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6

# KENYA NATIONAL ARCHIVES

## PHOTOGRAPHIC SERVICE

Description of Document LEGISLATIVE COUNCIL DEBATES.

Covering Dates 4th May, to 21st Dec., 1932.

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List of Members of Legislative Council,  
4th May, 1932

*President:*

HIS EXCELLENCY THE GOVERNOR, SIR JOSEPH ALOVSIUS BYRNE,  
K.C.M.G., K.B.E., C.B.

*Ex officio Members:*

COLONIAL SECRETARY (HON. H. M.-M. MOORE, C.M.G.).  
ATTORNEY GENERAL (HON. T. D. H. BRUCE) (Acting).  
TREASURER (HON. H. H. RUSHTON).  
CHIEF NATIVE COMMISSIONER (HON. A. DE V. WADE, O.B.E.).  
COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT  
(HON. W. M. LOGAN) (Acting).  
DIRECTOR OF MEDICAL AND SANITARY SERVICES (HON. DR. J. L. GILKS).  
DIRECTOR OF AGRICULTURE (HON. A. HOLM, C.B.E.).  
DIRECTOR OF EDUCATION (HON. H. S. SCOTT).  
GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS  
(BRIG.-GEN. THE HON. G. D. RHODES, C.B.E., D.S.O.).  
DIRECTOR OF PUBLIC WORKS (HON. H. L. SIKES).  
COMMISSIONER OF CUSTOMS (HON. G. WALSH, C.B.E.).

*Nominated Official Members:*

HON. T. FITZGERALD, O.B.E. (Postmaster-General).  
HON. H. R. MONTGOMERY (Provincial Commissioner, Nyauza).  
COL. THE HON. R. WILKINSON, D.S.O. (Officer Commanding Northern  
Brigade, King's African Rifles).  
LT.-COL. THE HON. O. F. WATKINS, C.B.E., D.S.O. (Provincial Com-  
missioner, Nzoia).  
HON. E. B. HORNE, O.B.E. (Provincial Commissioner, Kikuyu).  
HON. S. F. DECK (Provincial Commissioner, Masai).  
HON. LL. A. FEILD-JONES (Provincial Commissioner, Coast).  
HON. C. O. GILBERT [1] (Surveyor-General).  
HON. C. F. G. DOKAN [2] (Acting Solicitor-General).

*European Elected Members:*

LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O. (Rift Valley).  
HON. COSWAY HARVEY (Lakes).  
CAPT. THE HON. H. E. SCHWARTZ (Nairobi South).  
HON. T. J. O'SHEA (Plateau South).  
MAJOR THE HON. R. W. B. ROBERTSON-ESTACE, D.S.O. (Coast).  
LT.-COL. THE HON. C. G. DURHAM, D.S.O. (Kikuyu).  
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., L.S.O. (Plateau North).  
CAPT. THE HON. H. F. WARD (Nairobi North).  
HON. F. A. BLAISTRE (Mombasa).  
CAPT. THE HON. J. L. COTTER, M.C. (Kenya).  
MAJOR THE HON. J. O. K. DELAP (Ukamba).

LIST OF MEMBERS OF LEGISLATIVE COUNCIL—(Contd.)

*Indian Elected Members:*

HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETII.  
HON. C. M. PATEL.

*Arab Elected Member:*

HON. SHERIFF ABDULLA BIN SALIM.

*Nominated Member Representing Interests of the African Community:*

REV. CANON THE HON. H. LEAKEY [3].

*Acting Clerk of the Legislative Council:*

MR. H. E. BADER.

[3] Temporary Member, in place of Rev. Canon G. Burns, O.B.E.

[1] Temporary Member, in place of Hon. T. D. H. Bruce.

[2] Major H. H. Brassey-Edwards.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS

4th May, 1932.

HON. LL. A. FEILD-JONES.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

5th May, 1932.

HON. LL. A. FEILD-JONES.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

6th May, 1932.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.  
COL. THE HON. R. WILKINSON, D.S.O.  
HON. LL. A. FEILD-JONES.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

9th May, 1932.

HON. H. R. MONTGOMERY.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

10th May, 1932.

HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES.  
HON. DIRECTOR OF EDUCATION.  
HON. DIRECTOR OF PUBLIC WORKS.  
HON. H. R. MONTGOMERY.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

11th May, 1932.

HON. DIRECTOR OF PUBLIC WORKS.  
HON. E. B. HORNE, O.B.E.  
HON. H. R. MONTGOMERY.  
CAPTAIN THE HON. J. L. COTTER, M.C.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.)

26th July, 1932.

CAPTAIN THE HON. H. E. SCHWARTZ.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

27th July, 1932.

HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

28th July, 1932.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

29th July, 1932.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.  
HON. C. O. GILBERT.  
HON. HAKIM SINGH.  
HON. DHANWANT SINGH.  
HON. ABDUL WAHID.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

14th December, 1932.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.  
HON. COMMISSIONER OF CUSTOMS.  
HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

15th December, 1932.

HON. DIRECTOR OF EDUCATION.  
HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

16th December, 1932.

HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

ABSENTEES FROM LEGISLATIVE COUNCIL  
MEETINGS—(Contd.)

17th December, 1932.

HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
HON. F. A. BEMISTER.  
CAPTAIN THE HON. J. L. COTTEE, M.C.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

19th December, 1932.

HON. ATTORNEY GENERAL.  
HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND  
HARBOURS.  
HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

20th December, 1932.

HON. ATTORNEY GENERAL.  
HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.

21st December, 1932.

HON. ATTORNEY GENERAL.  
HON. T. FITZGERALD, O.B.E.  
HON. LL. A. FEILD-JONES.  
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.  
HON. SHERIFF ABDULLA BIN SALIM.  
HON. DHANWANT SINGH.  
HON. DR. A. U. SHETH.  
HON. C. M. PATEL.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES  
1932.

FIRST SESSION

WEDNESDAY, 4th MAY, 1932

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Wednesday, 4th May, 1932. His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), 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:—

NOMINATED OFFICIAL MEMBERS.

HAROLD ROBERT MONTGOMERY, Provincial Commissioner,  
Nyanza.  
CHARLES FREDERICK GARFIELD DORAN, Acting Solicitor  
General.

EUROPEAN ELECTED MEMBERS.

FRANCIS GEORGE MONTAGU DOUGLAS SCOTT, Member for Rift  
Valley.  
HELMUTH ERIC SCHWARTZ, Member for Nairobi South.  
JAMES OSBLOW KINGSMILL DELAP, Member for Ukamba.

## COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF LEGISLATIVE COUNCIL,

May I commence by expressing, on behalf of the Government, a very cordial welcome to our new Member, Major Delap. His wide and varied experience should prove of great help to us during our deliberations.

Were it not for the uncertainty connected with this fresh infestation of locusts I honestly think that we should be on the way towards seeing daylight. I say this in spite of the lag in Customs revenue to which I will refer later. The position, at its foundation, is, I think, more stable, and the recent utterances of the Chancellor of the Exchequer and of the President of the Board of Trade tend to confirm this view: the tariffs—and the associated preferences on Empire products—introduced by the Imperial Parliament, coupled with the possibility of further measures resulting from the Ottawa Conference should in good time prove beneficial to this Colony.

I do most sincerely sympathize with those who are again called upon to fight for their crops against locusts; but perhaps even yet the damage may be less than we expect. We all most earnestly hope that this will be the case and the Government on its part will continue to take such steps as lie within its power and means to assist the campaign against this pest.

I sometimes feel that at home and even out here people do not fully realize the appalling injury to this Colony that has been caused by locusts. There is not only the direct damage but, what is even worse, there is the indirect damage in the way of loss of confidence with the consequent complete stagnation in trade. In my judgment the financial worries which now confront us are to a great extent due to this affliction which, thank God, we may be permitted to regard as a temporary one.

As Honourable Members are no doubt aware I recently did an extended tour through the settled areas where I received from one and all a most kindly and hospitable welcome. I have come back filled with admiration for these farmers and for their womenfolk. With few exceptions they have adjusted themselves to the altered conditions; they are living frugally and they are working from morning till night trying to make good against very heavy odds.

I have read with very great interest the discussions on the subject of Publicity which took place in Nairobi yesterday. I can assure you that the Government will give all the assistance it can in the way of making the attractions of Kenya better known not only to tourists but to those who it would be to our advantage to join us as fellow colonists.

I am very hopeful, as the result of the Governors' Conference, that it will be possible to retain the London Office somewhat on the lines agreed upon a few months ago. This office will form an important link in the chain of greater Publicity which is now being forged.

Frankly, the Customs returns for January, February and March have been most disappointing, not only to the Government but also, I am sure, to those who thought that we had budgetted on the optimistic side, for, as things have turned out, even their more cautious estimate is not nearly being realized. During the first quarter of this year we actually collected £59,000 less than we collected during the same period last year, despite the additional duties and the incorporation of the Wines and Spirits Consumption Tax in the tariff. Everybody appears to be simply marking time; traders are not replenishing their stocks and are working on a hand-to-mouth basis. The population generally is curtailing its expenditure and it is living as far as it can on local products.

This extraordinary drop in Customs revenue naturally gave cause for anxiety although there is reason to hope that towards the end of the year some leeway will be made up. In dealing with the situation the Government has been fortunate in having in existence the "Watch-Dog" Committee. I trust the Committee will pardon my using this nickname. I believe that I am partially responsible for it for I used the word in my Nakuru speech. Here we have the leader of the Elected Members, a representative of the Chambers of Commerce, and an experienced Banker conferring each month with the Colonial Secretary, the Treasurer and the Commissioner of Customs for the purpose of reviewing and taking stock of the revenue position. I am informed that in this Committee there is no division of opinion between the Government and the non-Government members. They are a united body jointly doing their best to lay a proper appreciation of the position before Government. After their first meeting they advised as a measure of precaution that the Government should take immediate steps to reduce expenditure so as to save a sum of not less than £100,000 in 1932. We had already foreseen the necessity of a further curtailing of expenditure and the plans which were in course of preparation, including a six months' moratorium on leave, were immediately put into operation, with the result that savings to the amount of £107,166 have been effected and a statement will be laid before Council giving details as to how this result has been reached. The difficulty of achieving this result will be realized when I tell you the present revised 1932 Estimates of working

expenditure, by which I mean all expenditure with the exception of public debt charges, represent a reduction on the corresponding expenditure of 1930 of over half a million pounds. The first cuts are not so troublesome but those nearer the bone constitute a somewhat delicate operation.

It is necessary to remember in connexion with cutting down expenditure that two items of our budget are not susceptible of any reduction without repudiating "debts of honour," i.e. the votes for Public Debt charges and the vote for Pensions. Furthermore, the votes for Police and Prisons cannot safely be reduced below a certain minimum if Government is to carry out its primary function of maintaining law and order. Lastly, the votes required for adequate defence of the Colony cannot be determined on local considerations alone. I have ascertained that about 47 per cent of our revised revenue estimate for 1932 is earmarked for the services I have just referred to, the further reduction of which is very difficult for the reasons I have stated.

I invite the attention of Honourable Members to these facts because it is apparently not generally recognized how restricted is the field for effecting economies.

As a result of the latest review of the situation made by the "Watch Dog" Committee yesterday, the official report of which has not yet reached me, I understand that they feel that there is a probability of a shortfall on the 1932 revenue estimates of about £250,000. The difficulty of meeting this very considerable shortfall by further economies over and above the £107,000 already effected will be appreciated from what I have already stated. In fact, it is practically impossible to arrive at any material savings without a considerable curtailment of essential services. I therefore feel that the time has arrived when we should attempt to lay down definitely the establishment and necessary services required to keep a reasonably efficient Government machine in being for, say, the next four years and then assess the annual amount required to maintain such a machine, always keeping in mind the obligation to build up again our surplus balances to a figure which will give us a margin of safety should bad times come again.

As Honourable Members are aware, there are three important enquiries, relating to affairs in the Colony, either in being or impending but I think the investigation I have just referred to need only await the presentation of Lord Moyne's report to Parliament, probably towards the end of this month, as his recommendations may materially affect the position. The idea I have in mind—one which I may say received the general approval of the Executive Council a few days ago—is that this overhauling of the Government machine on the basis

of reasonable efficiency should be undertaken by a small committee of officials and unofficials. I intend to place the proposal before the Secretary of State by next Air Mail with the request that if after consultation with Lord Moyne he finds that it does not conflict with the latter's general recommendations then I should be permitted to take the necessary action even before the Report is laid before Parliament. By this means we should be able to appoint the committee within the next few weeks. The terms of reference will be drawn up by a sub-committee of the Executive Council and the personnel will be selected after consultation with that body.

It might not be out of place here if I took this opportunity on behalf of Government of expressing to Lord Moyne—who returns home by Air Mail on Sunday—the sincere thanks of Government for coming out to conduct this important enquiry. He has certainly undertaken a task of extraordinary complexity and being a one-man investigation his work must be very arduous indeed. No one could have been more approachable than he has been and no one could have searched for truth more assiduously than he has done. I know that he agreed to come to Kenya solely from a sense of public duty and this makes us all the more grateful to him for his public spirited action.

Turning to other matters I should like to say how grateful I am at the response to the invitation issued to leading agriculturists to serve on the Board of Agriculture. With one or two exceptions, based on personal and private grounds, all the invitations have been accepted. I hope very shortly to be able to announce the full composition of the Board.

Two of the most important problems which are being submitted for the early consideration of the Board are those presented by long term agricultural credits and the marketing of native produce. As regards the latter I am awaiting a Memorandum from the Mombasa Chamber of Commerce which I am sure will prove to be most valuable.

I am sorry to inform you that during the past few months, chiefly due to locust destruction, the position of the Wheat Industry has caused some anxiety as the yield from the 1931 and 1932 crop is insufficient to meet local requirements. In these exceptional circumstances some emergency action appeared desirable, if the danger of closing down a number of mills was to be avoided. A resolution designed to meet this emergency will be tabled during the Session.

As regards the legislative work before us I need only refer specially to the reports of two Select Committees appointed by Council during its last sitting. The first is the report on

the provisions of a Bill to amend the Traders' Licensing Ordinance framed with a view to tax Banks and Insurance Companies. You will notice that the Committee recommend that the Bill be not proceeded with and that the question of introducing a separate Bill framed on different lines be left to the discretion of Government.

A Bill is accordingly being laid before you for your consideration and I suggest that as it is essential that this should be reported on by a Select Committee, for there are many interested parties who should be given an opportunity of expressing their views on the proposals. Standing Orders should be suspended to allow of its first and second reading this Session.

The second is the report on the provisions of a Bill to impose a Tax on Persons Practising Certain Professions in the Colony. In view of the unanimous recommendation of the Committee the Government does not propose to proceed with the measure.

Honourable Members of Council, there is one other matter which I should like to touch on before I conclude and that is the recent Governors' Conference. As you know, the results of our deliberations have to go to the Secretary of State and to each Government, for the Conference has no executive functions. There was nothing very sensational on our agenda but we came to a unanimous agreement on practically every subject, and if Elected Members desire I will gladly arrange to meet them and give them all the information I possibly can.

#### MINUTES.

The minutes of the meeting of the 11th December, 1931, 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):—

Schedule of Authorized Reductions in Expenditure, 1932.

By THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BRUCE):—

The Civil Procedure (Amendment) Rules, 1932.

Report of the Select Committee on the Traders' Licensing (Amendment) Bill, 1931.

Report of the Select Committee on the Professional Licensing Bill, 1931.

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

Annual Report of the Land and Agricultural Bank of Kenya, 1931.

By THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN):

The Crown Lands Ordinance: Return of Land Grants, etc., for the period from 1st October to 31st December, 1931.

The Crown Lands Ordinance: Return of Land Grants, etc., for the period from 1st January to 31st March, 1932.

By THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH):—

Annual Trade Report of Kenya and Uganda, 1931.

By THE HON. THE POSTMASTER GENERAL (MR. T. FITZGERALD):—

Electric Power Ordinance: Statement required under section 150 for the year ended 31st December, 1931.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order. Your Excellency, could I be informed when the report on the Public Works Department is going to be laid, which was promised at the last Session?

THE HON. THE COLONIAL SECRETARY: I understand that it is in the press at the moment. I will find out when it will actually be ready.

THE HON. CONWAY HARVEY: On a further point of order, may I ask if Government contemplates laying on the Table the report of the judicial inquiry into the matter of the Wasini-land?

THE HON. THE COLONIAL SECRETARY: It is the intention of Government to lay that report in the course of the Session.

#### NOTICE OF MOTIONS.

CAPT. THE HON. H. E. SCHWARTZ: With regard to the notice of motion standing in my name, will you permit this to appear on the Order Paper to-morrow as an addition has been sent up to the Clerk of the Council, but apparently it was too late to appear in the Order of the Day.

THE HON. CONWAY HARVEY: Your Excellency, may I give notice of motion in these terms:—

"In the opinion of this Council a Select Committee should be appointed at an early date to examine the position regarding residential, commercial and industrial development on land leased from the Crown for grazing and/or agricultural purposes and the alleged change of user incidental to such development and to furnish a report."

### BILLS.

#### FIRST READINGS.

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

The Traders' Licensing (Amendment) Bill, 1932.

The Trading Centres Bill.

The Railway Materials Protection (Repeal) Bill.

The European Officers' Pensions (Amendment) Bill.

The Civil Servants' (Proportionate Pensions) Bill.

The Stock Traders Licence (Amendment) Bill.

The Contracts in Restraint of Trade Bill.

The Local Government (District Councils) (Amendment) Bill.

The Butter Levy (Amendment) Bill.

The Civil Procedure (Amendment) Bill.

The Mining (Amendment) Bill.

The Land and Agricultural Bank (Amendment) Bill.

The Co-operative Societies (Registration) (Amendment) Bill.

The Fencing (Amendment) Bill.

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

*Council adjourned till 10 a.m. on Thursday,  
5th May, 1932.*

THURSDAY, 5th MAY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 5th May, 1932, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BURNS, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 4th May, 1932, were confirmed.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of the minutes, Your Excellency, I would like your ruling as to whether it is correct that Members should be put down as absent who have never taken the oath.

HIS EXCELLENCY: I will consult the legal authorities on that matter.

#### PAPERS LAID ON THE TABLE.

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): With the permission of the House I will lay these papers (Schedules of Additional Provision: No. 5 of 1931 and No. 1 of 1932) to-morrow as they are not yet in from the printer. I hope to be able to circulate them later in the day or first thing to-morrow morning.

#### QUESTIONS.

LT.-COL. THE HON. J. G. KIRKWOOD: With your permission, I should like to give notice of the following question:

"Will Government state the extent of acceptance by Government of the Terms of Service Committee's Report?"

#### ORAL ANSWERS TO QUESTIONS.

##### EDUCATION GRANTS-IN-AID.

THE HON. F. A. BEHSTER asked:

"Will the Director of Education submit a list showing the distribution of the amounts allocated in 1931 Estimates:

Grants-in-Aid (Indian Education)

Grants-in-Aid (Goan Education)?"

