Sir, vary from such places as Kitale and Kisumu on the one hand down to such places as Vanga, Yula and Wajir at the other end of the scale, and it does seem a little unnecessary that there should be an obligation on a township to keep a township account and correspondingly to send in estimates each year. The effect of the amendment will be that accounts will have to be kept only by those townships which wish to keep separate township accounts. Many of the small township services now rendered are done through the medium of the Colony's Estimates and it is only right, where, for instance, conservancy and sanitary services are carried out by prisoners, that those services should continue to appear in the Colony's Estimates; but it will be competent for any township which wishes to develop, to impose charges and collect fees, to open a township account under the amendment.

Similarly, Recommendation 5, Sir, is directed particularly at the two largest and most important townships, Kitale and Kisumu. In the opinion of the Commissioner for Local Government, Lands and Settlement it will be of very great value indeed to see—particularly in the case of Kitale—how far the contributions dealt with in this recommendation are asked for and required in a township which has practically a municipal status. It will entail no additional expenditure, Sir, because any sums which are granted under the new (5) which is recommended in Recommendation 5 will of course be deductible from any sums payable from public revenues under the existing (5) in clause 14. Any sum of money payable will simply be paid under one heading instead of under the other.

Nos. 6 and 7, Sir, are merely consequential on Recommendation 4; and Recommendation 8 merely fills what is an obvious lacuna, giving the District Commissioner, who is the township authority in small townships, the right to sue for fees which are not paid.

Recommendation 10, Sir, is again made mainly in the interests of the large townships. It gives to a township such as Kitale the same rights in respect of native locations which the municipalities at the present moment have. It may not be necessary for some little time to invoke these powers but it is well, Sir, that in the case of large places such as Kitale and Kisumu these powers should exist and it should be competent to invoke them should the necessity arise.

The second schedule, Sir, contains no new matter. Three places which in fact are not townships, which have been disestablished, have been omitted from the schedule, and the townships therein have been put in alphabetical order.

I beg to move the adoption of the Report.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Townships Bill be adopted.”

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, there are only one or two points. I take it, Sir, that the acceptance of the Report will not prohibit or inhibit one from raising minor alterations and making suggestions in dealing with the Bill in detail, clause by clause, when that is done?

HIS EXCELLENCY: The effect, as I understand it, of the adoption of this Report is that the House will not go into committee on the Bill. Is that so?

THE HON. THE ATTORNEY GENERAL: The House will not go into committee on it.

HIS EXCELLENCY: In that case, if you want to take any points you had better take them now.

CAPT. THE HON. E. M. V. KENEALY: I am afraid there are a number; some are merely verbal. I will deal with the last one first, the one I have a note of.

In clause 34 I suggest, Sir, an alteration, or shall I move it as an amendment, Sir?—that the Report of the Select Committee be amended to embrace the following: that in line 53 the word “Governor” be altered to “Governor in Council”—“The Governor in Council may, by rule, etc.” I accept the word “prescribed.”

HIS EXCELLENCY: I should be glad if the hon. Member would let me have that amendment in writing.

(The amendment was handed to His Excellency.)

On a point of order, I should like to know whether the hon. Member has a series of amendments of this nature to put in.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir; some are merely verbal but some of them are of principle.

HIS EXCELLENCY: If that is so, I would suggest that the proper course, and the one which will save the time of Council, is that when the third reading of the Bill is moved the hon. Member should move an amendment that the Bill be recommitted for the purpose of considering the various amendments which I should be obliged if by that time he would put down on paper so that we could then know exactly what we are dealing with. In the meantime, if the hon. Member wishes to speak on the principles of the Bill he is at liberty to do so.

CAPT. THE HON. E. M. V. KENEALY: No, Sir, I have no points of principle to raise; I will adopt the course suggested by you.

REV. CANON THE HON. G. BURNS: Your Excellency, I should like to receive from the hon. the Attorney General some help with regard to the general rules in clause (27) (b) as I think that paragraph may deal very hardly with us in connexion with our missionary work—“for regulating and controlling traffic, processions, and gatherings at, in or on public places.” I am referring to the open-air work which we are in the habit of carrying on in Nairobi township. I should like . . .

HIS EXCELLENCY: To what section of the Report are you referring?

REV. CANON THE HON. G. BURNS: To general rules, Your Excellency.

THE HON. THE ATTORNEY GENERAL: Clause 83, Sir.

REV. CANON THE HON. G. BURNS: Sub-clause (27) (b), page 13, Your Excellency.

HIS EXCELLENCY: Does the hon. Member wish to move an amendment or is he merely wishing to draw attention to what he regards as important?

REV. CANON THE HON. G. BURNS: Just to draw attention. I should like some assurance that it would not be put hardly upon us in connexion with that aspect of our work.

HIS EXCELLENCY: If no other hon. Member wishes to address the House I will call upon the Attorney General to reply.

THE HON. THE ATTORNEY GENERAL: There is one point, Sir, on which I possibly can reply and that is the point which was made by the hon. Reverend Member representing African interests. I would point out to the hon. Reverend Member that clause 39 is essentially only permissive and enabling; it merely recites those objects for the control of which Rules may be made, and I would like to give the hon. Member this assurance, that the provisions of paragraph (27) (b) of that clause occur under the Municipalities Ordinance. It is merely bringing townships exactly into line in respect of rule-making powers with the municipalities, and I am quite sure that the hon. Member has not found that the municipality of Nairobi or any other municipality has desired or sought in any way through the medium of its rule-making power to interfere unduly with the open-air activities that he has in mind.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee on the Townships Bill be adopted."

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE MINING BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

"That the Report of the Select Committee on the Mining Bill be adopted."

Here again, Sir, I am happy to say that the Report is a unanimous one, subject to three short reservations which hon. Members will find on page 6 of the print by the hon. and gallant Member for West Kenya.

Again there is little, I think, to which I need specifically draw attention, but there is one important alteration in the form of the legislation suggested in this Report. I refer, Sir, to Recommendations 7, 10 (b) and 13. Hon. Members are doubtless aware that some years ago a recommendation was made that mining legislation throughout the three grouped Territories should be, so far as local circumstances permitted, uniform, and this Bill was drafted with that object in view.

Under the legislation which is already in force in Tanganyika Territory and in Uganda all rents, fees and royalties are prescribed by regulation. In Select Committee a strong point was made of the necessity of embodying as much of that matter as possible in the Ordinance itself so that those interested in mining should be in a position to ascertain their position from a perusal of the Ordinance without having to go through regulations. The result of the discussions in Select Committee was this, that in these three Recommendations the Committee has suggested that the fee for a prospecting right, the charge for an exclusive prospecting licence, the rent for a claim—if I may so put it because the rent is to be nil—and the rent for a mining lease should appear in the body of the Ordinance. Those suggestions, Sir, are embodied in this Report. The fees and rents suggested are not those which are in force in Tanganyika Territory or in Uganda; they are in fact the fees which have hitherto been chargeable under our 1925 Ordinance—they are less than the fees which are payable under the regulations in force in Tanganyika Territory and Uganda, but I would remind hon. Members of this, that the effect of embodying these charges in the Statute itself is, of course, a removal of that degree of elasticity which regulations necessarily give. If, as a result of a geological survey, the proving of the mineral qualities, the mineral possibilities, of any area in this Colony those fees are found to be inadequate an amending Bill will be required, and Government must, of course, in such circumstances, reserve to itself the right to introduce an amending Bill. That, as all hon. Members will see, is the consequence which naturally and inevitably flows from embodying such mutable matters as rents and charges in the body of an Ordinance instead of leaving them to regulations.

Recommendation 2, Sir, I think calls for little if any comment. Reference has been made to the Native Lands Trust Board as a consequence of the passing of the Native Lands Trust Ordinance, and the opportunity has been taken at the same time of substituting for the definition of "Native Reserve" which appears in the Bill the same definition which occurs in the Native Lands Trust Ordinance.

Recommendation 3, Sir, is one of some little importance. The Bill provided that its provisions should not apply to the Territories of His Highness the Sultan of Zanzibar, but, Sir, by the 1895 Treaty it was agreed that the Government of what is now the Colony and Protectorate of Kenya should regulate questions affecting land and minerals and ever since that date the Government has in fact exercised control over minerals within the Territories of His Highness, and therefore

it is unnecessary to incorporate that provision; the provision, in fact, would be conferring a considerable concession which was definitely surrendered by Treaty.

Recommendation 9, Sir, is one on which I had not intended to say more than a word, but I have been asked to make the position clear in one respect. It really provides that in respect of Native Reserves the Native Lands Trust Board shall be deemed to be the owner and that the monies received by that Board by way of rent or compensation shall be devoted to the use of the natives concerned. The clause as drafted went further than that and I do want hon. Members to observe that the concession is limited to rents and compensations—that is to say, rents for the use or service of the land and compensation for disturbance to the service of the land. There is no suggestion here that any mineral rights, any subsoil rights of any sort, in a Native Reserve, are the property of anyone but the Crown. At the beginning of the Bill hon. Members will see a declaration that all minerals throughout the Colony are vested in His Majesty. There is no reference here to royalties; there is no reference to such matters as penalties. All that is dealt with here are those payments which necessarily and properly flow from the user of the service of the land from interference with the surface rights of the inhabitants of a Native Reserve—rent and compensation only, Sir.

In Recommendation 10, Sir, the first line as one turns over the page, Sir—page 3—I would ask leave to strike out the "a" at the end of the first word. It is obviously a mere clerical error. It should have been "Notice of such application."

Recommendation 20 brings the position as regards rent payable under a mining lease into accord with the position under the Crown Lands Ordinance. Before any additional penalty payment becomes due it is obligatory on the Commissioner to service notice on the person demanding payment. This, I repeat, Sir, is exactly the same as the provisions of the Crown Lands Ordinance on the subject.

Recommendation 25, Sir, removes from the Bill a clause to which considerable exception was taken, a clause in respect of which a road of access put the lessee under a mining lease into very much better position than any other owner of land in the Colony. For that acute differentiation no real justification was seen, Sir. The effect of the Recommendation will be that roads of access over mining leases will fall to be dealt with in exactly the same way as roads of access in any other piece of land in the Colony.

Recommendation 28 is that before a grant is made—that is, a grant under the Crown Lands Ordinance—notice shall be given to the lessee, claim- or licence-holder, of the intention to make that grant. The effect of that notice, Sir, will be, that it will be competent for the lessee, claim- or licence-holder to make objection.

As hon. Members will observe, the great bulk of the Report consists of the deletion of the Indian Penal Code words "of either description" and the transmutation of shillings by way of pounds. Those, Sir, I think are the only real points to which I wish to draw attention. The reservations of the hon. and gallant Member for West Kenya, Sir, I will leave for him to elaborate if he sees fit to reply.

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

HIS EXCELLENCY: The question is that the majority Report of the Select Committee on the Mining Bill be adopted.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in speaking to the Recommendations of the minority Report, the first one, clause 3, in the past Sir, in this country it has been possible for the administration in an area such as the Northern Frontier to exclude prospectors on the recommendation of the administrative officer but since that area is now under civil control it should be unnecessary and no district should be closed to prospecting, as such, for obvious reasons. If the administration in a district is so weak as to be unable to cope with things generally, not only with the mineral prospecting aspect of development, then, Sir, Government will be justified in shutting such a district to prospecting, but no district should be shut to prospecting alone, for obvious reasons. That is the first one, Sir, and I hope Government will consider that.

I wish to comment, Sir, on the manner in which these minority recommendations are made. At the last meeting of the Select Committee I urged that since we had not the Report in its final form the Select Committee's duty was to meet again and consider the recommendations of the Select Committee in its final form and also recommendations which I had warned the Committee I intended making. That course I had warned, Sir, and I protested then and I protest now against that method of doing things. Other members of that Committee have not had an opportunity of debating or considering the recommendations of the minority Report and it

is necessary therefore to elaborate them before this Council. That should not be necessary. I maintain, Sir, that this Committee has not done its duty completely. That is general.

In clause 13, by excising the final words "and conclusive"—that is merely a normal safeguard and more than a formality because if actually by legislation we allow the decision of the Governor to be conclusive it would inhibit discussion of that decision in this Council; and I maintain that this Council's rights should not be ruined by the actions of this Council itself. This Council should resist it. That is not merely an academic formality, Sir. It is a real disability.

Then, Sir, the final recommendation of the minority Report merely insists that where the State is dealing with the disposal of a State asset that disposal should be openly done and to the best advantage of the State. I maintain that if this Council accepts the wording of the minority Report that effect will be attained. Without it, it will not be attained because it will not be obligatory on the Governor to utilize the method of public tender for the disposal of a State asset.

Shall I do it separately, Sir, for each one, or can I move the adoption or incorporation of the recommendations of the minority Report . . .

HIS EXCELLENCY: You are at liberty to move an amendment that the minority Report and the majority Report be adopted.

THE HON. THE ATTORNEY GENERAL: The majority and the minority.

CAPT. THE HON. E. M. V. KENEALY: Thank you, Sir. I move the adoption of both the majority and the minority Reports. I do hope Government will give consideration to the three points I have mentioned. Had the Committee done its full duty, they would have been considered by that Committee.

HIS EXCELLENCY: There is now before the House an amendment by the hon. Member for West Kenya to the effect that the majority and the minority Reports of the Select Committee should be adopted. If any hon. Member wishes to second that amendment . . .

THE HON. T. J. O'SHEA: Your Excellency, I beg to second. I do so, Sir, for the purpose of having consideration given to the motion by my colleague. It is a subject on which I know practically nothing. I do not feel competent

to support a statement that these amendments should be adopted, but I do hope that Government will give consideration to the appeal that they be reconsidered.

CAPT. THE HON. H. E. SCHWARTZ: As a Member of the Select Committee, Your Excellency, I feel it incumbent on me to state quite definitely that every amendment suggested throughout the deliberations of that Committee was fully considered by that Committee and debated by that Committee. It is entirely incorrect to state that no consideration was given to these amendments in that Committee. Dealing with the first and last of his amendments, the whole object of closing an area for prospecting is in order to safeguard an applicant for a sole prospecting right. If a person applies for a sole prospecting right for any area and you do not immediately close that area pending the giving of that sole prospecting right, the thing becomes of no avail and farcical because anyone can go in there and start operations and it then ceases to be possible to give a sole prospecting right to the person in question.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, it would simplify things if the hon. Member will deal with the points I raised. I did not deal with sole prospecting rights. I raised the question of a prospecting area. That is the thing I discussed and if he wishes to deal with the thing I was discussing he should discuss the thing I was discussing and not another thing.

CAPT. THE HON. H. E. SCHWARTZ: With regard to that amendment, Your Excellency, if I understand the hon. Member aright, he considers that as soon as application is made to Government the whole question should be put out to tender in order that the estate should be thrown open to any member of the public or any body of persons to apply for. But surely that would be a very great hardship on the person or body of persons who have taken the initial steps and have had all that work and expense and trouble of finding where they consider minerals are; only to find themselves on an exact equity with someone who has taken no such trouble and had no such expense but has the right to make use of someone else's labours.

MAJOR THE HON. E. S. GOGAN: Your Excellency, I do not know whether I am in order but I want to draw attention to what I think is an omission, an accidental omission. In clause 2—the interpretation of "Minerals"—surely it should read at the end: "but shall not include clay, lime, sand and stone for building or similar purposes".

hon. Members would like any further explanation I will be very happy to give it when the time comes to reply to the debate.

On the Order Paper, Sir, hon. Members will find yet a further suggested amendment to be taken on recommitment. I can assure hon. Members that that is not intentionally done in that way. It deals with the vexed question, Sir, of exemption from hut and poll tax. Hon. Members will recollect that when the provisions of the King's African Rifles Ordinance were under consideration Council was informed that the question of exemption from hut and poll tax was under consideration by the Secretary of State on the general question affecting all the East African Territories; again, on my speech on the second reading of the Police Bill the same warning was given to Council and it is only recently, Sir, that the Secretary of State has been in a position to convey to this Government his final decision on that matter. As hon. Members will see, the exemption from hut and poll tax will cease on the 31st March, 1940. That is not a strictly accurate way of putting it, but the exemption is not to apply to any African subordinate officer who enlists after the 31st March, 1931. I would point out to hon. Members, however, that that is not the deprivation that it appears to be because we have succeeded, as shown in the first Report of the Select Committee on this Bill, in having the principle of pensions for the police as against gratuities accepted, and as soon as the exemption from hut and poll tax ceases to exist then the pensions will be increased by a sum corresponding to and at least as great as the amount of the hut and poll tax payable by the African subordinate officer. Monetarily the officer will be no worse off, he may be better off. From the administrative point of view the new system will have very numerous and very obvious advantages. The exemptions may be abused; sometimes, I am afraid, they are abused. The degree of check which is necessary to establish that those who claim exemptions are in fact entitled to such exemptions is out of all proportion to the amount at stake, and under this suggested amendment, Sir, when the period of grace—at least nine years' service from the date preceding the 1st April, 1931—has expired the officers will be no worse off than they are to-day.

I beg, Sir, to move that the two Reports of the Select Committee on the Police Bill be adopted.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: Is the hon. Member speaking to the amendment?

MAJOR THE HON. E. S. GROGAN: I do not think I am in error, Sir, but I think it is an accidental omission—but it is a very important one.

HIS EXCELLENCY: An amendment is before the House, which has just been proposed and seconded, that the majority and the minority Reports be adopted.

The question was put and lost.

HIS EXCELLENCY: The original motion is therefore before the House, which is that the majority Report of the Select Committee on the Mining Bill be adopted.

The question was put and carried.

REPORTS OF THE SELECT COMMITTEE ON THE POLICE BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move:—

“That the Reports of the Select Committee on the Police Bill be adopted.”

About a month ago, Sir, I moved a motion which was practically exactly in the same form as this, a motion for the adoption of the first Report of the Select Committee on this Bill. At that time, Sir, there was on the Order Paper, and I dealt with in my speech on the motion for the adoption of the Report, a long list of amendments suggested on recom-mittal on the motion for the third reading, amendments which were the outcome of a close and intensive discussion and consideration of the provisions of the Bill with the Secretary of State. At that time the suggestion was made, Sir, that instead of adopting that procedure, the procedure of the adoption of the Report and then the consideration of a large number of amendments on recom-mittal, we should recom-mit the Bill to the same Select Committee which has originally considered the provisions of the Bill. That suggestion, Sir, was adopted and the Committee re-met and unanimously recommended the adoption of all the amendments which had been suggested for consideration on recom-mittal—that is the second and second Report which is now in the hands of hon. Members. In view of the fact, Sir, that so recently as a month ago I endeavoured to explain the effect of all the amendments I do not apprehend that it is necessary for me at this moment, Sir, again to cover the same ground, but if there are any points in either of the Reports, Sir, on which

hon. Members would like any further explanation I will be very happy to give it when the time comes to reply to the debate.

On the Order Paper, Sir, hon. Members will find yet a further suggested amendment to be taken on recom-mittal. I can assure hon. Members that that is not intentionally done in that way. It deals with the vexed question, Sir, of exemption from hut and poll tax. Hon. Members will recollect that when the provisions of the King's African Rifles Ordinance were under consideration Council was informed that the question of exemption from hut and poll tax was under consideration by the Secretary of State on the general question affecting all the East African Territories; again, on my speech on the second reading of the Police Bill the same warning was given to Council and it is only recently, Sir, that the Secretary of State has been in a position to convey to this Government his final decision on that matter. As hon. Members will see, the exemption from hut and poll tax will cease on the 31st March, 1940. That is not a strictly accurate way of putting it, but the exemption is not to apply to any African subordinate officer who enlists after the 31st March, 1931. I would point out to hon. Members, however, that that is not the deprivation that it appears to be because we have succeeded, as shown in the first Report of the Select Committee on this Bill, in having the principle of pensions for the police as against gratuities accepted, and as soon as the exemption from hut and poll tax ceases to exist then the pensions will be increased by a sum corresponding to and at least as great as the amount of the hut and poll tax payable by the African subordinate officer. Monetarily the officer will be no worse off, he may be better off. From the administrative point of view the new system will have very numerous and very obvious advantages. The exemptions may be abused; sometimes, I am afraid, they are abused. The degree of check which is necessary to establish that those who claim exemptions are in fact entitled to such exemptions is out of all proportion to the amount at stake, and under this suggested amendment, Sir, when the period of grace—at least nine years' service from the date preceding the 1st April, 1931—has expired the officers will be no worse off than they are to-day.

I beg, Sir, to move that the two Reports of the Select Committee on the Police Bill be adopted.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

“That the Reports of the Select Committee on the Police Bill be adopted.”

The question was put and carried.

Council adjourned for the usual interval.

On Resuming.

BILLS.

THIRD READINGS.

THE TRAFFIC (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Traffic Ordinance, 1928, be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE TOWNSHIPS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Consolidate and Amend the Law relating to Townships and to provide for matters incidental thereto be read a third time and passed.

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

HIS EXCELLENCY: The question is that the Townships Bill be read a third time and passed.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to move the recommittal of this Bill under Standing Rule No. 83 to consider the following points:—

An amendment to clause 3;

Several amendments to clause 33;

An amendment to clause 34;

which I have handed in, Sir.

HIS EXCELLENCY: The question is that the Bill be re-committed for the purposes of certain amendments which the hon. Member has handed in. Does any hon. Member wish to second that amendment?

CAPT. THE HON. E. M. V. KENEALY: May I speak to it?

HIS EXCELLENCY: Order, order. Does any hon. Member wish to second that motion?

THE HON. T. J. O'SHEA: I beg to second, Sir.

HIS EXCELLENCY: The motion has been proposed and seconded. Does the hon. Member for Kenya wish to speak to it; he got up on a point of explanation, I think?

CAPT. THE HON. E. M. V. KENEALY: Well, Sir, if I was not going to be seconded I wanted to speak to the motion so as to urge the necessity of agreeing to the recommittal.

HIS EXCELLENCY: The hon. Member is entitled to explain the objects of the amendments, but I would ask him to be brief.

CAPT. THE HON. E. M. V. KENEALY: In this connexion I regret that I have had to do it in this way. I made representations to certain Members of the Committee that those points are worthy of consideration; I was not a Member of the Committee myself. Some of these points have been dealt with; some of these points are matters which have been dealt with by correspondence and I have got to see that they are given full consideration by this Council. It is my duty to do so. I regret having to do it in this way but I did attempt to do it properly. Well, Sir, is Council in Committee now, Sir? . . .

Well, Sir, clause (3), which is one of the reasons that I asked for recommittal, Sir, does involve the State in a certain monetary commitment. It provides that half of every fine which is imposed should go to the township. Now, Sir, that fine must be collected, and until that is done it would impose a commitment on the general revenue of this Colony.

THE HON. THE ATTORNEY GENERAL: On a point of bewilderment, if I may so put it, Sir, clause 3 deals with the Divisions of the Ordinance.

HIS EXCELLENCY: Is the hon. Member referring to Part III?

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir, I am. I am sorry. Part III, clause 14, sub-clause (3) is what I am referring to; I am sorry. This is the wording: “One-half of all fines imposed by any competent court in respect of any contravention of the provisions of this Ordinance or of any

Rules made thereunder." That means that the proportion shall be paid to the credit of every township account. Now, Sir, unless it is provided in this clause that that fine shall first be collected it means a commitment on the revenues of this country and it means a wrongful commitment. Surely it is necessary first to collect the fines before paying the township half the fine imposed. That is what I consider necessary and is a justification for moving the recommittal of the Bill on that particular clause.

Then, Sir, in Part V, clause 33, line 34, there is no provision in the wording of that thing—having once given the power to declare certain areas applicable for certain purposes—there is no power thereafter given for varying such a declaration. I maintain, Sir, that it is absolutely essential to provide for powers so to vary such a declaration. That is the reason for recommittal in regard to that particular part.

Then, Sir, in clause 33 (21) (a) it is stated that certain costs can be collected but it does not state from whom those costs should be collected, Sir, and I suggest the words "from the owner" should be incorporated therein.

In sub-clause (21) (c) the same amendment is required.

Then, Sir, in clause 33 (21) (g) (iii), which deals with the closing of buildings or parts of buildings which are unfit for human habitation—in this, Sir, I suggest that the words "intended for use as dwelling" should be added. A building which is not intended for use as a place fit for human habitation should not be subject to the amount of limitation; if it is intended for use as a human habitation, then there should be the right to close it for that particular purpose. An amendment is required there, I maintain.

In clause 33 (21) (r), line 38, that deals with certain requirements in regard to alterations and buildings, and it asks for the approval or otherwise of all plans and sections of any such building alterations. I suggest the words should be "approval, rejection or modification," and that the words "or otherwise" should be excised as they have no meaning.

Then, Sir, in sub-clause (20) I move the deletion of the words "for profit." That deals with strolling musicians, Sir, but after all if a man is earning his living by playing to the annoyance of other people, surely he has more justification than if he were an annoyance without drawing any emoluments from his work. He causes annoyance to other people. I maintain that other people should also be controlled if they cause annoyance to the neighbourhood; whether they are earning money by it or not they should be controlled, and I maintain that the words "for profit" should therefore be excised from that particular paragraph.

Then, Sir, in these various sub-clauses to clause 33 there is no provision whatever made for regulating or establishing aircraft requirements—landing grounds and so on—or for handling aircraft which are within the limits of such a township or for controlling the conditions under which petrol and so on shall be taken, and generally. I maintain that is a very serious omission which is deserving of consideration by this Council.

Then, Sir, in sub-clause (41), which deals with fires and fire brigades, it deals with the compensation to owners of buildings removed in order to prevent the spread of fire, but a building might not only be removed, it might be destroyed or partially destroyed. No consideration has been given to that point, and I suggest that alone justifies the recommittal.

Then, Sir, in sub-clause (46), which regulates the housing of natives, that applies only to housing by the employers of those natives, and one sees that in sub-clause (47) there may be various classes of boys in a township who might live absolutely uncontrolled by the township, who might live in any part of the town and under any conditions, unless the words "or generally" are added to (46). That is another reason for asking for the recommittal.

Then, Sir, in sub-clause (48), which deals with native locations . . .

HIS EXCELLENCY: Order, order. All the points which the hon. Member is taking now are really committee points which he will have every opportunity of speaking to if the House agrees to the motion for recommittal. I would suggest that as far as possible he should confine himself to the principles which have led him to ask for the Bill to be recommitted.

CAPT. THE HON. E. M. V. KENEALY: It is only on these committee points and the lack of provision for prosecutions that I wished to draw the attention of the House and for that I have asked for the recommittal. I am not dealing with the principle, which I have agreed and committed myself to.

HIS EXCELLENCY: Does any other hon. Member wish to address the House.

CAPT. THE HON. E. M. V. KENEALY: I have got more, Sir, but surely I have already given an indication that there are certain omissions in this Bill and certain wrongful wordings. I surely have adduced evidence enough to convince the House of the necessity for recommittal.

THE HON. T. J. O'SHEA: Your Excellency, on a point of explanation, I seconded the motion of the hon. Member for West Kenya because he made a statement that his privileges were being curtailed and I thought it only right that he should have an opportunity of making a statement to this House, but having heard the amendments he wishes to move I am perfectly satisfied that he has not adopted a proper procedure and that his privileges have not been restricted, and I wish to state publicly that he has not in my opinion exercised his privileges as a Member in the way he might have done to secure his purpose.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I should like to say but one word, Sir, for the reason that I was Chairman of the Select Committee which dealt with the provisions of this Bill. My hon. friend, the Commissioner for Local Government, Lands and Settlement, who was a Member of that Committee, informed Members of that Committee at a very early stage that the hon. Member for West Kenya had placed in his hands a letter containing various suggested amendments to the Bill. I cannot charge my memory sufficiently to say that every point mentioned by him this morning was in that letter but it contained a number of those points and every one of those points was brought up and carefully considered. Certain of them were adopted; others were rejected, and I do not think, Sir, that it is in accordance with the ordinary interpretation of the privileges of Members of this Council that because the Select Committee has not seen fit to adopt every one of a number of suggested amendments there should be a motion for recomittal at this stage, Sir, for the consideration of those very points.

HIS EXCELLENCY: The question is that the Bill be recommitted for the reasons given by the hon. Member.

The question was put and lost.

THE HON. THE ATTORNEY GENERAL: I have put the motion for the third reading, Sir.

The question was put and carried.

The Bill was read a third time and passed.

THE MINING BILL.

THE HON. THE ATTORNEY GENERAL: In view of the point made just before the adjournment by the hon. and gallant Member for Nairobi North, I have Your Excellency's authority for stating that with the leave of the House the motion for third reading will be postponed until Council resumes next month.

HIS EXCELLENCY: The third reading will be by leave postponed.

THE POLICE BILL.

THE HON. THE ATTORNEY GENERAL: I beg leave to move that the Police Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Police Bill be read a third time and passed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill be recommitted for the consideration of an amendment to clause 21, which hon. Members will find in the Order Paper:—

“Provided that the exemption conferred by this section shall not be granted to any African subordinate officer enlisted after the 31st day of March, 1931.”

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

Council went into Committee.

In Committee.

THE POLICE BILL.

Clause 21.—Exemption from hut or poll tax after nine years service.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this clause be amended by adding at the end thereof the words:—

“Provided that the exemption conferred by this section shall not be granted to any African subordinate officer enlisted after the 31st day of March, 1931.”

I endeavoured, Sir, in my speech on the motion for the adoption of the Report of the Select Committee to indicate the causation of this amendment so I shall content myself now with formally moving it.

LIEUT.-COL. THE HON. C. G. DUNHAM: Your Excellency, I must oppose this amendment. I believe that in the King's African Rifles and in this force it will have a very bad effect indeed. It is a hindrance to the end of twenty-nine years they retire. They have a free hut for life and it is looked upon as a very great privilege indeed. I believe it will interfere with recruiting and it is a privilege they would hate to be deprived of. They set a lot of store on it and when it comes to collecting your hut tax I do not think you will. But that is a minor matter. Very few men live very much longer after twenty-nine years and though it is a privilege generally given it does not last very many years and there is little money in it. But definitely they do look upon it as a privilege that they have had many years.

MR. THE HON. R. W. B. ROBERTSON-EVANCE: I should also like to support the protest made by the hon. Member. I think that these continual pinpricks going on—only last month we had one—do disconcert the native more than anything else. Last month we had the language allowance taken away from them and now we are going to take away a privilege which every member of the Police Force looks forward to and values.

HIS EXCELLENCY: The question is that the clause be amended by adding at the end thereof the words:—

“Provided that the exemption conferred by this section shall not be granted to any African subordinate officer enlisted after the 31st day of March, 1931.”

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Police Bill be reported to Council with amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Bill to provide for the Organization, Discipline, Powers and Duties of the Police Force and for matters incidental thereto has been considered in Committee of the whole Council and has been reported to Council with amendment.

THIRD READING.

THE POLICE BILL.

THE HON. THE ATTORNEY GENERAL: I now beg to move that the Police Bill be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

HIS EXCELLENCY: I understand it will be for the convenience of Members if Council is adjourned until the 7th January. I therefore adjourn Council until the 7th January. I hope that during the interval it will be possible for the Select Committee on the Estimates to consider the Supplementary Estimates which have been laid on the Table and also for the Colonial Secretary to put certain proposals in connexion with the Colonial Development Fund before them for further consideration.

*Council adjourned to 10 a.m. on Wednesday,
7th January, 1931.*

WEDNESDAY, 7th JANUARY, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 7th January, 1931, His Excellency the Acting Governor (Mr. HENRY MOXON-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of 30th December, 1930, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN):—

Report of the Maize Conference, 1930.

Report of Select Committee on the Second Supplementary Estimates, 1930.

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

Report of Select Committee on the Education Bill.

By THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS):—

Report of Sub-Committee of Executive Council appointed to enquire into certain matters connected with the European Hospital, Nairobi.

By THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM):—

Agricultural Census Report, 1930.

NOTICE OF MOTION.

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

“That in the opinion of this Council an enquiry should be held into the circumstances which caused the death of several head of cattle, the property of Mateo wa Nzomo, a Mkamba resident native on the Kilima Kiu

estate, through the contravention of the Diseases of Animals Ordinance, and into the question of compensation for the said native, and to make recommendations."

ORAL ANSWERS TO QUESTIONS.

FRAUDULENT BANKRUPTCIES.

CAPTAIN THE HON. H. E. SCHWARTZ asked :

(1) Whether the attention of Government has been drawn to the increasing number of cases of fraudulent bankruptcy in the Colony?

(2) If so, what action Government proposes to take to ensure a proper investigation into such cases as may occur with a view to criminal action being taken against the fraudulent debtors?

THE HON. THE ATTORNEY GENERAL :

(1) Government has no evidence that the number of cases of fraudulent bankruptcy in the Colony is increasing. It is, however, considerable.

(2) In every case in which an order for the prosecution of a debtor for a bankruptcy offence is made under section 141 of the Bankruptcy Ordinance, 1930, full and careful investigation is at once made with a view to criminal proceedings being successfully taken. Criminal proceedings for bankruptcy offences cannot be initiated except on an order of court, and such an order can only be made on the report of an official receiver or a trustee in bankruptcy or on the representation of a creditor or members of the committee of inspection.

CAPT. THE HON. H. E. SCHWARTZ : Your Excellency, arising out of that answer, first of all will Government consider taking steps whereby investigations can be made by the Official Receiver's office so that application can be made to the court; and secondly will the hon. the Attorney General undertake that if complaint is made by a creditor investigations will be made by his office into such complaint?

THE HON. THE ATTORNEY GENERAL : Your Excellency, I am afraid I should require notice of that question, Sir.

HARRY THUKU.

REV. CANON THE HON. G. BURNS asked :

Is the Government in a position to make any statement as to its intentions with regard to the return of the deportee Harry Thuku?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL) : The question was carefully reviewed by Government recently and as result the order of deportation on Harry Thuku has been provisionally suspended on the understanding that it can be re-enforced at any time should his behaviour make such a course necessary.

FRAUDULENT BANKRUPTCIES.

CAPT. THE HON. H. E. SCHWARTZ : On a point of order, would the hon. the Attorney General take as notice of those questions the supplementary questions I asked, in view of the early demise of this Council?

THE HON. THE ATTORNEY GENERAL : Certainly, Sir.

THE HON. CONWAY HARVEY : On a further point of order, Your Excellency, when may I expect answers to my questions in regard to the Land Bank and Agricultural Advances, especially in view of the public anxiety in regard to these matters?

CAPT. THE HON. E. M. V. KERSEALY : And mine.

THE HON. THE ACTING COLONIAL SECRETARY : I have no doubt the answers can be furnished before the demise of this Council.

BILL.

THIRD READING.

THE MINING BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Consolidate and Amend the Law relating to Mining be read a third time.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN) : Your Excellency, I beg to second.

HIS EXCELLENCY : The question is that a Bill to Consolidate and Amend the Law relating to Mining be read a third time.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that a Bill to Consolidate and Amend the Law relating to Mining be recommitted for consideration of an amendment to clause 2, which hon. Members will find on the Order Paper.

Towards the close of the debate on the motion for the adoption of the Report of the Select Committee on this Bill the hon. and gallant Member for Nairobi North raised a point as to the definition of "minerals", questioning the propriety in the conditions which obtain in the Colony of the omission from that definition of any reference to lime. On that occasion, Sir, with the leave of Council the motion for the third reading was not put and Government undertook to consider the question of the definition of "minerals". Consideration has been given to the question, Sir, and as hon. Members will see, it is now proposed that in the definition of "minerals" there should be included an exemption in favour not only of lime, as the hon. and gallant Member asked, but also of murrain, and that the definition should be still more elastic by enabling the Governor, by notice in the Gazette, to exempt further common mineral substances.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second the motion.

The question was put and carried.

The Council went into Committee.

In Committee.
THE MINING BILL.

Clause 2.—Interpretation.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that in this clause the definition of "minerals" be deleted and that there be substituted therefor the following definition:—

"Minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals, precious stones and or non-precious minerals, but shall not include clay, murrain, lime, sand or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance."

THE HON. CONWAY HARVEY: Your Excellency, I support the proposed change in principle but we should like to be assured, Sir, that the machinery is in existence which will enable the exploitation of such matters, of course, under the Mining Ordinance which has governed such matters hitherto has been very simple, but this proposed amendment appears to me, Sir, automatically to exclude lime whether on private land or on Crown land, and many of us consider that deposits of lime on Crown land should be exploited in the interests of everybody.

THE HON. THE ATTORNEY GENERAL: If I may say so, Sir, a very unusual thing has happened—the hon. Member for the Lake is very quite accurate in his statement. Under the 1925 Ordinance lime or deposits of lime on Crown land, Sir, whether alienated or unalienated will be in future, as at present, governed under the provisions of the Crown Lands Ordinance.

HIS EXCELLENCY: Does that meet the point of the hon. Member?

THE HON. CONWAY HARVEY: It does, Sir, but may I point out that when I spoke my memory was very clear on the subject of a gentleman who did take out a mining claim on Crown land to develop lime resources, and I think I am right in saying Government took his money.

HIS EXCELLENCY: The question is that in clause 2 the definition of "minerals" be deleted and that there be substituted therefor the following definition:—

"Minerals" means all minerals and mineral substances, other than mineral oils, and may be precious metals, precious stones or non-precious minerals, but shall not include clay, murrain, lime, sand or other stone, or such other common mineral substances as the Governor may by notice in the Gazette declare not to be minerals for the purposes of this Ordinance."

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Consolidate and Amend the Law relating to Mining be reported to Council with amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that a Bill to Consolidate and Amend the Law relating to Mining has been considered in Committee of the whole Council and reported to Council with amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Consolidate and Amend the Law relating to Mining be read a third time and passed.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

HIS EXCELLENCY: I understand that probably it will meet the convenience of hon. Members if we adjourn till to-morrow morning to take up certain motions of which notice has been given to-day rather than that a suspension of standing orders should be taken in order to enable us to get through a certain amount of business. In that case I adjourn Council till 10 o'clock to-morrow morning.

The Council adjourned till 10 a.m. on Thursday,
8th January, 1931.

THURSDAY, 8th JANUARY, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 8th January, 1931, His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 7th January, 1931, were confirmed.

ORAL ANSWER TO QUESTION.

DUTY ON COTTON WOOL AND GREASE PROOF PAPER.

LIEUT.-COL. THE HON. C. G. DURHAM asked :

1. Will Government introduce a measure to allow the free importation of cotton wool and grease proof paper, when intended for agricultural purposes only, particularly for use in preventing the spread of mealy bug?
2. Is it not a fact that duty was waived last year?
3. Why has it now been re-imposed?

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH) :

1. The answer is in the negative as Government is unable to accept the implication that an exemption from import duty can properly be based on a declaration that a certain commodity will at some indefinite period in the future be applied to a certain use when it is at any time capable of being applied without change of form or composition to a use which would render it liable to duty.

2. The 1923 Tariff allowed the free importation of the articles in question on production of proof that they were imported for ultimate use solely for the prevention of insect pests in plants or trees. In the opinion of Government this procedure did not provide reasonably adequate revenue safeguards and at the same time inflicted hardship on importers carrying stocks for sale in open markets.

3. Government considers that the question of the ultimate use to which an article may be put should not be a factor in Tariff interpretation and for this reason is unable to sanction a reversion to the practice operating prior to the enactment of the 1930 Tariff Ordinance. The amount of duty which importers are called upon to pay on articles specified is extremely small.

MOTIONS.

SECOND SUPPLEMENTARY ESTIMATES, 1930.

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Your Excellency, the Report of the Select Committee on the Second Supplementary Estimates has been laid on the Table and the usual notice has been given for the motion for its adoption. Certain statements called for by Elected Members during consideration of these Estimates have been already circulated, but some of them, I am sorry to say, were not ready for circulation on paper, and such matters, therefore, as were raised in Committee and have not yet been explained on paper to Members I will try and explain now.

The first point was in regard to the cost of the preparation of the landing ground at Makindu. *Prima facie* it would appear that the cost did seem to be, not unduly, but unusually high. I am sorry to say these figures are not yet in my hands and I shall therefore have to take the course of circulating them to Members as soon as they come in.

The question of the acquisition of certain land at Kabete has been explained in a written statement and I will not therefore further refer to it now.

As regards an item of £200, representing the cost of two houses at Kiambu, the details were not ready to circulate on paper so I will read them out now.

The estimate for erection included certain items which were in addition to the main contract for the construction of the main buildings. The estimate for the work in connexion with each house was as follows:—

Freight to Kiambu	£22/10/0
Provide and erect on concrete piers Assembly and erection of main build- ings as above	15/ 0/0
Provide and erect pit closet to type design	20/ 0/0
Provide and erect wood and iron cottage, with concrete, floor and store	15 /0/0
Contingencies	52/10/0
	25/ 0/0

If there are any further details which hon. Members require, my hon. friend the Director of Public Works will be only too glad to give them.

There are two further points, Sir. One is, a question was asked as to whether the sum of £208, which was required to meet additional road grants for the Nyanza District Council

last year, had been approved by the Standing Committee on Local Government for Rural Areas. The additional road grant was considered and recommended by the Central Roads and Traffic Board, which is the body constituted to consider such matters, and not by the Standing Committee for Rural Areas.

The last point was a question raised as to compensation to the amount of £100 to the East African Power and Lighting Company. The point in question was as to whether it had been assessed in accordance with any legal commitments or under the provisions of any legislation. The reply to that is in the negative. Government is advised that it is not legally liable to pay any compensation towards the cost of removal. It was decided that in the circumstances of the case an *ex gratia* payment of £100 was reasonable. The point is that the high tension line of the Company used to run across the playing fields of the new Indian School in Nairobi and this was considered undesirable and dangerous.

I think I have dealt with the specific points raised by the Committee so far as they have not yet been answered and I will therefore formally move that the Report be adopted.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MCGREGOR, K.C.): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Second Supplementary Estimates, 1930, be approved.

THE HON. CONWAY HARVEY: Your Excellency, I am not altogether satisfied with the explanations that have been given and I should like to reiterate what has been said before that Elected Members consider it farcical in the extreme that measures should be introduced asking for their agreement after the expenditure has actually been incurred. One can quite easily realize, Sir, the necessity for Government taking action and spending money in time of dire emergency but I do suggest quite seriously that the majority of these items could very well have been submitted to Members before any public funds were disbursed.

So far as landing grounds are concerned, Elected Members of course, in common with everybody else in Kenya, are only too anxious to do their utmost to promote the development of civil aviation. This matter was discussed at very considerable length by the Select Committee on Estimates which sat only a few weeks ago and that Committee recommended that a standing committee should be appointed for the purpose of investigating and advising Government on any suggestions that are put forward for expenditure in connexion with

landing grounds or otherwise. The money at first sight, Your Excellency, does appear to be inordinately large—£700 for two landing grounds in a country where landing grounds could be constructed very much more cheaply than in many places—and I am disappointed that we have not yet been given further details showing precisely how this rather large sum is made up.

I am, Sir, absolutely and entirely in opposition to a continuance of the expenditure on veterinary patrols on the Tanganyika Border. This matter, Sir, was discussed in very great detail and we have the authority of the Senior Commissioner in charge of the Masai, and I think the Head of the Agricultural Department, for saying that it was quite impossible to establish a case—even a bad case—for money to be spent in this way, and I am going to vote against any further expenditure in this connexion. Government, moreover, Sir, quite definitely promised to look into the matter and find out whether it was possible to revise the arrangement with the Tanganyika Government which was entered into a considerable time ago. We consider the expenditure is quite unjustifiable and represents an entire waste of public money. I notice our old friend Brigadier General Winterbotham appears again and I do think it is about time this item ceased to appear with such frequency in Supplementary Estimates. We should like an assurance that we have at last touched bottom in connexion with this service, the value of which no one can appreciate.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I have put in an amendment, Sir, which I wish to move at this stage, and deal with the terms of the Report later on. The amendment is to Head III, Veterinary Patrols, £840, and as an amendment I move that this item be deleted.

Now, Sir, in dealing with this matter, we discussed the principle of providing money from general revenue for this purpose in the Select Committee dealing with the Estimates for this year. Certain recommendations were made then. Sir, and Government undertook to make further enquiries into the desirability of dealing with this matter in this particular way, but we have heard nothing from Government in regard to that action it has taken in that regard. Government, Sir, has failed apparently to take any action. If it has not failed to take action, it has failed in its duty to us inasmuch as it has not given the information we are entitled to. We asked for that information and we have not had it.

First of all, Sir, I submit that this item should not be in Supplementary Estimates. It is the wrong place for such an item, and it is wrong for Government, having given an undertaking to enquire into a thing, to accept the acquiescence of

Elected Members, a conditional acquiescence, and introduce further monetary provision based on that acquiescence—which was a conditional one—without recognizing the condition.

Now, Sir, during that examination it was shown that the benefit accruing to our own nationals—the natives of this country and the Masai—was a very small one. The necessity for the provision was questioned by the administrative officers concerned. But if it is proper that any payment should be made to the Tanganyika Government, surely that payment should come out of Native Trust Funds, because they only benefit. It has accrued, it accrues actually only to a small section of the community and if they receive a benefit they should pay for that benefit.

Finally, it is wrong, I think, to suggest to this Council that we should support monetarily the international absurdities of Geneva.

Can I move the amendment as a start, Sir, or must I continue to discuss the further points in this Report, Sir?

HIS EXCELLENCY: I understand the hon. Member formally wishes to move an amendment excising this item from Supplementary Estimates. Is that so?

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir. But I wish to continue the discussion of other items in this Report as well.

HIS EXCELLENCY: In that case your speech need only be to the terms of the amendment which you are now proposing.

I would suggest to the hon. Member that the terms of his amendment should be slightly altered, as what is before the House is not the Report of the Select Committee but a motion that the Second Supplementary Estimates be approved. I suggest that his amendment should read:—

“That the Second Supplementary Estimates be amended by the excision of the item, £840, Veterinary Patrols on the Tanganyika Border, appearing under Head III, Agricultural Department.”

Does that meet your case?

CAPT. THE HON. E. M. V. KENEALY: Thank you, Sir, I should like to do it that way.

HIS EXCELLENCY: That amendment has been proposed. Does anybody desire to second it?

LIEUT.-COL. THE HON. C. G. DURHAM: I desire to second it, Your Excellency.

HIS EXCELLENCY: The following amendment has been proposed and seconded:

"That the Second Supplementary Estimates be amended by the excision of the item £840, Veterinary Patrols on the Tanganyika Border, appearing under Head III, Agricultural Department."

This amendment will be first debated before we proceed, and a decision taken before we proceed with the rest of the Report.