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT: The distribution of the amounts allocated is as follows:—

INDIAN EDUCATION	Distribution		Amount Paid		
	£	s.	£	s.	
Ismailia Boys' and Girls' School, Mombasa	1,333	10	1,330	00	
Arya Kanya Pathshala, Nairobi	294	0	294	0	
Guteji Gujarati Hindu Union, Nairobi	714	0	714	0	
Shree Sanatana Dharma School, Nairobi	287	0	217	9	
Khalsa Girls' School, Nairobi	245	0	280	0	
Ismailia Girls' School, Kisumu	129	10	87	4	
Kohja (Shia Imam) Ismailia, Nairobi	381	10	381	10	
Indian School, Naivasha	91	0	64	8	
Ismailia School, Mumias	63	0	60	7	
Ismailia School, Sio River	91	0	84	18	
Indian School, Kitale	94	10	94	10	
Joseph Christian's School, Mombasa	234	10	203	13	
Arya Samaj, Kisumu	168	0	168	0	
Ismailia School, Asambu Bay	103	10	96	15	
Indian School, Nyeri	94	10	91	13	
" " Ngong	52	10	52	10	
" " Kiti	77	0	77	05	
" " Homa Bay	45	10	42	17	
" " Eldoret	196	0	130	13	
" " Karatina	87	10	87	10	
" " Luanda	77	0	63	6	
" " Maragwa	70	0	69	9	
" " Kikuyu	66	10	65	3	
" " Sultan Hamud	59	10	58	5	
" " Yala River	82	5	82	5	
" " Gilgil	67	10	62	14	
" " Kitui	56	6	55	10	
" " Kindu Bay	50	1	45	0	
" " Voi	62	12	60	1	
" " Limuru	46	19	46	4	
" " Lumbwa	50	1	48	5	
GOAN EDUCATION					
Dr. Ribeiro Goan School, Nairobi	250	0	250	0	
	£	5,746	14	5,427	19
REMARKS—					
Amount Paid in 1931				5,427	19
Special Grants Paid from Savings—					
Khalsa Girls' School, Nairobi	35	0			
Indian School, Malindi	50	0			
			65	0	
TOTAL AMOUNT PAID	£	5,512	19		

\*School closed.

Your Excellency, this return has been prepared and is available for examination by hon. Members. A copy of the return has been handed to the hon. Member.

#### FISHING LICENCES.

THE HON. CONWAY HARVEY asked:

"In view of the fact that approximately 2,000 fishing nets were stolen in the Kavirondo Gulf during 1931, which constitutes a serious threat to an important industry worth about £50,000 per annum, what steps have been taken by Government to protect holders of costly fishing licences against net thieves?"

2. Will Government be pleased to consider the imposition of a small tax on nets and a boat registration fee, so arranged as to maintain existing revenue, in substitution for the present fishing licence which costs about Sh. 300 per annum?"

THE HON. THE COLONIAL SECRETARY: The only satisfactory method of affording protection against thefts of nets would appear to be by means of boat patrols, the institution of which is precluded by present financial conditions.

It is considered, however, that the fishermen themselves could assist by organizing measures for ensuring closer control and supervision.

2. The Government appreciates the seriousness of the position and the Fish Warden has been instructed to examine the position in consultation with the administrative officers concerned with a view to submitting recommendations for improving the present organization of the fishing industry in the Kenya waters of Lake Victoria. As at present advised, however, Government is not satisfied that the proposals for imposing an import duty on nets or introducing a boat registration fee are either practicable or suitable for the purpose in view. There are practical objections to the course proposed by the hon. Member, which will be further examined in the inquiries referred to above.

THE HON. CONWAY HARVEY: Arising out of that, Your Excellency, may I ask that Government will do its utmost to expedite this inquiry, in view of the urgency of the matter?"

#### LAKH STRAMSHIP SERVICES.

CAPT. THE HON. H. E. SCHWARTZ asked:

"1. What is the average net weekly profit of the S.S. *Clément Hill*?"

2. Is it a fact that the captain of this ship has been and is refusing an average of 200 tons of cargo per week owing to there being no space for such cargo?"

3. Will the General Manager of the Kenya and Uganda Railways and Harbours consider the advisability of putting one of the other lake ships in commission?"

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. RHODES) : 1. Statistics are not maintained showing the actual earnings of steamers and tugs. All rates are through rates covering both rail and steamer transport and it would be very difficult to determine the proportion due to the water-borne part of the journey. Moreover, such overhead costs as headquarter costs, workshop costs, cost of maintenance and upkeep of piers and sheds, costs of shorehandling, etc. etc., are not directly allocated to ships' and tugs' voyages. The average net weekly profit of the S.S. *Clement Hill* is therefore not known.

2. Taking the figures for the month of March as a test case, on one occasion only was cargo up to 200 tons left behind. In the majority of cases comparatively small quantities only have been shut out.

3. The main means of moving cargo is by tug and lighter and all cargo refused by the S.S. *Clement Hill* is so cleared. As this is the most economical method of dealing with cargo, there is no suggestion at the present moment to put another steamer into commission.

#### CONVICT LABOUR.

CAPT. THE HON. H. E. SCHWARTZ asked :

(1) Has Government discontinued the system whereby private individuals may hire convict labour for work on their gardens?

(2) If so (a) When;

(b) Has Government also discontinued the providing of such convict labour for work in gardens of houses occupied by Government servants?

(3) If the answer to (2) above is in the negative, will Government stated why such labour is available without payment for Government servants when it is not available on payment to private persons?

THE HON. THE COLONIAL SECRETARY : 1. In Nairobi the practice of hiring out convict labour to individuals ceased some two and a half years ago when arrangements were made to supply a large gang of convicts, on payment, to the Railway Authorities for quarrying and block-making at the Railway Concrete Works near the Prison. This gang has absorbed the convict labour not engaged on Government work or prison industries.

2. (a) Since December, 1932.

(b) Garden work, beyond grass-cutting, has also been discontinued in Nairobi, except for maintenance work in the grounds of Government House. One gang of short-term

convicts is normally employed in keeping down the grass in the compounds of official residences and offices in Nairobi. No charge is made for this service, which is maintained in the interest of public health.

#### MOVEMENTS OF MAGISTRATES.

THE HON. F. A. BEMISTER asked :

"What were the details of movements of Magistrates from November 1st, 1931, to March 31st, 1932?"

Were these in the interests of economy?

If so, what was the cost (1) to the State,

(2) to the parties concerned?

THE HON. THE COLONIAL SECRETARY : A Resident Magistrate was transferred from Nairobi to Nakuru on the 16th November, 1931, to meet an emergency. He was re-transferred to Mombasa on 26th November. On it becoming apparent that it would be necessary to appoint an Acting Judge he came to Nairobi on the 18th March, 1932, the reason being that he was the Senior Resident Magistrate qualified to act. Another Resident Magistrate was transferred to Nakuru from Mombasa on the 28th November to fill the vacancy until the arrival of the Resident Magistrate from leave who was appointed Resident Magistrate at Nakuru on the 25th February. The temporary Magistrate at Nakuru was then transferred to Nairobi on 27th February and to Mombasa on 15th March. These movements necessitated payments to the Kenya and Uganda Railway and Harbours Administration of approximately £190 and His Honour the Chief Justice has given an assurance that they were unavoidable and in the interests of efficiency and the proper discharge of public business.

The cost to the parties concerned is not available to Government.

#### ALIENATION OF CROWN LANDS.

CAPT. THE HON. H. E. SCHWARTZ asked :

"Will Government appoint a Select Committee to consider the whole question of the substitution of freehold for existing leasehold grants and of making all future alienations of Crown land conveyances in fee simple?"

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT LANDS AND SETTLEMENT (MR. W. M. LOGAN) : Government is not averse to an investigation of the existing system of alienation of Crown lands particularly in townships, but does not consider that the present is an appropriate time for the appointment of a Select Committee.

**THE HON. CONWAY HARVEY:** Arising out of that answer, Your Excellency, may I ask whether it is not a fact that a commission under the chairmanship of the then Land Officer recommended such conversion on the 31st March, 1922.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** I believe a recommendation to that effect was passed by the Land Tenure Commission, 1924.

**CAPT. THE HON. H. E. SCHWARTZ:** Arising out of the original answer, may I ask the hon. gentleman whether the reason Government does not think this an appropriate time to deal with the question of land tenure is the appointment of the Land Commission, recently announced—or is there any other reason?

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** That, Sir, is one of the reasons, but there are others. The remainder of the year is likely to be a particularly busy one, and another reason is that, in connexion with the major townships of Mombasa and Nairobi, the year 1933 is the year in which the system of Government's contributions to municipalities—a large part of which is in connexion with rates on land—comes up for revision, and any question of alteration of tenure would have to be considered closely.

**CAPT. THE HON. H. E. SCHWARTZ:** May I ask for an assurance that, when these matters which have been mentioned by the hon. gentleman have been dealt with, Government will give favourable consideration to an inquiry?

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** I think, Sir, that the answer to that would be in the affirmative.

## BILLS.

### SECOND READINGS.

#### THE TRADERS' LICENSING (AMENDMENT) BILL.

**THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BURTON):** Your Excellency, I beg to move the second reading of the Traders' Licensing (Amendment) Bill.

Under the provisions of the Traders' Licensing Ordinance, a fee of £15 per annum is charged for a trading licence for a store, except that, where the value of the goods on hand at such store at any one time during the year preceding the date of the taking out of a licence has not exceeded £150, a fee of £1 10s. only is payable in respect of a trading licence for a store in a township or trading centre, and a fee of Sh. 10 in places other than townships or trading centres. Power is

also vested in licensing officers to remit the whole or any part of the fee of £1 10s. and Sh. 10 respectively where it is considered that the charging of these fees would prove a serious check to desirable trade. So, Sir, it will be seen that there is power to remit the whole or part of either of these what I may call reduced fees. But, Sir, there is no power vested in licensing officers or anybody else to remit the whole or any part of the fee of £15 per annum which is charged for a trading licence for a store, and it has been pointed out to Government, Sir, that the absence of any power of remission in regard to the £15 fee to which I have referred is proving a serious check to very desirable, and, indeed, essential trade in some parts of the Colony, notably the Northern Frontier and Turkana Provinces. It is a fact, Sir, that climatic conditions and transport difficulties in those Provinces compel traders to carry stocks of goods far in excess of their actual trade requirements—at any one time, and by carrying such big stocks they render themselves liable to the full licence fee of £15. In these circumstances, it is considered desirable that a power of remission of the whole or part of this fee should be allowed, and this Bill gives such power of remission to Provincial Commissioners. This power of remission will only be exercised in proper cases. It is hoped and believed, Sir, that this Bill, if it becomes law, will not involve Government in any loss of revenue, since it is expected that traders will be encouraged to open shops who would not do so if they had to pay the full licence fee of £15 per annum.

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

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** Your Excellency, I beg to second the motion.

**THE HON. T. J. O'SHEA:** Your Excellency, I should like to know from the hon. Member whether the passage of the amending Bill will put right a defect in the Principal Ordinance. As it has been explained to me, under the existing legislation if a trading store is opened the full amount of the fee of £15 has to be paid, even though the store be only in existence for a short period of the year, which hardly appears equitable. I shall be glad to learn whether the discretionary powers that it is now proposed to give Provincial Commissioners can be exercised to make good that defect in the Principal Ordinance. If not, it seems to me this is a suitable occasion upon which to put right that defect in the Principal Ordinance.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I think that the answer to the hon. Member for Plateau South is in the negative, because this Bill is to achieve a specific purpose only; that is, where it is considered that the

payment of the whole of the £15 will prove a serious check to desirable trade, then the whole or part of such fee may be remitted. It would depend upon the circumstances of the case entirely. It may be that in some instances it would prove, in the opinion of the Provincial Commissioner, a serious check to desirable trade if the whole of the fee were paid; if so, he would have power to remit. But it would depend upon each case.

**HIS EXCELLENCY:** The question is that the Bill to amend the Traders' Licensing Ordinance be read a second time.

The question was put and carried.

#### THE TRADING CENTRES BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill Relating to Trading Centres and to provide for matters incidental thereto be read a second time.

Your Excellency, this Bill makes provision for the establishment of what are known as trading centres, and may be said to be in this respect a corollary of the Townships Ordinance, 1930, which provides for the establishment of townships. This Bill provides that trading centres shall be administered by the District Commissioners of the districts in which they are situated, and it further provides that the Governor may make rules for the good order and government of any trading centre.

Clause 2 of the Bill provides that the Governor may from time to time by notice in the Gazette declare any place to be a trading centre and define or alter its boundaries and assign a name to it.

Clause 3 lays down that a trading centre shall be administered by the District Commissioner of the district in which it is situated.

Clause 4 provides that the Governor may from time to time make rules in respect of all matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants or for the good order and government of any trading centre.

Clause 5 makes it clear that the power to make rules shall include the power to fix reasonable fees, charges or tariffs for any service rendered to the inhabitants of a trading centre. This is, I think, Your Excellency, but just and equitable.

Clause 6 contains the penalties for any breach of rules made under the Ordinance.

Clause 7, Sir, lays down that any expenditure incurred by Government in consequence of any breach of any rules made under the Ordinance or any execution by Government of any work which has had to be undertaken by it, shall be paid by the person committing the breach of the rules or failing to do the work. Sir, I would put it to the hon. Members of this Council that this is a very desirable Bill from the point of view of trade. It is very desirable to have these trading centres where traders may congregate, and it is also very desirable to have legislation to provide for the management thereof. This being so, Sir, and since this is a desirable Bill from the point of view of trade, I would commend it to the favourable consideration of hon. Members.

**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 Trading Centres Bill be read a second time.

**THE HON. T. J. O'SHEA:** Your Excellency, I feel sure that the Bill has the general approval of the hon. Members on this side of the House, but there is one matter of principle in it to which I should like to draw the attention of the hon. Member. In clause 2 the Bill says: "The Governor may from time to time by notice in the Gazette declare any place to be a trading centre and define or alter its boundaries and assign a name to it." I suggest that the legislation itself should include provision for recognizing the existence of the local government authorities that have been set up to perform some of the functions of Government in the various districts. It is necessary for the protection of those bodies in the carrying out of their duties that there should be consultation with them before the Governor does from time to time declare any area to be a trading centre within the area of local authorities. I feel sure, Sir, that this suggestion will meet with the favourable consideration of Government.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I think that I can give the assurance asked for by the hon. Member for Plateau South that in a local government area, before a trading centre is proclaimed, the local government authority will be consulted.

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

The question was put and carried.

**THE RAILWAY MATERIALS PROTECTION (REPEAL) BILL.**

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move the second reading of the Railway Materials Protection (Repeal) Bill.

Sir, the Railway Ordinance, which was passed as long ago as 1905, when the railway was comparatively new, deals with and provides penalties for the unlawful possession of railway materials by natives. No occasion has arisen during the last five years in which recourse to this Ordinance has been had, in addition to which fact section 50 (k) of the Kenya and Uganda Railways Ordinance, 1927, and Chapter XXXI of our new Penal Code provides sufficient powers to deal adequately with such offences as unlawful possession of railway materials. If I may ask the indulgence of the Council, I would just read the relevant provisions which are now existing; first, in section 50 (k) of the Kenya and Uganda Railways Ordinance, 1927, and then in the Penal Code. Section 50 (k) says: "Removes or attempts to remove from a railway or shop or any railway premises any rolling stock, tarpaulins, tools, appliances or property of any kind, or permits any such rolling stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises." Section 245 of the Penal Code, Chapter XXXI, says: "Any person who receives or retains any chattel, money, valuable security or other property whatsoever knowing or having reason to believe the same to have been feloniously stolen, taken, extorted, obtained or disposed of is guilty of a felony and is liable to imprisonment for seven years." I think, Sir, it will be seen from that that we have ample protection against this sort of offence, and this being so, Government considers it is no longer necessary to have this Ordinance on the Statute Book, particularly as it applies to one class only. It is therefore proposed to repeal this Ordinance, which has not been used for a number of years.

**THE HON. C. F. G. DORAN:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Railway Materials Protection (Repeal) Bill be read a second time.

The question was put and carried.

**THE EUROPEAN OFFICERS' PENSIONS (AMENDMENT) BILL.**

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to amend the European Officers' Pensions Ordinance, 1927, be read a second time.

This Bill, Sir, is introduced into this Council with the object of making quite clear the position relating to the pensions of certain officers who were selected for appointment

to the Kenya Service prior to the first of April, 1927; that is, the date on which the European Officers' Pensions Ordinance, 1927, came into operation, but who were actually appointed to the Service after that date. It is perhaps not a big difference, but there is a difference, of course. The officers concerned were offered pension terms in accordance with the regulations existing before the commencement of the European Officers' Pensions Ordinance, and were informed that they would be allowed to retire at the age of fifty, or on completion of twenty years' service, whichever was the earlier. Now, Sir, section 7 of the European Officers' Pensions Ordinance restricts the right of voluntary retirement on pension after twenty years' service to officers who were actually appointed to the Service prior to the commencement of the European Officers' Pensions Ordinance. The officers enumerated in the schedule to this Bill—there are seven of them, only a few—were selected for appointment to the Service prior to the coming into operation of the Principal Ordinance but were not actually appointed until after that date. This Bill, Sir, is introduced in order to implement the promise made to them by Government when they were selected for appointment. All these officers mentioned in the schedule to the Bill have opted to retain the right to retire on completion of twenty years' East African service, and the Bill proposes that, notwithstanding anything to the contrary contained in the Principal Ordinance, these officers will be eligible to retire after completing twenty years' East African service, and will be liable to be retired compulsorily, at the option of Government, with the approval of the Secretary of State, on the expiration of that period, so that it cuts, if I may say so, Sir, both ways. In addition, clause 3 of the Bill provides that the Governor in Council may, with the approval of the Secretary of State, from time to time make regulations adding to the schedule of the Bill the name of any officer transferred to the Colony, whose name is included in the schedule to any Ordinance of another East African Dependency having the like effect as this Bill. I understand that in the neighbouring territories they are proposing the same type of Bill, and this one is merely implementing the promise made to these officers at the time they were selected for appointment.

**THE HON. THE TREASURER:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the European Officers' Pensions (Amendment) Bill be read a second time.

**THE HON. T. J. O'SHEA:** Your Excellency, it is always difficult to criticize a Bill of this nature when the names of the individuals directly affected by it are mentioned, but as I do not happen to have the pleasure of the acquaintance of

any of these gentlemen my attack is entirely free from personal bias. I regard the thing as a matter of principle. I have heard from time to time from the other side of the House that the officers of Government in this country stand on a contract. We are continually being reminded about contractual obligations. I can, therefore, not interpret this Bill as anything other than an attempt to alter by act of Parliament a contract existing between these gentlemen and the State. If, under their contract, they are entitled to retire after twenty years' service, then this Bill is unnecessary. If, on the other hand, they are not so entitled, then it appears to me that this Bill is designed to alter their existing contract, and I must vote against it on that account. They are not the class of people, judging by the positions they hold, who would be expected to enter into the obligations of their position without knowing clearly where they stood. They are not uneducated people; they are not a type of people from whom you would expect such a thing as inaction in such a matter as starting off in their career, but people who would fully acquaint themselves with the conditions at the time of taking up their appointments; and if they have inadvertently slipped up in this matter I do not think this House should be called upon to pass a special act to protect them against their own inaction. If this is to be done, I see no reason whatever in their retaining the contract they have, and in view of the reluctance of Government to put right the terms of service in this country so as to protect the taxpayer I have the strongest objection to giving my support to one Bill after another to give greater privileges to those who have the full benefit of the old over-generous terms of service.

CAPT. THE HON. H. E. SCHWARTZ: I would like to ask the hon. the Acting Attorney General, Sir, to make it a little clearer exactly what did happen. As I understand it, when the posts were offered to these gentlemen they were told that the conditions were such that they would be able to retire or be compulsorily retired at the expiration of twenty years of their service. Were they, after that but before their appointment, told that the conditions had altered, and were they then offered the contract in writing which they signed, having full knowledge of the altered circumstances or not. It seems to me to make a good deal of difference. If they were told: "since we told you the conditions in Kenya the conditions have altered, and now, if you take this appointment the conditions are these; will you please decide whether you are prepared to accept service with the Kenya Government under the terms now existing"—and if they said "Yes,"—in that case I do not think a case can be made out for them. If they were told that and they say that although we agreed to these new terms, we had reason to believe that, though

we signed a contract under the new terms, we could work it so that we could get back to the old terms—in that case it is "heads I win; tails you lose".

I would like to get that explanation and I would ask the hon. the Acting Attorney General to explain the actual facts to allow us to exercise our discretion as to which way we vote.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, to the best of my knowledge the facts are . . .

THE HON. T. J. O'SHEA: On a point of order, Your Excellency, is the hon. gentleman replying to the debate?