If no other hon. Member wishes to address the House I will call upon the Colonial Secretary to speak to the amendment.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, the doubts and difficulties of this particular service were, I think, fairly fully debated both in the Select Committee on the Budget and in the more recent Select Committee whose Report we are now concerned with. The explanation given and the agreement, at any rate as I understand it to be at the time, I think were both reasonable. Whatever may be or has been the value of this service it has, in fact, been incurred and we have pledged ourselves to put up the money required for our share of it. Government, therefore, is not in a position to go and break its word to another Government and it cannot therefore agree to this amendment. At the same time, I should like to make it perfectly plain that this suggestion, this accusation, which the hon. and gallant Member for West Kenya made, I think, that Government has taken no action and is unlikely to do so, is not quite founded on fact. Government proposes to take the whole problem-up of investigating the animal diseases problem in its inter-relationship with each side of the Tanganyika border at the very earliest possible opportunity. I believe I am right in saying the Chief Veterinary Officer has already had instructions to proceed there and discuss matters with the Chief Veterinary Officer of Tanganyika.

HIS EXCELLENCY: I would say in amplification of that statement that it is the case that the whole question of the control of rinderpest on the Tanganyika border is at the moment receiving the very careful consideration of Government, and the intention is that after our Chief Veterinary Officer has been round there himself there should be a conference of the Chief Veterinary Officers of the three Territories to see what concerted measures can be taken.

The question before the House is that the amendment proposed by the hon. Member for West Kenya be adopted.

CAPT. THE HON. E. M. V. KENRALY: Your Excellency, may I reply shortly to one of the points raised, Sir?

HIS EXCELLENCY: You are out of order. The question is that the amendment be adopted.

The question was put and lost.

CAPT. THE HON. E. M. V. KENRALY: Your Excellency . . .

HIS EXCELLENCY: Order, order. Strictly speaking, the hon. Member, if he wished to speak on this debate, on all the items in this debate, as well as on this amendment, should have dealt with the other items which he wanted to criticize first and reserved to the end of his speech the formal moving of the amendment on this item because, having once spoken on this motion, he is not entitled to speak again; but I do not wish to deprive the hon. Member of reasonable criticism and therefore, as a concession, I will let him speak on the general motion again, provided he does not cover this item again which we have already dealt with.

CAPT. THE HON. E. M. V. KENRALY: Thank you, Sir; I did ask if I might adopt this procedure.

The next item I wish to comment on is the acquisition of land at Kabete. There are three or four important factors in this which are not mentioned in the explanation given to us, Sir. It is not stated whether the original plan contained the error on which the necessity for the inclusion of this item was based. We do not know whether the owner or any of the owners or the State was responsible. If the owner was responsible and not the State it should be explained to us why responsible should be called upon to meet an expenditure of the State should be called upon to meet an expenditure of this nature. If the State is responsible then I maintain, Sir, the Government should honestly face the issue, admit a mistake has been made, and rectify that mistake in the shortest and fairest method possible. The explanation tells us none of these things, Sir. One point which apparently has not been considered is that it was agreed, when we dealt with the demarcation of Native Reserves, that there should be a policy of adopting a give and take line in achieving that boundary because it may be possible that that policy could not be applied in this instance. Again, in the explanation we have no statement to that effect. I think we are entitled to expect Government to carry out the policy, which is an agreed policy, with regard to the demarcation of Native Reserves.

Also, Sir, in the explanation justifying this item it states in paragraph 4 that "the natives, upon whose land the encroachment had taken place, firmly refused to consider any proposals by exchange or otherwise. . . ." Now, Sir, I submit that the natives upon whose land this encroachment took place do not exist. This encroachment apparently took place years and years ago and since there is not even to-day individual ownership it is wrong for Government to utilise a statement of that kind as a justification for an action of this sort.

We are told that the natives were prepared to allow a proportion of the land on which the house existed to be included in the plot. What was their status? Had they any status whatever? We know quite well they had no status, and therefore this paragraph is one which has no significance whatever.

We are told further in paragraph 6, Sir, that the road of access was prohibited by the native authorities. I wonder if Government can explain to this House, Sir, what it means by "native authorities"? Is there a native authority which has ultimate control of the road policy and the implication of that policy to this country? The explanation, Sir, is totally unsatisfactory. It is wholly incomplete, and because of that, Sir, I feel the whole of this item should be reviewed. I do not know if one could at this stage ask for the recommittal of these Supplementary Estimates for further information and further justification of Government's attitude in the matter, but I feel it is desirable that should be done. I oppose this item, Sir.

THE HON. T. J. O'SHEA: Your Excellency, my comments on these Supplementary Estimates will be confined to the item of £3,929 for the Acquisition of Land and Houses at Kibete. Since receiving the Estimates and the Explanatory Memorandum that accompanied them I have made careful enquiries into the facts of the case and as a result of my enquiries I have come to the very definite conclusion that this money has been asked for entirely as the result of gross administrative incompetence on the part of Government, and that being the case I am compelled to vote against the inclusion of this item.

In the explanation that has been given, Sir, it is very definitely stated in the first paragraph that this piece of land was acquired as far back as twenty-two years ago from a native and that a title, a freehold title, was issued by Government. I would emphasize, Sir, that the land having been acquired from a native and the European owners having been in possession of the entire area entirely undisturbed for a period of twenty years, whatever mistakes may have been

made by the Government Survey Department, it was certainly common knowledge among the native people in that area that the entire amount of land, irrespective of the acreage, had been legally acquired by Europeans, and effective possession of that land was enjoyed by Europeans for a period of twenty years. It is common knowledge to all who have been in touch with the Survey Department of the Colony that at that time the survey work was carried out in a most slipshod fashion and that the surveys carried out at that time teemed with gross errors; and it is common knowledge to the people who live in that particular area that the surveyor entrusted with the task of carrying out the work there did it most incompetently. That being the case, one may reasonably ask oneself in which of two ways did the error occur. Was it in respect of the actual area of land that was purchased or was it in respect of the computation of the amount of land that was enclosed in the actual boundaries? I certainly have made up my mind, in view of the fact that the European owner of that property for a period of twenty years was left in undisturbed possession of the entire area; that the mistake was made, not in the actual area of land, but in the computation by the Survey Office of the amount of land that was included in the boundary actually agreed upon. That being the case, Sir, and I should add there is further fairly conclusive evidence that such was the case, although the plan of them, this explanation, only speaks of a fence along the boundary in dispute or the boundaries in dispute, it is, I believe, not disputed that there is a hedge, a long-established hedge, along the boundary and that the present owner of the property erected a new house thereon well inside that hedge and had no reason whatever to believe that the hedge which had been there for a period of years was not the actual boundary of the property.

In paragraph 4 it says: "The natives, upon whose land the encroachment has taken place, firmly refused to consider any proposals by exchange or otherwise whereby these inad- vertent encroachments could be allowed to remain." Now, Sir, I would like to ask who were these natives? If they be known, how does it come about that for a period of twenty years they were unaware that this was their property? If years they were unaware of it for twenty years, how did it become known to them that by a new survey this land was assumed to be their property? I want a definite answer to this to be their property. Am I right in believing what I have been very question. Am I right in believing what I have been very definitely told that all this trouble has arisen as the result of the action of a politically-minded officer of Government who, when this supposed mistake was discovered, brought natives on to the property and said: "This land does not belong to

these people but belongs to you"? Is that so or not? Now then, if it be the case whether that was the origin of it or whether it came about in any other way, if it be the case that after twenty years certain natives came to know that the piece of land which really belonged to them had for twenty years been in the possession of other people, how did it come about that they should adopt such an attitude as to refuse all reasonable bases of settlement by which that land should continue in the possession of people who had had it for a period of twenty years? There is no question of filching land from the natives involved in this issue whatever. It is to my mind a question of— I repeat the statement— gross administrative incompetence. We have a piece of land of practically no economic value to these supposed native owners. It is brought to their notice, after they have been out of possession of it for twenty years, that it is legally their property. They are asked to agree that it should remain in the possession of the people who had had it for twenty years, and they adopt this, for a native, most extraordinary attitude: "Under no circumstances will we allow it to remain in the possession of these people. It is ours and at all costs we shall have it back," and they go so far as to defy the law in order to get it. They refuse not only reasonable but most generous offers of compensation. I understand, Sir, and I want a statement as to whether I am right in this understanding, that in return for this very small area of no economic value to them they refused compensation in the form of a very much larger area of very much better land in the same neighbourhood. Is that so or is it not? If it is not the case, I want to know what were the terms of the compensation offered by Government or by the private holder of this property to the natives in consideration of their leaving the boundary as it had been for a period of twenty years.

If I am right in my information that the most generous offers of compensation were refused, may I ask Government to explain why it is that the natives refused such generous offers of compensation? Am I right in believing that it was the result of the activities of evilly-minded persons, some of them in the Administration of this country, that these natives were in actual fact encouraged into opposing a reasonable settlement of this case because they were required to do so by certain individuals, some of them in the service of this country? I understand that to be the case.

In paragraph 6 it is stated that a portion of this property had been leased by Government but that the lease had to be cancelled because the only road of access was blocked by the native authorities. I repeat the question asked by the hon. Member for West Kenya as to whether the natives were

within their rights in blocking that road of access, even though it was according to law, or did they in actual fact take the law into their own hands and trespass on that property without getting an order from the court permitting them to do so? I want answers to all those questions.

The explanation given to us as to why Government should now acquire the property is partly to the effect that beneficial use can be made of the property by the Government if so acquired. That is the explanation given in the memorandum explaining the Estimates, but in the statement given to us in response to our enquiries we are told that a concrete block house is at present vacant. There is at present no pressing need for accommodation for the Kabete Laboratory staff as several members of the staff are on leave; and finally, in paragraph 11 of the explanation, we are told that no action has been taken in respect of the encroachment on the Native Reserve, the fence, garden and tennis court remaining precisely as heretofore. I compliment the author of that paragraph upon his subtlety. What exactly does it mean? Are we to understand that the Crown will now have undisputed possession and undisputed ownership of this property in its entirety? Part of the house, which forms value for £3,929, is outside the revised boundary. If the tennis court, which forms a portion of the property for which the sum of £3,929 has been paid, is outside the same boundary, if a portion of the out-houses are outside the boundary, and if a portion of the stable is outside the boundary, what is the position? Is the Crown the owner of these properties, or is it the property of the natives who were so unreasonable in dealing with the original owner of the property? If the Crown has not got a clear title to that property, free of any dispute with the native land-owners adjoining, then I do not see how it is possible in honesty to ask us to vote money for its acquisition.

In conclusion, Sir, I repeat my statement that in my considered opinion the country is to-day being asked to vote this comparatively large sum of money entirely as the result of gross administrative incompetence on the part of Government, and owing to that incompetence it has given rise to a certain amount of uneasiness as to what is to be our future position in relation to such little disputes as are likely to arise from time to time regarding pieces of land bordering on Native Reserves. If Government cannot administer these native subjects better than to occasion controversies like this on every little dispute that arises, then we are in for a very serious time indeed in this country. If it cannot get its native subjects into a more reasonable frame of mind than was shown in connexion with this dispute, then I say we are going

to have a lot of trouble indeed in the administration of the lands of this Territory. I cannot help feeling that this trouble is to a very large extent the result of the political activities of officers of Government. That is a grave charge to make but there is justification for it, and I would like to ask Government whether it shares the same view and if it is within its knowledge that the political activities of some of its officers are responsible for the present state of mind of some of the native people and what steps they propose to take in dealing with the matter. I shall have great pleasure in voting against these Estimates so long as they include this item.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I would like to endorse every word that has been said by the hon. Member for Plateau South. I have no intention of going over the ground he has already covered but I would like an assurance from Government to the effect that twenty-two years ago, in 1908, the Kikuyu tribe owned the land which is now in dispute, because I believe they did not.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I have no intention of taking up the time of Council at any length, but I have been concerned very intimately with these negotiations and I think I should say something in regard to some of the queries, one of the queries at all events, which have been raised by the hon. Member for Plateau South. It is my definite opinion, Sir, that the hand of Government was forced in this matter by the Native Affairs Department. Throughout the negotiations, from the time they started to the time they concluded, I met with nothing but the greatest consideration and courtesy from the Colonial Secretary and the Attorney General and from the Commissioner for Local Government, Lands and Settlement, and I equally met with nothing but the greatest obstruction from the Native Affairs Department, and the question—I am absolutely certain in my own mind that the reason the natives refused to consider any question of exchange or compensation was because they were actively supported by certain administrative officers, who, in their turn, had the active support of the Native Affairs Department. I agree with the hon. Member for Plateau South when I say that I should not make these statements without full responsibility of the fact that one is making them, but the facts within my knowledge are such that I do make these statements with regret and certainly I am not exaggerating them.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I would like to deal with two points raised in

the speeches from hon. Members opposite. Firstly, in regard to the question of a survey and the point made that the necessity for the reacquisition of this land was due to administrative incompetence in another department, I should like to say that the original survey of this piece of land was done by Mr. Townsend, who, I believe, at the time was the Director of Cadastral Surveys—or if not Director, then the Assistant Director. That plan was the basis of the deed plan which was issued by the party from whom Mrs. Grist acquired this land in, I think, 1920. Meantime, in 1915, a revised survey was undertaken by two survey officers of the Survey Department, and finally a survey undertaken in connexion with the demarcation of the Native Reserves was undertaken in about 1928. That last survey is practically identical with the survey undertaken by the two survey officers in 1915.

It is difficult, Sir, to deal in a speech with the actual differences between those two surveys, which are better and perhaps can be only intelligently explained by reference to maps, but the point on which the Surveyor General is satisfied is that beacons which were found by the surveyor in 1928 are actually in the positions in which Mr. Townsend placed them in 1905. He was therefore satisfied that encroachments had actually occurred in that the house and tennis court were built on portions of the land on the other side of the boundary and not within the boundaries as surveyed in the deed plan.

In regard to offers of compensation, so far as I am aware, Sir, there were two offers from Mrs. Grist in this regard. One was a cash offer and one was an offer of an equivalent area in another portion of the estate. The advice I received in regard to the offer of an equivalent area was that it was an unfruitful and entirely useless piece of land to the natives concerned and for that reason it was not accepted as a reason for staying the proceedings against Mrs. Grist. So far as the mention in paragraph 6 of this document, which has been circulated to hon. Members, is concerned, I think the intention was to intimate that the use of the road of access was denied, or rather, that the road of access itself was denied by the road authority for the Native Reserve in question.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. G. V. MAXWELL): Your Excellency, it is a little difficult for me to deal with some of the remarks that have been made because they are of such a particularly vague character. The hon. Member for Plateau South has made a series of very vague, nebulous innuendoes against administrative officers of Government and then says that he wants answers from Government to his questions. That is to say, apparently he wishes me to prove his case for him. If he has any allegations to make

THE RIGHT HON. LORD DELAMERE: On a point of order: is there a rule of this House that Government necessarily has the last word in these matters? If the hon. the Colonial Secretary makes a statement which we wish to say something about, is it a fact that there is any rule of this House . . . ?

HIS EXCELLENCY: The hon. the Colonial Secretary is the mover of the motion and as such, I think, has the right of reply.

THE RIGHT HON. LORD DELAMERE: He has the right of reply, of course, Sir, but has he the right necessarily of replying last? I am not quite sure about that.

HIS EXCELLENCY: It is the invariable practice.

THE RIGHT HON. LORD DELAMERE: Then, Sir, I think the question—I have not been here through this debate—but the question appears to me to be this: if whenever there is a dispute about three-quarters of an acre we are going to spend £4,000 odd in adjusting it, it seems to me it is going to be a very expensive business. I have a certain amount of knowledge of the facts, as the hon. Member for Nairobi North has. I did come into the matter at one time; I have rather forgotten a good deal of the facts, but it appears to me that in the beginning of this altercation there should have been some better method of dealing with three-quarters of an acre of land under the Land Trust Bill or some other method, which would not have occasioned Government to spend this very large sum of money and be lauded, I imagine, with some buildings which—I should like to know from the hon. the Colonial Secretary what they are going to do with them; they appear to be in a peculiar position for any Government house—perhaps they are going to sell them. I should also like to know from him what they propose to do with the three-quarters of an acre of land; is that going to be put back into the Native Reserve because I maintain Government has no more right to it for use than anybody else under the circumstances of the case?

REV. CANON THE HON. G. BURNS: Your Excellency, there is, I think, a very serious principle involved in the matter under discussion as far as I can see it, and that is that we demarcate the Native Reserves and tell the natives wherever the area reaches any of these boundaries in the Reserve that boundary is not to be taken away or disturbed. If this principle which hon. Members have been discussing is to be accepted, that a person can build his house or build his out-houses inside of the boundary so demarcated and then claim

that because he has so built his house and resided there for a given number of years therefore the land belongs to him instead of to the natives to whom it has been demarcated, there is a very serious principle involved. It is not only from the point of view of just this one instance; there may be hundreds of others that will arise a little later on. I think if our word is pledged to the natives that that Native Reserve is for ever it is up to the honour of this Colony to see nothing disturbs that boundary as far as the Reserve is concerned.

MAJOR THE HON. R. W. B. ROBERTSON-ESTACE: Your Excellency, I had not intended to speak on this matter, but I also am a sufferer from that resurvey that was made because I had to move a fence back nine inches.

With regard to the closing of that road, Sir, I remember very clearly being up at the Kabete Laboratory one day and the officer who lived in the house on that farm could not get his motor car out because the natives had put up a fence and dug a ditch across the road—under whose authority they did that I do not know.

With reference to the remarks made by the hon. Member representing African interests about the house, I would point out that the house was built before the boundary was demarcated altogether, so that the question cannot possibly come into it now.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, this debate appears to have gradually resolved itself into a general discussion on native and European land holders when they come into close proximity. I have certain comments to make later on that side of the discussion. For the moment I will deal with one point which has nothing to do with that particular item but is concerned with, I think, a specific question asked by the hon. Member for the Lake in relation to civil aviation. Revised Air Navigation Directions are actually now in the press, and they include provision for a representative Board, whose duty will be to advise the Governor on matters arising out of any Order in Council relating to aviation in this country. I think his doubt was whether Government had taken any steps to form such an advisory board. As I say, the necessary directions are in the press and will shortly be available.

Now, Sir, I should like to turn to this other matter, this matter of the Kabete land exchange. That there has been in this matter a great deal of difficulty and a great deal of doubt and possibly the expenditure of money which ought never to have been expended I am not going to contest; that an individual has, through no fault of her own, been put

in an extremely difficult position I am also prepared very largely to admit; that Government has found the whole matter extremely difficult to handle to see that justice is done both to one side and the other is, I think, obviously true and requires no demonstration whatsoever. The best statement of the matter, I think, has been put by one of the Elected Members opposite, by the hon. Member for Nairobi North. I can only wish that the rest of his colleagues had been able in their criticism of this particular item to adopt as reasonable and temperate an attitude.

THE HON. T. J. O'SHEA: Impossible.

THE HON. THE ACTING COLONIAL SECRETARY: Now, Sir, what I do wish to deprecate with all the strength of which I am capable is the attack in this House on an unnamed administrative officer. The hon. Member for Plateau South stated that incidents of this sort are likely to produce grave results in future in this country; without commenting on that statement, Sir, I should like only to say this, that attacks of this sort, insinuations of this sort, on the personnel of the Administration of this country in open Council are likely to do far greater harm and likely to have less justification.

THE HON. T. J. O'SHEA: I will give names in future.

HIS EXCELLENCY: The question is:—

“That the Second Supplementary Estimates, 1930, be approved.”

The question was put and carried.

Council adjourned for the usual interval.

On Resuming.

REPORT OF SELECT COMMITTEE ON THE EDUCATION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee of this Council on the provisions of a Bill to make provision for Education throughout the Colony and Proctorate be adopted.

It is, I think, Sir, a happy augury for the future of this legislation that though the subject some few weeks ago appeared to be such a contentious one it is now my privilege to ask this Council to endorse the recommendations of a large Committee—a Committee of twelve Members of this Council—and a unanimous Report; and in that connexion, Sir, I should like to pay a very sincere tribute from my own point of view—and, I am sure, from the point of view of every other Official

Member who served on this Committee—to the temperate and reasonable attitude adopted throughout the deliberations of the Committee by all the Elected Members. Without their supreme reasonableness agreement would have been very much more difficult to achieve.

I have said, Sir, that the Report is a unanimous one, but when I said so I noticed certain signs of opposition to that statement on the other side of the House. The statement, however, is correct, Sir, because I have been asked by my hon. friend, the Chief Native Commissioner, to state that his reservation is based on a misapprehension of the true meaning of the effect of certain provisions of the Bill and it is his desire to withdraw his reservation so that, Sir, I repeat the Report is a unanimous one and the Report also, Sir, in view of the fact that the deliberations of the Committee covered three days until an unduly late hour in the evening, is a very short one. There are only, I think, relatively few points in it to which I need draw specific attention.

Hon. Members will recollect that the hon. and learned Member for Nairobi South, on the motion for the second reading of this Bill, put certain points, which he told us were, in the views of Elected Members, fundamental. He asked Government to give careful consideration to the possibility of incorporating those specific provisions in this legislation. I am glad to say, Sir, that Government has been able, after fully considering the matter, to give effect to every one of those suggestions. The chief of them were, Sir—if I may begin in the numerical order of the recommendations of the Report—firstly, those which hon. Members will find in recommendations 3 and 4 of the Report. Those deal, Sir, with clauses 4 and 5 of the Bill, and enable the Governor to establish schools, to make grants-in-aid and to provide bursaries. The recommendation is, Sir, that the legislation should be specific on the point of the control of this Council over the Governor's activities in those matters, and so, Sir, it is recommended that there be inserted in each case a provision making it clear that these powers can only be exercised from funds voted for the purpose by the Legislative Council.

Recommendation 5, Sir—which deals with clause 7 of the Bill—also embodies a specific request by the hon. Member for Plateau South in regard to the functions and powers of advisory councils under the Bill. The Bill as printed provided that they might take within their purview any matter submitted by any member of the Council and accepted by the chair. It was represented to the Committee, Sir, that those powers were unduly restrictive and placed too great a power, and perhaps too great a responsibility in the hands of the Chairman, the Director of Education. And so, Sir, it is

recommended that those words be deleted and that in place thereof there be added: "Any matter affecting education submitted by two members of the council."

When we come to the 6th Recommendation, again effect is given to one of the suggestions of the hon. Member for Plateau South that at least one member of each advisory council shall be an Elected Member of Legislative Council.

Recommendation 7, Sir, again embodies a suggestion of the hon. Member for Plateau South. It was represented that in the past the advice of the advisory council had not been invariably followed, and that advisory councils were not in fact informed of the action which Government had decided to take on their recommendations. If this Recommendation is accepted, Sir, it will be an obligation on the Chairman to report to the Council the action taken on any matter on which the Council has advised the Director.

Recommendation 8, Sir, fetters the discretion of the Director in the matter of the establishment of school committees. The discretion is still there, Sir, but there is an obligation to appoint a school committee if a requisition in writing is received by the Director from not less than 50 per cent of the parents of the children in attendance at such school or group of schools.

The next recommendation, Sir, to which I think I need draw specific attention is Recommendation 12—a small amendment to clause 19—which deals with the functions of a school committee. It is almost exactly analogous to the extension of the powers of advisory committees to which I have just referred. It will now be within the competence of the school committee to advise generally on matters affecting the interests of the school in respect of which that committee is appointed.

There is a lengthy recommendation—Recommendation 13, Sir—which consists purely and simply of a redraft of clause 21, in an attempt to meet the varying circumstances which may arise in native areas. These circumstances may be that there is no Local Native Council in the area or that there is a large number of Local Native Councils in the area, and the redraft, Sir, covers all those cases where there is no Local Native Council, where there is one Local Native Council, where there are two or three Local Native Councils, and lastly, where there are four or more Local Native Councils. It is merely a redraft, Sir, and embodies no new provision which is not in the Bill as printed and submitted to this Council.

A very small principle in Recommendation 14, Sir, is perhaps worthy of comment. The school area committees, Sir, with which this Part is dealing, are school area committees for Arab and African education. They necessarily sit and work outside Nairobi, away from the headquarters of the Department, and, as a matter of administrative convenience, it is suggested that there be added to paragraph (c) of clause 22 a form of words enabling the Provincial Commissioner to refer matters to the school area committee for advice. The printed Bill limits that power to the Director, who in many cases is far away from the field of activity of the particular school area committee.

Recommendation 16, Sir, and Recommendation 17—the major part of Recommendation 17—deal with another major matter of principle for which Elected Members, through the hon. Member for Nairobi South, stipulated in debate on the second reading of the Bill. These, Sir, are the provisions relating to compulsory education and the recommendation of the Select Committee in that regard, Sir, is that the power should not be vested in the Governor in Executive Council—the power to claim compulsory education for any race, sex, or part of a community between any ages or within certain prescribed distances—but that in all those matters, in the matter of all proclamations under these two most important clauses, the power of proclaiming should be vested in the Governor, with the advice and consent of the Legislative Council.

Again, Sir, Recommendation 18, which, I am afraid is more than a little cryptic, consists merely of a redraft in an attempt to clarify the provisions relating to the obligation of parents whose children are under the age at which education becomes compulsory, but in all other respects—subject to compulsory education—I would emphasize again that no new principle is introduced. It is merely a redraft, the object of that redraft being an attempt to clarify and simplify the provisions of the clause as originally printed.

When we come to Recommendation 20, Sir, the Committee has attempted to give effect to a suggestion of the hon. Member for Mombasa that it should be made clear, should be put beyond any possibility of doubt, that though the appointment of teachers to public schools other than Government schools be subject to the approval of the Director the actual appointment is vested in the manager of the school. That, of course, is the position, Sir, and I take it that no hon. Member can possibly object to our saying so definitely and categorically in the body of the legislation.

Then we come to Recommendation 24 which deals with the somewhat vexed question of clause 45 of the Bill relating to instruction in musketry. In the course of the consideration of the clause, Sir, the attention of Members of the Committee was drawn to the provisions of the Territorial Force Ordinance which does in fact provide for the establishment of Cadet Corps in or connected with schools. The feeling of the Committee was, Sir, that, though the subject was one on which there was certainly not agreement between the Members of the Committee, there was agreement on this, Sir, that because the provisions of clause 45 were already embodied in an enabling and permissive form in the Territorial Force Ordinance, there was certainly no reason to repeat them in the body of this Ordinance, and so the recommendation, Sir, is that this clause, because it is superfluous, should be omitted from this Bill.

There remains, Sir, only the last Part, the Part dealing with Rules and Regulations, and on that, Sir, there is only one matter to which, I think, I need refer, and that is the insertion as paragraph (j) in clause 46 of a conscience clause, provision that regulations may deal *inter alia* with conditions for securing liberty of conscience and due respect for the religious beliefs of pupils attending public schools.

Those, Sir, are, I think, the only matters in this Report to which I need refer. I would like only to add one word, Sir, and that is in repetition, and I hope amplification, of what I have already said. In this I can only speak personally but I know I have the endorsement of every official Member on the Committee—it is a source of very real gratification that the labours of the Committee were so short, so sincerely amicable and so successful. I do not think I am unduly optimistic in expressing the hope that inasmuch as twelve Members of this House, after a very full and close consideration of all the provisions of this Bill, have put forward this unanimous Report it is not likely at this stage, Sir, to meet with any opposition.

I beg to move that the Report be adopted.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Education Bill be adopted.”

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, we have heard the Report described as being written in a spirit of sweet reasonableness. I should like to analyse that

in other terms. I maintain, Sir, the Report, the Committee, has dealt with some of the points raised but it has not dealt with a great many others and it has not dealt with them completely or satisfactorily. It has effected a great improvement in the Bill but it has not effected so great an improvement in the Bill that I can support it. I am still opposed to it because I maintain that certain principles that I raised on behalf of intellectual criticism by various persons in this country have not been met. I maintain, Sir, that this sweet reasonableness could have been described as a kind of anaemic acquiescence in the sacrifice to the welfare of Kenya of the freedom of the inhabitants of Kenya.

Now, Sir, I will deal with the detailed recommendations and I propose also to deal with some of the recommendations which are not in the Report and which I consider should be here.

HIS EXCELLENCY: Order, order. The business before the House is the text of the Report of the Select Committee. If the hon. Member wishes to introduce still further questions and the introduction of new principles I would suggest to him that his proper course is to move under Standing Order No. 83 that the Bill be recommitted. I would suggest to him that he should adopt that course. If the Bill is recommitted and he gets support for that motion he can then in full Committee of the House deal with those items more conveniently.

CAPT. THE HON. E. M. V. KENEALY: Thank you, Sir. I do not intend pursuing that course, but thank you for the suggestion.

HIS EXCELLENCY: Order, order. If the hon. Member wishes to deal with anything but the terms of this Report that is the only manner in which he can do so. That is the ruling of the Chair.

CAPT. THE HON. E. M. V. KENEALY: I do not propose to dispute that, Sir. I am going to confine myself to the restriction you have imposed upon me, but I do not propose to ask for a recommitment of this Bill. I accept your ruling. I did not question it in any manner. I trust you will accept that as a statement of fact, Sir.

In regard to this, in clause 26, which is mentioned in this Report, the first point is, is the compulsory principle contested by any Member of this House? I do not know whether it is or not. I will presume that it is not, Sir. If

it is, then, Sir, I maintain that one is justified in suggesting that the compulsory principle should have been dissociated from the general terms of this Bill in this Report.

Now, Sir, one of the most important factors which has not, I maintain, been given due consideration is in clause 4. Clause 4 is mentioned in the Report, Sir. That deals with the general powers of the Governor and those powers are supposed to be restricted in their application by reference to this Council, but, Sir, we have no law in this country which prevents reallocations in votes which are agreed to by this Council, and, Sir, because we have no law preventing such reallocations we shall be jeopardising the welfare of this country if we allow the discretion as to the distribution and the allocation of a total comprehensive vote if a total comprehensive vote were taken in this House. We should have no control over the relative importances of various forms of education. I maintain, Sir, that that would endanger the welfare of this country, and on those grounds alone I should be justified in opposing the passage of this Bill. There are other grounds as well. On those grounds alone I believe every Elected Member should oppose the passing of this Bill.

In clause 21, Sir, there has been a slight amendment. In all these clauses I am referring to I believe there has been slight amendment, but I maintain it is not extensive enough to warrant our passing the Bill in the form suggested by the Report of the Select Committee. Clause 21 deals with the appointment of the controlling factor in Arab and African education and it maintains that there should be nominations by Native Councils. Now, Sir, Native Councils maintain and augment the prestige and retention of tribal customs which Government in its wisdom thinks desirable of retention, but Native Councils do not consist of the modern intellectual native. If the modern intellectual native is to be considered, I suggest that the Native Councils cannot nominate him. The Native Councils can nominate only the older men, the more experienced men in the traditions of the past and not in the developments of the present. I do not suggest, Sir, that the partly educated native is the best man to direct the policy of native education in this country; what I do suggest and what I maintain very definitely is that there is no need to have this wretched element of representation on these councils; these councils could be better appointed with far better representation from the responsible European intellectual element which should, I maintain, direct the educational policy of this country. I maintain, Sir, that by acquiescing in this we may have only one European on that

controlling committee and that would be an official representative of the Government in the capacity of Chairman. That position is a dangerous one and should be contested by Elected Members.

When the question of compulsory education arose, Sir, during the tenure of office of our previous Governor, we were promised that the terms of service of the Education Department should be subjected to revision and discussion before this measure was introduced. That promise has not been carried out, Sir, and I think I am justified in commenting upon it.

Now, Sir, one implication of the acceptance of this Bill is in regard to local government. In the Local Government Ordinance certain powers and responsibilities were transferred from the Central Government to local government, and some of those responsibilities dealt with health and hospital accommodations and provisions, and another dealt with education. Now, Sir, if we attempt to retract that delegation of powers which this House has conferred upon these local authorities we shall be betraying a trust which we agreed to in the past. I maintain, Sir, that by carrying out the powers that this Bill will confer upon this House we shall betray that trust. We shall impose commitments in rating upon authorities which may not desire such commitments and we shall definitely prevent new authorities which are at present not under the control of local government from accepting local government. This Bill will have that effect and that effect will injure the progress of this country, and for that reason alone it should be resisted.

Then, Sir, in this Bill . . .

HIS EXCELLENCY: Would the hon. Member refer to the clause in the Report upon which he is basing his arguments.

CAPT. THE HON. E. M. V. KENNELLY: In 29 (1), Sir, the whole of it, where it deals with the control of education on a basis of race and sex and standard, there is nothing in this Bill which will prevent secondary education, higher education, becoming compulsory and State-financed entirely; that is a principle with which I cannot concur.

I maintain, Sir, that the Select Committee on this Bill has failed to carry out the safeguards which certain Members on this side of the House suggested were necessary before the Bill could be agreed to and for that reason I am going to oppose the Bill in its third reading and I will oppose the acceptance of this Report. I am surprised, Sir, that the minority Report which we have before us—I do not know if I am correct in commenting on it—may I, Sir?

HIS EXCELLENCY: It has been withdrawn

CAPT. THE HON. E. M. V. KENYALY: I cannot comment on it.

I oppose the acceptance of this majority Report.

THE HON. CONWAY HARVEY: Your Excellency, I should like to associate myself with the complimentary reference of my learned friend, the mover of this motion, to the work of the members of the Select Committee on this Bill. I consider, Sir, that the Unofficial Members loyally and efficiently stated the case for the majority of their colleagues and an overwhelming majority of the public of the Colony. I consider, Sir, that social legislation of such a far-reaching character as education should have the approval of the majority of the people so vitally concerned, and I honestly believe that this measure will receive such approval from a majority, an overwhelming majority, of the European people of Kenya.

I do, Sir, particularly welcome the recommendations of the Select Committee which indicate some contraction of the extensive powers which were vested in the Director and the executive Government by the draft Bill in the form in which it first appeared. There appears to be now, Sir, ample provision, both in clause 4 and clause 26, for any new principle involving any expenditure of public funds to be fully debated by this House before it is carried into effect.

So far as my gallant friend's criticism of clause 21 is concerned, Sir, in which he appears to hold a brief for the modern intellectual native, to use his own description, I suggest there is not the slightest danger of a native committee.

CAPT. THE HON. E. M. V. KENYALY: On a point of personal explanation, Sir, the inference that my hon. friend has drawn that I hold a brief for such persons is entirely wrong. What I said was that the European should control the educational policy of the native.

THE HON. CONWAY HARVEY: I suggest, Sir, that the modern intellectual native will not be submerged in a sea of decadence inasmuch as the Government has the right to nominate in the ratio of two to one its own people, whom it may consider capable efficiently to discharge the functions of such bodies. They will therefore be well able to control the activities of this committee as they will be in such an overwhelming majority over the nominees of the Native Council to which my hon. and gallant friend appears to object.

THE HON. T. J. O'SHEA: As one of the Unofficial Members of the Select Committee, Your Excellency, responsible for this Report, I do not in the least resent the criticism of that Committee in its work by my hon. friend. I have the greatest respect for minority opinions and I very much admire the hon. Member for West Kenya for the courage with which he so frequently gives voice to minority opinion, and I can only assume that my inability to understand his attitude on this Bill is because I am one of the anaemic and non-intelligent majority. I must confess, Sir, that I have done my very utmost to understand the attitude of my hon. and gallant friend regarding the principles of this Bill and I have completely failed. That perhaps is due to no fault of his but to the unfortunate fact that I am one of the anaemic and unintelligent majority.

I think it should be made perfectly clear that to the best of our understanding the twelve Unofficial Members of that Committee and quite a number of highly responsible officers of Government have done everything that it is possible for us to do to safeguard the constitutional rights and privileges of the people of this country, that we have not allowed their liberties to be encroached upon in any way by this Bill beyond the extent to which it is the right of Government to so encroach. We have indeed gone much more than it has been possible to go in connexion with most Bills that pass this House. We have definitely secured the consent of Government to leaving, after the passing of this Bill, in the hands of Legislative Council powers that are invariably reserved to the Executive. What more could we do.

The hon. Member, when expressing himself as holding mandates for the intelligentsia of the native population of this country, has nevertheless committed himself to criticism of native education. He complains that Native Councils should be represented on the advisory committees in connexion with native education. He complains that native education, the control of native education, has been taken out of the hands of the only people in this country competent to deal with it. May I point out to him that in neither suggestion is he correct. The control of native education is retained to the full in the hands of those only who are competent to control native education; but having some little degree of intelligence they think it necessary for the exercise of that control that they should have associated with them in certain spheres in an advisory capacity representatives of the people whom that education affects. I ask him, does he really suggest that it is improper to have some degree of representation of the native peoples on those advisory bodies? Again, I would point out that ample provision is made for the addition to these

advisory councils of representatives of the native intelligentsia, if such exist. Ample provision is made in the Bill and is specifically mentioned in the Report under discussion.

He also complains that provision is not made in the Bill for preventing compulsory higher education. May I remind him that no provision is made in the Bill to prevent a good many things, and that is one of them. I should have thought it wholly unnecessary to include in the Bill that provision. No provision is made in the Bill to make higher education compulsory. What more does he want?

In conclusion, Sir, I should like to record that, recognizing the great importance of this measure of social legislation to the future of the country, the Members of the Committee one and all set themselves to the task in a reasonable but not over-accommodating spirit. Not one single member of the Committee gave away, for the sake of being reasonable, any principle that he thought it advisable to stick out for. On the contrary, we feel that discussion showed that on matters of principle there was no great difference of opinion between us, and we conscientiously believe that the Bill is the best possible in our power to ask this Council to adopt.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I find myself in rather a difficulty. I am nearly always in agreement with the hon. and gallant Member for West Kenya in one respect, and that is that I do like fighting a lone hand. But there is one thing better than being *Athanasius contra mundum*, and that is that we should be able to agree. I know him to be a reasonable man, I believe him to be a reasonable man, and I hope that it will be possible for him to withdraw his opposition in order that this Report may be adopted unanimously.

May I just refer to one or two of the points he raised which were specific difficulties in his mind? They have been dealt with probably more ably than I can deal with them by the hon. Member for Plateau South. One is that he feels that clause 4 still gives the Governor excessive power in regard to education. I would remind him that the recommendation of the Select Committee is that the words to be added should be "from funds voted for this purpose"; that is, for the specific purpose included in the Estimates. I think that answers his question and I am sure he will be reasonable enough to see it is an oversight on his part.

In regard to the personnel of school area committees for native education, I do not know whether I am speaking without my book, but I think I am right in saying that if there is one thing certain it is that the institution of Local Native

Councils has done a very great deal to develop and improve the native mind generally, partly by the very institution and constitution of those Councils, and partly by their close association with Europeans. Now the school area committees are going to develop and continue that system of native education and I feel sure that the hon. Member will agree that the association of natives with Europeans on Local Native Councils cannot be for the good only of education but for the general good of the natives of the whole country. I do hope he will look at it from that point of view.

The hon. Member referred to the freedom of local authorities and suggested the possibility that this Bill in some mysterious way which I could not understand involved rating. There is no reference to that in the Select Committee's Report, Your Excellency, but perhaps I may be allowed to refer to it. The fact is that this Bill provides for a State system of education without the intervention of local authorities, but it does not in any way hamper, it does not attack the power of local authorities if they wish to assist in the administration and provide funds for education. There is no responsibility on them to do this but it leaves them with exactly the same powers that they now have. I think we should all like to see a system of local government whereby the local authority took a very much more direct part in the financing of education and I am certain every Member here will agree that that time has not yet come. The local authorities are still too young to undertake such financial responsibility.

Lastly, Sir, he described our deliberations as rather a surrender of freedom in the interests of unanimity. I do not think I can add anything to the very wise, very pertinent remarks of the hon. Member for Plateau South in regard to that. There has been absolutely no surrender of principle in any of our deliberations. That is only explained by one fact and that is that the second reading of this Bill indicated a feeling of unanimity on the part of the whole of this Council in regard to the general principles underlying it.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Education Bill be adopted.

The question was put and carried.

BILL.
THIRD READING.
THE EDUCATION BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Education Bill be read a third time and passed.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

DISEASES OF ANIMALS.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to move the motion that stands in my name to the effect:—

"That in the opinion of this Council an enquiry should be held into the circumstances which caused the death of several head of cattle, the property of Matee wa Nzomo, a Mkamba resident native on the Kilima Kiu estate, through the contravention of the Diseases of Animals Ordinance, and into the question of compensation for the said native, and to make recommendations."

Sir, the reason why I have moved this resolution is because it is now three months since this question was first taken up, since the owner of this particular estate wrote in letters both to the hon. the Colonial Secretary and the Chief Veterinary Officer drawing their attention to this occurrence. I also know that the question has been taken up with the administrative officers at Machakos, and yet up till now nothing has been done. There is no question, Sir, that the feeling in that part of the country between the Wakamba on the one side and the Masai on the other is very strained, and at any time may lead to serious trouble.

Sir, to get down to this particular incident, I should like to read you out, to inform this House what happened. As long ago as I think it was last May or June there was a raid by the Masai across the Railway into the Wakamba country. In the course of that raid they stole a certain amount of cattle the property of the Wakamba; five head of those cattle belonging to the individual I have mentioned were traced by the District Commissioner, Kajiado, and were taken into Kajiado. Of that five head of cattle one died of pleuro-pneumonia and the other four were then sent back by the orders of the District Officer to Kiu to be taken over by the native concerned. As is well known, Sir, pleuro-pneumonia is rampant in that part of the country and there is very serious danger of its being extended into the Wakamba country. There are, therefore, strict quarantine regulations and cattle cannot be moved across from one to the other. Now, Sir, if we are to believe the affidavits of the natives concerned, this is what occurred:—

Matee wa Nzomo. Mkamba pagan, affirmed states—

"I am a squatter on Kilima Kiu Estate. There were five head of my cattle stolen by the Masai about four months ago. One died out of these five over at Kajiado. Four were returned to me. They were brought to the opposite side of the railway by some Masai and a headman of theirs. These Masai sent for me to take over the cattle. I refused because there is sickness over on the Masai country among the cattle. They then told me to wait until the District Commissioner from Kajiado arrived. They took the cattle back to sleep at their Bonas. The next day about 4 p.m. the District Commissioner from Kajiado arrived. He brought with him the hide of the beast that had died and showed it to me with the four cattle still left. This was at Kiu Station. He told me to take over the four cattle and the hide as they were mine. I refused to do so as there was sickness among the Masai cattle. But he insisted and told me that the matter was finished. I again refused and pointed out that even then one of the cattle was coughing. But the District Commissioner told me that I must take the cattle over as he was going back to go into the matter of the fine in respect of the beast which had died. Then he called his Masai and they went away. So as I thought that the cattle, if left there, would be lost I took them away to my hut. After two weeks the bull which had been coughing died. The sickness spread to my other cattle and in all ten have died, i.e. eight cows and two bulls."

Since that, I may say, Sir, a total of seventeen have died.

"A few days after the District Commissioner from Kajiado had handed over the cattle to me at Kiu, that is about two weeks after, he came to my village and gave me Sh. 200 in respect of the cow of mine which had died at Kajiado. The money was in notes. I asked for a letter to my own Bwana but the District Commissioner refused to give me one, and told me that the matter was finished. So I put the money away in a box. When my cattle began to be sick I sent my son to my own Bwana to report it."

Signed ROC,

J. M. SILVESTER, D.C."

There are three other affidavits here, Sir, of natives collaborating that, which I will not read out. We all know that affidavits by natives are not entirely reliable and so there may be some inaccuracies in them, but the fact remains

that the authorities in the Masai Reserve did send back these cattle; they did break the quarantine regulations; and the result was they introduced pleuro-pneumonia on to this particular estate amongst this particular squatter's cattle, with the result that seventeen head have since died and it is very fortunate that the damage done has been limited as it has been.

Now, Sir, Captain Wilson, who is in charge of that estate, wrote two letters dated 9th October last to the Colonial Secretary and the Chief Veterinary Officer. He drew the attention of the Chief Veterinary Officer to this, what he described, flagrant breach by the District Commissioner, Kajiado, of the Diseases of Animals Ordinance, and he also wrote to the Colonial Secretary asking for compensation for this native. So far nothing has happened. I understand that the Chief Veterinary Officer has been unable to get any satisfaction from the Administration of that part of the country as to who was responsible, and the whole matter has caused a great feeling of distrust and suspicion amongst the Wakamba of that part of the country. As I think, Sir, many hon. Members on the other side of the House know, there is a strong feeling there that the law has been stretched rather far to the detriment of the Wakamba and they always feel that their case is prejudiced against them in favour of the Masai. For that reason, Sir, I do trust Government will immediately appoint this enquiry which I have asked for to go into the whole question, to find out who is responsible, and whoever is responsible should have to pay up the compensation for the damage which they have done. If any ordinary citizen of this country contravenes regulations he quite rightly gets jumped on and has to put up with the consequences; because it has been done by an officer of Government I say there is no reason why he should be put in any more privileged position.

I beg to move the motion standing in my name.

THE HON. CONWAY HARVEY: I beg to second.

HIS EXCELLENCY: The question is:—

“That in the opinion of this Council an enquiry should be held into the circumstances which caused the death of several head of cattle, the property of Matee wa Nzomo, an Mkamba resident native on the Kilima Kin estate, through the contravention of the Diseases of Animals Ordinance, and into the question of compensation for the said native, and to make recommendations.”

THE RIGHT HON. LORD DELAMERE: I should like to support the motion put forward by the hon. Member for Ukamba. I am not naturally going to prejudice the issue if there is going to be an enquiry, or attempt to do so, but I would remind Government that this is a very serious thing. For a great many years it has been perfectly well known to everybody that cattle in the Masai Reserve are riddled with pleuro-pneumonia. I have always understood that there have been quarantine, or certainly there was—I have not lately been in touch with these things in Council—but quite a short time ago there was a definite stretch of country left open between the Masai and the Wakamba for the purpose of not allowing this very serious and insidious disease, which is most difficult to deal with, crossing from one to the other. I think, Sir, for the satisfaction of everybody we should have this enquiry. I think it is hardly necessary, Sir, to press for an enquiry because I am quite certain that Your Excellency will at once grant this enquiry. I think it is evident that this enquiry should be done in such a way that it cannot be said that Government is in any way trying to shield one of its Administrative officers. As I said before, I am not judging the case against him at all at the moment. The accusation is now that an Administrative officer has broken the ordinary law of the country with regard to cattle disease and that no steps have been taken. Presumably Government is in ignorance of the exact facts, and I think for that reason alone there should be an enquiry, Sir. I am not going to say anything more because I am quite certain Government will accept this motion.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I know that the Noble Lord who moved this motion will be the first to agree with me, Sir, that there are two sides to every question, and I cannot help feeling it was perhaps a little regrettable—I am sure it was only due to partial and incomplete information—that the Noble Lord should have quoted *in extenso* the affidavit from the owner of the stock in question, though he did go on to say that native affidavits were not invariably reliable.

There is only one point on the facts as stated, Sir, I should wish to emphasize. As the last speaker has said, there is what is tantamount to an accusation that an Administrative officer of Government has broken the law which it is his duty rigidly and properly to enforce.