THE HON. THE COLONIAL SECRETARY: As far as I understand it, Sir, the position is this: In the ordinary way, when an administrative officer is asked if he will join the Service, he is told that the terms of service are as set out in a document commonly known as "African 563", or some such number. At the time that paper went to these gentlemen it provided for the old form of pension. These officers accepted the appointment on the assumption that the pension rights were as set out in that document. At the particular time the Colonial Office offered these terms of service they were probably unable to say the actual date on which this new pension law would be passed in Kenya. I cannot say for certain but probably it was not passed exactly on the same date as in Tanganyika or Uganda or some other territory. Therefore, these officers, when they accepted the appointment, definitely accepted it on the old terms of pension. As it happened, before they had the formal letter of appointment, this Ordinance here had been passed and therefore, under the letter of the law, they came under this new pension ordinance. But in so far as letters had passed between the Secretary of State and these gentlemen, they assumed that they were being appointed under the old pension regulations.

HIS EXCELLENCY: Does any other hon. Member wish to speak. If not, I will call upon the hon. Mover to reply.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I think the hon. the Colonial Secretary has explained so very fully what the position is that I feel sure hon. Members will be satisfied now.

HIS EXCELLENCY: The question is that the European Officers' Pensions (Amendment) Bill be read a second time.

The question was put and carried.

## CIVIL SERVANTS (PROPORTIONATE PENSIONS) BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move the second reading of a Bill to Provide for the Granting of Pensions to Certain Civil Servants in Certain Circumstances.

This Bill, Sir, is introduced into this Council in order to ease retrenchment measures in the Colony and, for reasons of economy, to facilitate the retirement of officers who have not qualified for pension under the terms of the Ordinance but who have completed ten or more years Colonial service.

Sir, in common with a very considerable number of other colonies similarly situated as we are, Government has decided, with the approval of the Secretary of State, to allow such officers, who, although they have not qualified for pensions under the Principal Ordinance, yet have completed ten or more years Colonial service, to retire voluntarily if Government approves and be given a pension calculated upon the actual time they have served. So far, only four officers (whose names are appended in the Schedule) have applied and their names therefore are the only names included in the schedule. But it will be seen from clause 3 that the offer remains open till the 30th June, 1932, up till which time names can be added to the schedule by the Governor of Kenya, with the approval of the Secretary of State.

It is impossible to estimate the exact actual cost to the Colony if this Bill becomes law but I can definitely say that it will mean economy.

**THE HON. THE TREASURER:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Civil Servants (Proportionate Pensions) Bill be read a second time.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, the point I want to get quite clear is this: in the Objects and Reasons these officers are described as "pensionable officers." Were all these four holding pensionable posts and would they, if they had definitely completed twenty years service, be entitled to retire on pension? Secondly, if, instead of this voluntary retirement, they had been invalided out of the Service, would they have been entitled to this proportionate pension which is now recommended?

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency . . .

**THE HON. T. J. O'SHEA:** On a point of order, if the hon. gentleman replies now it ends the debate. Might I ask if these questions could be answered by some other Member on the Government side?

**THE HON. THE COLONIAL SECRETARY:** The position is that all these officers had pensionable status but in the ordinary way, unless they were invalided out of the service, they are not eligible for pensions until they have fulfilled their pensionable period of service, whether it is twenty years or the age of fifty, as the case may be. In these cases, in order to assist us in the retrenchment of officers in certain cases, provided they have done ten years pensionable service they are, in certain circumstances, being allowed to go. But I would like to emphasize this fact; that the discretion is left entirely in the hands of the Government. Merely because the officer says "I want to go under this regulation. Will you let me?" he has no vested right to go. The Government have gone and will go very carefully into the question of public interest in agreeing to any such retirements.

**THE HON. T. J. O'SHEA:** Your Excellency, the statement just made by the hon. the Colonial Secretary appears to me to conflict somewhat with the statement made by the hon. Mover in that I rather gathered the Colonial Secretary to say that the four individuals named in the schedule are enjoying pensionable status; whereas, from the hon. Mover I gathered that was not the case—that although they occupied pensionable posts they were not on the pensionable staff.

**THE HON. THE ACTING ATTORNEY GENERAL:** On a point of explanation, Your Excellency, I only said they had not qualified for a pension.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** By length of service?

**THE HON. THE ACTING ATTORNEY GENERAL:** Yes.

**THE HON. T. J. O'SHEA:** What I should like to know is what is the position of those other unfortunate people who have been occupying pensionable posts for a period of years but who have not been placed on the pensions list and have had to be retrenched? If Government, owing to the short-fall in revenue, is unable to carry on a proportion of the existing staff and finds it necessary to dispense with their services before they have qualified for a pension, I ask it is fair to the taxpayer that these people should be put on the pensions list by the passing of a special act in this House.

I cannot see where the economy comes. We are told it is impossible to estimate accurately the annual cost to the Colony if the Bill becomes law, but it is very easy to estimate what it may be if Members on the other side would only take the House into their confidence. In the course of its economy campaign Government has of necessity had to inflict hardship

on certain individuals who have given loyal service to the State for a number of years, but they have not been given the same treatment as these four individuals, and I object to certain members being picked out for special treatment which is not given to the Service generally.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will call upon the Attorney General to reply.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I think that possibly some misapprehension exists in the mind of the hon. Member for Plateau South when he talked about retrenchment and the evils attendant upon it and the unfortunate plight in which the people retrenched found themselves. I can only say that this Bill deals with voluntary retirement entirely, and has nothing to do with retrenchment at all. It was open to a very much larger number of persons than have actually given in their names to offer their names, but in point of fact only four have done so. The offer remains open only for another six weeks, and it is not expected that very many more will apply. I would also emphasize, Sir, if I may do so, as I did in my opening speech, that we are doing this in common with a large number of other colonies. It has been thought a good way, as I said before, to ease retrenchment, and I think it is.

**MR. COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, on a point of explanation, perhaps the hon. the Acting Attorney General can tell us what happens to retrenched officers—do they get this treatment if they are voluntarily retrenched?

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, they get certain privileges such as leave prior to retrenchment, and in very many instances pensions.

**THE HON. THE TREASURER:** Your Excellency, on a point of explanation, a retrenched officer, if he occupied a pensionable post and is retrenched, gets a pension just the same as these.

**HIS EXCELLENCY:** The question is that the Civil Servants (Proportionate Pensions) Bill be read a second time.

The question was put and carried.

#### THE STOCK TRADERS' LICENCE (AMENDMENT) BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Amend the Stock Traders' Licence Ordinance, be read a second time.

This Bill, Sir, amends the Principal Ordinance, and the reason for the amendment is this. The Stock Traders' Licence Ordinance provides *inter alia* that no person shall carry on the trade or business of a stock trader without a licence. Practically the whole trade of the Northern Frontier and the Turkana Province is conducted by way of the barter of stock. Shopkeepers are not permitted to deal in stock unless they are in possession of a licence under the Principal Ordinance, which costs £5 a year or £2 10s. per half year, and the fees for such licence, in addition to licence fees under the Traders' Licensing Ordinance, which is £15 a year, are considered to be a hardship and to have the probable effect of causing many shops to close business in those districts. The object of the Bill is to give power to Provincial Commissioners of the Northern Frontier and Turkana Provinces to remit the whole or part of fees for stock traders' licences in respect of shopkeepers trading in those Provinces, when it is considered that the charging of the fees will prove a serious check to desirable trade. This power of remission, Sir, will only be exercised after due investigation and with caution. Seeing that this measure is designed to improve trade in those two Provinces, which is so very necessary in these hard times, I commend the Bill to the favourable consideration of hon. Members.

**THE HON. THE TREASURER:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Stock Traders' Licence (Amendment) Bill be read a second time.

The question was put and carried.

#### THE CONTRACTS IN RESTRAINT OF TRADE BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move the second reading of a Bill to Render Lawful Certain Contracts in Restraint of Trade.

This Bill, Sir, is introduced into this Council as the result of representations made by the Law Society of Kenya and the Association of Chambers of Commerce of Eastern Africa, so that it has a very strong and representative backing, Sir. If hon. Members will bear a short time with me, I will give them what is the present law of England as regards this matter. In England, as probably many in this Council are already aware, in the case of a professional employer engaging an assistant, it is usual to insert in the agreement a clause restraining the employee, on the termination of his agreement, from practising a competitive business within a certain radius and within a certain period of time. In this Colony, however, Sir, the Indian Contract Act applies, and, under that Act, any agreement by which anyone is restrained from

exercising a lawful trade, profession or business is void except in certain specific cases, which are very narrow ones. I will enumerate them: (1) where the good will of a business is sold, the seller of the good will may agree with the buyer to refrain from carrying on a similar business within certain limits so long as the buyer carries on a like business therein; (2) partners who are dissolving or are about to dissolve partnerships may agree not to carry on business in competition within a certain area for a certain time; (3) partners may agree that some one or all of them will not carry on any business other than that of the partnership during the continuance of the partnership. Those are the only three cases under the Indian Contract Act which apply to this Colony, the only three instances where the restraint of trade is allowed. It is considered that the law in this Colony of the protection afforded to English employers in respect of restraining their employees is not in the best interests of the public, the reason being that it is calculated to prevent employers from engaging well-qualified employees because the latter might, within a short time, in the absence of any reasonable restraint of competition, leave their service and set up as serious competitors. Accordingly this Bill has been drafted, and it has been both to the Law Society of Kenya and to the Association of Chambers of Commerce of Eastern Africa and has received their approval. The Bill, I may say, embodies the principles laid down in the well known case of the Maxim Gun Company versus Nordenfeldt, which principles are the law in England to-day, providing that any agreement or contract which contains any provision or covenant whereby any party thereto is restrained from exercising any lawful profession, trade, business or occupation, shall not be void only on the ground that such provision or covenant is therein contained. These principles have been modified by various decisions, but the main decision stands, and the principles laid down in the Bill are well established principles of the case I have quoted, Sir. Power is conferred on the Courts to declare such provision or covenant to be void where the Court is satisfied that such provision or covenant is not reasonable. I may add, Sir, that we in this Colony are anxious as far as it is possible to make our laws conform to the laws of England. I therefore venture to express the hope that this Bill will commend itself to hon. Members of this Council.

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

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, may I ask one question? In the event of an employer leaving his employer owing to the latter selling his business or anything else, is the employer still liable under the Immigration Act to return that employee to England?

HIS EXCELLENCY: I do not know whether that comes within the scope of this Bill.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, it is hardly within the purview of this Bill. If the hon. and gallant Member desires, I will look the matter up.

HIS EXCELLENCY: The question is that the Contracts in Restraint of Trade Bill be read a second time.

The question was put and carried.

#### THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Local Government (District Councils) Ordinance, 1928, be read a second time.

The Trans Nzoia District Council, were anxious to take over and manage the present nursing home at Kitale, and were also anxious to associate the residents of the township in the management and support of that nursing home on much the same lines as has recently been done with regard to the Eldoret Hospital taken over by the Eldoret Municipal Board and the Uasin Gishu District Council. There are, however, difficulties in the way of proceeding along those lines. The first is that under the Townships Ordinance Kitale is a Grade "A" Township but not a municipality, and is not empowered to raise funds for the home. That could be got over by an amendment of the Townships Ordinance but it would not get rid of the second and more important difficulty, that a township committee is not a corporate body and could not therefore be joined with the District Council as a joint-owner of the nursing home in question. The simplest method of rectifying the situation and meeting the wishes of both the Trans Nzoia District Council and Kitale Townships Committee appears to be to amend the District Councils Ordinance to include the township within the jurisdiction of the District Council for the purposes of hospital management and hospital support, and this Bill achieves that end by giving power, on the application of the District Council and with the permission of the Governor, to permit the township to be included within the district for this particular purpose. In order that members of the Township Committee shall have a voice in the management of the hospital, it is provided that for this purpose only one or more representatives as is deemed fit shall be appointed to the District Council. I may say that both the members of the District Council and the members of the Township Committee have been consulted in this matter and agree that the form proposed of meeting the situation is agreeable to them.

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

HIS EXCELLENCY: The question is that the Local Government (District Councils) (Amendment) Bill be read a second time.

- The question was put and carried.

#### THE BUTTER LEVY (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Butter Levy (Amendment) Bill, 1932. This Bill, Sir, is designed to amend the Butter Levy Ordinance, 1931, in such a way as to make it clear—

- that the imposition of the levy shall not apply to butter manufactured in the Colony for the purpose of exporting and actually exported from the Colony;
- that the provisions of section 3 of the Principal Ordinance shall not apply to imported butter;
- that the amount of the bounty payable on each pound of butter exported shall in no case exceed the amount of the levy for the time being in operation; and
- that the existing marks on packages and wrappers shall be deemed to be marked with the name of the manufacturer and the place of manufacture for the purpose of section 5.

Opportunity, Sir, has also been taken to give express power to any class of Government officer duly authorized in writing to enter upon premises and inspect all books and documents connected with the manufacture and sale of butter.

Clause 2 provides that section 2 of the Principal Ordinance shall not apply to butter manufactured in the Colony for the purpose of exporting and actually exported from the Colony. This amendment is a recommendation of the Secretary of State. At the present time the levy may be imposed on all butter manufactured and sold in the Colony, whether it is manufactured for the purpose of exporting or actually exported from the Colony or not.

The first part of clause 3 of the Bill consists of a small verbal amendment, and the second part of the clause provides that section 3 of the Principal Ordinance shall not apply to made butter imported into the Colony. This means that only locally made butter will have to pay the levy imposed. This also was a recommendation of the Secretary of State.

Clause 4 of the Bill adds a proviso to sub-section (2) of the Principal Ordinance, providing that the amount of bounty payable on each pound of butter exported shall in no case exceed the amount of the levy for the time being in operation, and, if any portion of the levy shall be undistributed at the close of the year, the Treasurer may dispose of such undistributed portion as the Governor may, in the interests of the dairying industry, direct. This amendment has been asked for by the Butter Levy Advisory Board.

Clause 5 makes it quite clear that any package or wrapper bearing any mark other which butter was customarily sold at the date of commencement of the Principal Ordinance is in substitution for the wrapper referred to in section 5 of the Principal Ordinance, and not in addition thereto.

Clause 6 amends section 7 of the Principal Ordinance to give express power to any class of Government officer duly authorized in writing to enter upon premises and inspect all books and documents connected with the manufacture and sale of butter.

Clause 7 of the Bill excludes ships' stores from the scope of the Principal Ordinance. This suggested amendment also has the approval of the Butter Levy Advisory Board.

Clause 8 of the Bill provides that bartered butter shall come within the provisions of the Principal Ordinance. This has been included to prevent evasion of the Ordinance by persons bartering butter instead of selling it.

Sir, it is suggested that this Bill should be referred to a Select Committee of this Council.

The Bill was recently considered again in its entirety by the Butter Levy Advisory Board, and the Board came to the conclusion that clause 4 of this Bill should be recast, and it may very possibly be that certain other alterations may have to be made to the Bill in the light of recent further consideration.

I have your authority, Sir, to say that this Bill will be referred for consideration to a Select Committee of this Council.

I beg, Sir, to move the second reading.

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

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

CHIEF THE HON. J. I. COCHRAN: Your Excellency, I am very glad to hear the Bill is going to a Select Committee, but the particular point I want to stress here in this Council

is sub-section (2) of section 4. I hope everybody will realize that the wording here—"the Treasurer may dispose of such undistributed portion as the Governor may, in the interests of the dairying industry, direct"—is entirely against the whole principle of the Bill, Sir. It was very obvious—when the Bill was brought out we were given an undertaking that every penny that was brought in by this Bill should be distributed to the people who were exporting butter. Now, Sir, it is quite obvious, owing to the unfortunate casting of the original Bill, that supposing the Creameries for instance only exported ten pounds of butter and the local sales were perhaps over 200 pounds, it is quite obvious that the Creameries might then have said, "We will take the whole of this amount," and they might then flood the whole country with the rest of it. In other words, the original Bill gave power to the Creameries to simply destroy every competitor. I think you will remember I refused to sign the report, though I was an original member, but now, with this particular provision that has been brought in, I have really a much greater objection than ever to-day. It prevents the Creameries getting away with more than 25 cents a pound, but then it enables the surplus money to be used for other purposes, which I maintain should be used for no other purpose than the lowering of the cess—because I presume the idea is not to keep the cess as high as possible, but to make the people in the Creameries and outside the Creameries be on a level. If we are going to use this money for other purposes—we might have a live stock officer appointed—that is one way; and another one is veterinary services.

I really hope that this particular section will not be insisted on, Sir.

MAJOR THE HON. J. O. K. DELAP: Your Excellency, the criticism which I wish to offer to the Bill under discussion is necessarily very much influenced by the fact that, unfortunately, I am very much opposed to the existing Ordinance; and it is difficult for me to criticize a Bill which is intended to amend the existing Ordinance without referring to the Ordinance now in existence.

The original, to my mind, is thoroughly bad; the amending Bill makes it a great deal worse, for the Bill gives power in section 4 to apply money which is specifically intended to subsidize export butter to any purposes which might be considered for the benefit of the dairying industry as a whole, not necessarily butter. This means that the levy, made under certain conditions, becomes what the levy, made under This, Sir, was never intended.

Now, Sir, the levy is being collected in many cases from those persons who are least able to pay it; it is being collected from persons who derive no countervailing advantage from it. It is creating in many cases very severe hardship; so severe as to amount to practically ruin, and when I say that I speak as one who has been visiting the people concerned. It was, I believe, originally intended that persons who were so situated as to be unable from geographical position usefully to send their cream to a creamery—it was intended that they should receive exemption, and it was also, I am perfectly certain, intended that persons who were found to be suffering severe hardship should receive exemption or their claims be thoroughly considered. This is not being done. I submit, Sir, it might be justifiable to levy a cess on the industry for the benefit of the industry as a whole, but I feel quite sure it is not justifiable to levy a cess on one portion of the industry, especially if, as in clause 4, that money may be used for what is practically an excise tax, and especially if the levying of that tax goes so far as to ruin individuals. It is, Sir, my greatest wish to take what steps I can to lead to the repeal of the Ordinance, but I suggest that until this is done we should do what we can to relieve the sorely tried contributors. And, Sir, the obvious way to do that is to pay back to them in proportion any balance which is left over after paying the bounty per pound of butter exported, such bounty to be in no case higher than the amount of levy per pound, less the cost of administration per pound cess.

I have lately visited a number of people, several of whom have no other means of livelihood but the sale of butter, in some cases on a very small scale; and I saw for myself and was convinced that the butter levy was ruining them, if it had not already done so. I have heard many arguments adduced by supporters of the levy, and I agree with those who hold that the granting of exemptions destroys the symmetry of the Butter Levy Ordinance, 1931. I hold that it would be better to repeal it, but if this cannot be achieved, I submit it is the duty of this Council to prevent hardship. It must be a strong case to justify Government in driving to ruin citizens of this country.

I wish, Sir, that I could have addressed this Council on some more agreeable subject, for I feel that this indeed is a sad one, in which—so it appears to me—one section of the community is plundering another, while Government aids and abets.

I would conclude by asking for your indulgence, Sir, for my possible breach of the rules of procedure in this House, when I claim as a matter of urgency that some relief should be given to these people before it is too late.

LT.-COL. THE HON. J. G. KIMWOOD: Your Excellency, in its present form I am opposed to this Bill. I think everybody will agree that the original Ordinance was to enable the export of butter by equalizing by cess the amount obtained by export, and that principle will be broken if this Bill as it is printed is put into force. I refer to section 4, sub-section (2), of the Principal Ordinance. I agree with the first part. It finishes up: "the Treasurer may dispose of such undistributed portion as the Governor may, in the interests of the dairying industry, direct."