It would be most improper for me, Sir, in anything I said even to attempt to prejudice an issue which must be the subject matter of enquiry; but I do wish to emphasize this, Sir, that every statement made in the affidavit which has been

read, every material statement in that affidavit, is directly refuted by the Administrative officer in question. He denies every one of the material allegations in that affidavit in *folo*. I need say no more than that, Sir. The mere fact that I have said that shows that the enquiry is necessary, and I have your authority, Sir, for saying that Government proposes to hold an enquiry, but I do wish to reiterate that point, Sir, in the hope that nothing that has transpired this morning will be taken in any way as prejudgment of the issue or as an acknowledgment by Government that there has been any fault whatever on the part of any servant of Government. Those are the very issues which must be the subject matter of enquiry; they are the issues on which there is a direct conflict of testimony, and for that reason, Sir, Government is prepared to hold the enquiry which is asked for.

THE RIGHT HON. LORD DELAMERE: On a point of order. I really did understand the hon. Member for Ukamba simply put forward what was a *prima facie* case for an enquiry; I did not understand any more than that.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in reply I am very glad to hear that Government are going to hold this enquiry. I should like to point out that the terms of my motion were not prejudging the case of this District Officer or that he should be made to pay compensation; it was that an enquiry should be held into all the circumstances which led up to it.

THE HON. THE ATTORNEY GENERAL: On a point of explanation, I said I was reluctant to enter into the facts in case I should be said to prejudice the issue.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: With regard to the question of affidavits, the last time I had to argue on the question of native affidavits in this House, Sir, the boot was on the other foot. I was told, Sir, that I must accept the affidavits of certain natives whose affidavits I suggested were quite unreliable, and I was told then that they should be taken in preference to the sworn evidence of some very holy ladies who were concerned in the particular case.

HIS EXCELLENCY: The question is:—

“That in the opinion of this Council an enquiry should be held into the circumstances which caused the death of several head of cattle, the property of Matee wa Nzomo, an Mkamba resident native on the Kilima Kiu

estate, through the contravention of the Diseases of Animals Ordinance, and into the question of compensation for the said native, and to make recommendations.”

The question was put and carried.

COMMUNICATION FROM THE CHAIR.

SUSPENDED DUTIES—TANGANYIKA TERRITORY.

HIS EXCELLENCY: Before I adjourn Council I have the following announcement to make which I think may be of interest to hon. Members. A telegram has just been received from the Tanganyika Government informing us that the suspended duty on sugar has been imposed in Tanganyika as from the 6th January.

Council adjourned *sine die*.

SATURDAY, 17th JANUARY, 1931.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, 17th January, 1931, His Excellency the Acting Governor (Mr. HENRY MONCK-MASON MOORE, C.M.G.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

MINUTES.

The Minutes of the meeting of 8th January, 1931, were confirmed.

PAPERS LAID ON THE TABLE.

The following Paper was laid on the Table:—

By THE HON. T. D. H. BRUCE (SOLICITOR GENERAL):

The Rules of Court (Reference to Archives) (Amendment) No. 6 of 1930.

ORAL ANSWERS TO QUESTIONS.

LAND BANK.

THE HON. CONWAY HARVEY asked:

Will Government be pleased to state when the Land and Agricultural Bank will start operations?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): The Ordinance is under examination by the Secretary of State prior to assent being given to it. The Bank will be established as soon as possible after assent to the Ordinance is given.

THE HON. CONWAY HARVEY: Your Excellency, arising out of that answer, has Government endeavoured to expedite a reply from the Secretary of State in view of the great public anxiety in regard to this matter?

THE HON. THE ACTING COLONIAL SECRETARY (MR. H. T. MARTIN): Your Excellency, the answer to that is in the affirmative, but I should like to explain that although the

Secretary of State was communicated with and copies of the Bill sent to him at an early date after the final passing of it in this Council, that transmission had to be followed up by a despatch to the Secretary of State, and although of course he has had that despatch he has not had it—if I may put it this way—for any undue length of time or for such length of time as to suggest any sort of lack of expedition on his part.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, further arising out of that answer, is it not a fact that the draft of the Bill was approved by the Secretary of State prior to its introduction and passing in this Council and an intimation received from him that provided no radical alteration was made to the Bill it would receive his approval and the assent of His Majesty?

THE HON. THE ACTING COLONIAL SECRETARY: I am afraid I cannot answer that; the answer to that question would require details which I should have to look up.

THE HON. CONWAY HARVEY: Your Excellency, have any steps been taken in connexion with offices and staff so that the bank may start operations so soon as the Secretary of State's assent has been secured?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, that matter is being carefully discussed by Government with the Departments concerned and Government has concrete proposals for it for consideration.

THE HON. T. J. O'SHEA: Your Excellency, may I ask whether Government realizes and whether the Secretary of State has been asked to realize that unless this Land Bank is put into operation in the immediate future the steps already taken by Government to assist the agricultural industry will be rendered useless?

THE HON. THE ACTING COLONIAL SECRETARY: Government and the Secretary of State fully realize that.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, arising out of that answer, does Government realize that the present emergency meeting of this Council is due primarily and to a large extent—not primarily, but to a very great extent—to the failure to give effect to this Council's resolution in regard to the Land Bank?

THE HON. THE ACTING COLONIAL SECRETARY: The answer, Your Excellency, is in the negative.

THE HON. T. J. O'SHEA: Your Excellency, may I ask whether Government will consider the advisability of making a public statement giving a definite date as to when this Land Bank will be put into operation in the near future?

THE HON. THE ACTING COLONIAL SECRETARY: As soon as Government is in a position to do so I can see no objection to that being done.

THE HON. T. J. O'SHEA: Your Excellency, arising out of that answer, may I ask for a definite assurance that Government will, within the next ten days, make a public statement as to the date on which this bank will start operations.

THE HON. THE ACTING COLONIAL SECRETARY: No, Sir, I am afraid I cannot promise any given number of days.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, may I ask Government to send a cable to the Secretary of State for the Colonies, immediately after this House adjourns, on the question?

THE HON. THE ACTING COLONIAL SECRETARY: Such a communication, Your Excellency, has been made within the last few days.

AGRICULTURAL ADVANCES ORDINANCE.

THE HON. CONWAY HARVEY asked:

What steps Government has taken to give effect to the motion passed by Legislative Council on 26th November, 1930, in the following terms:—

“That this Council requests Government to extend the operations of the Agricultural Advances Ordinance into the year 1931 and for the purpose to revoke any balance remaining unexpended under this Head at December 31st, 1930.”?

THE HON. THE TREASURER (MR. F. H. ROBERTSON): The Secretary of State was approached by telegram and intimated his approval to the temporary extension of the scheme subject

to the total sum of £100,000 already sanctioned not being exceeded and to the whole question being reconsidered when the Land Bank is established. In the meantime, further advances are to be limited to sums essential to safeguard those already made.

THE HON. CONWAY HARVEY: Arising out of that, Your Excellency, does Government contemplate the cessation of advances when the £100,000 has been exhausted?

THE HON. THE TREASURER: So far as I know, Sir, the Government has not arrived at any definite decision in that connexion. The whole position has to be re-examined and a further communication made to the Secretary of State.

THE HON. CONWAY HARVEY: Your Excellency, may we have an assurance that Government will consider very earnestly the desirability of continuing these advances from funds to be provided after the present capital has been expended?

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I can assure the hon. Member Government will earnestly consider any proposition which may be of a useful nature to agriculture.

THE HON. T. J. O'SHEA: Arising out of that answer, Your Excellency, is it the opinion of Government, after the information which has been placed before it in recent months regarding the position of the agricultural industry, that no further advances of this nature are likely to be required?

THE HON. THE ACTING COLONIAL SECRETARY: I should require notice of that question, Sir.

THE HON. T. J. O'SHEA: May I ask whether notice of such a question should be considered necessary at this stage?

HIS EXCELLENCY: In my opinion it should.

THE HON. T. J. O'SHEA: Thank you, Sir.

THE HON. CONWAY HARVEY: In that case, Sir, may the hon. Member be given a written answer to his question?

THE HON. THE ACTING COLONIAL SECRETARY: Ho may, Sir.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, with your permission, I beg to move that Standing Rules and Orders be suspended to enable the motion in my name to be put and passed without due notice.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

MOTION.

ASSISTANCE TO MAIZE INDUSTRY.

THE HON. THE ACTING COLONIAL SECRETARY: Standing Orders having been suspended, Your Excellency, I beg to move the motion standing in my name:—

1. That in view of the present depressed state of the maize industry a sum not exceeding £108,000 shall be made available from Surplus Balances for the purpose of advancing as a loan free of interest to the industry, irrespective of race, a contribution in respect of every bag of maize exported from the crop harvested at the end of 1930 and the beginning of 1931 subject to the following conditions:—

- (a) Such contribution shall be a sum up to but not exceeding Sh. 2/00 per bag of 200 lb. nett provided that the total return to the grower including the nett selling price plus the contribution does not exceed Sh. 6 per bag free on rail Kenya main line stations.
- (b) That the amount advanced in respect of each bag may be paid by instalments on account and shall be subject to adjustment at the close of the season when the total number of bags exported is known, so as to ensure that the total capital sum of £108,000 advanced by Government, plus any sum contributed in accordance with paragraph 2 (b) of this Resolution is not exceeded.
- (c) That any contribution paid in accordance with conditions (a) and (b) above shall be repayable to Government by way of a cess on export as soon as the price of maize for export exceeds the value of Sh. 7/25 free on rail Kenya main line stations based upon the ruling price of maize of K.2 grade on the London market. Such payment shall be at the rate of 50 per centum of the difference by which the ruling price exceeds Sh. 7/25.

- (d) That it shall be within the absolute discretion of the Government to withhold payment, unless it is satisfied that the maize exported is surplus to the Colony's requirements and that the contribution will be passed on to the grower.
2. That the measure of Government relief proposed in paragraph 1 above is subject to the following provisos:—
- (a) That the general co-operation of the Banks is assured on the lines already indicated in paragraph 23.4b of the Maize Conference Report.*
- (b) That financial assistance to the satisfaction of Government and on the lines recommended in paragraph 23.4a of the Maize Conference Report† is assured.
- (c) That the sum of approximately £27,000 already advanced in relief of the industry in accordance with the Resolution as passed in Legislative Council on the 28th August, 1930, shall be recovered in like manner to the sum now proposed in accordance with the terms of paragraph 1 (c) of this Resolution.††

This motion, Sir, has as its root an action of this House taken some two months ago. On the 26th November, the then hon. Member for the Rift Valley moved:—

“That in view of the serious and urgent position and immediate prospects of the maize industry this Council requests the Government to call a conference of the representatives of all parties interested in that industry with a view to co-operative action sufficient to tide over the present crisis.”

* The Conference, having represented the position to representatives of the banks, realizes the special circumstances in which they are placed and is unable to suggest means whereby they can make a direct contribution, but is satisfied on assurances given by them that they will adopt a policy of securing, as far as possible, the maintenance of the industry by giving sympathetic consideration to the case of each of their clients on its merits and will not press for the payment of overdue interest or reducing of overdrafts in cases of genuine difficulty where they are satisfied that farmers are doing their best, further, that they will continue to provide in all worthy cases the necessary accommodation money for the continuance of present cultivation during the forthcoming season. The Conference accepts the statement of bankers that they should be free to determine each individual case on its merits.

† The Conference is of opinion that while Government should accept the liability of making good by way of an advance free of interest any shortfall between the realization of the aforesaid maize crop and the figure of Sh. 6/50 above mentioned, other interests should on that understanding be expected to contribute, and desires that the shipping companies should reduce the freight rate on maize by Sh. 4 per ton, being an estimated contribution to the industry of £20,000, also that the other interests should make reductions in the prices of commodities used in the production and transportation of maize to the extent of approximately £10,000 as their share of the relief.

That motion, Sir, was accepted by this Council and passed, the conference was established, and the report of that conference has been now for some time in the hands of hon. Members and has been published in the Press. I do not propose, therefore, to traverse the whole field covered by the report. Hon. Members, I have no doubt, will be fully familiar with it. At the same time, as this motion now before the House indicates that a very large measure of the principles put forward in the report have been adopted by Government, I should like very briefly to refer to two or three of them.

The first one is that the matter of the maize industry is urgent for one or two reasons. The first reason is its importance to the Colony as a whole. I will not try and traverse the economic and financial field of which the maize industry is a part. It is bound up undoubtedly with the greater part of our economic and financial life in the Colony. It is indirectly responsible for a large proportion of our revenues, and the opinion of the conference was that for such future time as we could see, it must be considered a permanent factor, a permanent industry, in the Colony. That being so, Sir, enquiry was made as to what is its present state. Its present state was found to be—to put it so far as possible in a nutshell—that it was faced with the problem of having to produce at a very serious rate under cost. In that position, it was a matter of more than doubt whether a large proportion of the maize which naturally will be planted about this time would ever be put into the ground, or whether—at the time the conference sat—such standing crops as were in the field would ever be reaped. The conference, rightly or wrongly, came to the conclusion that that danger was a very immediate and a very serious one. It therefore proposed certain action, having first explored the possibilities of various measures which would avert that disaster. The most obvious means to be taken would undoubtedly have been the extension of an existing machinery and the further application of an existing Ordinance, that is to say, the Agricultural credits scheme and the Agricultural Credits Ordinance. That was very seriously considered but it was found both to be impracticable on account of the time factor and also to provide a much more doubtful security to Government in the event of relief being given than another scheme which eventually was adopted. The experience of the Agricultural Advances Ordinance has been—my hon. friend, the Treasurer, will correct me if I am wrong—the effect of that scheme has been to show that the investigation required under the Ordinance inevitably takes at least a considerable period of time. The number of applications considered—I cannot remember the exact number—has been, I think, between 100 and 200, and the investigations required have covered a considerable length of time, too much for

similar investigations to be extended to the affairs of a very much larger number of individual farmers in a more urgent situation.

Other alternatives were considered and were found wanting for those or similar reasons, and eventually an alternative proposition was decided on as, whatever its faults, the only practicable one; that is to say, the affording of relief to the industry itself as a whole rather than to the individual.

Now, Sir, that brings me to the beginning of this resolution as put before hon. Members. I will not refer, at this point, to the opening words of the resolution in which a specific sum of money is mentioned. That specific amount is largely bound up with certain calculations which are set forth in a later stage of the resolution; but in this first preamble I would like to touch on one, or rather two particular points. Firstly, I would refer to the words "for the purpose of advancing as a loan free of interest to the industry." There are various ways of helping an industry once it is granted that State funds are required for the purpose. It is possible to have a bald subsidy without any question of repayment, or it is possible to adopt the alternative which we have adopted of devising some scheme whereby in the more distant future the sources which have been depleted by the contribution or subsidy run, in some measure or in whole, be restored. It is considered reasonable to suppose that if this industry is to continue, if indeed our agricultural life is to continue, that world prices generally must rise, and that if they rise even in some measure comparable with the history of the past few years, there would be both an opportunity and a justification for repayment by that industry. The particular point at which repayment should start is, of course, mentioned later on in the resolution and I will not discuss that now. I am only concerned with the principle of repayment by the industry itself.

In that connexion there is one point which I think should not be lost sight of and that is that Government funds by this method of repayment are more likely to be reimbursed under present proposals than they would be under a system of individual security. Government would probably get in the latter case no more than a second, third or fourth charge on the security offering; in the other case, as soon as the price rises, it gets the first cut off the new benefits accruing. In both cases the security depends on the recovery of the agricultural market prices in the world generally.

Now, Sir, it will be noted that the source of this subsidy, this contribution or this loan, is to be surplus balances. Times are hard. No doubt these are the times at which surplus

balances are in some measure designed to meet the difficulties arising, but it is only to be expected—as I think the history of the past year or two shows—that the very greatest caution should be exercised by Government before letting go at the present moment any of its surplus balances at all. The case must be proved, the need must be urgent, and the amount to be borrowed should be at the very lowest possible figure compatible with the object of the assistance given. Well, Sir, we took evidence in this Conference and Government examined that evidence and took as low a figure as they felt would be compatible with safety on the one side and sufficient generosity on the other as regards both what should be the cost of production of maize here, and the point at which assistance should either begin or cease. The first figure suggested was Sh. 6/50. That was very carefully examined and, taking into account the financial situation generally, taking into account all the factors which Government necessarily had to consider, it was finally decided that a figure of Sh. 6 as a guaranteed price would be just sufficient for the grower and could be contributed in part at least by Government.

I say "in part at least" because if hon. Members remember the terms of this resolution which the hon. Member, the then Member for the Rift Valley, proposed in this Council and which was subsequently passed, they will remember that it talked of the co-operation of all parties interested in obtaining relief. That co-operation is a very necessary and integral part of the motion now in front of the House. It is obvious, I think, that Government funds must be expected to bear the major share and be behind the whole proposition. At the same time, it was considered desirable to obtain such other contributions as the parties interested could be expected and were willing to give.

It will be noted, Sir, that the sum of £108,000 is put down as Government's contribution. That presupposes a certain further sum to be added from the other interests which are mentioned in this Report and referred to in this resolution. I should like to make it quite clear that the amount of these further contributions, which we do not yet know, will be added to and will not be in diminution of this sum of £108,000, that sum being designed to produce the maximum contribution per bag of Sh. 9/00. It should be recognized that as the price or maize rises towards Sh. 6 so will the loan decrease per bag.

As regards these contributions, I do not propose to go into them in any detail except to refer to one point and one point only in connexion with the assistance promised by the banking interests. The co-operation of the banking interests was

promised to a certain degree by the banking representatives here and the exact terms of that assistance can be referred to and read in the Report of the Conference. But, Sir, the bankers are not the only mortgagees in this country and, although it is impossible to obtain a like assurance from each single one of the other individual mortgagees individually in the Colony, Government feels that it is right in expecting the co-operation of such mortgagees in similar fashion to that promised by the banks.

There is a further point, Sir, which I think I should go into now and that is the position of the native in these proposals. The point, I think, is made sufficiently clear in the Report that the position of the native is peculiar and an advantageous one. In the first place, the proposition is put forward that as the export price rises artificially by Government assistance, so will the local price, the price of maize for local consumption, follow suit and a parity value be created. I do not think that that is open to any objection other than this, that other industries may indirectly contribute by having to pay more for their maize. The argument, however, against that seems a simple one and that is that no industries ought to be kept artificially in a position of preying on a fellow industry in this Colony by obtaining its products far below the cost of production.

Going back for a moment to the native side, the native is in a position to obtain a price by local sales which is dependent on the export price and is the same as the export price without having to be concerned to any extent with the organization of export. Now, Sir, in confirmation of that proposition, I should like to say that yesterday I received a telegram from the Provincial Commissioner, Nyanza, who, as hon. Members will remember, represented native interests on this Conference, in which he says, after expressing his regret at not being present here to-day, that he would like me to know that natives have been getting higher prices for the remains of the long rain crop as a result of the Maize Conference Report being published. I think that is a practical proof of the advantage to the native. It is an anticipation of the benefits which could be expected to accrue to the native in selling maize when the price is thus artificially stimulated for export. I would further add that while the native obtains the full benefit of the rise in local price due to the rise in the price of exported maize, he will not, unless his production for export increases out of all proportion to present conditions, be liable to repayment when natural market prices improve.

There is a further point I should like to deal with, which is mentioned in the last paragraph of the resolution, which deals with a certain matter of past history. During the last

few months relief has been given to cereals generally at certain rates and in a certain manner, with which hon. Members are familiar. The proposition of the Maize Conference and the proposition of Government now is that the relief thus given, that part of the relief which accrued to maize as apart from other cereals should equally be considered as subject to repayment as the now proposed subsidy and should be repayable in precisely the same manner and by the same machinery. I do not think anybody here will question the propriety of this proposal or fail to recognize the fact that it puts everything on a more logical and complete basis.

As to the machinery required for either paying or obtaining repayment of this contribution, I will not go into it at any length. Government is assured that the machinery already available for the cereal subsidy is suitable and sufficient and that the experience of the last few months justifies its utilisation for this new purpose.

There is one point I should like to draw some attention to and that is mentioned at the top of page 2, in the last paragraph of section I of the resolution, where the words appear: "It shall be within the absolute discretion of the Government to withhold payment, unless it is satisfied that the maize exported is surplus to the Colony's requirements". Well, Sir, it is not anticipated that this proviso need ever be operative, but it was felt that it should be there, in case of accidents.

Reverting once more to the financial side, I should like to make it perfectly clear, and I think it ought to be emphasized at the risk of repetition, that Government feels that this contribution is the utmost that can be done for this industry. Surplus balances, as I have said, are to a limited extent available, but there are many needs in this country other than the subsidisation of industries and Government does not feel justified in holding out any hope that this assistance can be repeated or extended to other industries. I must, in consequence, make it perfectly clear that Government cannot contemplate that this form of subsidy can be either repeated or extended to other industries. Hon. Members, I am sure, will see the necessity for Government taking up this attitude and will not, I hope, cavil either at the amount of the assistance proposed or the necessity of not being committed to any sort of expenditure which is not contemplated or precisely expressed in the terms of this resolution.

I beg, Sir, formally to move the motion standing in my name.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I beg to second the motion.

HIS EXCELLENCY : The question is that the motion standing in the name of the Colonial Secretary on the Order Paper be approved.

THE RIGHT HON. LORD DELAMERE : Your Excellency, I should very much have liked to have done my best to prepare something equal to an occasion like this but we have all been so busy that I am afraid that my remarks can only be of quite an *ex tempore* nature. I am sure it is difficult for anybody to deal sufficiently with this very important subject that we are discussing.

First of all, Sir, I propose to support this motion. It would be very easy to make political capital in certain ways with regard to certain provisions of the Secretary of State and to trot out—or bring forward rather—I must withdraw the expression “trot out”; I think it is not suitable to the occasion—to bring forward the question of the privileges of this House with regard to certain matters, but I think anybody who to-day takes up a political attitude on any of these subjects at a time when this country is in grave economic difficulties takes a very large burden of responsibility on himself. So far as I am concerned, I am going to support this motion but I do hold myself free in supporting this motion that if any change takes place in the position or with regard to this industry that I am absolutely free to voice my opinions as to anything further that should be done in the matter.

With regard to the position of the maize industry itself, the help to the maize industry itself, which is set out in this motion, everybody will notice, as the hon. the Colonial Secretary has pointed out, that the sun per bag has been altered from Sh. 6/50 to Sh. 6. I believe myself that the Sh. 6 now proposed will enable the lands to be cultivated and the next crop to be put in. On the other hand, I do feel a certain regret, I feel a great regret, that the other fifty cents was not available to cover contingencies. Everybody knows that in the case of individuals everyone is in a different position with regard to the money they owe to shops or the money they owe in interest to merchant bankers or to anybody else, and that during a time like this they have to stave off these sort of things—Government rents and other things—as best they can, and the object of the fifty cents as originally put forward by the Maize Conference was to afford a fund in the hands of each of these farmers to stave off these different commitments of theirs, not to the full probably, but to a sufficient degree to enable them to carry on. I do feel that in the withdrawal of that fifty cents a certain insurance on the scheme has been done away with. All we can do now, I think, is to appeal to everybody who holds in their hands

the individuals carrying on this industry to come into line with Government and to help the thing through this next year and not to foreclose, not to do any of the things which may gravely interfere with this Government scheme and altered to a certain extent by different bodies since it is a scheme for the purpose of keeping in cultivation the land and avoiding a definite loss in values to the country until such time as what might be called more legitimate measures can be brought into play to keep these industries going.

There is one point I should like to say about that, Sir, and that is this: that I believe in an emergency of this sort, when the bottom falls smack out of the market and things drop to something like half their value, that none of the ordinary methods, apart from the time factor, could probably have been used to keep the maize industry going. I do think that it is a very good thing to think—I am sorry for using “think” twice in the same sentence—it is very pleasant to think that all the maize people, whether they are in a good position or a bad one, have decided in this matter to stand together and to make a request to Government for a loan to the industry as a whole and to take the responsibility as a whole for the repayment of that loan, because, when all is said and done, there is no doubt that whatever steps Government or anybody may take, there is going to be a certain proportion of farmers who must fail, and that leaves to the others the burden of carrying the repayment.

Regarding that particular question of repayment, Sir, I entirely agree with what has been said by the hon. the Colonial Secretary that in the case of the natives the natives come in on what may be called velvet, and, as far as I am concerned, I am delighted it should be so. The application of this loan and the increase of price brought about on the maize for export is bound to react without any doubt whatever, as the hon. the Colonial Secretary has said, on the price in the country, and there is no earthly doubt that parity value to the export price will take place in the country generally. Naturally where you have natives living in Reserves who have no good knowledge of the facts it is possible that somebody between them and the markets at home may take a certain amount of this money, but the fact remains that the price must go up to the natives in the country owing to the subsidy put on export. In that case they get that advantage and they are not, unless they are exporters—and only a small proportion of them are exporters—they are not implicated in the fiction for repayment.

There was one other point, Sir, brought up by the hon. the Colonial Secretary—I am afraid I am rather discursive—and that was this: it might be said that other industries and other individuals, whoever buys maize in this country, are going to pay a subsidy to a large extent in addition to the £108,000 put forward by Government and to the amounts—whatever they may be—put forward by the shipping companies and the oil companies and indirectly by the banks. As he has said, I am confident that there is no industry and no individual in this country who would attempt to oppose this motion in order to get maize for himself at a price far below what it can be produced at. I am quite sure that nobody will feel that it will be wise to try and force down the price of maize until it could only be grown to a small extent, as it used to be, by the natives of this country who have cheaper methods of getting labour than we have.

Apart from that, there is no doubt that this is only a temporary loan in that way by the rest of the community to the maize industry, as the very fact that this loan is to be repaid by a cess per bag after a certain price has been reached means that this measure which is being taken is only a stabilising factor on price. It puts it up now and will undoubtedly bring it down in the future because there is no doubt that directly the farmer has 25 or 50 cents a bag, or whatever it may be, taken off the value of his maize that means that he gets that much less for his bag of export and therefore is willing on the local market to come down in parity to the export parity; and so, in fact, other industries which are buying maize to-day at a higher price will have that price stabilised back to them without any doubt in my opinion from the time this repayment cess begins to work.

Now, Sir, with regard to the resolution itself, I have already said that the Sh. 6 instead of the Sh. 6/50 will, in my opinion, for what it is worth, carry on the industry, but with a greater risk to a certain extent than would have been the case if the amount had been Sh. 6/50. The chief objection, I think—and, as I have already said, I am supporting this motion as it stands—the delay caused by moving amendments which would have to be reported to the Secretary of State is no doubt out of the question—any amendment to this motion at the present time would cause further delay in having to be referred to the Secretary of State, but I do feel it a pity that Government has not guaranteed the sum in this motion which in 1 (a) appears to be a sum of Sh. 2/09 per bag. In actual fact, of course, that Sh. 2/09 per bag on the number of bags expected to be exported this year is not covered by the £108,000 produced by Government. The original proposal, I think, was that Government should

guarantee the whole and that they should then, by agreement beforehand, presumably, with these oil and shipping companies, get a return from them of a certain amount of that sum. That has been altered in the present resolution and now the amount guaranteed by Government is £108,000, which does not come up to that amount. I am ashamed to say I have not worked out what it does come to but certainly it does require something like £17,000 from the oil and shipping companies combined to make up the original sum proposed by the maize conference, which was £125,000, which on their calculations would have given this Sh. 2/09 per bag.

Now, Sir, I think this is the greatest difficulty in regard to this particular resolution and, as I say, I hold myself completely free to reopen this question if it is found that these industries concerned—the shipping and the oil companies—do not come up to scratch in this matter. I am perfectly confident myself that they will; but whether to the full extent or not I do not know and I do rather feel that the matter should have been settled before this debate took place to-day; but I do think that, from their point of view, it would not be to their best interests that they should refuse to back a scheme of which the Government of the country is carrying very much the largest part, and I think for the moment, Sir, we have got to leave it at that, because if we reopen this question we throw away all we have got, or at least what we are going to get by this resolution, as far as I can see. We do not help the other matter forward for the moment and I think from what we heard from the representatives of the oil interests at the Conference that we can expect from them and the shipping companies a subsidy to help the Government to carry out this scheme entirely.

Now, Sir, in regard to repayment, the original repayment was to start on rather a different scale at Sh. 8. It was believed, and I think we all believed probably that in an industry where the price is not very big, where the margin is not very big, it is probably not the wisest thing to do to saddle that industry with repayment too quickly on too large a scale. On the other hand, in placing this matter before the Secretary of State and in making a case for it to the rest of the country who are not maize farmers, I do feel that there is a great deal to be said for the fact that you make the security a brass-bound security, a security which is not indefinite but which appears to me to be absolute. This Sh. 7/25 as it stands to-day is based on the price of maize for the last seven years before the war in South Africa, as far as makes no matter—there may be a cent or two either way. That means that the security to Government in this motion in that they are going to start being repaid directly the price

of maize rises to pre-war price and I am sure that everybody will agree that although that may be difficult for the industry—and I feel myself that if it is found too difficult for the industry that Government will perhaps go into the matter again—that although it may be rather difficult for the industry, yet it is almost, as far as it can be, a perfect security for the Government. And I would say this, Sir, that if it is not a perfect security for the Government at Sh. 7/25, the pre-war price, it can only be looked upon as a first instalment from the rest of the community to the producers in the general alteration that has got to be made in their favour if prices come back to the pre-war state. I personally—and my opinion is not really worth anything—think that they cannot go back to the pre-war state at present. It means bringing down the standards of living and things which have been built up with the greatest difficulty since the war. I believe there are an enormous number of great minds at the moment trying to see that these things are stabilised on a different footing from what they were before the war, but I have no great fear of that.

Paragraph 1 (d) deals with the question of the absolute discretion of Government to withhold payment unless it is satisfied that the maize exported is surplus, first of all, to the Colony's requirements. Now, Sir, I should have thought that was an unnecessary provision but it is one which we can all accept with the greatest goodwill. There is nothing in it. It does not matter and there it is. There appears to me no likelihood whatever when the price of maize in the country rises to export parity, which it will when this two shillings is added, that there will be any great rush to export maize from the country. If there is, you have one body dealing with something like 80 per cent of the maize of the country who can very soon see that those matters are adjusted; but I have no objection to that. I only think it is a little redundant perhaps, but if it gives anybody a feeling of safety I am all for its being there.

The final point of paragraph 1 (d) is that the contribution will be passed on to the grower. That, in the case of Europeans, is probably very easy and I do think Government is right in saying that in the case of the natives they are going to see that as far as possible the increase in price is passed on to them. I am sure that my hon. friend the seconder of this motion, the Director of Agriculture, has got very clearly in his mind the methods by which that is going to be done.

Now, Sir, in regard to paragraph 2 of this resolution—I am sorry I have been so long—it does appear to me that it is a pity that that has been made a proviso, but as I say, as far as I am concerned, I accept the motion, and it is up to

us all now and to Government to point out to these different interests that they have led us to believe that they were going to help in this matter. We do not know exactly to what extent but they have led us to believe that they were going to help, and a sum of £17,000 from these industries is a comparatively small contribution in view of the fact that they depend very largely on the maize industry. After all, half the farmers of the country, or very nearly, are maize farmers. No farmers have done more to introduce the tractor principle into this country instead of using oxen, as they used to do; although they are cheaper they have gone in for oil tractors and things of that sort. With regard to the shipping companies, nothing has done more to stimulate shipping in the Port of Mombasa than having a bulky crop which can be used to fill up ships when they come to this country, apart altogether from the more valuable crops which do more to give them a profit on the actual tonnage carried. I am sure they recognize that and my own opinion is that we cannot have any difficulty in getting that very small sum from these industries. It leaves it in the air and I think it is a pity it should do so, but there it is, and I think all we can do now is to make sure, as far as we can make sure, and see that these industries give their contribution.

I do not know that the resolution—and as far as I am concerned I have not very much more to say about it—I should very much like to have been able to speak again but as that is against the rules of this House we cannot help it. It is always hard to speak early in the day because you like to hear the arguments put forward. I think the chief argument that has been put against this maize subsidy is that it is outside ordinary methods. I do contend, as the hon. the Colonial Secretary has contended, that the time factor necessitates a rough and ready method and that it should not be avoided. In Southern Rhodesia they adopted the same method and I was told by the Deputy Speaker of their House, whom I happened to meet, that it was adopted largely for one reason and that was that the mining industry, which is a very large industry in Rhodesia, was willing to agree to something of this sort, which made no precedent for the future, rather than to incorporate a peculiar method of dealing with an emergency in the ordinary financial methods of dealing with the agricultural industry—and it created no precedent.

Now, Sir, I have already said that I must hold myself free in supporting this measure with regard to the future. I support this measure wholeheartedly but with regard to the future I must hold myself free that if anything new occurs or anything else happens that I must take what steps—and I hope other Members feel the same with regard to either

this or other industries—that we think are fitting on their merits as the occasion may arise. The hon. the Colonial Secretary has said that Government cannot contemplate repetition or extension of this form of subsidy and I hope sincerely that it may not be necessary; in considering other industries in future, that this form of subsidy should necessarily have to be adopted. We shall certainly do our best, I hope, on this side of the House to meet the feelings of Government on that particular question.

Sir, I do feel that in supporting this measure, as I have said, I support this as it stands because I think it is the best we can do at the moment or for this year for the maize industry; that it has been a fair effort on the part of Government to meet the proposals put forward by the Maize Conference and by the maize industry.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the factor that actuates our attention most this morning is the resolution that Government has imposed on the House. Now, Sir, Elected Members, when they agreed to the Budget—agreed to the Budget on a definite condition and a definite understanding which Government accepted, and that was that the Estimates were accepted on the understanding that Government would do all that was necessary to maintain and extend agriculture on which those Estimates were primarily based. We, Sir, are committed to that condition in the case of legislation until the expiration of this Council, and, Sir, it is unfair and wrong for the Secretary of State to expect us to acquiesce in the limitation and the denial of that prior condition which we ourselves laid down. Then, Sir, again in regard to the methods of this subsidy there is a unanimous resolution by all Elected Members which I crave your permission to quote.

THE RIGHT HON. LORD DELAMIER: Passed in private meeting!

CAPT. THE HON. E. M. V. KENEALY: Well, Sir, I am told that it would be improper to quote that in this House. It seems to be an extraordinary position for the Elected Members to be frightened to voice views unanimously arrived at for the information of the country and of their constituencies. However, if it is suggested that I should be breaking a confidence I shall not quote it but I think that comment is a justifiable one.

Well, Sir, because this monetary measure is not coming out of a loan voted for that purpose but is being effected by a depletion of our surplus balances, which will thereby put us into a position where we shall be the less able to face the

situation on a broad basis, I feel Government has failed inasmuch as Government has accepted this. We are being thrust into a position where one measure, and one measure under peculiar circumstances and in certain conditions laid down by the other side, is being offered us; we are offered no alternative. We are told to accept this or nothing, and on that understanding I shall be forced to agree to it. I consider the measure itself a rotten one. I consider, Sir, that the finance in it, the economic theories in it, are utterly fallacious, but I shall agree to it, because without agreeing to this one would be forced to endanger the existence of a proportion of the people in this country which the country can ill afford to lose. But, Sir, that does not prevent my drawing attention to the fallacies in it and to the extraordinary position in which this, with no alternative, is presented as the Government method. What will be the result of the application of this measure? The result will be first that it will enable the man outside Kenya to get maize at a cheap rate at our expense and at the same time it will force every individual in Kenya to pay more for his maize. This will result in every industry employing labour being committed to an expenditure of 30 per cent on its posho bill. It is suggested, Sir, that we should be wrong to ask for consideration for assistance to other industries, but, Sir, Government by the adoption of this measure is adding a weight to the other industries which are already jeopardised by the financial circumstances of the world generally. It is suggested that we on this side should not impose any limitation. It is suggested that there are four or five industries drowning and we have a couple of lifebuoys only to throw and we should throw these lifebuoys to save two people at any cost, but what is the cost if these lifebuoys are thrown—and it is partly this House which decides to whom these lifebuoys should be thrown? At the same time we are throwing millstones on to the other three persons who are drowning. I hope it will be recognized that that is true, Sir. It is true. It is stated that the internal consumption of maize in this country amounts to 90,000 bags. Well, Sir, by a simple arithmetical analysis it can be shown what the country will have to pay on that £90,000. The country will have to pay £90,000. Government, Sir, cannot claim great credit for . . .

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACH: £1 a bag?

CAPT. THE HON. E. M. V. KENEALY: I was wrong in the figure. The figure was £900. I beg your pardon. Thank you. It does not matter. It means the country will be forced to add to its costs of production in all the industries and the

administration generally and life generally £90,000. The Government cannot claim, Sir, that it is in the position of a father distributing his own money for the benefit of his children, considering the industries of Kenya as the children of the Government. That is not so. Government merely acts as a distributing factor and directing factor in diverting the normal life of the country, which has its limitations, into certain productive channels, and that is all that Government does. Government can claim no merit for its generosity. Government is not being generous. Government, on the advice of people on this side of the House, is adopting a certain financial policy and thereby deflecting wealth and production into certain channels. I maintain, Sir, it is doing it very badly.

The machinery, Sir, suggested in this financial resolution is not really dealt with in analysis. The machinery is obviously not going to effect the desire which is expressed in this financial measure.

On the second page, Sir—(d)—I must deal with this matter—it is essential that Government should retain absolute discretion in regard to the payment of this money on the condition that the contribution is passed on to the grower. That should not be the desire of this House; the desire should not end there; it should be passed on to the grower with the restriction that that money is to be utilized for the maintenance of maize growing. That should be definitely stated in this measure, Sir. It may be passed on to the grower who then may drop his maize production. That money will have been wasted and that money will have been provided at the expense of other industries.

There are several other points. There is a suggestion in the ultimate mode of repayment that there should be export taxation, a policy which we jettisoned in the past, in the dark ages; I hope we shall not go back to it. The effect of this measure will be the depreciation of maize land throughout the country because it will mean an added payment indefinite in its time in the future.

The primary objection, Sir, is that Government introduces this measure with a definite threat that it will give no consideration to other measures which may be necessary and in introducing this measure it definitely provokes and aggravates the disabilities that other industries and the administration of this country itself are already suffering from.

That as regards principles: anyway, I agree to this.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion before the House, but I do not think it is in a form where—I can say certainly it is not in a form as presented which altogether appeals to myself. In the first place, I suggest that it would have been advisable for Government to have made a present of this amount of money to the maize industry. In the past, as we are all aware, the maize prices were controlled against the grower—about two years ago—to his disadvantage. In the first crisis he is up against the amount of the proposed advance to him is Sh. 2/09, under certain conditions, which is repayable. I would draw the attention of this House to the fact that both Kenya and the adjoining territories will gain at least double the amount of money that is going to be paid back by the industry. Kenya and the adjoining countries will gain that amount of money by the producer having under the economic conditions existing to-day to dispose of his maize and his posho at the cost of production or under. Even the Kenya and Uganda Railways and Harbours will make more this year, I predict, under their posho contracts than the few thousand pounds they gave to the maize industry late last year. For that reason I consider that the price in this Colony should have been stabilised. I know that a great deal of opinion is opposed to that, but I would point out, Sir, that in previous years you will find, if you study the local prices and the export prices, the local prices have been in the ratio of Sh. 1/50 to Sh. 2 above the export parity. An argument has been raised that by advancing this Sh. 2/09 and endeavouring to bring the price to Sh. 6 the local price automatically will be stabilised. Personally I am not satisfied that will be the case. In a measure, yes, but not wholly. In any case, it is not sufficient to have the local price on a parity with export values. Nobody would expect the maize producer to sell locally under normal conditions, say, 10 tons, 20 tons, 30 tons or 100 tons of posho or maize for what he could sell it overseas by the ship-load.

Notwithstanding that criticism, Your Excellency, I believe Government have done their best for the industry under circumstances, if I may put it this way, over which they have very little control. That being so, I propose voting for this measure and hope that it will confer the benefit that every body desires and see the maize producers through 1931.

If I may say so, in my opinion 1931 is going to be our trial year and if we can get over this year I believe we shall get over most of our troubles in the future. We have one very valuable asset in this Colony and that is our climatic conditions and the wonderful fertility of our soil. It is a very great asset indeed, one of the greatest that agriculture

possesses in this Colony, with the result that, as regard maize, we can produce more bags per acre than most countries in the world. It is a question of cost of production and it is up to the industry to pare down to the very utmost these costs, not only the cost of production but the whole cost connected with agriculture—household expenses and everything else. I know it has been done to a great extent and the result no doubt will be felt in the future.

I would point out that the method of paying this money is a delayed one. It is delayed action and I am sorry that more expedient means could not have been found to pay the money to the maize producers. It will probably take to the end of the year before a large amount of this money will be paid and in the meantime the producer will not get the advantage he might have got had it been worked out on different lines.

Before sitting down, Your Excellency, I would also draw attention to the fact that, according to my figures, including this amount before the House to-day, we will have paid £210,000 for the relief of the maize industry. In connexion with that I would also like to point to the fact that our surplus balances will still have a credit and that is a statement which can be made in very few colonies in the British Empire to-day. I am not one of those who believe that this crisis is such that it is insurmountable. I believe that the co-operation, not only of the producer but also the well-wishers of the Government will get through 1931 with credit to ourselves and I hope most industry will follow on for many successive years.

Reference has been made to what might be termed the reservation of the Secretary of State. I do not propose to go into that—it does not appear in the motion before the House—but I would remark that the hon. the Colonial Secretary stated in an answer in this House to-day that Government will give favourable consideration to any further proposals put up for the relief of agriculture. I accept that undertaking and I am perfectly certain that Government will honour it.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I am in a very unenviable position this morning because perhaps I stand alone as one who feels that I cannot vote for this motion. I cannot vote for the motion for the following reasons. It is the native of the country, who grows maize to supply the local market, who enables the exporter to export the maize grown by him to England and so receive the benefit from this contribution. Were it not for the native who grows maize to supply the local market it would not be

possible, unless we deprived ourselves of the necessary maize, for the European grower to send out his maize; and we are told that the native is going to benefit by a parity price for his maize.

THE RT. HON. LORD DELAMERE: Or more.

THE REV. CANON THE HON. G. BURNS: I should like to be assured by Government—or whatever authority will give a guarantee—that he will receive for his maize say up to Sh. 5 a bag. That would perhaps change my attitude towards the whole question were I given an assurance to that effect.

The second reason for my not being able to support the motion is a paragraph in the Report of the Maize Conference itself. "One page 12 I read these words, Your Excellency: "and it was agreed that it would not be reasonable or fair"—I should like to insert the words "fair or just" instead of "reasonable or fair"—"to expect the general funds of the Colony to carry the whole burden in order to bolster up the security of directly interested parties." That statement is over the names of the various members of that Conference. Is the implementing of this grant to be dependent upon the part taken or that may be taken by other interests concerned such as the banks and the oil companies? On that I am not sure but I should like very much to be assured that the implementing of this measure depends upon the part that these people or these companies are going to take in this matter.

But the chief reason why I cannot support this measure is that it is sectional. The balances from which this money is to be taken would not be in existence. I venture to say, Sir, were it not for the large sums of money contributed towards the revenue of the Colony by other sections of the community than Europeans. For these reasons, very briefly but with great regret—I do say with very great regret indeed—I am unable to support the measure as it stands before the House now.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, first of all I should like to deal with the last speaker. It is an extraordinary thing, Sir, that whenever anything comes up in this House directly for the benefit of the natives it is always opposed by the honourable and reverend gentleman who represents native interests. If anybody is man here who represents native interests, it is the native going to get a definite advantage out of this it is the native grower of this country. By putting up the export price of maize it will put up the price of the locally grown maize. That goes, to a great extent, to the native grower, and he has no commitments of any sort for repayment. Now, Sir,

the honourable and reverend gentleman says that if it was not for the native grower we would not be in a position to export any of our maize. Well, Sir, we would all be thankful if we had not got to export any maize. If the maize grown in the country was only what was required internally none of it would have to be sold at the price it is sold at to-day. The price would have been very high and we would all be making large profits out of the crops we have grown this year.

To go back to some of the other points which have been raised, I do agree with my hon. friend on my right (the hon. Member for Kenya), who said—I understood him to say—that he would rather see this money raised in the form of advances, in the form of a loan, rather than out of surplus balances. If one depends on these loans one does not sew up all one's surplus balances and the money available goes very much further.

We have been told, Sir, only as recently as a month ago, when discussing the loan which was recently put on the London market, that it did not in any way curtail our usual methods of borrowing by advances from the Crown Agents at home at a low rate of interest in view of some future loan. In fact, the recent loan was chiefly to cover advances which had already been made and it does seem that if it can be done for the sake of building unremunerative buildings, it can even more soundly be used for a purpose which is going to retain the revenue of the country and which will have every likelihood of being repaid in whole, whereas in the other case there is no chance of anything ever coming back. I do understand that the only method in which it can be done immediately is to take the money out of surplus balances but I understand there is no reason why that position should not be subsequently rectified and the whole question gone into later on.

Now, Sir, the other point is that it puts up the price of maize to other industries. That, of course, Sir, is an undoubted fact, but if cannot be sound for any industry to make its budget on the supposition that it is always going to get certain products very largely below costs of production, because if that is reckoned on the natural thing results that those products are not produced at all; and if, Sir, this assistance was not given to the maize industry to-day, there is not the slightest question that thousands of acres of maize would go out of cultivation altogether and that next year those who were able to continue their production would be reaping great profits because there would not be any surplus for export and the price of maize would soar up to a high figure such as it was likely to do two years ago when Government stepped in and stabilised the price and prevented the maize grower from reaping the benefit of exceptional circumstances. I did

not hear the honourable and reverend gentleman then raise his protest against the farmers being prevented from reaping the benefit of the situation at the expense of the unfortunate natives in certain parts of the country who were threatened with famine; and that was the reason why that action was taken, surely, Sir, it is a little unfair on his part now to grudge this community of maize growers from being carried through a position which threatens them with losing their homes and everything else and who do not know what to do for themselves.

Now, Sir, the hon. the Colonial Secretary read out some statement that nothing on the same basis of this sort of subsidy could be considered for any other industry.

I take it, Sir, that does not in any way preclude us from thoroughly investigating the position of these other industries and seeing what necessary help may be required. It does, I take it, make a caveat against the form of subsidy, and as far as I am concerned, Sir, I hold myself completely free in agreeing to this motion to take any steps which I find I can to help such industries as the sisal and coffee industries through their difficulties which are imminent.

I should like, Sir, to draw attention, with regard to that, to the speech of the Governor of a neighbouring territory who the other day in producing his Budget with a deficit of £350,000 explained that was chiefly due to the large fall in prices in the sisal industry; that only shows you how dependent these countries are on the maintenance of this big industry for their revenue and for the solvency of the Colony accounts.

Your Excellency, I beg to support the motion.

THE HON. T. J. O'SHEA: Your Excellency, I also support the motion with quite a degree of pleasure; I should have said, Sir, with a very considerable degree of pleasure were it not that I am conscious, as I feel sure everybody else is, of its defects. It is very easy for us to see these defects—they are very obvious—but I think that the present is not a time in which to point out the shortcomings of a scheme that, when viewed in a broad light, would appear to be the only possible scheme to save a large branch of the one and only industry of this country.