Now, Your Excellency, I submit; if that was done, it would be a direct breach of faith. It was never intended that any surplus raised by the cess should go to any other part of the industry or be used for any other purpose than as detailed in the original Bill, and I do hope the Select Committee will substitute for this proposal an amendment to the effect that any surplus should go into the reduction of the cess and for no other purpose.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I feel that all the Members of the House would like to congratulate our new Member, the hon. Member for Ukamba, on his very able maiden speech which he has just given. I do not personally quite agree with him in all the line he takes. Being a non-co-operator myself, and selling a few pounds of butter, I am fortunate perhaps in finding the present control of the butter industry very helpful, but perhaps I am better situated than those who have to sell in the Nairobi market, which at present is overflooded with butter, and where the price has gone down very much. If no action was taken to assist the export trade the flood would be still more severe than it is to-day, and so I cannot support my hon. friend's argument of having the whole of the main Ordinance repealed. On the other hand, I would like to get a little more information as to how it is that out of 25 cents per pound of butter sold locally—I am told that less than 8 cents per pound go towards each pound of butter exported from the country. That is what I have been told. I read a letter in the paper this morning from the secretary of the Associated Creameries, and, speaking from memory, I think he said that last year they produced about a million pounds of butter, of which 400,000 were sold in the country, and they produced about 75 per cent of the total made in the country. If that is so, it works out at about 600,000 exported, and 700,000 used internally. I do not quite understand, if the 700,000 do pay 25 cents per pound as a cess, why the 600,000 exported only get 8 cents. If we could have some explanation of that it might help. I trust very much that when the Bill goes to Select Committee this section 4 which has been so much discussed will be

amended and will be put on a sounder basis, because, as other speakers have said, the main thing we want to do is to equalize the price of butter for export and sale locally, and to get a cess on the butter sold locally as low as possible with that object.

THE HON. THE TREASURER: Your Excellency, the objection to the Bill appears to lie almost exclusively in the proposed proviso to clause 4, and to the question as to the manner in which exemptions are dealt with. It has already been stated that the Butter Levy Advisory Board have reconsidered this clause, and have drafted another one that will be submitted to Select Committee: I am sorry that I have not a copy here for the information of hon. Members. It is with regard to varying the cess by proclamation. If it were seen in advance that there was going to be a heavy drought and small exports, it would be easy for the cess to be reduced. If it were not seen in time and too much money was collected, the idea was to put a limit on the amount to be distributed. But that is a matter which will be gone into thoroughly in Select Committee. As regards exemptions, I was ill at the time. They were dealt with by a sub-committee, and the basis they went on was that the people who were selling small quantities to neighbours were not in competition with the creameries, but I ought to say that the opinion of the Butter Levy Advisory Board is now hardening around a different conception. They hold quite definitely that the criterion should be: Do these persons obtain any benefit by reason of the exports of butter by the creameries? And in the majority of cases they do, because unless that butter was exported they would not the price for their few pounds that they have been getting. It has been decided to review the whole of the applications for exemptions. There has been a certain amount of dissatisfaction as to the basis on which they were dealt with before, and it has been decided to refer them to the Board, and they will be reconsidered at the next meeting. I do not think there is any other point that I need reply to, except in regard to the senior Elected Member's question. That must obviously be a mistake. Somebody has work out the return to the Creamery on the amount actually paid, but that does not represent the money due to them actually. We have come to an arrangement to pay monthly, but they have been paid hardly anything at all, and someone must have worked it out as the actual amount paid for butter exported. I think it will be found it is more than the figure quoted when the whole sum is distributed.

*The Council adjourned for the usual interval.*

*On resuming:*

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I do not think there is very much for me to say in reply, as the various points raised in debate have been

very ably dealt with by the hon. the Treasurer. I can only assure hon. Members opposite that every consideration will be given to the matters they have raised in the Select Committee.

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

The question was put and carried.

#### APPOINTMENT OF SELECT COMMITTEE.

**HIS EXCELLENCY:** I understand that the arrangement is that this Bill will be referred to a Select Committee.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I am authorized by you to say that the following hon. Members have been appointed as the Select Committee on this Bill:—

The Hon. the Treasurer;

The Hon. the Director of Agriculture;

The Hon. Member for the Lake;

The Hon. Member for Ukamba;

The Hon. Member for Kenya;  
with myself as chairman.

#### THE CIVIL PROCEDURE (AMENDMENT) BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to amend the Civil Procedure Ordinance, 1921, be read a second time. This Bill amends the Principal Ordinance in several respects. It is introduced, Sir, at the request of the Civil Procedure Rules Committee, which functions under the Civil Procedure Ordinance, and which, I may say, considers that the Bill is a necessary one. I will explain the Bill, Sir, if I may, clause by clause.

Clause 2 corrects a grammatical error in section 2 of the Principal Ordinance. In the Principal Ordinance the singular "determines" is used when it should be the plural "determine."

Clause 3 repeals and replaces the proviso to section 11 of the Principal Ordinance. The reason for this proposed amendment is to confer a discretion on the court as regards the award of costs on either the Magistrate's Court scale or the Supreme Court scale where the claim is under Sh. 1,500 or even under Sh. 400, taking into consideration the circumstances of each particular case.

Clause 4, Sir, amends sub-section (1) of section 18 of the Principal Ordinance for the purpose of clarity. The reason for clause 5 is that it is desired to obviate any reference to the Indian Limitation Act, 1877, in view of the provisions which have already been made in the existing Rules under the Civil Procedure Ordinance as to limitation of time, and so as not to imply any repeal of the Indian Limitation Act with reference to any matters not specifically dealt with in the Civil Procedure Ordinance or its Rules.

Clause 6 proposes to amend section 44 of the Principal Ordinance by making it quite clear that salary accrued or to become due can be attached under this section.

Clause 7 deletes the explanation attached to section 47 of the Principal Ordinance. This is rendered necessary in view of the amendment to section 50 of the Principal Ordinance, which is dealt with in clause 8.

Clause 8, Sir, repeals and replaces section 50 of the Principal Ordinance. After many years of experience in the Colony of the principle of *pro rata* distribution of assets following the Indian practice, the Rules Committee is of opinion that the principle of *pro rata* distribution is opposed to the English principle, whereby a judgment-creditor may reap the fruits of his energy, and it is proposed that the principle of *pro rata* distribution should be terminated. As the law at present stands, where assets are held by a court, and more persons than one have, before the receipt of such assets, made application to the court for the execution of decrees for the payment of money passed against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons. If this clause becomes law, the assets in similar circumstances will be distributed among such decree-holders in accordance with the priorities of the filing of their several applications.

Clause 9, Sir, provides that the Supreme Court shall have power to entrust the taking of a commission transmitted to the Supreme Court through unofficial channels from an outside court to an advocate in practice in the Colony. The Supreme Court heretofore has not been able to do this, although the Rules of the High Court of Justice in England do in fact permit of the issuing direct to an advocate in this Colony.

Clause 10 proposes to insert the word "Northern" before the word "Ireland." This is necessitated by reason of the division of Ireland into the Irish Free State and Northern Ireland.

Clause 11 brings the law in this Colony as to appeals in *forma pauperis* into line with the English law.

This Bill, Sir, is a highly technical one, and Government has received a request from the hon. and gallant Member for Nairobi South, who is himself an advocate, that Government will refer this Bill to a Select Committee for fuller consideration of its details. I understand that there are several points in the Bill upon which the hon. and learned Member is not quite satisfied, and I rather think that he desires to make some additions to the Bill. I am authorized to say, Sir, that you are therefore prepared to refer this Bill to a Select Committee of this Council when it passes its second reading.

I beg to move the second reading of this Bill.

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

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, as this Bill is going to a Select Committee, it is redundant to waste the time of Council by a discussion of any of its provisions, but I would like to draw the attention of hon. Members, and especially the Members of the Select Committee, to clause F, to which the hon. the Acting Attorney General has referred. There can be no question, I think, that under ordinary circumstances the procedure which it is proposed to substitute for the present procedure, so as to bring it into line with the English procedure, is a right and equitable one. But it has been brought to my notice by the Chambers of Commerce only within the last twenty-four hours that it might have a very disastrous effect if this alteration is made at the present time. The hon. the Acting Attorney General has explained that the alteration, the proposed alteration in the law, is to reward the vigilant creditor, but the Chambers of Commerce have pointed out that the last thing one wants to-day is to have creditors too vigilant. Everyone is trying to get further than meet them—and while I have at present an open mind, it is, I think, a matter for consideration whether the result of this alteration may not be to make creditors rush in order to get in first, thus completely breaking the man who, if given time, might rehabilitate himself.

There is a further point which does not appear in the Bill, but to which I would also draw the attention of the Select Committee, and that is a further amendment which I

think essential to clause 11 of the Ordinance as it stands. That appears on the left-hand side of the page in this Bill. It will be seen that clause 11, as it at present stands, reads:—

" 11. Every suit shall be instituted in the Court of the lowest grade competent to try it, provided that where there are more subordinate Courts than one with concurrent jurisdiction in the same district competent to try it, a suit may be instituted in any one of such subordinate Courts."

There have been several cases brought in Nairobi before the Resident Magistrate, who is a qualified lawyer, and it has been held that he has been unable to take cognizance of those cases because there is a lower court competent to try them. Those cases are cases which arise just outside the actual borders of Nairobi district—Athi-River is just outside; Muchakos certainly is. There have been many cases of claims for specific sums—anything up to Sh. 1,000—which should be brought, quite clearly in my submission, before a qualified lawyer in Nairobi; but it is held that because the word "concurrent" appears in that section a magistrate in Nairobi cannot try them, and the cases have to be sent to the second class magistrates at Athi River or Muchakos, as the case may be; and although the Resident Magistrate has jurisdiction throughout the area he never can try a case outside the actual Nairobi district which a lower court can try, because, although his jurisdiction extends over a wider area than that of the individual second class magistrate, it is not concurrent—the less is included in the greater, but not to the extent of its being concurrent. I think there can be no question that it is advisable and in the best interests of justice that cases should be heard by such men in preference to administrative officers who, with the best will in the world, have not got the requisite knowledge of the law; and I would therefore ask the hon. the Acting Attorney General to make a note of that for discussion when the Select Committee meets.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, the Select Committee, of which I hope he will be a Member, will take into careful consideration the points raised by the hon. Member for Nairobi South.

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

The question was put and carried.

#### APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ACTING ATTORNEY GENERAL: The Bill will be referred to a Select Committee. I am authorized to say the Select Committee will consist of—

The Hon. the Acting Solicitor General,

The Hon. Member for Nairobi South,  
The Hon. Member for Nairobi North,  
and myself as chairman.

#### THE MINING (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, it has been intimated by Members opposite that it would suit their convenience if this Bill were referred to a Select Committee, perhaps less with a view to dealing with the clauses in this Bill as to consider whether some other amendments in the Principal Ordinance, which have not been included, should be included; and Your Excellency has agreed to this course being followed. That being the case, Sir, and as the reasons for the various almost formal amendments that are included in this Bill are fully set out in the statement of objects and reasons, it appears to be unnecessary for me to go through the Bill clause by clause.

In moving the second reading, I would only like to mention the one important matter in this Bill, and that is the repeal of the clause in the Principal Ordinance which limits the number of alluvial claims by one person to one. That amendment has already been made in the Tanganyika Ordinance, and it is in the interests of uniformity that we make it here.

When I met the Miners' Association at Kakamega some months ago and the question was discussed, this point was mentioned, and, with a view to regularizing the position in regard to claims which have been registered since March 18th, which is the date on which the Principal Ordinance was brought into operation, I propose in Select Committee to add a clause giving this Bill retrospective effect to that date.

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

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

CHIEF THE HON. H. F. WARD: In view of the consideration of Government in this matter, it is unnecessary for me to take up the time of this House, but as I am responsible for the request that it be referred to a Select Committee, I should like briefly to explain the reasons. In recent months, I see a very largely increased activity in mining has taken place in many parts of the Colony. At the back of it all are the various Ordinances governing that activity, and these have been subsequently subjected to amendment on a number of

occasions, which the average prospector or man operating does not quite understand and cannot quite understand; and therefore it is suggested that if the necessary opportunity is given to those people interested a great deal of this trouble will be cleared up very quickly at a very considerable saving of time.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. mover to reply.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Arrangements will be made to give an opportunity for interested parties to appear before the Select Committee.

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

The question was put and carried.

#### APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The Bill will be referred to the following Select Committee:—

The Hon. the Acting Solicitor General,  
The Hon. the Provincial Commissioner, Nyanza.  
The Hon. Member for Plateau South,  
The Hon. Member for Nairobi North,  
The Hon. Member for Kenya,  
and myself as chairman.

#### THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Land and Agricultural Bank (Amendment) Bill.

This Bill is introduced into this Council at the desire of the Secretary of State, and the results of the amendments effected by this Bill will be in favour of those who borrow from the Land Bank of Kenya.

Under section 28 (2) of the Land and Agricultural Bank Ordinance, 1930, an advance may not exceed 60 per cent of the fair agricultural and pastoral value of the land. Under section 28 (3), which deals with advances on the security of Crown land, the purchase price of which has not been fully paid, an advance may not exceed 50 per cent of the purchase price already paid, but an additional amount up to the value of 50 per cent of improvements approved by the Board and made since the date of the title may also be advanced.

Under sections 34 and 35 in Part IV of the Ordinance dealing with advances for the purposes of fencing and dipping-tanks, the Board may advance, in addition to advances made under the above-quoted sections, a sum not exceeding £200 for each purpose—that is to say, £100 in all—subject to the following provisos: In the case of an advance under section 28 (2), the total advance, including the advance under section 34, may not exceed 75 per cent of the fair agricultural and pastoral value of the land, and the value of improvements effected or to be effected as determined by the Board. In the case of an advance under section 35, the total advance, including the advance under section 28 (3), may not exceed 60 per cent of the amount already paid as part of the purchase price, and the value as determined by the Board of improvements made since the agreement to purchase.

Objection has been raised to the inclusion of the value of improvements as stated in the second provisos to sections 34 and 35 respectively, and the Secretary of State, in giving his approval to the Ordinance, stated that his approval was subject to sections 34 and 35 being amended by the deletion of the second proviso thereto in each case, which provisos are the ones already referred to. The effect of this Bill will be to give the Land Bank Board power to make advances in terms of the Cattle Cleansing and Fencing Ordinances, with the maximum limit of £200 for either purpose, in addition to advances under section 28 of the Principal Ordinance, with no limit other than that the total advances shall not exceed the maxima set out in section 27 of the Principal Ordinance.

This Bill is therefore being introduced to meet the wishes of the Secretary of State, and repeats the second proviso to section 34 and section 35. The Land Bank Board approves of the Bill.

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

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

HIS EXCELLENCY: The question is that the Land and Agricultural Bank (Amendment) Bill be read a second time.

MR. COL. THE HON. J. G. KIRKWOOD: Your Excellency, I find myself in great difficulty, as I only secured a copy of this Bill from the table a few minutes ago, and I confess that I have failed to grasp the total meaning of the proposed amendments. I should like to get the hon. the Acting Attorney General to further elucidate the situation. Might I put it advance up to the full amount as shown in the Land Bank Ordinance has been advanced, and does it also mean that

where an amount has been advanced up to the 60 per cent of the fair agricultural and pastoral value of the land, that the amount for fencing and dipping cannot exceed either of these amounts? If it does mean that, I think we are going to create a great deal of difficulty in the future. I should just like to ask that question. I am not speaking on the Bill at the moment. Your Excellency. It is not quite clear to me whether it does prohibit an advance for fencing and dipping up to 75 per cent which is in excess of the 60 per cent advance for fair agricultural and pastoral value.

THE HON. THE TREASURER: Your Excellency, if I can elucidate a little more I will do so, but I think myself that the hon. the Acting Attorney General has put it so clearly that it is difficult to understand what more can be said about it. There is nothing in the amendment which will prevent people from obtaining money for dipping and fencing out of their ordinary advance. It will be increased by £400 if necessary, and it removes the difficulty that the present Ordinance imposes. It is all to the easement of the Bank and to the benefit of those who obtain loans from the Bank.

THE HON. THE ACTING ATTORNEY GENERAL: I have nothing to say further in reply, Your Excellency.

HIS EXCELLENCY: The question is that the Land and Agricultural Bank (Amendment) Bill be read a second time.

The question was put and carried.

#### THE CO-OPERATIVE SOCIETIES (REGISTRATION) (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Amend the Co-operative Societies (Registration) Ordinance, 1931.

This amending Bill, Sir, is introduced into this Council in order to effect two or three main objects. First of all, it has been brought to the notice of Government, Sir, that it is not quite clear in the Co-operative Societies Ordinance, 1931, as it stands, that a co-operative society with limited liability may be formed under the Principal Ordinance. Clauses 3, 4, 5 and 6 of this Bill make it quite clear therefore that such a co-operative society may be formed. This is a very necessary provision, because some applications from these companies have already been received. Clause 2 adds a new definition to the Principal Ordinance, that is to say, a definition of producers of agricultural products, who are defined as follows: "producers of agricultural products" includes persons, partnerships and companies who cut timber and prepare

timber and timber products for markets." Companies fulfilling this description are desirous of forming co-operative societies, and for this reason the Government were approached to include them in the Bill and make it possible for them to become co-operative societies. Clause 6, Sir, provides for the appointment of persons to investigate the accounts and general affairs of registered co-operative societies. A similar section, I may say, exists in the relative English legislation, and in view of the fact that some co-operative societies are being formed by what you might call primitive people, natives, and so on, this is considered a desirable provision. Sir, this Bill is designed to assist co-operative societies and to enlarge their scope and activities, and I hope hon. Members therefore will give it their favourable consideration.

I move, Sir, the second reading of this Bill.

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

HIS EXCELLENCY: The question is that the Co-operative Societies (Registration Amendment) Bill be read a second time.

The question was put and carried.

#### THE FENCING (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Fencing Ordinance, 1920.

This Bill is introduced into this Council, Sir, with the object of making certain amendments to the Fencing Ordinance, entirely, I may say, for the sake of clarity. Clause 2 amends the heading of Part I of the Principal Ordinance by deleting words relating to advances in that heading. There is, in fact, no provision for advances in this Part. Clause 3 makes it quite clear that the areas which may be brought under the operation of the Principal Ordinance shall not include native reserves or any part of such reserves. It was never intended the bringing of the native reserves under the Ordinance is provided for in sections 4, 5 and 6 of the Fencing Ordinance. This amendment is merely to make that point quite clear, because it has been pointed out that it is not quite clear, and that it is desirable to amend the Principal Ordinance accordingly. Clause 4 amends section 5 of the Principal Ordinance so as to specify that the period in which the Director of Agriculture can force an owner to complete the erection of a fence shall be a reasonable one. As it stands now, it is only within the time to be specified by the Director of Agriculture. It is very probable, in my opinion, that the courts would hold

in any event that the period must be a reasonable one, if the matter came to court, but I see no harm in this amendment. It will strengthen the hands of the Director of Agriculture, as any time he specifies will be *prima facie* a reasonable one. Clause 5 amends section 8 of the Principal Ordinance by providing that an owner who desires to erect a dividing fence upon his holding shall, in certain cases, give notice to the holder of the adjoining holding. As the law now stands it says a man may give notice, but that is thought to be not quite equitable, and that he should give notice to an adjoining owner, who should, if I may put it so, Sir, have a fair deal. The remaining clauses make minor amendments to the Principal Ordinance, all for the sake of greater clarity. This Bill is to make the Principal Ordinance work smoother when it does come into operation, and for this reason I commend it to hon. Members.

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

THE HON. CONWAY HARVEY: Your Excellency, I intend to support the motion for the second reading. There is no doubt whatever, Sir, that these little dabs of paint do improve the appearance a little, but I should like to ask Government to give us some indication of its intention in regard to when the Ordinance is likely to be brought into operation. It was passed many years ago, after very careful and intensive consideration, and it is most desirable that it should be brought into operation at the earliest possible moment in the interests of agriculture.

CAPT. THE HON. J. L. COITEN: Your Excellency, I should like to associate myself with what the hon. Member has just said.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, Government has given very earnest consideration to the operation of this Ordinance, as well as to the Cattle Cleansing Ordinance with which it is closely associated. Government finds itself, however, in some difficulty in finding the necessary financial means to give effect to the desire expressed by the hon. Members who have just spoken. I understand the subject was discussed when the Select Committee on the Estimates dealt with the Budget for 1932, and it was seen that, particularly in the case of the Fencing Ordinance, Government would require to provide a considerable sum to meet commitments under the Ordinance, provided Government has to meet its share, for the cost of fencing public roads, the fencing of boundaries contiguous, for example, with Crown lands,

forest reserves and native reserves. It is very difficult, Sir, to frame a close estimate of that amount of money, but it would in any case be a substantial sum. It might be £5,000 or even £10,000, in any one year. The reason why a close estimate cannot be made is this: that neither Government, nor anyone else I think, can visualize the extent to which clauses of the Ordinance may be made compulsory in any particular area. There is further, Sir, a commitment under the Land Bank Ordinance for the purpose of making advances in respect of fencing. It may be interesting to the House to know that a recent estimate has been made—how accurate it may be, I cannot offer an opinion—but an estimate has been made indicating that probably for three years' operation of both these Ordinances, the Cattle Cleansing and the Fencing, a sum of something like £100,000 would require to be advanced to farmers. It would probably be in the neighbourhood of £60,000 for fencing and £40,000 for cattle cleansing. I can assure the House that Government recognizes the importance of putting both these Ordinances into operation, and that it will give the matter close and further attention.

THE HON. T. J. O'SHEA: Your Excellency, it is of course queried by everybody, I am sure, who has considered this amending Bill as to why it should be necessary to amend an Ordinance before it has come into operation, and why it should be decided to give up the time of Government to amending an Ordinance that it is not Government's intention to bring into operation within a reasonable period of time. I should have thought, Sir, that there were so many other things for Government to do, and so many other things for occupying the time of this House, that the Government might very well leave over the amendment of an Ordinance that it has no intention of bringing into operation within a reasonable period of time. However, it has given Members on Government exactly what its intention are regarding this and the associated measure, the Cattle Cleansing Ordinance, and I am very disappointed indeed to find that the Government is still in the same mood as it was some six months ago regarding these important proposals. We have been told to-day, as we were told then, that Government of course realizes the desirability of bringing these measures into operation, but unfortunately they have not got the money for the purpose. At that time certain suggestions were made as to how Government might find the necessary money, and suggestions were made that the amount to be required in the immediate future would not be anything like as great as Government contemplated. The figures mentioned by the hon. gentleman opposite as to

estimates made by the Land Bank regarding the money required for the operating of these measures—those figures are in themselves, I think, an indication of the importance of these measures to the country. If the Land Bank is in a position to estimate, the farmers will within the next three years require some £100,000 for fencing and dipping. I think that can be taken as proving our case, and that these measures are of real importance to the country, and that they should be put into operation. For my own part, I do not see how it is possible for the agricultural industry of this country to regain its prosperity unless these measures are put into operation. It has been agreed over and over again by the hon. Member and his associates and by Members on this side of the House that the dairying and mixed farming branches of the industry must be encouraged if we are to get back to the prosperity we enjoyed a few years ago, and the operation of these two measures is essential to the establishment of these two branches of the agricultural industry.

I am not talking merely for the purpose of criticizing Government. I am talking for the very sincere desire of arousing in Government, Sir, the same feeling regarding these measures that we on this side of the House share. We do hold, from a study of the facts, that it is necessary for special efforts to be made to bring the Fencing and Cattle Cleansing Ordinances into operation in the immediate future, and we urge that Government should make a very special effort to find the comparatively small amount of money necessary in the immediate future to bring them into operation. I would urge upon the hon. Member opposite that he has visualized a very much larger sum than is necessary this year or possibly next. It is not at all necessary to contemplate so wide an application of these Ordinances; their operation could be confined *pro. tem.* to such areas as are very badly in need of them. There are, in fact, certain areas of the country in which, at very small cost to the State, these desirable measures could be brought into operation, and if they were, I suggest that the dairying and mixed farming industries would go ahead by leaps and bounds in those confined areas. The Land Bank had at its disposal a sum of £240,000. Of that amount it has lent out to date only something in the neighbourhood of one-half. If Government cannot find its share of money necessary for the operation by any other means, then it might as a temporary measure borrow from the Land Bank the share the State would have to pay. Failing that, or perhaps supplementary to that, I suggest it is possible by various means to borrow the amounts necessary elsewhere. I urge upon Government that the country would be helped enormously by such action as I suggest, and the difficulties in balancing next year's Estimates might not be so great as they

THE HON. T. J. O'SHEA: I was going to state a case, Sir. Under the law as it stands at present, a trading licence can only be taken out for one year. If a shop opened during the last two months of the year the trader takes a risk in not taking out his licence for that year in the hope that it will not be notified. Again, if a shop is going out of existence in the second month of the year, I understand there is no provision by which anybody can give exemption for eleven-twelfths of the year.

THE HON. THE ACTING ATTORNEY GENERAL: In that case, if a trader knew that if he opened for the last two months of the year he would have to pay the whole £15—in that case, he would not open.

#### THE TRADING CENTRES BILL.

The Bill was considered clause by clause.

Clause 2.—Power to declare trading centres.

THE HON. T. J. O'SHEA: I understand the Acting Attorney General has agreed to include an amendment to protect local government authorities. If he is not ready with this amendment, perhaps it would be advisable to defer consideration of the Bill.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I gave an undertaking definitely on behalf of Government that in every instance where a Council is concerned, Government would consult that Council before declaring a trading centre.

THE HON. CONWAY HARVEY: In that case, Sir, would it not be very much better to have it incorporated in the body of the Bill. I suggest it could be done very easily by adding after the word "Governor" in section 2: "after consultation with the local authority." For the sake of clarity I think it would be far better to incorporate it in the Bill.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I have no objection, Sir, to that definite provision. Arrangements have already been made through district councils as to the opening of trading centres in certain areas, but it is difficult to put a proviso of this sort definitely in a Bill, because, in probably the majority of cases where trading centres will be declared, they will be in native reserves. I suggest the hon. Member might be satisfied with an assurance on the point from Government.

THE HON. T. J. O'SHEA: I still must suggest that such assurances have not got the effect of law, and that in this case it is very definite powers—by law and not assurances—that when you attempt government authorities should not be left to declarations in Local House, which may be forgotten a year hence. I suggest it would be all time.

MAJOR THE HON. J. O. K. DELANY: This question of consultation with local government bodies has been discussed in district councils and we have received in district councils the same assurances, but it can be embodied in the Bill it would be a reminder to everybody I should very much like to see it put in.

THE HON. CONWAY HARVEY: The hon. Commissioner for Local Government, Lands and Settlement mentioned a possible difficulty in authorities of some sort like every other area.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: There is a provision which we could take straight from the Townships Ordinance, which covers this point. I will move an amendment, Sir, that at the end of the clause as printed the following words be added:—

"Provided that, prior to the exercise of any such powers, the proposals shall be submitted for the recommendations of the District Council (if any) having jurisdiction over the area within which it is proposed to establish a trading centre."

THE HON. T. J. O'SHEA: I should like the privilege of seconding that, Sir.

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

"Provided that, prior to the exercise of any such powers, the proposals shall be submitted for the recommendations of the District Council (if any) having jurisdiction over the area within which it is proposed to establish a trading centre."

The question was put and carried.

#### THE RAILWAY MATERIALS PROTECTION (REPEAL) BILL.

The Bill was considered clause by clause.

#### THE EUROPEAN OFFICERS' PENSIONS (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE CIVIL SERVANTS (PROPORTIONATE PENSIONS) BILL.

The Bill was considered clause by clause.

#### Schedule.

THE HON. THE ACTING ATTORNEY GENERAL: In the Schedule I beg to move that instead of the name "Francis George Cole" the name "Francis Drouville Cole" be substituted.

The question was put and carried.

#### THE STOCK TRADERS' LICENCE (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE CONTRACTS IN RESTRAINT OF TRADE BILL.

The Bill was considered clause by clause.

#### THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE CO-OPERATIVE SOCIETIES (REGISTRATION) (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE FENCING (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that the following Bills be reported to Council without amendment:—

The Traders' Licensing (Amendment) Bill, 1932;

The Railway Materials Protection (Repeal) Bill;

The European Officers' Pensions (Amendment) Bill;

The Stock Traders' Licence (Amendment) Bill;  
 The Contracts in Restraint of Trade Bill;  
 The Local Government (District Councils) (Amendment) Bill;  
 The Land and Agricultural Bank (Amendment) Bill;  
 The Co-operative Societies (Registration) (Amendment) Bill;  
 The Fencing (Amendment) Bill;  
 and that the following Bills be reported to Council with amendment:—  
 The Trading Centres Bill;  
 The Civil Servants (Proportionate Pensions) Bill.  
 The question was put and carried.

*The Council resumed its sitting.*

HIS EXCELLENCY: I have to report that the following Bills have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment:—

The Traders' Licensing (Amendment) Bill, 1932.  
 The Railway Materials Protection (Repeal) Bill.  
 The European Officers' Pensions (Amendment) Bill.  
 The Stock Traders' Licence (Amendment) Bill.  
 The Contracts in Restraint of Trade Bill.  
 The Local Government (District Councils) (Amendment) Bill.  
 The Land and Agricultural Bank (Amendment) Bill.  
 The Co-operative Societies (Registration) (Amendment) Bill.  
 The Fencing (Amendment) Bill;  
 and that the following Bills have been reported to Council with amendments:—  
 The Trading Centres Bill.  
 The Civil Servants (Proportionate Pensions) Bill.

### THIRD READINGS.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the third reading and passing of a Bill to Amend the Traders' Licensing Ordinance.

THE HON. THE COLONIAL SECRETARY: Your Excellency, with the leave of Council perhaps all these Bills might be put together.

HIS EXCELLENCY: Would Council be agreeable to that—  
 to the third readings being taken *en bloc*?

LT.-COL. THE HON. LORD FRANCIS SCOTT: We have no objection, Sir.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the third reading and passing of the following Bills:—

The Traders' Licensing (Amendment) Bill, 1932.  
 The Railway Materials Protection (Repeal) Bill.  
 The European Officers' Pensions (Amendment) Bill.  
 The Stock Traders' Licence (Amendment) Bill.  
 The Contracts in Restraint of Trade Bill.  
 The Local Government (District Councils) (Amendment) Bill.  
 The Land and Agricultural Bank (Amendment) Bill.  
 The Co-operative Societies (Registration) (Amendment) Bill.  
 The Fencing (Amendment) Bill.  
 The Trading Centres Bill.  
 The Civil Servants (Proportionate Pensions) Bill.

THE HON. THE COLONIAL SECRETARY: I beg to second the motion.

The question was put and carried.

The Bills were read a third time and passed.

*The Council adjourned till 10 a.m. on Friday,  
 6th, May, 1932.*

FRIDAY, 6th MAY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 6th May, 1932, His Excellency The Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 5th May, 1932, 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):

Schedule of Additional Provision: No. 5 of 1931.

Schedule of Additional Provision: No. 1 of 1932.

By THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE):

Native Affairs Department Annual Report, 1930.

By THE HON. T. FITZGERALD (POSTMASTER GENERAL):

Abridged Annual Report of the Posts and Telegraphs Department, 1931.

#### NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY: I beg to give notice that at a subsequent meeting I shall move that the Schedules of Additional Provision (No. 5 of 1931 and No. 1 of 1932) be referred to a Select Committee.

#### MOTIONS.

##### IMPORTATION OF WHEAT.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I beg to move the following motion:

"Whereas by reason of destruction by locusts and other causes, the yield of wheat from the 1931-32 crop is insufficient to meet the requirements of the milling industry for the production of flour for the needs of East

Africa, and whereas it is expedient to import wheat in the grain rather than in the form of flour, Council do therefore approve that the amount of duty levied on such wheat imported by the Agency appointed under the Sale of Wheat Ordinance, 1930, be refunded to that Agency; provided that the quantity of wheat in respect of which such refund shall be made shall be confined to that amount which does not exceed the short-fall of the crop mentioned above for purposes of the normal milling requirements and provided also that it shall be restricted to such quantity as may be imported between the first day of April and the last day of December, 1932, under licence issued by the Director of Agriculture.

Your Excellency, various authorities have visited the Colony of Kenya, including Sir Rowland Biffen, and have expressed the opinion that certain parts of the highlands of this Colony are well suited to wheat production. Nevertheless, it cannot be said that the wheat industry has yet reached a stabilised condition nor that it has completely achieved success. It is a case, Sir, of a struggle against nature, and one cannot but hope and believe that, in the end, man, with the aid of science, will prevail.

This is the first occasion on which a difficulty of this kind has been created—the first occasion on which there has been a shortage of the kind indicated in the motion. In past years there has been a surplus of wheat for export over and above the amount required for conversion into flour to meet the demands of the East African market.

The cause of the shortage indicated in the motion is chiefly due to locusts. For the information of the House I would say that for the 1931-32 crop about 60,000 acres of land were planted. There was a shortage of about 9,000 acres in actual planting and about 39 per cent of the crop was actually destroyed by locusts. These two factors combined account for a shortage of something in the neighbourhood of 75,000 bags. At the time application was made to Government for assistance, of the kind indicated in the motion, namely, in March last, the balance of the 1931-32 crop remaining for consumption in the Colony was about 23,000 bags, after deducting seed required for the coming season. It is estimated that the quantity of wheat which will have to be imported, as indicated in the motion, will be 40,000 to 50,000 bags. I submit, Sir, growing industry—not only growers but millers—that steps of this kind should be taken. In the absence of those steps it will

mean that the wheat mills of the Colony will go out of operation, and without mills in the Colony it is certain that wheat growers cannot continue their farming operations. Another important point is the trade connexions which have been established for locally milled flour during a period of years. It is very important that these trade connexions should be maintained and if the mills go out of operation, those trade connexions will be lost and it will in my judgment take some years before the markets are recovered. It therefore appears necessary that Government should come to this Council for sanction to take some steps whereby wheat can be imported to mix with the balance of local wheat remaining available.

Now, Sir, in case it may be said that flour can be imported and pay part of the duty—or a higher railway rate than the one that I will mention later—I should like to quote a few figures for the information of the House. I shall restrict this sort of quotation as much as possible, but I would ask some indulgence of the House because the whole subject is a very complicated one.

Taking the basis of the whole of the existing duty being paid, namely, Sh. 9 per bag of 200 lb. of wheat, and the railage applicable to imported wheat, such wheat would cost in Nairobi in the neighbourhood of Sh. 29/50 per bag and at Eldoret Sh. 32/75 per bag. Allowing for approximately 1½ bags of wheat required to make a bag of flour, the flour would cost in such circumstances Sh. 39 in Nairobi and Sh. 42, odd, in Eldoret. Now, Sir, if half of the duty were paid and half of the imported railway flat rate were paid, the figures would be for imported wheat Sh. 21/50 in Nairobi and Sh. 23/50 in Eldoret, and flour Sh. 28/70 in Nairobi and Sh. 31/35 per bag in Eldoret. At the present time local flour is being sold in Nairobi at Sh. 35 per bag against imported flour sold in Nairobi at round about Sh. 41 per bag. Corresponding figures for certain other centres are these:—

Kampala.—Local flour, Sh. 40/50 per bag.  
Imported flour, Sh. 50 per bag.

Mombasa.—Local flour, Sh. 28 per bag.  
Imported flour, Sh. 33 per bag.

At Dar-es-Salaam the corresponding figures are approximately Sh. 29 and Sh. 31/35 per bag. These figures cannot be regarded as constant, but they may be taken as approximate, relating to recent months. It is quite clear then—I put it to the House—that, unless something of the kind indicated in the motion be done, wheat could not be imported at a price which would enable millers to compete against imported flour.

On the financial side there is really no loss of anticipated revenue to Government, as revenue from duty on this imported wheat or its equivalent in flour was not included in the Budget for 1932. In fact, in my judgment, owing to some dislocation of business, there is likely to be an increase of revenue through larger importations of flour than would otherwise take place.

Now, Sir, if I may come to another aspect, I should like to deal with the advantages which will accrue to the public. The millers anticipate—in fact, they have given an undertaking to Government—that if the duty is refunded, and if some relief is given in respect of railway rates, they will use their best endeavours—in fact, they anticipate that they will be able to maintain the local price of flour at the price at which it has stood during recent times and that there will be no advance or increase in the price of locally milled flour to local markets. They further undertake to use their best endeavours—and again it is anticipated that they will succeed—to maintain the coastal markets without increasing the price. But that should always, I think, be subject to this proviso, that the world price of wheat does not advance appreciably.

—From the figures which I have just quoted to the House it is quite clear, I think, that the consumers, not only in Kenya but in other parts of East Africa, are gaining advantages through their being able to obtain local flour at prices less than the cost of imported flour. In the absence of competition with local flour, the price of imported flour will be almost certain to rise, irrespective of world values. It became quite clear two or three years ago, when the mills of Kenya were in a position to turn out a good deal of flour, that the price of imported flour was substantially reduced in order to compete favourably with locally milled flour.

It is calculated again, on the question of advantage to the public, that by importing about 40,000 bags of wheat, on a basis of advantage to the consumer on an average of Sh. 6/50 per bag, that benefits amounting to £9,750 will accrue.

On the administrative side hon. Members will notice that the proposal means that importation will be restricted to the wheat imported by the Sale of Wheat Agency operating under the Sale of Wheat Ordinance. Having regard to the fact that that Agency is responsible for the distribution of all the wheat of the Colony to mills, it seems right and proper that this action should be taken in regard to importation.

In regard to the short-fall, I do not think it will be difficult for the Director of Agriculture to decide definitely what that short-fall amounts to and to deal with the issue of bounties accordingly. I desire, however, to inform the

House on your instructions, Sir, that no promise is implied or given that this relief will be granted after the end of this year. It is the decision of Government that it shall only remain in force until the end of December of this year.

Another point on the administrative side is this: that if this motion is passed by the House, hon. Members will be committed at a later stage to passing a vote on the expenditure side for a refund of the amount of money involved. If the quantity imported is 40,000 bags, it will be a sum of £18,000. If the quantity is 45,000 or 50,000 bags, it will be so much more.

Then I have your authority, Sir, as High Commissioner for Transport to inform the House that contingent upon this motion being passed, you have, in that capacity, agreed that the Railway should carry this imported wheat at country produce rates.

I hope that I have made a case for the passing of this motion. I believe that the action indicated will not only greatly assist wheat growers and other wheat interests in this Colony but that it is also of value to the consumers, not only of Kenya, but of adjoining territories. I therefore commend the motion to the House.

THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BRUCE): Your Excellency, I beg to second the motion.

Lt.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I should like first and foremost to congratulate Government on initiating this motion before Council this morning. The only point I should like to make is that I have been informed that there is still a fair quantity of wheat undelivered to the mills in the Colony, and I should like the assurance that that wheat—if what I am told is correct, as I believe it is from the information which I had given me yesterday—the assurance that means will be taken to see that all the local wheat finds a ready market in the very near future.