Stripped of its trimmings, Sir, what are the facts in relation to this scheme? It is the outcome of a very serious study by a very representative body of men comprising some of the ablest officers of Government, representatives of the banking business in this country, representatives of the agricultural industry itself, and a number of other individuals

who for some years past have commanded the respect of this country for their understanding of its problems and their ability to render advice upon them. After a thorough examination that very representative and that very able body found itself able to make only one recommendation to meet the situation in which we find ourselves regarding the maize industry, and that recommendation has in principle been embodied in this motion. How then can we possibly do otherwise than support it, despite its shortcomings? It seems to me, Sir, that we have got to look at the thing, not from the point of view of sectional interests, but from the point of view of the situation in which this country, in common with the rest of the world, finds itself at the present time. As I see it, we have got to recognise that the world, the whole world, is in the throes of an economic war and that war measures are necessary in the economic sphere to meet this war, and in that spirit, I say, it is most unreasonable that any section of the citizens of this country—white, black or brown; whether capitalists or labourers; whether civil servants or commercial men or professional men—should attempt to escape their fair share of the burden this country is imposing upon us. I do not regard this so-called subsidy to the agricultural industry, or to the maize section of it, as any act of generosity on the part of Government or on the part of anybody else. When you analyse the facts you find that the agriculturalist up to the present is the one section of our citizens who have had to bear the responsibility and the burden and the anxieties of this economic war. In effect, he is the one industrialist in the country and he has had to carry the burden, and I say it was not fair for any section of the community to say he should bear the burden alone and without any contribution. It should not be regarded as an act of generosity to him. Analyse the facts, and what are they? The agriculturalist in this country to-day is working harder than he has ever worked in his life before, and what is he getting for it? Not even bread and butter. There are people on the land to-day practically in a starving condition. I say—it is not because I am speaking loudly and comparatively excitedly—I am speaking deliberately—that had it not been for the action of Government to-day there would have been a serious situation in this country next week, and there would have been scenes witnessed in this House such as we have not been involved in for many years past. Let those who cavil at the shortcomings of this scheme recognise we are up against a serious situation, and they have got to take it seriously.

Now, Sir, I say there are two things in themselves that completely justify the measures at present being taken by Government to assist the agricultural industry over its present

difficulties. The first is that the continued existence of that industry is essential to the continued existence of every other section and interest in the country—commercial, professional and governmental; if we allow that industry to be destroyed then every other interest in the country will be destroyed with it. The second justification is that the people who are receiving the direct benefits of these measures are doing everything that it is in their power to do to meet the difficulties in which they find themselves. If the agriculturalist was not working hard, if he was not doing everything in his power to meet his difficulties, then I would say that Government possibly was not justified in giving him these measures of assistance, but because he is doing everything that is in his power to do and that is insufficient to meet the situation, it is necessary, it is inevitable that Government should come to his assistance to the limits of its capability.

As I understood the statement of the Hon. member, Sir, the Secretary of State has thought it necessary to give a provisional consent to this measure. That cannot, of course, in any way be binding on Members on this side of the House, and I question whether it can be in any way binding on the Government in this country. It is all very well for him, Sir, in common with others, to point out the economic fallacies upon which these measures are based, but that is not our concern. We have got something more serious to think of. We have got to think of our responsibilities toward the people of this country and to regard their interests as coming first and the soundness or otherwise of economic theories coming in afterwards. We are already in possession of the knowledge that this section of the agricultural industry must have assistance, and I for one say that Government will have to give them assistance, and whatever may be said about surplus balances, if surplus balances are not there out of which to find that assistance, other sources will have to be found from which that assistance shall come and will come. It must be recognised once and for all that this country exists on one thing alone and that is the agricultural industry, and if that fails everything else fails; if people would only recognise that they would be less concerned with economic theories in regard to the measures taken to assist that essential industry.

Council adjourned for the usual interval.

On resuming.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, there are only two main points which I wish to deal with in connexion with the resolution before Council; but before doing so there are one or two quite minor points which have been raised in the debate and which I think should be very briefly touched upon. I would like to say at the outset that I am

as aware as is anyone else of the imperfections of this scheme and I fully realise that if it had not been for the time factor probably a better and more comprehensive scheme might have been evolved, but the most important factor and really the only factor in the considerations which have been going on has been the time factor, and I personally am satisfied that this scheme with all its imperfections is the only possible scheme which can be brought into force bearing in mind that all-important factor—time.

Now, Sir, it has been suggested that an alternative scheme might have been evolved, namely, the fixing of a minimum internal price for maize. Now I mention that not only because it has been raised in Council this morning by one hon. Member but more than one person, not Members of this Council, have spoken to me and discussed this matter with me. There appears to me to be one insuperable objection to the fixing of an internal price for maize and that is that if that price is above the ordinary market export price, which it must necessarily be, you immediately stop the whole of your export and you therefore get a superabundance of maize in this Colony fixed at a fictitious price under which people cannot purchase it, and the result of that must necessarily be that large quantities of maize can never be sold at all and cannot be got rid of unless exported at a rate far below the rate fixed internally. I am certain that the complications of any such scheme as that would be far greater than any complications that are likely to arise out of the scheme at present in front of this Council.

Another argument which has been adduced is that this method will have the effect of diminishing the value of all maize farms in the Colony. Now that possibly is true, but I would say two things with regard to that. First of all, the price by which land values of maize farms will be diminished will be an infinitesimal fraction—a shilling per acre, if you work it out—on the extra amount which has to be repaid in years to come by the export cess. That being so infinitesimal I believe need not be taken into serious consideration as, apart from the smallness by which the price of maize land will be diminished, it will, of course, only be a temporary factor until the contribution which is here proposed is repaid. Secondly, I would say that if you do not go in for this scheme and if you let large areas of maize go out of cultivation, how much more would the price of those farms and that acreage of maize diminish in price—to an extent not comparable with what it may diminish in price under the present scheme.

Now, Sir, I want to come to the two main points which are really bound up one with the other, and that is the question of the money for this contribution being found from

surplus balances, which automatically brings me to the final remarks made by the hon. the Colonial Secretary. He stated that Government could not consider either extending these benefits to this industry or giving any other similar help to other industries. I was not quite certain what that meant. If it meant that Government would not be prepared to consider helping other industries in a similar manner, on similar lines and on a similar procedure to the present proposal, that is one thing. If, however, it meant that Government stated definitely that they were not prepared to render any further assistance in any form or in any manner to any other industries, then I say, with the greatest respect, it has no meaning and no value, because I say with confidence that, whatever the Secretary of State may say or think now, and whatever this present Government may say or think now, if it can be shown conclusively that it is essential that assistance should be given to any other industry, that assistance has got to be given. There is no getting away from the fact, and the arguments I think, Sir, to support that contention are irrefutable. There seems to be a want of clarity on that point because Government, in helping these industries, are not doing anything wonderful—they are not acting in some eleemosynary capacity; they are insuring themselves, that is all. How does Government get its finances and balance its Budgets except from imports and customs duty for one thing alone, which result from the exports, and if you are not going to give assistance the result is that the exports from that industry do not go home and they do not come back to this Colony in the form of imports, on which customs duty—the main basis of taxation—relies; so that, by helping the industry, you are merely indulging in a form of insurance. If you do let the maize industry go out altogether the result would be a diminution of £80,000 in your customs duties alone. But apart from that you have to take into consideration the money which is paid in native wages, which circulates through the country and purchases imports; you have to consider the loss to the railway, the idleness to the rolling stock—a thousand and one things; and if you adapt that to other industries, and one thing; and if it can be shown that they need help and you refuse and if it can be shown that the greatest sufferer? There is not only that help, who is the greatest sufferer? There is not only the individual who is planting his coffee, sisal and maize, but the Government of the country, who will be faced with a very heavy deficit on their Budget, which may lead to things happening which none of us contemplate.

Now one of the arguments I gather is that with the best will in the world, even if Government are agreed that a case can be made out for help for some other industry, if Government agreed that that industry needed help, they could not find the money because our surplus balances are so

attenuated. I do not think that that seriously can be regarded as an argument, and that brings me down to the question of this money being paid out of surplus balances. I agree that the money is urgently needed and must be paid out immediately and must come out of surplus balances temporarily, but I believe that even if this industry were the only one that required help it is a wrong method that the amount should be paid permanently out of surplus balances, but when we come to the fact that it is highly probable that assistance will have to be given to the sisal and coffee industries, then it becomes abundantly clear that from every point of view the money must be found from a source other than surplus balances. What is that source? That source is loan and I have no doubt that from every point of view it is desirable that a small agricultural loan should be floated for the purpose of meeting the emergencies through which various agricultural industries in this Colony are at the moment passing, not only because then we shall not be hampered by a fear of depleting our surplus balances, but also because repayment will be made by means of interest and sinking fund, which can be met out of revenue. That is the proper way to finance these emergency loans or contributions or assistance to the agricultural industry. If you raise a loan, putting it as high as £300,000, you can meet that by interest and sinking fund, amounting approximately to £20,000 a year I should say at the most. When you consider the amount you are conserving in customs duties and the money circulating from the payment of native wages, the amount you are circulating through railway rates—if you consider the enormous sums a year you are saving at a total cost of £20,000, is it not one of the finest insurances you can put your hand to?

I suggest it is and while I, like the Noble Lord the Member for Ukamba, propose to support this resolution as it stands, I visualise that the money now being taken from surplus balances must inevitably, when this loan is raised, be repaid to surplus balances from that loan so that the surplus balances remain the same as before this resolution was put forward and passed. And, Sir, I would like, if I may, very briefly to say that when I speak of the necessity for assistance to this industry, that industry and the other industry, I realise—I am absolutely certain in my own mind—that it is only temporary assistance that is required. I do not believe that this Colony is rushing down-hill to destruction, damnation and bankruptcy. I have never wavered in my faith in this Colony's future. It is no less to-day than it has ever been; but every country and every individual goes through times in his and her life when they are what is commonly called "hard up," when they have to conserve their resources and seek temporary help. There are many persons and firms

to-day who not many years ago were going through a period when it was doubtful whether they could survive unless they got temporary help from somewhere, the big banks in London, and so on. The country needs temporary help to-day and if it gets that temporary help it need have no fear of the future. But it must have that temporary help and I beg Government, if a case is made out, to realise that it is only a means of insurance and to give that temporary help and save the country, which I think everyone in this room will agree is worth saving.

LIEUT.-COL. THE HON. C. G. DENHAM: Your Excellency, I am simply rising to support the motion without prejudice to any proposal which may be put forward by other main and standard industries, in particular coffee and sisal.

THE HON. CONWAY HARVEY: Your Excellency, I have no intention of prolonging this debate by repeating what has already been said by previous speakers. I find myself in almost complete agreement with what has already been said, Your Excellency; but I must frankly admit that I am absolutely amazed at the attitude of the honourable and reverend gentleman representing Native Interest. I think it is very important indeed, Your Excellency, to emphasize as strongly as ever we can that Elected Members have a very deep appreciation of their responsibilities for the natives of Kenya, and, so far as this particular measure is concerned, there is no shadow as of doubt, Sir, that the native scores in two ways. First of all, as my hon. friend the Mover stated, the native maize market has already reacted to these Government proposals inasmuch as they are to-day getting a larger price for their maize than as they are to-day getting a larger price for their maize than as they would have received had this proposal not appeared; and it is important, Sir, to bear in mind that when the time comes to pay back to Government the amount that has been advanced for the relief and maintenance of this industry, the whole lot will be subscribed by those who export maize, namely the Europeans, and the native will again score in that direction.

MAJOR THE HON. E. S. GROOM: Your Excellency, the late lamented Randolph Churchill once made a very wise remark. He said that when he notices everybody running about in a state of great excitement saying something must be done, something usually is done—and something damned foolish. You will excuse the language but the remark is passing into a classic.

I have listened to this debate now with the very greatest interest in the hope of finding one argument to help to induce me to modify my views in respect of this measure. I have

heard one argument and one only and that was the argument of the hon. Member for Plateau North, who put forward a special case—who suggested that there was a special case for the consideration of the maize people, and that was the fact that on two previous occasions within our recollection they were prevented by administrative action, by law, from getting their proper advantage in the market, which at that time had turned in their favour. That is, I admit, a very strong argument in their favour and the only one that has been adduced to-day, not in respect of some general support or general measure for the maintenance of the agricultural industry as a whole through a difficult period, but as a measure for specially dealing with the maize industry, as distinct from the other industries which constitute one of the components of this country.

It has been rather adequately suggested, I think, that the position of this country to-day is that of a large number of gentlemen leaning up against one another, praying that nobody will hiccup, because if one does the probability is that they will all fall down with the shock. I do want to suggest that the internal adjustment of this country at the moment is a very delicate one. Everyone concerned in commerce, finance, industry and primary production in this country realizes that they are all in the same boat and that if one part gives way they are very liable to sink together; and I am convinced—I speak with some experience of the ramifications of these matters—that everything possible is being done in a sympathetic way by every individual involved to try and prevent everybody falling down.

Let us consider, in the light of that, what this actual proposal amounts to. I am perfectly convinced that the Secretary of State, and I am absolutely certain that a vast proportion of the members of this community have no idea in the world what this proposal involves. It is, of course, obscured by a simple little reference to a total figure of £108,000 which leaps out of this strange document as the only figure apparently to which this country is committed. But in addition to that you have to add another sum, estimated to-day at, I think it is £30,000, namely a definite contribution to be made by shipping people and an assumed contribution to be made by the oil companies. That, of course, will transpire inevitably as a contribution to this particular industry—not to these parties only but to the State as a whole—but if you let the oil people off by a compounded payment of £10,000 from the very drastic reductions in the distributive price of oil which is long overdue, you have given them a perfectly valid excuse for refusing any other relief to any other part of the community. And the same argument

applies to the shipping people. My own view is that this country has had its leg pulled by the two parties concerned. It is perfectly obvious that the shipping people, having all their boats and a tremendous paraphernalia involved in transportation, are not going to take their bottoms away empty for the sake of staying off this community or any other; and the same thing applies to the oil people. They are both hopelessly involved in the general economic and financial position of this country and in common with everybody else they have to adapt their methods to the situation created by falling markets. It therefore follows that this particular proposal is that the real amount to be considered is not a contribution by the community, theoretically to a total amount of £108,000, but £108,000 plus £30,000, on the lines that I have already outlined; but in addition to that the obvious purpose of this proposal, the avowed purpose of this proposal is to raise the distributed price of maize throughout the entire country to the f.o.r. level provided as an assured line out for maize by this proposal. That involves, as far as I can get the figures from the figures put before us in these Maize Conference appendices, and so on, a total amount of estimated maize production of 23 million bags. It is pointed out that a certain amount of that total production, of course, is consumed by the primitive natives, who grow it and eat it on the spot and therefore do not bring it into the market—and of course it does not make any difference to them whether the market price is higher or lower as it passes down their intestinal tracks—but of the maize which does move or change hands—and I would remind people that there is much greater quantity in the Native Reserves than people think—that a very large amount of this maize is consumed by people other than the grower; but even if we take the figures given to us in this document, prepared by my hon. friend the Director of Agriculture—take it at 2,000,000 bags, the total amount that passes direct into Indian and European channels—at 2,000,000 bags it involves 2,000,000 bags at the world's prevailing price—which we understand is Sh. 3 or less—up to the equivalent of Sh. 6 which represents a total increase in the whole cost to the rest of the community amounting to a minimum of £300,000 which, interpreted in terms of the number of the beneficiaries—which is given as 1,000 maize farmers—means a cash contribution by the rest of the community of £300 a head, which of course is a very handsome bonus. And in these times that requires very serious consideration in respect of the repercussions on other industries which it is bound to have. I submit that amounts to a distortion. There is no new money coming into the country at all; it is merely a distortion of the existing channels of distribution amounting to £300,000 in favour of one channel

from the rest of the channels and that must involve a physiological disturbance of the body politic which can be very mildly described as a hiccup.

There are two or three fallacies in the arguments which have been adduced in support of this measure which I think ought to be referred to. One is, apparently, the reiteration of the principle that this is a repayment by the industry. Now no industry can pay anything; it is the individuals concerned in the industry who pay and in this particular method of export duty there is no sort of security whatsoever that the present beneficiaries are the people who are going to pay the cost of the benefits derived to-day. In fact, it is perfectly clear that so far there is already a considerable amount of maize in motion that has passed out of the hands of the original growers and is now in the hands or the possession of traders, and they will assuredly get the direct benefit of Sh. 3 a bag without any responsibility for returning any portion of it; and I think it is perfectly clear that in the years to come this thing will be washed out as a hopeless proposition because when you do get a new flight of people coming in who are prepared to relieve the present debt-logged holders of their land or prepared to co-operate with them and join in partnership or what not, they will naturally regard this maize enterprise as a thing to be very carefully avoided and there is, of course, all round the recognized maize zones a marginal zone where even to-day it has been decided as a general practice to convert maize growing to wheat growing, and naturally this is going to hasten that procedure so as to leave the bulk of this burden concentrated entirely on the shoulders of the people who are maize farmers, successful maize farmers, and who are likely to continue as such.

There is another fallacy which has been referred to. It is based on a suggestion in which I cordially concur that no industry should prey upon any other industry. Of course, that sounds very nice but if one could carry that out to its ultimate conclusion in the markets of the world, which unfortunately we depend upon entirely, I am afraid we should get a very chilly reception if we went to London to-day and made that suggestion. The issue we have to realize is this, that it is not any question of one industry preying upon another; it is a question of the whole consolidated industry, finance and commerce of this country as one integral whole being at the mercy of a catastrophic fall in price levels which has come into operation. That is why we should be particularly careful to avoid any distortion in the form of adjustment. My own view is that so far as this particular industry is concerned it is entirely wrong to take these rough and ready methods in the hopes that if you squirt enough gold into the air some

of it may fall on to the beneficiaries desired, but there is no indication that it will do so at all because it is perfectly clear that this additional price that is going to accrue to maize taken as a whole is not going to be allowed to pass unfiltered through the channels to that ultimate destination. There is not, I suppose, 5 per cent of the entire crop of this country that is not pledged up to the hilt, and in fact it does not belong to the growers but to the people who have financed its production.

THE HON. T. J. O'SHEA: Question.

MAJOR THE HON. E. S. GNODAN: I do want to protest very strongly that only the primary producer has got any rights. I speak with some sympathy because I take part in all these different things, and it has got to be put always on the individual question of primary production in this country—the capital and the enterprise and the knowledge and the skill that have been contributed to that gross result—and at least nine-tenths of it certainly in terms of money, in capital, have been provided by people other than the titular owners of land to-day, and the people that I represent in this part of the country are just as much entitled to proper participation in any distribution that is going on in the very very narrow amounts available as any other party. Of course, they are all equally involved and prepared to make sacrifices daily to try and hold the thing back, but I do submit it is distortion on such a scale that it is impossible for anybody to say to-day what the ramifications of it will be.

When it comes to the question of the machinery by which you propose to apply this fantastic scheme, we are told that it is all available. I should like to know a number of things connected with that, but I do not want to go into them in very great detail. It has been suggested that this question of exportable surplus, by my hon. colleague, the Member for Nairobi South, is a matter of no importance. In my opinion, it is a matter of major importance because there is nothing more certain than this: that the tendency of any possible economic theory is that if you provide a flat cash figure at which your crop can move with absolute certainty, the tendency in these days of difficult marketings and shortage of cash is to provoke a violent efflux of every bag of maize through the channels of exit until it is stopped on the way by somebody offering a greater or equivalent price than it knows it will get for this maize, and there must be a tendency to over-export out of any sort of proportion to its internal requirements because my Right Hon. friend overlooked in his reference to this matter, I venture to submit, the cost factor of interest, storage and depreciation. Now clearly nobody is going to keep maize even for two months if they can sell it for cash

unless they estimate they are going to get at the end of two months a figure so substantially higher than the cash equivalent as to cover their risk of storage, interest, depreciation and so on; and undoubtedly the tendency must be for maize to flow out of the country up to a point when there is no margin left except for what are the immediate requirements for a very short period because people do not buy their stocks of maize on a large scale and a long time ahead. Therefore there will be a very delicate machinery required there to work this out. There is no indication now as to how it will be controlled because you cannot go to every individual and say: "You must stop exporting your maize." I know of no measure to do anything of the kind.

Another proviso of the Secretary of State is that you have got to have machinery to assure that the contribution of the State in this particular connexion is to be passed on to the grower. I ask what sort of economic machinery are you going to have, or administrative machinery, that is going to be able to say: "My dear bag, what is your genealogical tree; whence do you originate; what is your history? How are you going to assure what you represented in the first beginning is going back to the fellow who produced you?" Maize has not the grower's signature upon it; it passes through a gigantic distributive stream or channels and to make any attempt, except perhaps in a few co-operative concerns, to trace the origin of any bag of maize is quite impossible.

Now there is another point where there is no indication of machinery: this contribution of £10,000 which the oil companies are going to contribute, as I understand, which is going to be subscribed to the Government, which is going to distribute it again in some form of relief to the community. According to the document before us, in terms of this resolution, it involves machinery that is going to see that that £10,000 is distributed through the community in the form of rebates on oils in respect of maize and maize only. Is it proposed to challenge every trolley and every lorry that goes along across the country, overhaul its contents, see if it carries a bag of coffee as well as maize, and say: "This should not be carried; you will not get your rebate?" It is utterly impossible. However, I do not want to labour that; it only goes to show that there is no machinery in any way adequate to deal with this peculiar situation which this resolution proposes to set up.

I disagree with this for the reasons adduced, but I also believe that it is in the worst possible interest of the maize farmer himself, a group of citizens in this country for whom, of course, everybody has the greatest possible sympathy and

whom everybody wants to retain in a consolidated position in the fabric of our State. I believe it is bad for them because at the present time nobody is going to push them because they have got nothing and therefore it is incredible that there should be any large measure of actual bankruptcy among them. What everybody has got to fight for is to retain them intact in their land through this tornado. In anything of this sort you are going to open up a scramble for every little bit of flesh attached to their bones, and in a scurry like that there is liable to be a large number of casualties.

Secondly, on the question of this saleability of their land afterwards, I think my hon. friend, the Member for Nairobi South, must have gone wrong in his calculations. He certainly did not recognize the difference between interest and capital because if you come to capitalize the export tax that is going to be levied on maize as soon as it reaches a profitable level you will find it means a very handsome depreciation of the value and acreage of land. I am perfectly convinced of this that there are large numbers of these maize farmers who can never emerge from their present position in the light of any conceivable price level we are likely to have in the future except by compounding with their creditors or by getting a partner to come and put new money into the concern or by the sale of a portion of their land. It is quite clear to me that all maize land, as such, will be taboo until this export tax is raised and disposed of, and I do not believe for one moment you will ever get a penny of that money back again. The essential thing—the whole of this matter, as far as I am concerned, is this: that this country to-day is in a very parlous condition; it is up against problems that all the world are faced with; I know it is better situated than many other countries to get out of them eventually and to solve them, but the simple fact does remain that as far as we know we have at the present moment at most an available sum of about £180,000 in liquid cash reserves available to deal with this crisis as and when required. Now this surplus balance has properly accumulated, of course, to equilibrate the country's Budget when it has run into bad times. There is no doubt whatever that these are bad times and that they will be reflected in the revenues of this country, and I should think we shall be extremely lucky if in the course of the next year or succeeding years we are able to equilibrate our Budget to wipe out the deficiencies that are bound to occur. That sum will be a mere drop in the ocean. In my view it should be very, very carefully husbanded on behalf of the security of the country as a whole because the maize industry is just as much involved in the total solvency of this country as any other industry.