THE HON. T. J. O'SHEA: Your Excellency, I have no objection to the passing of this motion. I regret that Government has found it necessary to introduce it, but circumstances being as they are I do not see that Government could have done otherwise. At the same time, in view of other measures taken in the last few years to assist the wheat industry in this country I cannot but regret that it should be necessary this morning to support this motion with arguments which I think cannot but be regarded otherwise than as destructive

of the arguments which were found necessary to produce on other occasions. I think that those who have opposed the establishment of a monopoly in the wheat industry and who have regarded with displeasure the various steps taken by Government on this side in recent years to create and maintain that monopoly, such people must find a grim pleasure in reading the motion this morning and more grim pleasure in reading the arguments in favour of it. Undoubtedly, an increasing number of people are beginning to realize that when the State starts to interfere in an enterprise such as the wheat industry it has got to do so with an amount of knowledge that the Government of this country has not had in dealing with the problem, and in a state of preparedness should very carefully supervise the effect of the legislation imposed. It can hardly be denied that the measures taken in the last few years to assist the wheat industry have been largely ineffective. It can hardly be challenged that the wheat industry of Kenya to-day is in a less satisfactory position from every point of view than it was two or three years ago. I say that with the greatest regret because I regard the industry as one that should be among the most important and to which the State should give a fostering care. But I must say that, in my opinion at any rate, Government, having taken certain steps in the last few years, are largely to blame because it has not followed them up by taking other steps that were necessary as consequential to the first. They have set up a monopoly in one of our primary products, in a primary food-stuff, and have left it to work on its own without supervision. The attitude Government has adopted in regard to that monopoly is, I content, entirely wrong: It must take the responsibility for having set up that monopoly, and it owes a debt to the public in seeing that that monopoly works in the interests of the industry as a whole. Even in the wording of the motion there is, I believe, a justification for an inquiry into the present position of the wheat industry, and after listening to the arguments of the hon. Member I suggest that Government cannot longer refrain from having a comprehensive inquiry into the present position of the wheat industry to-day. In saying that I have no intention of casting any reflections upon those who have endeavoured to do their best in the circumstances to make the monopoly work as smoothly as possible in the interests of all growers, but I feel sure it will be recognized by all who have studied the question that it is not fair to expect a body with no executive status to do the work of controlling such an important organization as that of the wheat growers. They have done their best, and I do not complain about that. I merely say it is insufficient to the needs of the situation. Your Excellency, interested parties have asked me to address the following questions to the hon.

Member in connexion with this motion. The first is:—"Is the delivered cost of imported wheat the same to all registered mills? If not, what is the difference in cost per bag of imported wheat between that to the Nairobi mill owned by the Agents appointed by Government under the Sale of Wheat Ordinance and mills situated in Eldoret?" (2) Arising out of the reply to (1) "Is it a fact that the importation of wheat will be more advantageous to the Kenya Grain Mills situated in Nairobi and controlled by the Agents, than to mills situated in Eldoret?" (3) "In negotiating with the Railway for a special rate of freight on imported wheat, was application made by the Agency or by the Director of Agriculture for a flat rate of freight to all main line stations?" The fourth question is:—"Why did the Agents export nearly 15,000 bags of local wheat at an average value of just over Sh. 5 per bag when they should have realized that a shortage was not unlikely? Your Excellency, I think it necessary to point out that under these artificial arrangements for a manipulation of the wheat market to-day, you have the extraordinary situation of wheat grown in the Eldoret district being compulsorily shipped down to Nairobi, and imported wheat being sent up to that same district, and the right of millers in the town of Eldoret and neighbourhood to mill locally grown wheat being denied. I feel certain, Your Excellency, that some reasonable arguments can be produced in favour of that extraordinary state of affairs, but looking at the thing broadly it must be realized that it is economically unsound that such a state of affairs should exist. Again, I think it displays a very serious weakness in our present arrangements regarding the sale of wheat that only a few months ago we should be exporting wheat at a price to the farmer of only about Sh. 5 to Sh. 6 a bag and should now be importing wheat at a price of Sh. 22 to Sh. 25 a bag; also that the by-products of the milling industry should be selling at a price in excess of those being paid for good quality wheat. I merely cite this as evidence that things are very much wrong indeed in connexion with the wheat industry, and that it is high time Government realized that the situation is very unsatisfactory; indeed, sufficient to call for an inquiry. I urge upon Government that the newly-formed Board of Agriculture should be invited to hold a comprehensive inquiry into the position of the wheat industry and the existing organization for the sale of our wheat products.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in rising to support the motion before Council I feel perhaps that as chairman of the Wheat Advisory Board I can reply to some of the points which have been raised by my hon. colleagues. With regard to the first point raised by

the hon. Member for Plateau North, the disposal of available wheat, it is I may say naturally our duty to see that it is disposed of as well as can be. Unfortunately, I have received a report this morning which says that the available wheat of the country is less than the wheat anticipated and that a very large proportion of it is rather low grade. However, that matter is receiving the careful attention of the Board to see that the best possible is done with it. I think the hon. Member covered all the ground on the general principle of why this measure was introduced, and I do not think there is anything that I can add to it. There is only one point which comes up, and it is this. I think it must be evident to everybody that the grower of wheat is not getting an inordinately high price for his wheat. It is a good deal below the price at which even with these rebates wheat can be imported into the country. Sir, my hon. friend the Member for Plateau South says that in his opinion the wheat industry is not in a satisfactory position to-day—that it has actually gone back during the last year or two. I am afraid I must agree with him in that. The wheat industry has had many set backs. We have not been able to produce in quantity rust-resisting wheats up to what we had hoped for. But at the same time the plant breeders are still working very hard and hope in a short while to produce such a wheat. I am afraid we have got to be a little patient and we cannot expect to have that wheat in large quantities for another two or three years.

The question which has militated very much against this industry is the question of lack of confidence and uncertainty. It is not a very easy business, growing wheat at a profit, and last year there is no question that large areas went out of wheat altogether because growers did not think it would pay them to grow it. That is in addition to the losses we have suffered from locusts and other causes.

My hon. friend talked about a monopoly. I do not quite understand what he means by a monopoly. Government have formed this wheat pool and they have appointed Agents to administer it, and they have appointed Agents to watch over that, but I should not think that that came under the heading of a monopoly. He also says he thinks we ought to have a comprehensive inquiry into the whole industry. That I have no objection to. I think the more we get down to an inquiry of this nature the better for the industry, and there is no question but that this question of the wheat industry is a very difficult one to deal with; and it is a very worrying one, because of the great fluctuations which occur from year to year.

Now, Sir, to get down to more detail, he asked if it was a fact that the price of this imported wheat to the different

mills varied. The answer to that is that is so. And the reason why the price, the chief reason why the price is higher to the Eldoret mills than to Nairobi is that when the wheat pool was originally formed it was proposed that all wheat should be at a flat rate delivered at millers' stations all over the country. But the Eldoret mills opposed that very strongly. They said that, owing to their geographical position, they should keep the advantage of that geographical position. I think there is no question but that the best place for a mill in the ordinary way is at Eldoret. They at present get a considerable advantage over the Nairobi mills in the cost of locally grown wheat. The difference is about Sh. 1/30 per bag. They pay on an average about 15 cents per bag delivered to their mills and Nairobi pays, I think it is about Sh. 1/50. If they were agreeable to having a flat rate, imported or local, delivered at every mill, that could have been arranged. But the Eldoret representatives said they did not wish to give up their advantage on the locally grown wheat even to get a flat rate on imported wheat. We did go into this question very fully quite recently and we came to the conclusion that unless you have a flat rate all round, if you stick to the principle that geographical position has to be taken advantage of, that principle must apply both ways.

Now, Sir, the hon. Member asked why it was that 15,000 bags I think he said of wheat was exported some months ago. The reason for that, Sir, is that we have not got storage capacity in this country for keeping wheat for indefinite periods. Wheat deteriorates, and there is a nasty little thing called a weevil which gets into it, and if the wheat is kept too long it becomes useless for anything but pig food. It was decided that when a certain amount of the wheat kept back was beginning to get weevily that the wisest thing to do was to export it.

Another difficult thing in regard to the wheat industry is that growers will not send in their returns early enough and it is very difficult to estimate how much wheat is going to be available. I am not going to say that everything that has been done is right by any means, but we have taken all these matters into consideration and I believe we have done the best we could have done for the industry as a whole.

I did not quite understand what the hon. Member meant when he said that the price of by-products was higher than the price of high quality wheat.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak . . .

**CAT: THE HON. J. L. COTTER:** Your Excellency, I would like to answer the Noble Lord's statement by saying that in selling chick wheat they are charging—I happen to know myself—rather more than first class Manitoba price sold in England.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, I will leave my hon. friend the Director of Agriculture to reply on the more technical points raised in the debate but in view of the question of policy raised by the hon. Member for Plateau South when he asks that the question of an inquiry into this wheat industry should be considered by Government, I am authorized by you to say that, particularly after hearing the speech of the Noble Lord, the hon. Member for the Rift Valley, who would himself welcome such an inquiry—Government will consider the holding of an inquiry on the lines suggested, and that such an inquiry in Your Excellency's view should be best conducted by the newly constituted Board of Agriculture.

**HIS EXCELLENCY:** I will now call upon the hon. member to reply.

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, I am grateful to the Noble Lord for replying so fully and I should like to take the opportunity of corroborating what he said in regard to this so-called monopoly and the difficulties which arise in conducting the affairs of that monopoly.

I very much regret, Sir, that the hon. Member for Plateau South has again raised or cast aspersions of a rather vague kind in respect of the operations of a body which is doing valuable service for this Colony.

**THE HON. T. J. O'SHEA:** Your Excellency, with respect I ask for a withdrawal of such a misinterpretation of anything which I have said.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I am in your hands, Sir. I am afraid I cannot withdraw but I would, however, qualify my remarks to this extent: that that was the impression left on my mind. If I gained a wrong impression, then I withdraw and I shall be very glad to hear from the hon. Member for Plateau South that he did not intend to convey such an impression. I should like to assure the hon. Member that these monopoly operations are very closely supervised and on each and every occasion on which any person in the Colony has suggested to Government that the

operations of that Agency have not been conducted satisfactorily; they have been very closely examined and a report has been submitted on them; so that it is not quite correct to say that no supervision is exercised.

There was one point made, I think, by the hon. Member for Plateau South to which my hon. friend the Noble Lord did not refer. Perhaps the hon. the General Manager would allow me to say if he were here that there is no precedent for the grant of a flat rate to millers' stations for imported grain of any kind or in any form, but there is a precedent, of the kind which I mentioned when introducing the motion, viz., when in 1929 the High Commissioner sanctioned the carrying of imported maize under exceptional conditions at country produce rates.

With regard to the cost of by-products presumably the hon. Member was referring to the price at which wheat offals is sold by the mills. It is true that the price during the last few months has increased very considerably, due to shortage but it is not very long ago that the price in Kenya was about one third that obtaining in other countries, and the price of bran now is substantially lower than in other countries. I would reply to the point made by saying that the Sale of Wheat Agency is not a factor in the matter of governing the price of offals at all.

I think the main points have been covered and I would only express my regret to the hon. Member for Plateau South that I am unable to give a categorical reply to the questions which he put to me. If he had been able to advise me beforehand that he was putting those questions I should very gladly have looked up the records and given the figures required.

**THE HON. T. J. O'SHEA:** On a point of explanation, Your Excellency, these questions only came into my possession as I was walking into the Council Chamber this morning. I had not previously seen them.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I accept the hon. Member's explanation very fully; but I think the House will agree that the Noble Lord has given a very satisfactory reply to the issue which he raised, and I am very glad to know that this motion commends itself to the House.

**HIS EXCELLENCY:** The question is:

"Whereas by reason of destruction by locusts and other causes, the yield of wheat from the 1931-32 crop is insufficient to meet the requirements of the milling

industry for the production of flour for the needs of East Africa, and whereas it is expedient to import wheat in the grain rather than in the form of flour, Council do therefore approve that the amount of duty levied on such wheat imported by the Agency appointed under the Sale of Wheat Ordinance, 1930, be refunded to that Agency; provided that the quantity of wheat in respect of which such refund shall be made shall be confined to that amount which does not exceed the short-fall of the crop mentioned above for purposes of the normal milling requirements and provided also that it shall be restricted to such quantity as may be imported between the first day of April and the last day of December, 1932, under licence issued by the Director of Agriculture."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE TRADERS LICENSING (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the adoption of the report of the Select Committee appointed by you, Sir, to report upon the provisions of a Bill to Amend the Traders Licensing Ordinance.

This committee was appointed by you, Sir, at the last session of Council, at the end of last year, with the object of considering and reporting on a Bill to amend the Traders Licensing Ordinance and that Bill, Sir, provided for the imposition of a licence fee upon banks and insurance companies, the proposed fee to be imposed on the banks being £500 per annum for the principal places of business and £25 for each branch, and for a licence to carry on the business of an insurance company the fee was £75 per annum. These were flat rate fees. It will be observed from the definition of bank in the draft Bill referred to the Select Committee that only banks coming under the provisions of the Bank Ordinance would come within the scope of the Bill, which would have meant that the only banking institutions which would have been the only banking institutions which would pay the fee would have been the three principal banks; that is, the National Bank of India, Barclay's Bank and the Standard Bank of South Africa. The committee held two meetings, and at the first of these meetings held two meetings, and representatives of the insurance companies and the banks, appeared that there were some twelve to fifteen concerns in exchange business and other banking activities which would not come within the scope of the Bill as drafted. From the evidence given by the representatives of the banks and the insurance companies, the committee formed the opinion that

the scope of the Bill as it stood was not nearly wide enough and that if a Bill taxing banks and insurance companies were to be passed at all, the scope of the Bill would have to be greatly enlarged. In regard to insurance companies, I may say it was felt that the incidence of a flat rate licence fee irrespective of the class or classes of business conducted would bear somewhat hardly upon the smaller companies, of whom I understand there are quite a number here, and that any such licence fee should be a graduated one governed by the amount of business done. As regards the banks, the committee took view that the imposition of a heavy licence fee on the banks would be inequitable unless those who do a considerable amount of exchange business and indulge in other banking activities were brought within the scope of the Bill. In view of the very much wider scope which the committee considered necessary if effect was to be given to the views which I have expressed, it was considered that the matter should be dealt with by an entirely separate Bill which would be of a considerably wider nature. As chairman of the committee, Sir, I drafted a new Bill and placed it before the committee in due course, but we came to the conclusion that it was not part of our duty to substitute this entirely new draft for the Bill which had been referred to the committee, but that the correct procedure would be for the Select Committee to recommend to Your Excellency that the Bill referred to the committee be not proceeded with and that it be left to Government to consider the question of the introduction of a Bill dealing with the imposition of graduated licence fees on insurance companies and banks and embracing activities and persons not covered in the amending Bill under review. The recommendation that the Bill originally referred to the Select Committee be not proceeded with is embodied in this report, the adoption of which I now move. At a subsequent stage of the session a Bill will be introduced under the suspension of standing orders.

THE HON. T. J. O'SHEA: Oh!

THE HON. THE ACTING ATTORNEY GENERAL: I beg your pardon—it is proposed to introduce it—and it is hoped that the first and second readings will be taken and that it will then be referred to a Select Committee of this Council. This new Bill proposes the imposition of a graduated licence fee on insurance companies and banks. Your Excellency, I beg to move the adoption of this report.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Report of the Select Committee on the provisions of a Bill to Amend the Traders Licensing Ordinance be adopted.

The question was put and carried.

#### REPORT OF SELECT COMMITTEE ON THE PROFESSIONAL LICENSING BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** 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 Impose a Tax on Persons Practising Certain Professions in the Colony, be adopted.

Sir, Mr. MacGregor, the Attorney General, in introducing this Bill at the last session of Council, referred to the fact that during the course of the Select Committee on the Estimates for 1932 the suggestion was made that the possibility of imposing a tax on persons practising certain professions in the Colony should be explored and that a Bill should be introduced and referred to a Select Committee for examination in detail. The Select Committee was appointed by you, Sir, to go into this Bill, and that Committee has fully explored the possibility of imposing taxes on persons practising certain professions in the Colony and have unanimously come to the conclusion that the Bill, if enacted, would be extremely inequitable in its incidence and would probably prove expensive to administer. As a result, they have recommended that the Bill be not proceeded with. Evidence from interested parties taken at Nairobi, Mombasa and Eldoret, and the whole subject has been exhaustively gone into. The greatest difficulty with which the committee was faced was the impossibility of framing any scale of taxation which would bear equitably upon members of the same profession, the one practising, say, in Nairobi, where the bulk of business is large, and the other, say, in Kitale, where the scope is very restricted. The Committee has come to the conclusion that there are a great number of persons practising one or other of the professions mentioned in the schedule to the Bill in various parts of the Colony where the opportunities of practice are so small that any tax at all would cause these persons to discontinue their practice, to the great detriment of the public, I may say, in that part of the Colony. A striking example of this can easily be found in the case of doctors who live in isolated districts and who attend their neighbours as occasion requires. It is very necessary in the public interests that those doctors should practice to the extent that they do, but the Committee had no doubt that they, or most of them, would discontinue practising if a tax were imposed on them. The same argument applies in the case of most of the

other professions set out in the schedule to the Bill. Sir, the committee felt it would be unfair to limit the professions to be affected by the Bill to those set out in the schedule, and found great difficulty in arriving at a decision as to the extent to which the schedule should be enlarged or added to, and what occupations might properly be described as professions. Further, it was felt that it would be a matter of difficulty to define satisfactorily certain of the professions mentioned in the schedule to the Bill. The definitions were obviously unsatisfactory, yet the recasting would, in the case of the profession of engineer, for instance, prove an almost impossible task. The evidence we had on that point led us clearly to that conclusion. The committee also felt that any revenue derived from this Bill would, in addition to not being very great, be very difficult to collect owing to the uncertainty in the case of many professions as to who would be liable to pay the tax. In all these circumstances, the Members of the Committee unanimously recommended that the Bill be not proceeded with. Your Excellency, I beg to move the adoption of the Report.

**HON. CONWAY HARVEY:** Your Excellency, I beg leave to second the motion. I should like to say that I do consider it definitely unfortunate that the object of the Select Committee's recommendation in this respect should prove so sterile. Perhaps the most glaring illustration of inequity under the proposal would be the fact that a professional man would be called on to pay the tax when he might easily have incurred heavy losses in conducting his business, whereas his employees, one or more, in receipt of quite high salaries, would be called on to contribute nothing to the State.

**CAPT. THE HON. H. F. SCHWARTZ:** Your Excellency, it is with the greatest reluctance that I rise to blow the trumpet of the profession to which I belong, but owing to the sad neglect of the hon. Mover in not mentioning it I should like to draw attention to the fact that out of the whole of the evidence given throughout the Colony before the Committee the only body that supported this tax and accepted it willingly was the Law Society of Kenya.

**CANON THE HON. H. LEAKY:** Your Excellency, as a Member of the Select Committee I endorse all that has been said in regard to this matter. We tried to find a way out, but came to the conclusion that this tax was absolutely impossible.

**LT.-COL. THE HON. C. G. DURHAM:** Your Excellency, I should like to remind the hon. and gallant Member for Nairobi South that there were at least three other professions which were willing to be taxed.

CAPT. THE HON. H. F. SCHWARTZ: I beg your pardon.

THE HON. T. J. O'SHEA: Your Excellency, I hope the fate which has befallen this Bill, and the one to which the previous motion referred, will satisfy Government of the great danger of bringing forward immature proposals for serious discussion in this House. Also, I think it is likely to cause them to examine more closely in future ideas put up in haste on Budget and other Committees which require microscopic examination in detail first. Seriously, this policy of putting up cockshies in the House is likely to bring Government into general contempt in the country. There is no question whatever that, in connexion with this and the preceding Bill, Government has been subjected to ridicule throughout the length and breadth of the land, and if in future Government cannot give more serious examination and consideration to its taxation proposals I suggest that it will be necessary in the near future to find some other means of governing this country.

I learn with regret that it is the intention of Government, having made these abortive attempts to introduce fresh taxation, to take other steps arising out of the investigations held. I should have thought that the investigations of these Committees would have satisfied Government that until they have considered the whole position afresh and re-examined in a more comprehensive manner the whole question of taxation, that it is highly inadvisable to come forward with further partial proposals to meet the exigencies of the hour.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I rise to speak with some diffidence on this question as I did not intend to participate in this abortive trial—I am not quite clear whether it was that or that it was entirely sterile. (laughter.) But from reading the report of the Select Committee I gather that the period of gestation was in the nature of three-and-a-half months, and I can only regret that the results have not been more satisfactory. (laughter.)

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I have no reply to make to the debate.

HIS EXCELLENCY: The question is that the Report of the Select Committee on a Bill to Impose a Tax on Persons Practising Certain Professions in the Colony, be adopted.

The question was put and carried.

*The Council adjourned for the usual interval.*

*On resuming.*

### SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: With your permission, Sir, I rise under Standing Order 103 to move the suspension of Standing Rules and Orders for the purpose of enabling a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony, to be taken through all its stages without due notice.

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

HIS EXCELLENCY: The question is:

"That Standing Rules and Orders be suspended in order to enable a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony, to be taken through all its stages without due notice."

The question was put and carried.

### BILL.

#### FIRST READING.

#### THE SUCCESSION ACT (AMENDMENT) BILL.

On motion of the Hon. the Acting Attorney General the Succession Act (Amendment) Bill was read a first time.

#### SECOND READING.

#### THE SUCCESSION ACT (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony.

This, Bill, Sir, is introduced into this Council in order to rectify an unfortunate state of affairs which has only been recently discovered. The Indian Succession Act, 1865, was applied to this Colony in the year 1897, and section 105 thereof, which deals with bequests to religious or charitable uses, reads as follows:—

No man having a nephew or niece or any nearer relative, shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons.

It will be seen from the reading of this section that one of the formalities required if a bequest to religious or charitable uses is to be valid is that a will must be deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons. So far as I am aware, Sir, there is no such place in this Colony and never has been. In spite of the fact that thirty-five years have passed since the Indian Succession Act was applied here, the fact that this formality was necessary seems never to have been realized, and, needless to say, the formality has never been complied with in the case of bequests to religious or charitable uses.

The omission to comply with this formality would, in all probability render all bequests to religious or charitable uses which have been made since 1897 void, and it is mainly in order to validate all such bequests since 1897, and to do away for the future with the necessity for this formality that this amending Bill is introduced into this Council.

Now, Sir, hon. Members will see that not only is the part of the section of the Indian Succession Act which deals with this one formality proposed to be repealed, but it is proposed to repeal the whole section which contains yet another formality; that is, that a will making a bequest to religious or charitable uses must be executed not less than twelve months before the testator's death. This is a provision, Sir, which does not appear in the law of England. The law on the subject of bequests to religious or charitable uses in England at the present day is as follows: By the Statute of Mortmain and Charitable Uses, 1688, no bequests to a religious or charitable use could be made by will. An amending act was, however, passed in 1801, which allowed bequests to such uses to be made by will, with no formalities as regards the making of the will such as are contained in section 105 of the Indian Succession Act. In repealing the whole of this section, Sir, therefore, we shall only be following the law of England, which leaves a testator who desires to bequeath property to religious or charitable uses untrammelled as regards any formalities to be observed in the making of his will. It is proposed, therefore, Sir, by this Bill to repeal section 105 of the Indian Succession Act, 1865, as applied to this Colony, and to provide that no bequest to religious or charitable uses shall be deemed to have been or to be void or invalid in any way by reason of any non-compliance with the provisions of section 105 of the Indian Succession Act at any time heretofore during the application to the Colony of that Act.

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

CAPT. THE HON. H. E. SCHWARTZ: I beg to second the motion and in doing so I merely wish to thank the hon. the Acting Attorney General and Government for the despatch with which they have dealt with an urgent matter, seeing that it was only at a quarter to four last Friday that this was discovered and conveyed to the Attorney General.

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

If no other hon. Member wishes to speak, I will put the question.

The question was put and carried.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move, Sir, that Council resolve itself into a Committee of the whole Council to consider clause by clause a Bill to Amend the Indian Succession Act, 1865.

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

HIS EXCELLENCY: The question is that Council resolve itself into a Committee of the whole Council to consider clause by clause a Bill to Amend the Indian Succession Act, 1865.

The question was put and carried.

The Council went into Committee.

#### *In Committee.*

#### THE SUCCESSION ACT (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that the Succession Act (Amendment) Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony, has been considered clause by clause by a Committee of the whole Council and has been reported to Council without amendment.

#### THIRD READING.

#### THE SUCCESSION ACT (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the third reading and passing of a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony.

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

HIS EXCELLENCY: The question is that a Bill to Amend the Indian Succession Act, 1865, as applied to the Colony be read a third time and passed.

The question was put and carried.

The Bill was read a third time and passed.

#### SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: Your Excellency, under Standing Order No. 108, I beg to move the suspension of Standing Rules and Orders to enable a Bill relating to Bankers' and Insurance Companies' Licences to be read a first and second time and subsequently to be referred to a Select Committee.

In moving this motion, I should not be speaking to the motion if I referred to the principles of the Bill. I refer merely to the circumstances which make it necessary for Government to ask for Standing Orders to be suspended. These reasons appeared from the speech of the hon. the Acting Attorney General when moving the adoption of the Report of the Select Committee on the Traders Licensing (Amendment) Bill. Briefly stated, the position is that the Select Committee, while feeling that the legislation desired could not be best implemented by any amendment of the Traders Licensing Bill, left Government to decide whether a fresh Bill, incorporating certain fresh ideas, should be brought before this House. There was not the necessary time for publication and therefore it is suggested that Standing Orders be suspended this morning in order that the first and second readings may be taken. But I should like to make it quite clear that on the merits of the Bill—which will, of course, be discussed—the Government intend that the measure shall go to a Select Committee and that the matter will be there fully discussed.

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

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended in order to enable a Bill Relating to Bankers' and Insurance Companies' Licences to be taken through all its stages without due notice.

THE HON. T. J. O'SHEA: Your Excellency, I understand, first of all, that the question has been incorrectly put.

THE HON. THE COLONIAL SECRETARY: . . . to enable the Bill to be read a first and second time.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended to enable a Bill Relating to Bankers' and Insurance Companies' Licences to be read a first and second time and subsequently to be referred to a Select Committee.

THE HON. T. J. O'SHEA: I feel I must oppose this motion, Sir, even though it is not the Government's intention to rush the Bill through this present session.

I think it is most unwise on the part of Government to deprive the people of the country of the protection they enjoy under Standing Orders by this provision that Bills must be published for at least fourteen days before they are debated in the House. In connexion with taxation measures other than those for which rush tactics must be employed—such as those relating to Customs and Excise duties—I think it is essential that Government should allow the public to enjoy the protection they have been given under our Standing Rules and Orders. We have this morning disposed of two reports of Select Committees urging Government to withdraw taxation measures introduced without due consideration being given to them and I suggest, Sir, that that ought to be a lesson to Government not to adopt rush tactics in connexion with taxation measures unless there is an absolute necessity therefor. When the Bills have to deal with Customs and Excise duties I quite appreciate—everybody does—that the greatest possible despatch must be employed with measures of this nature. But, on the other hand, I think Government should recognize that it is essential to the public that they should be given an opportunity of considering whether these are desirable forms of taxation, more especially in a country like this where they have not got a proper form of government subject to the control of the people's wishes. To employ arbitrary tactics like this is unjustifiable. It is not the attitude a government, constituted such as ours is, should adopt. Recognizing that they do enjoy arbitrary powers, I think it is only right that they should give the taxpayer every chance of criticizing their intentions in advance.

The Bill it is intended to substitute proved a most unhappy one—it was so absurd that even Government itself had to agree to its withdrawal. That being so, surely, when you endeavour to substitute another Bill therefore, you should give the public an opportunity of examining these proposals afresh. It may be said that the discussion in the Select Committee will provide such an opportunity. Knowing how difficult it

is to collect public opinion in the country, I suggest that the appointment of a sub-committee and the labour that entails is not in itself sufficient, and unless Government can give an undertaking that the public will be given an opportunity to consider this measure. I shall have to oppose, not only this motion, but the Bill in its entirety at every stage.

**CAPT. THE HON. H. F. WARD:** Your Excellency, I desire to support the motion for the suspension of Standing Orders for a rather different point of view than that of the last speaker. This Bill is going to affect a considerably greater number of persons than I think is intended by Government and, as in the case of previous bills of the same sort, strong feeling and uncertainty and uneasiness will be aroused amongst those persons affected by the Bill. Therefore, in fairness to them, Sir, and in fairness to the country as a whole, it is only right that, instead of this Bill missing this session and remaining undecided for a considerable period of time, it should be taken at the earliest possible moment and those people be given an opportunity of studying its provisions and expressing their views.

**MR. COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, in supporting the motion before the House, I should like to say that on general grounds and general principles I agree with the hon. Member for Plateau South. But in this particular case I understand Government do give an undertaking that they will not rush this through and that they will give an opportunity for everybody to put up any objections they may have. It is not introducing a new principle of taxation which we have not agreed to because we did agree to this in the Select Committee on the Estimates last year, and I do feel, as the last speaker has just said, that it is fairer and a better method of giving opportunities to everyone who wishes to raise objections if this Bill is read a second time and reported to a Select Committee than if it was just published and nothing further happened for two or three months.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will call upon the Colonial Secretary to reply.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, I do not think there is very much left for me to say in view of the last two speeches. I would only repeat what I said in rushing this Bill through or of not granting whatsoever to Select Committee for people to come forward to be examined. I for my part am as jealous of the privileges of this House

as any Member opposite and I should be the last to recommend suspension of Standing Orders for purposes of rush tactics. That is not the intention of this motion.

**HIS EXCELLENCY:** The question is that Standing Rules and Orders be suspended in order to enable a Bill Relating to Bankers' and Insurance Companies' Licences to be read a first and second time and subsequently to be referred to a Select Committee.

The question was put and carried.

### FIRST READING.

**THE BANKERS' AND INSURANCE COMPANIES' LICENCES BILL.**

On motion of the hon. the Acting Attorney General the Bankers' and Insurance Companies' Licences Bill was read a first time.

### SECOND READING.

**THE BANKERS' AND INSURANCE COMPANIES' LICENCES BILL.**

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill Relating to Bankers' and Insurance Companies' Licences be read a second time.

Your Excellency, following the recommendation of the Select Committee on the Traders Licensing (Amendment) Bill, that it should be left to Government to consider the question of introducing a Bill dealing with the imposition of a graduated licence fee on insurance companies and banks, covering the activities of persons not covered in the other Bill which was referred to Select Committee, Government has decided to introduce such a Bill and to refer it for further consideration to a Select Committee of this Council. The original Bill provided for a tax on banks at the flat rate of £500 per annum in respect of the head offices and a flat rate of £25 for each branch office, and it further provided for a flat rate of £75 per annum for a licence to carry on the business of an insurance company. With regard to the definition of "bank" in the old Bill, it only included a bank coming under the provisions of the Bank Ordinance, so that the only three banks in this Colony which would be affected by the proposed tax were the three principal banks, namely, the National Bank of India, the Standard Bank of South Africa, and Barclays Bank. It is proposed in the new Bill to enlarge the definition of bank and add the definition of "business of banking." The effect will be to bring within the definition of a bank any company, person or body of persons, whether incorporated or not, who do discounting business and indulge

in other banking activities. To refer shortly again to the new definition of "business of banking", it has been found a stumbling block in England also, as it is the most difficult thing to define banking—extremely hard. Every time it has been attempted to be defined in England I think I am right in saying it has been more of less a failure. This definition, which is an extremely full one, has been taken from the Bank of India Act. It is not entirely to everybody's liking, but it is a very full one and much fuller than any such definition appearing in English legislation of a similar nature. As I say, it will be seen from the definition of "business of banking" that it is very wide indeed, and it covers, I think, all the activities which come within the purview of banking. The Select Committee had it in evidence, Sir, on the original Bill that there were at least twelve to fifteen concerns in the Colony which carried on exchange business and other banking activities, although they would not come within the scope of that Bill as drafted. The estimated yield from the tax on banks proposed in the original Bill was £2,000. The tax now proposed in the new Bill is £100 for each bank, and this should yield approximately the same sum, seeing that the estimate of twelve to fifteen other concerns is, I understand, a very conservative one. As regards the proposed tax on insurance companies, it is proposed to impose a graduated tax on persons or companies carrying on the business, and the term "insurance business" has been expanded to include all classes of insurance, and the various classes of insurance business have been defined. In the original Bill it was proposed that an insurance company should pay a flat rate of tax for a licence, irrespective of the class or classes of insurance conducted by the company. It is now suggested that the companies should pay a tax in respect of each class of insurance. Thus a company conducting all classes of insurance will pay a tax in respect of each such class, and if it conducts only a small volume of one class of insurance it will only be taxed in respect of that particular class. That is the proposal in this Bill. And it is suggested that the total fee payable by any insurance company shall not exceed a total of £50.

The original estimated yield from the tax on insurance companies if the original Bill had passed was £1,500. Under this Bill the yield will probably not be so large, but it is thought more equitable to impose a graduated tax rather than a flat rate as originally proposed.

Turning, Sir, to the Bill itself. Clause 4 provides that no insurance company shall accept any risk or issue any policy of insurance business or grant an annuity on a life, or receive any premium in the Colony, or prosecute or maintain any suit, or file any claim in insolvency relating to such business,

unless such company is licensed. Clause 5 provides that licences under the Bill shall be issued by the Treasurer in such form as the Governor may prescribe. Clause 6 contains provision for licences to be taken out yearly or half-yearly. That is very equitable, and the proposed fee for the half-yearly licence is half the fee for a yearly licence. In clause 8 is the penalty for any person securing within the Colony a proposal for insurance business on behalf of any company which is not licensed in the Colony. This clause is designed to protect the licensed insurance companies and to prevent business going overseas. Clause 9 lays down the penalty for any bank or insurance company which contravenes the provisions of this Bill.

I commend this Bill, Sir, to the favourable consideration of the hon. Members of this Council, and I beg to move its second reading on the understanding that the Bill will be referred to a Select Committee for further consideration.

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

HIS EXCELLENCY: The question is that the Bankers' and Insurance Companies' Licences Bill be read a second time.

THE HON. T. J. O'SHEA: Your Excellency, I have much pleasure in opposing the passage of this Bill. It is rather interesting to observe, Sir, that Government now goes from one extreme to the other. In the Bill that this replaces it gave such a restricted definition of banking that it would only have applied to the three principal banks in the country, when a large number of people and bodies of persons engaged in the legitimate business of banking would be excluded. Now we find that Government is going to the other extreme, that not only are people engaged in the different activities of banking in the wider sense to be taxed but we also find an attempt to include in the definition of banking the various activities that may be carried on by banks but are carried on to a greater extent by others not engaged in the usual business of banking. In consequence, the passage of the Bill in anything like its present form would impose considerable hardship upon a large number of people, inasmuch as they could not carry on their present activities of use to the public without payment of a fee that the nature of the business could not possibly enable them to pay. It is seriously suggested in this Bill that in the definition of business of banking would be covered the "buying and selling of gold and silver, whether coined or uncoined." I should like to know why it is the opinion of Government that that activity should be confined to a bank. The gold mining industry in this Colony would appear to be

in its infancy, and numbers of those engaged in it would be subjected to considerable inconvenience because Government restricted them to the bank in dealing with gold. In other parts of East African territories that is not the case, and I fail to see why it is necessary to give a monopoly of the business to the banks in Kenya. We also wish to include in the definition of banking "the receiving of deposits and keeping cash accounts on such terms as may be agreed on." Is Government not aware that in this country of extended and excessive credit it is the practice in every class of business to arrange for cash deposits, and if this is to become solely a banking operation a number of people in various classes of business will be severely handicapped. Also, Sir, it is proposed that only a banker who has paid £100 may "accept charge of plate, jewels, title deeds or other valuable goods on such terms as may be agreed on." Is Government not aware that these things are at present being done by a large class of people who cannot possibly be included in the definition of banker? and if you confine these activities to licensed bankers you are going to occasion considerable inconvenience to people. You are going to completely upset the business arrangements existing in the country since the beginning of our activities here. To enable these people to carry on occupations which they have engaged in for a period of years they will have to classify themselves as bankers and to take out licences. It is absurd, Sir. There are other provisions equally absurd, but if I were to examine them all it would take up time. I suggest that this is another specimen of Government's half-baked legislation. The Bill is not in a state in which it should be introduced into this House, and I object to the growing practice of bringing forward these half-baked measures and leaving it to the process of select committee to try and convert them into something like reasonable legislation. It is not a method that should obtain general support because it is bound to be a failure in that a select committee is not the best place in which to frame legislation.

CAPT. THE HON. H. P. WARD: Your Excellency, there are three points that I should like to mention in connexion with this Bill at this stage. The first is this. When the draft Bill was before the committee considering the amendment to the Traders Licensing Ordinance, it was not considered in any detail, and in case any impression has got about that we had considered it I think it right to make that clear, and in support to mention two points. I did mention them when we had a cursory discussion of the details, and the first indirect point (though I should probably be the last person to put it up) does seem to have the backing of considerable logic. The first definition is that of "banking",

and that is closely followed by the very comprehensive definition of the "business of banking." I understand that in the English Act, for what reason I do not know, there is no definition of the business of banking. In our own Ordinance, the Bank Ordinance, the word "bank" means "Any company, person or body of persons, whether incorporated or not, engaged in the business of banking within the Colony." In that Ordinance there is no definition of the business of banking. That Ordinance bristles with penalties for non-observance of the conditions under the Ordinance. I will quote one: "that every bank which fails to comply with the sections which entail registration with the registrar shall be liable to a penalty not exceeding £150 for every day during which it may so default." That Ordinance was passed in 1910, and if anybody has committed the folly of not registering as a banker the penalties now will amount to a very considerable figure. The position if this goes through will be that we shall bring a larger range of businesses under the term bank, because they are, within the terms of this Bill, conducting the business of a bank. I wonder what the position of the Registrar and the Government will be when taking notice of the fact that these people have not registered as bankers under the Bank Ordinance?

The second point, Sir, is a point that has been made by the hon. Member for Plateau South. I think it is fair, without going into details, to say that the larger majority of persons engaged in business in this Colony will now be considered liable, if this Bill is passed, and will have to pay a fee of £100 in respect of the fact that they conduct a very limited business in respect of it.

The third point, Sir, is the same difficulty that we were faced with before, when this Ordinance was first introduced. Is it right of Government in regard to insurance to take a fee from responsible persons—largely capitalized, and levy equal fees from their mushroom competitors that everybody knows have no standing and no capital. I think it is a point for very grave consideration for Government, whether they can do such a thing and whether, if they wish to raise taxation in this way, there should not also be combined with it some protection of the public in connexion with the organization of a fund.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I simply rise to ask a question on sub-section (g) of the definitions. Suppose an officer going home were to hand over to the Quartermaster of his Regiment his plate, jewels, title deeds, and so on. Would that be illegal or would the Quartermaster have to take out a licence.

**THE HON. F. A. BEMISTER :** Your Excellency, I think I was the one who suggested this form of adding to our revenue and I am awfully sorry that such serious criticisms of principles and details have been announced. The examination which the Select Committee held showed that it was merely on details and not at all on principle that the Bill then before the public was slightly unworkable, and I contend, Sir, that this Bill is a definite attempt to meet the wishes of those people who were most experienced, most unbiased in their evidence and who gave every possible assistance to the Committee. There was no question of any section of the witnesses wishing to get out of the proposed taxation. The only position they took up was to try to make it equitable and I am sure, Sir, that every member of that Committee will admit that the greatest assistance was given us and it was only on a technical matter—that the Bill could not come under the Traders Licensing Ordinance—that this difficulty has now arisen. The principle of the Bill was passed and this Bill I hope will go to the Select Committee. We are willing and anxious for this taxation to come in and I hope it will be on the Statute Book in record time.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT :** Your Excellency, I rise in connexion with a statement which I understood the hon. Member for Plateau South to make to the effect that Government had restricted the issue of gold by licence to banks only. That, Your Excellency, is not the case. Three banks have actually taken up gold-buying licences and a licence has also been issued to another individual.

**THE HON. THE ACTING ATTORNEY GENERAL :** Your Excellency, as this Bill is going to be referred to a Select Committee I will not detain the House long in reply. I will just answer one or two criticisms which have been made. The chief criticism of the hon. Member for Plateau South was in regard to the definition of the business of banking which he thought, was far too wide, and he gave an instance of where he thought it would be very much too wide. Well, Sir, that is a matter for consideration in Select Committee. It may be so, but I think it is better to put up a wide definition in order to give plenty of opportunity for criticism when the thing comes before Select Committee.