There is only one way by which anything can be done immediately to assist the agricultural industry at present in this crisis and that is by the intervention of new money, and that can only be done by an *ad hoc* loan, and the amount of that should be carefully calculated at what it is required to be, and the amount made available should be equitably distributed among the different industries that go to make the total agricultural industry of this country. I am entirely opposed to rash methods of this sort which will take away our liquid reserves and leave us with nothing in the bank. You must take into consideration that it is not the only industry that we have got to keep on the land; we must take the sum total of the thing and consider the country as one integral whole and that it has only got very limited cash resources which should be carefully husbanded to equilibrate its Budget and provide a nucleus of liquid finance to help to carry a loan raised for this purpose.

For these reasons I am bound to vote against the measure.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, the fact that the grain markets throughout the world are in a wholly abnormal condition; the fact that in no country in the world can maize be produced at present market prices without incurring a loss of something like fifty per cent on the cost of production; the fact the maize industry in Kenya has not been going on long enough to get its own position entrenched and thereby to have sufficient reserves behind it to stand the present crisis, is in my opinion complete justification for Government to come to this House with this money resolution for the assistance of the industry.

Now, Sir, I should have liked to have been able to deal with the various points raised by the several hon. Members opposite but time is passing and I only propose to refer to a few of the more important points on which information was sought or which were challenged in the resolution before the House. I would first take that mentioned by the hon. and gallant Member for Kenya, and that was the extra charge upon local industries because of the fact that local prices would go up somewhat comparable to the equivalent of the contribution. I make out the additional cost to local industries to be something in the neighbourhood of sixty cents per labourer per month, and I do not believe that any employer of labour in this Colony will complain of that additional charge. I support entirely the point of view expressed that local industries cannot expect to get supplies of food for the labourer at a figure below the cost of production at the expense of the maize grower in the Colony.

The same hon. Member referred to a depreciation in the value of maize lands, and that there might be a change in the system of farming pursued. My information is, Sir, that unless something of this kind be done there will be a far greater depreciation in the value of maize land than that due to any change made on it in respect of repayment.

With regard to the remarks of the hon. and gallant Member for Plateau North, I do not propose, Sir, to enter into a discussion in detail as to whether the Government was or was not wise—whether this House was or was not wise—in passing the Food Control Ordinance which imposed certain obligations upon the maize industry. If I remember rightly, he stood alone in his opposition with regard to principles then stated, but the fact is it was accepted by hon. Members on both sides of the House that in all the circumstances it was fair that the maize industry should have to agree to obligations imposed upon it. The fact is that the maize industry was based, and is still based, upon the export trade, and there was no justification in those particular circumstances for the maize industry being placed in a position to take undue advantages over other industries and employers of labour in the Colony.

Sir, I profoundly deplore the remarks made by the hon. and reverend Member who represents native interests in this House, and I should like to assure you, Sir, that if I had any reason to believe that any injustice would be done to the natives of this Colony through the motion now before the House, I would not have advised Your Excellency to give effect to it. I would take this opportunity of saying that I consider it my duty and responsibility both in connexion with the administration of my Department and in this House to watch the native interests as well as other interests. The hon. gentleman to whom I have referred rather indicated, as far as I understood him, that advantage was being taken of the production of native maize in this Colony in order to bolster up an export trade in European maize. What are the facts, Sir? The facts are that the quantity of maize produced on European farms in this Colony is double the total consumption of maize in this Colony by all labourers in employment and for the use of livestock, so that in any case there would be a surplus for export. I would assure the hon. gentleman that the natives have all along benefited by the organization set up through European enterprise to develop the export trade in maize in this Colony. The native grower has been placed in the position to secure a steady and a good market locally for his maize because of the fact that surplus maize grown for the most part on European farms is exported. Again I would remind the hon. gentleman

referred to that a senior officer of the Administration in this Colony—a distinguished senior officer—who sat on the Maize Conference was completely satisfied that from any contribution made by Government in respect of export maize the native would benefit to the full extent. I am sorry that the hon. gentleman could not take the view of such a colleague who sat and listened to the arguments on the Maize Conference.

Now, Sir, to come to one or two points made by the hon. and gallant Member for Nairobi North. He has referred to fallacies in the whole scheme. I was inclined to think, Sir, that there were many fallacies in some of the arguments which he put before this House, (hear, hear), but I do not propose—there would not be time—fully to deal with them in the course of this debate. I suggest, Sir, the figure that he gave to this House of £300,000 representing the additional cost contributed by local consumers or industries because of this contribution to be made by Government is entirely wrong.

MAJOR THE HON. E. S. GROGAN: It is your own figure.

THE HON. THE DIRECTOR OF AGRICULTURE: It is stated in the Appendix to the Maize Conference Report that the consumption on which any effect would be felt through this scheme before the House is 900,000 bags. That includes maize fed to live stock, so a considerable reduction should be made on that account. The burden to be borne by the consumer is not on the 2 million or 2½ million total production, but on some 600,000 to 700,000 bags. I make the calculation to be somewhere between £60,000 and £70,000, not £300,000.

Again, there is another fallacy in his argument when he suggested that maize growers in order to escape the liability in respect of repayment would turn to wheat growing. I do not believe, Sir, that any such average contribution as maize growers might make in any one year of say twenty-five or fifty cents per bag or even up to Sh. 1 per bag in respect of repayment would persuade a farmer who has got land primarily suitable for maize growing to change over to the more risky crop of wheat.

Again, I should like to say that in the light of any knowledge or experience that I have his figure of all maize in the Colony excepting about five per cent being pledged to some persons or firms or parties is entirely outside the mark.

The hon. Member seemed entirely dissatisfied that the Government would be able to set up any satisfactory machinery to administer this scheme. I should like to inform the House that in respect of the £70,000 contribution to

the grain industries passed by this House in the August Session and administered jointly by my friend, the hon. General Manager, and my Department no difficulty whatsoever has occurred; in fact, the machinery has worked smoothly and I have no reason to believe there has been the slightest abuse or that there will be any failure to pay any due claims. In respect to the condition that the Government should be satisfied that the contribution will be passed to the grower, again I apprehend no difficulty. It is applied to the £70,000 contribution and it is administered in this way. Private shippers and the co-operative organisation make a claim on the prescribed form; that form includes the following statement: "We further undertake to pay in full to the grower or growers of the above-mentioned maize the total amount refunded to us by the Kenya and Uganda Railways and Harbours Administration in respect of this claim." These claims and these amounts are fully certified. In the case of the co-operative organisation it is not necessary to get the claims of the individual growers for the reason that the whole contribution goes into a pool and the price is paid out accordingly at the end of the season. In the case of every private shipper—there are only about four or five of these in the Colony—I have demanded and obtained from them without the slightest difficulty, Sir, the number of bags shipped from each individual farmer in the Colony.

Then again, to satisfy Government and the Railway Administration that the sum is actually passed on to the grower, I finally get a statement from each shipper that an amount, representing so much on so many bags of maize exported, on which a contribution of a certain rate has been paid, has been passed on to the grower by the shipper. The case, Sir, in my opinion is water-tight and I do not apprehend that there will be any greater difficulty in administering this scheme during this year than there was last year. In fact, the machinery having been put into motion and operating, the work of administration should be very much easier.

Then, Sir, in respect of the payment of the contribution, again I apprehend no difficulty in regard to the payment by the industry when the time arrives and in my judgment it can be collected at an appreciable cost. No separate organisation will, in my opinion, be necessary for the organisation will, in my opinion, be necessary for the purpose and it can be collected from each shipper, whether private or co-operative; and in that case the individual grower automatically contributes for the reason that, in respect of the co-operative organisation, it passes through the pool and in respect of the private shipper who buys maize for export he knows the commitment which he may have to meet and if he sells his maize at a certain price

on the London market he buys that maize accordingly at a depreciation of a certain number of cents per bag with the result that the grower of that maize is making his contribution in an individual way; I hope I have satisfied the House that in respect of that criticism of the hon. Member for Nairobi North there will be no difficulty.

MAJOR THE HON. E. S. GROGAN: I have not suggested that there would be any difficulty in collecting this export tax.

THE HON. THE DIRECTOR OF AGRICULTURE: The hon. Member said that it would not be paid at all.

Then there should not be any difficulty on the part of the officer administering this fund in deciding at what stage the repayment should be made. There is already in existence a schedule giving the fullest information in that regard. It shows the comparable value of maize at Kenya main line stations as compared with the selling price on the London market.

Sir, I should like to conclude with this remark: that I believe the maize growers of Kenya Colony are fully worthy of such assistance as Government can afford to give them. The efficiency of the maize growers of this Colony in my judgment stands high. The quality of the maize which they export to overseas markets has a high reputation. No maize is sold in European markets of better quality than Kenya Flat White (2) maize. Again, when it is remembered that during the last ten years the acreage of maize in this Colony has increased seven-fold and the production has increased ten-fold, I think there is ample justification for believing that it is a sound industry to the Colony, and that in the abnormal conditions now prevailing it should be supported in this House.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I should like to call attention to a small clerical error in the last line but two of the resolution. The "28th August" should read "30th August" and I would ask the permission of the House to make the alteration without moving a formal amendment.

HIS EXCELLENCY: The question is that the motion standing in the name of the Colonial Secretary as appearing on the Order Paper, with the amendment in paragraph 2, subsection (c), of "30th August" for "28th August, 1930," be approved.

The question was put and carried.

COFFEE AND SUGAR INDUSTRIES COMMITTEE.

HIS EXCELLENCY: In adjourning the Council *sine die*, I have to announce that as a result of representations made by Elected Members I have decided to appoint a Committee to inquire into the present state of the Coffee and Sugar Industries, and to report to Government. The personnel of that Committee will be announced as early as possible.

Council adjourned *sine die*.

WRITTEN ANSWERS TO QUESTIONS.

NATIVE AFFAIRS DEPARTMENT REPORT.

By THE HON. T. J. O'SHEA:

What is the explanation of the delay in publishing the Report of the Native Affairs Department for the year 1929?

When may publication of the Report for the year 1930 be expected?

Reply:

The Annual Report of the Native Affairs Department must necessarily be compiled on information given in Provincial Annual Reports and its preparation must therefore await material from all parts of the Colony. The Report for 1929 was submitted to His Excellency in August, 1929. Owing to heavy pressure on the Government Printing Press in connexion with the Colony's and Railway Estimates it was decided to have the report printed in England.

The Report for 1930 is in course of preparation and is expected to be ready for submission to His Excellency by the end of June. It is proposed that this report also should be printed and published in England where arrangements are being made with His Majesty's Stationery Office for the publication of this and subsequent Annual Reports of the Native Affairs Department as non-Parliamentary publications. By this method publications likely to be of interest to them can automatically be brought to the notice of Members of Parliament and arrangements made for their circulation to the Press. Though these arrangements may entail some delay in the publication of the Report locally it is considered that the wider publicity which can thus be obtained will be of great benefit to the Colony and to those interested in its affairs.

NEW SUPREME COURT.

By CAPT. THE HON. H. E. SCHWARTZ :

Will Government give a categorical assurance that the erection of the new Supreme Court will be commenced forthwith?

Reply :

Instructions have already been given for the Public Works Department to prepare the necessary specifications in order that tenders for the work may be invited with the least possible delay.

REGISTRATION OF DOMESTIC SERVANTS.

By LIEUT.-COL. THE HON. C. G. DURHAM :

What are the reasons for the delay in putting the Domestic Servants Ordinance into force. Has the necessary staff, as approved, been secured?

Reply :

It is not possible to bring the Registration of Domestic Servants Ordinance into operation until the Governor in Council has made Rules under section 25 of the Ordinance. Draft Rules to enable the carrying out of the provisions of the Ordinance are under consideration by Government and matters of detail remain to be settled.

2. It is the intention of Government to make use of existing staff for the purposes of the Ordinance by transferring to the Registrar, to be appointed for Nairobi district, skilled staff at present employed on other duties and by replacing such staff by new appointees.

PENSIONS.

By COL. THE HON. W. K. TUCKER :

Have the recommendations contained in the Interim Report of the Pensions Committee been implemented; and does Government regard the ever-growing contingent liability of Pensions as sufficiently grave to resuscitate the Committee work with a view to securing its Final Report.

Reply :

No action is proposed on the recommendations contained in the Interim Report of the Pensions Committee until a decision has been reached on the subject of Closer Union in Eastern Africa as questions affecting pensions are considered to be a subject for concerted action by the Territories concerned.

Pending a decision on the recommendation made by the Committee in regard to the introduction of a contributory pensions scheme it is considered that no useful purpose would be served by requesting the Pensions Committee to continue its investigations.

REGISTRATION OF DOMESTIC SERVANTS.

By CAPT. THE HON. H. E. SCHWARTZ :

When is it the intention of Government to apply the Registration of Domestic Servants Ordinance, and will such application be extended to Nairobi only or to other centres?

Reply :

It is not possible to bring the Registration of Domestic Servants Ordinance into operation until the Governor in Council has made Rules under section 25 of the Ordinance. Draft Rules to enable the carrying out of the provisions of the Ordinance are under consideration by Government and matters of detail remain to be settled.

2. It is the present intention that the Ordinance should in due course be applied to the Nairobi Municipal Area in the first instance. The results of such application will be carefully watched with a view to application of the Ordinance to other centres at a later date if such a step is considered to be justified.

LIKONI AND KISAUNI FERRIES.

By MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE :

1. What revenue was derived from the Likoni and Kisauni Ferries for the last year, also what were the costs of running these ferries?

2. Is there a responsible person appointed for looking after these ferries?

3. In view of the high rate charged by these ferries, whether the extra charge of 6 cents per person legitimately travelling on cars or lorries lately imposed cannot be withdrawn?

4. Whether Government will give some assurance that these ferry services will be improved and up-to-date vessels employed, as business between the Island of Mombasa and the Mainland is seriously being interfered with?

Reply :

1. Revenue for 1929 : £4,738.

Cost : The operating and maintenance costs, including an estimated sum in respect of overhead charges and depreciation, are kept for all ferry services. The proportion chargeable to the two ferries under reference for 1929 is estimated at £5,311, which includes the provision of two new pontoons and one new launch, but excludes the cost of engineering work done on the shore ramps and also omits any charges for the services of the Port Manager, Port Accountant, Port Captain and District Engineer.

2. Yes. An Asiatic mechanic is in charge of each ferry. The Assistant Port Captain supervises the operations and maintenance of these ferries.

3. The ferry charges were reviewed by the Harbour Board in 1929. There appears to be no sound reason for differentiating between foot passengers and passengers conveyed by vehicle and it is not proposed to withdraw the charge of 6 cents per person travelling on cars or lorries.

4. Considerable expenditure on new pontoons, launches and equipment has been incurred during the past three years and the working of the ferries has been greatly improved in consequence. It is not proposed to provide funds for further capital expenditure until the effect of the building of Nyalí Bridge and Makupa Causeway on these ferry services is known and pending the outcome of discussions which are at present taking place regarding the transfer of the ferries to the Municipal Board.

FILM CENSORSHIP.

By LIEUT.-COL. THE HON. LORD FRANCIS SCOTT :

1. What is the present position of the censorship of films?
2. Has a Board of Censors been appointed?
3. If so, of whom does it consist?

Reply :

1. Films at present continue to be censored under arrangements made by the Commissioner of Police who is the proper authority for the granting of licences under the Stage Plays and Cinematograph Exhibitions Ordinance.

2. On the 16th July last this Council adopted a report submitted by a Select Committee, which had been appointed to consider the question of film censorship, subject to certain

alterations. Draft Rules to give effect to the revised arrangements and to establish a Film Censorship Board were published for information and criticism in the Official Gazette of 15th October last. Government is giving careful consideration to the details of application of the new Regulations and no Board of Censors has in consequence been appointed.

APPOINTMENT OF WATER BOARD.

By CAPT. THE HON. E. M. V. KENYAL :

What action does Government intend taking with regard to the appointment of a Water Board, and owing to the necessity of its early appointment will Government act forthwith?

Reply :

Government does not intend to appoint the Water Board pending the completion of the regulations which are essential for the carrying out of the Ordinance. Government is actively engaged in the preparation of these regulations but as the work involved is considerable it is impossible at the moment state when the regulations will be in final form.

INSURANCE OF MOTOR VEHICLES.

By THE HON. W. C. MITCHELL :

1. Is it a fact that when Government effected their insurance of motor vehicles in 1929 an implied understanding was made with local insurance companies to place such insurance with them in future?
2. With what company has Government insured their motor vehicles for 1930?
3. Were tenders called for locally?
4. If not, why not?
5. Against what risks is insurance effected?
6. What is the rate per vehicle paid?
7. Was the company with whom the insurance was placed represented locally when the 1930 insurance was effected?
8. Will Government give an assurance that for future years tenders will be called for locally.

Reply :

1. The answer to the first part of the question is in the negative.

2. The National Employers Mutual General Insurance Association, Limited.

3. No.

4. Quotations secured by Crown Agents showed a great improvement on the local rates; these quotations represented a special reduced rate for Kenya and Uganda combined, and if Kenya had not accepted them, the rate offered for Uganda would have been increased.

5. Third party. Government bearing the first £100 of each claim.

6. £2/7/6.

7. No, but we were assured that the company would be represented locally in 1930, and a branch office was in fact opened about two months ago in Nairobi.

8. The desirability of continuing the insurance of Government vehicles on the present basis is under consideration. Should it be decided to continue that policy in 1931 tenders for the service will be called for locally.

LAW COURTS AND CENTRAL OFFICES.

By LIEUT.-COL. THE HON. LORD FRANCIS SCOTT:

1. Is the proposed work on the Law Courts and the Central Offices to be carried out departmentally or by contract?

2. What is the estimated cost per cubic foot of—

- (a) the Law Courts;
- (b) the Central Offices?

3. Of the total amount of money which these buildings are estimated to cost how much approximately will be spent on materials whose country of origin is—

- (a) Kenya;
- (b) Great Britain;
- (c) Elsewhere?

4. How much approximately is estimated to be spent in wages to—

- (a) Europeans;
- (b) Asiatics;
- (c) Africans?

5. How much of the land on which the present—

- (a) Law Courts,
- (b) Government Offices,

are situated is the property of the Colony or of the Municipality?

6. What is the capital value of the land to the Colony which will be released by these new buildings, and what saving, if any, would there be to the Colony with regard to rents, rates, taxes, etc., if these buildings were completed?

Reply:

1. By contract.

2. (a) Sh. 1/50 per cube foot.

(b) Sh. 1/50 per cube foot exclusive of the cost of layout and alterations to existing roads.

3. (a) £124,500 approximately.

(b) £40,000

(c) £1,000

4. (a) £40,000

(b) £59,500

(c) £25,000

5. (a) The present Law Courts are situated on a plot held by the Municipal Council of Nairobi on a ninety-nine years' lease.

(b) All Government offices are situated on Crown land with the following exceptions:—

Agricultural and Forest Departments.

Treasury.

Native Registration Department.

Education Department.

Prisons Department.

The two last mentioned Departments occupy land in the control of the Kenya and Uganda Railways.

6. Valuations were prepared a few years ago of the land that would be released for alienation by the erection of these buildings. The total figure was approximately £100,000. Changes in the proposals and in the requirements of Government Departments have since taken place which affect the details on which that figure was based, but make no appreciable difference to the total value of the sites that will, on present proposals, be released for development.

There will be an annual saving of over £3,000 in respect of rents, and an additional saving of an unknown amount in respect of rates on sites now occupied by Government offices when the sites released are alienated.

DATE OF NEW LOAN.

By COL. THE HON. W. K. TUCKER :

Will the hon. the Colonial Secretary state what progress, if any, has been made with regard to the issue of another Loan, and in particular, whether any advice has been sought or received from the Government's financial advisers in the City of London as to the most appropriate date?

Reply :

No advice has been sought or received from the Government's financial advisers in the City of London as to the most appropriate date for the issue of another Loan. The terms upon which the Crown Agents are financing the approved Loan Works of the Colony are very advantageous, and so long as those conditions exist there would appear to be no good grounds for urging the immediate raising of the Loan. The Secretary of State and his expert advisers, who are fully informed both as to the Colony's financial position and the state of the London market, would in the ordinary course advise the Government as to the most appropriate date.

RAILWAY TENDERS.

By CAPT. THE HON. E. M. V. KENEALY :

1. Is it one of the regulations of the Kenya and Uganda Railways and Harbours Administration that tenders shall not be opened in public?

2. If the answer to 1 is in the affirmative, what is the reference and wording of the particular regulation?

3. Is there any regulation of the Kenya and Uganda Railways and Harbours Administration which prohibits an enquirer being informed the price of an accepted quotation?

4. If the answer to 3 is in the affirmative, will the hon. the General Manager of the Kenya and Uganda Railways and Harbours state if he will favourably consider an alteration in the regulations to enable the public and/or the tenderer to ascertain—

(a) the name of the accepted tenderer, and

(b) the price of the accepted tender?

5. If the hon. the General Manager of the Kenya and Uganda Railways and Harbours Administration states he will favourably consider an alteration to the regulation so that the information asked for in 4 can be made available to the public, will he further state when he anticipates the necessary alteration can be effected?

1. Yes. Reply :

2. There is no written regulation. The procedure now followed was laid down verbally by the late Sir Christian Felling.

3. There is no written regulation on this point. The printed regulations state that—

"In the case of tenders for buildings and Loan works the name of the successful tenderer and the amount of the tender shall be published in the Official Gazette, except in the case of such contracts as, in the opinion of the General Manager, are not of sufficient importance to warrant publication. In all cases the successful tenderer will be advised as soon as possible by the head of the Department concerned, on receiving advice from the General Manager."

4. The Acting General Manager sees no reason to alter the existing regulations.

5. In view of the reply to 4 this part of the question does not arise.

PUBLIC WORKS DEPARTMENT ENQUIRY.

By THE HON. F. A. BEMISTER :

On what date was the Director of Public Works advised of the appointment of a committee of enquiry to enquire into and report on the administration and office organization of the Public Works Department with particular reference to what increases, if any, of clerical staff are necessary?

Reply :

The desirability of appointing a committee of enquiry only became manifest in June as a result of discussions with the Acting Director over his draft Estimates, who himself concurred in the proposal. The Secretary of State was therefore requested by wire on June 27th so to inform the Director in order to give him the opportunity of returning to the Colony by August so as to see his Estimates through Select Committee should he so desire. The Director with the concurrence of Government did not elect to do so.

CONGO BASIN TREATY.

By LIEUT.-COL. THE HON. LORD FRANCIS SCOTT :

Has Government taken any action with regard to the renewal or otherwise of the Congo Basin Treaty and, if so, what action?

Reply:

His Majesty's Government at home has been kept fully informed of local unofficial opinion, and copies of the resolutions passed by the Association of East African Chambers of Commerce in February last were forwarded to the Secretary of State for his information. The Government is not aware of any fresh circumstances which render any further communications on the subject necessary.

STATE LAND SURVEYS.

By CAPT. THE HON. E. M. V. KENEALY:

What sums of money and to whom have these sums been paid by Government for State land survey work done by private persons or firms in Kenya during the past twelve months?

Reply:

A sum of Sh. 10,649/44 was paid by Government to Messrs. Coverdale and Partners in consideration for a subdivisational survey in Laikipia.

NATIVE POLICY: AMENDMENT OF LEGISLATION.

By HON. CONWAY HARVEY:

Will Government be pleased to lay on the Table a copy of His Excellency's despatch on the subject of amendments which would be required in existing legislation to bring it into conformity with the policy laid down in the Memorandum on Native Policy?

Reply:

No despatch has been sent to the Secretary of State nor has His Excellency been requested to write one.

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