With regard to the remarks of the hon. Member for Nairobi North on the Bank Ordinance, that, I think is also a matter for consideration when this Bill is being considered in Select Committee. It may be necessary at the same time that this Bill passes to pass an amendment to the Bank Ordinance. That also will receive consideration. He also

emphasized his opinion that the definition of "banking" and the "business of banking" was too wide, and the same remarks apply to him as, I think, the hon. Member for Plateau South. I agree with the hon. Member for Mombasa when he says that we are trying to make this Bill an equitable one and meet the wishes as far as ever we can of the people who will be affected by it. I would not go so far as to say that they welcome the tax, but they said that if a tax were imposed it should be on these lines. The reason for this new Bill was not only a technical one but was mainly that we thought the alterations to the original Bill would be so very extensive that we ought to have a new Bill drafted in order to give hon. Members of this Council a chance of debating it on second reading.

**HIS EXCELLENCY :** The question is that a Bill Relating to Bankers' and Insurance Companies' Licences be read a second time.

The question was put and carried.

#### APPOINTMENT OF SELECT COMMITTEE.

**THE HON. THE ACTING ATTORNEY GENERAL :** I have your Excellency's permission to announce that the Select Committee will be composed of the following:—

The hon. the Treasurer.

The hon. the Director of Agriculture.

The hon. Member for Nairobi North.

The hon. Member for Nairobi South.

The hon. Member for Mombasa,

with myself as chairman.

*The Council adjourned till 10 a.m. on Monday,  
the 9th May, 1932.*

MONDAY, 9th MAY, 1932

The Council assembled at 10 a.m. on Monday, 9th May, 1932, at the Memorial Hall, Nairobi, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 6th May, 1932, were confirmed.

ORAL ANSWERS TO QUESTIONS.

SISAL BAG AND ROPE FACTORY.

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

“What steps are Government taking to encourage the establishment of a sisal bag and rope factory in the Colony?”

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): In the preliminary stages the Trade and Information Office and Agricultural Department of Government rendered assistance in procuring essential information with a view to the promotion of the manufacture of sisal bags in the Colony.

Subsequently a request was received from the persons interested for measures to safeguard the industry until it became established; this question has been referred to the Secretary of State.

DESTITUTE EX-GOVERNMENT SERVANT.

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

1. Whether a certain case of destitution was recently brought to the notice of the Colonial Secretary involving the family of an ex-Government servant?

2. Whether the reply given by the Colonial Secretary was that the individual in question had, as an act of grace, been returned from Great Britain to Kenya at his own request after receiving medical treatment for which he had proceeded from Kenya to Great Britain?

3. Whether the Colonial Secretary stated that the Government were unable to assist this family excepting to consider repatriation?

4. Whether it is the policy of the Government to decline assistance to cases of this nature other than to offer repatriation?

5. Whether it is the wish of Government that a citizen of Kenya should be repatriated in a case of this kind against his will?

**THE HON. THE COLONIAL SECRETARY:** I am sorry to have received to the effect that an ex-Government servant with a family was in straitened circumstances through having only casual employment.

2 and 3. It was stated in reply that the individual in question had been provided with a passage back to this Colony by this Government as an act of grace and at his own request; that inquiries had been made with a view to finding him employment, but without success; and that there were no vacancies in Government Service in which he could be employed. It was further stated that his name was on the books of the Unemployment Executive Committee, and that if employment could not be found for him the question of repatriation, if considered desirable, should be referred to the Treasurer.

For the information of the hon. Member, it may be added that the individual in question had been invalided from the Service, and had been given an extension of leave at home to undergo medical treatment. He had further been warned that it would be most unwise for him to return to Kenya without definite promise of employment. A passage was only granted him in view of his definite statement that he had received an assurance from relatives that there was a home for himself and his family until such time as he found employment.

With regard to the other parts of the question, in the absence of any funds for poor law relief, the policy of Government is to endeavour to secure employment for any destitute but able-bodied person who applies for assistance, and, failing that, to repatriate him to the country of his origin.

**LT.-COL. THE HON. C. G. DUBHAM:** Arising out of that answer, the doctors at home certified that man as perfectly fit to come back to Kenya.

**THE HON. THE COLONIAL SECRETARY:** So far as I remember the case, Sir, this officer was originally recommended by the Colonial Advisers at home to be invalided out of the Service, and, at Government expense, as I have stated, he was given a further extension of leave for further medical treatment. As a result of that undoubtedly his condition

improved, but at the same time he was warned very definitely at home that the Colonial Office could see no likelihood of his obtaining further employment either here or in another Colony.

### MOTIONS.

#### COMPASSIONATE PENSIONS.

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** Your Excellency, I would like to ask that Motion No. 1 in my name on the Order of the Day stand over till to-morrow, as I have not recently had an opportunity of seeing the papers. As regards Nos. 2, 3 and 4, I would ask the permission of Council to take them all together. The principle involved is the same in all three cases.

**HIS EXCELLENCY:** Does the Council agree to the withdrawal of the first motion of the hon. the Treasurer until to-morrow and the taking of the other three together?

**THE HON. P. J. O'SHEA:** May I suggest that all four be taken together.

**THE HON. THE COLONIAL SECRETARY:** The only objection to taking the first one now is that I understand my hon. friend the Treasurer is not fully briefed this morning.

**HIS EXCELLENCY:** Then I take it the wish of Council is that we postpone the first motion till to-morrow, and that Nos. 2, 3 and 4 should be taken together to-day.

**THE HON. THE TREASURER:** Your Excellency, I beg to move the three motions, Nos. 2, 3 and 4, standing in my name on the Order of the Day:—

"(2) In consideration of Master Tailor D. Nazareth's 28 years and 8 days' satisfactory service in the King's African Rifles, this Council is pleased to grant him a special pension at the rate of Sh. 2,251/20 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable establishment of the Colony), with effect from the date of his retirement, viz., the 5th of May, 1932, inclusive, instead of a gratuity of Sh. 2,507/54 (calculated at the rate of one week's salary for each year of service), to which he is strictly entitled under the Regulations."

"(3) In consideration of Sub-Foreman Kaloo Jiwa's 26 years, 7 months and 19 days' satisfactory service in the Public Works Department, this Council is pleased to grant him a pension at the rate of Sh. 2,792/40 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable

establishment of the Colony), with effect from the date of his retirement, viz., the 16th June, 1932, inclusive, instead of a gratuity of Sh. 3,222 (calculated at the rate of one week's salary, for each year of service), to which he is strictly entitled under the Regulations."

"(4) In consideration of Sub-Foreman Dungar Ramji's 18 years, 4 months and 12 days' satisfactory service in the Public Works Department, this Council is pleased to grant him a pension at the rate of Sh. 1,447/20 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable establishment of the Colony), with effect from the date of his retirement, viz., the 22nd June, 1931, inclusive, instead of a gratuity of Sh. 1,663/81 (calculated at the rate of one week's salary for each year of service), to which he is strictly entitled under the Regulations."

The bald facts in each case are set out in the motions, and it hardly seems necessary therefore to recite them, but I should like very shortly to review the history that lies behind these cases.

Prior to 1925, Sir, it had been felt for some time that the gratuity and pensions regulations as affecting certain classes of Asian servants were unsatisfactory, in that they did not offer sufficient reward to a valuable class of servant—to be likened somewhat to the engineer petty officer in the Navy, or the non-commissioned officers of the Royal Engineers and the Army Service Corps. Up to 1925, pensionable status was confined to the clerical grades of Asians.

In 1925, Sir, a committee was set up, of which the Postmaster General was chairman, to deal with this and other intricate matters, and that committee recommended that some thirty-nine posts of this class should be given pensionable status personally to the officers then occupying those posts. It has been, I think, generally understood that the intention of Government was to implement the recommendations of that committee, but at the same time it was considered necessary to put the matter of pensions for Asians on a much more satisfactory and definite footing than had been the case up to that date, and it was proposed therefore to introduce a Bill providing for the definite and more satisfactory basis of pensions for Asians, including provision for certain ranks outside the clerical grades. Unfortunately, Sir, it was found necessary, or desirable at least, that the same legislation should be introduced in all the East African territories at about the same time, and this involved years of correspondence between the different Colonies and also with the Secretary of State, and it is only now that the Government is in a position to present to the Council this pensions Bill for Asians, which has already

been published, and will be introduced to Council either at this or the next session. Once that Bill is passed, Sir, there will be no more recommendations of this kind to bring before Council.

I have had to bring before Council motions of this kind before. There were, I think, about 38 or 39 Asian officials who had been to all intents and purposes promised this status. There are left, I think, about 27 of them.

Of the three cases now before Council, the first, Mr. D. Nazareth, is over 55 years of age, and wishes to retire after 28 years' service. The other two have done 27 years and 18 years' service respectively. In every case in which this type of officer has been retired since 1925 I think pensions have been granted by this Council.

The pensions in these cases are not large. In the case of Nazareth, it is £112 per annum after 28 years' service; in the case of Kaloo Jiva, it is £139 after 27 years' service; and, in the case of Dungar Ramji, £72 after 18 years' service.

The point will probably be taken, Sir, as to the disparity between the amount of the actual pension and the gratuity to which these officers are normally entitled. To that point I can only reply, Sir, that the disparity is the measure of the difference between what the Government regards as deserts and our present economic obligations. The reasons Government has brought the cases of these three officers forward are first, long and meritorious service, and second, the promise which has been held out to these men ever since 1925 that they will receive the treatment that is provided for in the Regulations. If I cannot appeal to the sentiment and the hearts of hon. Members opposite, I would appeal to their minds by way of equity to give these motions favourable consideration. These are the last of this particular kind to come before Council.

**THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BRUCE):** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that these three motions be approved.

**MR. COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, as we have done on every other occasion previously when such motions have come up, I must oppose this motion, when such motions are entirely wrong at a time like this, when I do consider it is entirely wrong at a time like this, when we are in a very difficult financial position—when we have obviously got to cut down the commitments of this Colony—with regard to the charges for the government of this Colony—that we should, for the matter of sentiment, I think, was the

phrase used by the hon. mover just now, increase our commitments in this way. If you take this on a fifteen years' basis you increase the commitments of the country by £4,500 in respect of these three gentlemen. It is no good, I think, going through all the old arguments. We have always felt very strongly on this side that these people were engaged on very definite terms. These terms have been complied with, and I cannot see that they have any call for any sentimental extra consideration, which is going to cost the country large sums of money.

It does seem a little strange to me, Sir, that my hon. friend the Treasurer, who should be the chief watchdog on any unnecessary expenditure in the country, should be the person to bring before this House such a motion. I regret I must oppose it.

LT.-COL. THE HON. C. G. DEBILAM: Your Excellency, if it was a question of sentiment, I certainly would have voted, anyhow for one of these men, a man who served very faithfully with me for a number of years. But the point I would like to raise, Sir, is this: why it is that the unfortunate Treasurer always has to defend cases like this instead of the Head of the Department, who could speak for the people serving in that particular Department? It seems that Government always waits till the man is due to go and a halo is then cast round the man for a pension which he has never earned. Two or three years ago we were told by the then Treasurer that we need not anticipate any more than two or three more of this sort of pension coming up. We are told now that we can anticipate another twenty-seven. Now, Sir, we are told that this only means a small amount of money. Actually, it amounts to £323 a year on the three pensions asked for. After all, when these people joined up they definitely understood that there was no question of a pension at the end of their service. Why then does Government insist that they should have one now. If these people had not done decent work they should have been put out of the Service. After all, they have had extraordinarily good conditions in which to work—house allowance, leave conditions—everything in their favour to enable them to set aside money on which they can retire at the end of their period of work. But every time one of these particular people gives up, Government in its generosity votes them a pension. Sir, on principle I am voting against it; but on the question of sentiment I would have been perfectly inclined to vote for it—at any rate, for one man.

THE HON. T. J. O'SHEA: Your Excellency, my sympathies are with the hon. mover of this motion, because in his position I cannot imagine his feeling otherwise than as we do about these repeated appeals to our generosity. It is all

very well for him to appeal to our generosity, but surely it is an invitation to us to be generous with other people's money largely. If these votes came out of our own pockets it is just possible that our sentiment might be stimulated, but as we are here in the positions of guardians of the taxpayers' money I do not see that we can very well give way to a desire to be generous with what is not ours.

I cannot see that any arguments brought forward in favour of these gratuities and pensions cannot be brought forward in favour of a very much larger number of people, and if we are to accept the point of view adopted by Government, that we cannot but regard every man and woman who has served this State over a period of years as entitled to a pension, whether that pension is provided for in their contract or not, we must remember that the number of people in that position in the service of the Government is very large. I cannot see that these people have any claim whatsoever upon the State to do more for them than has already been done. They have had continuous employment for practically the whole effective period of their life in this country. They have been paid for those services on a very generous scale. Indeed, I would ask the hon. mover in his reply to let us know what were the salaries and the initial privileges of these people, and I would invite him to make a comparison between those emoluments and the money that they would have been likely to receive had they not been working for the State.

For a tailor to be in continuous employment for twenty-eight years on a generous scale of allowances in a state of affairs on which he can well congratulate himself. And then to come and ask for a pension in addition—a pension to which he is not entitled—is, I think, making too big a strain on our generosity with other people's money.

The hon. mover has mentioned that these pensions are not large. He probably has in mind the very generous amount of pensions which have been enjoyed from time to time by others for past services. But if he would make a comparison between the money that these men might have earned in the country of their origin, then I suggest they are on a very generous scale. £112 or £140 a year is, outside Africa perhaps, regarded as a very generous pension, and I should have thought that for people in the circumstances of these persons they were very generous pensions indeed, and more than adequate to meet their requirements.

With regret I oppose these motions, as I shall all others which come up for the same treatment.



As regards their conditions of service, these sub-foremen were entitled to the same privileges as other members of the Asian staff. They get a passage to India after four years' service, and a certain amount of leave, but they very seldom take their passages. As far as I know, these are all the privileges.

With regard to the remarks of the hon. Member for Nairobi North, I think my words were, "the hope, if not the promise." However, I will try to find out about that. There is no record of any promise given them, but there is not the slightest doubt that these men have expected it for years past.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, I believe I am in order in moving to report progress, and I would earnestly ask Your Excellency to allow progress to be reported in order that Government might reconsider this matter. In view of what the Treasurer has said—that he was speaking for Government and not as Treasurer—and the united opposition on this side of the House, I would ask Your Excellency to report progress, even if it is only for forty-eight hours.

**HIS EXCELLENCY:** Does anybody second that?

**THE HON. CONWAY HARVEY:** Your Excellency, I beg leave to second.

**HIS EXCELLENCY:** If hon. Members will allow me, I will postpone this until after the adjournment, until I have had time to consult my advisers.

#### NATIVE AFFAIRS DEPARTMENT CIRCULAR NO. 34.

**CAPT. THE HON. H. F. WARD** having moved:—

"That in the opinion of this Council, Native Affairs Department Circular No. 34 does not represent the full measure of executive action that is required in order to achieve the objects in view, and that the action called for in the Circular is ill-fitted towards any immediate improvement in the development of the native reserves."

**THE HON. CONWAY HARVEY** having seconded:

Progress was reported on 11th December, 1931.

**CAPT. THE HON. H. F. WARD:** Your Excellency, as the mover of this motion, I beg leave to ask permission to withdraw it on one ground only: that is, the subject covered by this resolution is now so largely a matter *sub judice* that it is hardly courteous to ask for an expression of opinion at this stage. I therefore beg leave to withdraw the motion.

**HIS EXCELLENCY:** The question is that leave be granted to withdraw this motion.

The motion was by leave withdrawn.

#### RECONSTITUTION OF THE BOARD OF AGRICULTURE.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, I beg leave to move the following motion:—

"That this Council expresses its profound regret at the decision of the Secretary of State for the Colonies to reconstitute the Board of Agriculture with an official instead of an unofficial chairman, and further expresses surprise at the method of appointment of the reconstituted personnel."

Your Excellency, in proposing this resolution I do not intend to dilate at any length on the treatment which was accorded the late chairman of the Board of Agriculture by this Government, except to say that whether the discountenance meted out to him was intentional or not, it was such that I feel it only right to say this Colony will not forget it for a long time to come. I leave it at that, Sir. In your speech, made I think in February at Nakuru, you informed the country that the whole question as to whether there should be an unofficial or official chairman of the Board of Agriculture was at present awaiting the decision of the Secretary of State for the Colonies, and you expressed the hope that whatever that decision would be that it would be loyally accepted by both sides to the controversy. If by that Your Excellency meant that should the decision be as it has turned out to be, adverse to the wishes of the vast majority of this Colony, that you hoped they would not boycott any reconstituted Board and put obstacles in the way of its proper functioning, then, speaking for myself and at all events for the majority of my colleagues, I am prepared to say that we will give loyal acceptance to that decision, and that we will do our best to see that the new Board, much as we dislike it, has a fair chance of operating to the benefit of everyone in this Colony. I can assure Your Excellency that there is no intention on our part to, shall I say, cry over spilt milk, but it is our intention to do everything we can to make the Board as great a success as it can be. But I think Your Excellency would be the first to look upon us as poor and mean spirited if we did not protest at what we believe to be a conspiracy of bureaucracy to do away with the closer association which the unofficial element of the Colony had achieved by the appointment of one of their number as chairman of the Board of Agriculture.



(3) "The Director, the Deputy Director or Directors, and such heads of branches as may be desired, shall attend the meetings, but shall not be members of the Board." Again the present Board is a flat contradiction to this proposal.

(4) "The members should be nominated by the Governor after consultation with the Unofficial Members of the Legislative Council." The members of this Board have been appointed without consultation with anyone, without consultation with either the Executive of the Government or the Unofficial Members or any other body at all, and that is what the second part of my resolution refers to.

Your Excellency, I suggest that to reconstitute the Board in such a way, in direct contradiction and contradistinction to every single recommendation of the Agricultural Commission set up by Government, was a most inequitable act on the part of Government. I am not for one moment finding fault or in any way referring to the actual personnel of the new Board which appeared in to-day's paper. My point—our point is that, in view of that definite recommendation, and as a matter of courtesy at least, before the personnel was appointed or the invitations sent out to them, some consultation with the Unofficial Members of the Council was advisable and was just.

Now, Sir, it may be said: "You have a larger unofficial majority on the Board, and any member can bring in any subject he chooses." But the point about the unofficial chairman, as opposed to the official chairman, is that, leaving all other things aside, the appointment of an unofficial chairman of that Board was a definite advance in the closer association of the unofficials of the Colony with Government. No one can deny that was so, and a great point was made of it by the Secretary of State for the Colonies when asking questions of the Settlers' Deputation who went home from this Colony to the Joint Committee on East Africa. Lord Passfield was most insistent with regard to the Board of Agriculture. He was arguing that there had been a great deal closer association in the last few years, a great advance in that association, by the unofficial people of this Colony, and he said to me: "I mean, you are more closely associated with the trusteeship in respect of land than you were before?" To which I answered, "With great respect to your Lordship, we cannot accept that. In 1920, when we were granted elective representation, that was a definite advance in sharing in any trusteeship, which advance since then," Lord Passfield went on to talk about agriculture: "With regard to agriculture, within the last year, or about a year ago, an Agricultural Board was appointed on the suggestion of the Governor, and that Board

had, as part of its functions, the safeguarding and promotion of the native interests in agriculture, and that was handed over to a very large proportion of settlers and unofficial members, was it not?" My answer was: "Yes, and what is the position? I am prepared to agree that the setting up of the Board of Agriculture with an unofficial chairman—a gentleman who is present here to-day, Mr. Harper—was an example, and I think probably the only example, of a definite advance. It was an advance; I will admit that." Lord Passfield then asked: "It was closer association?" To which I answered: "In that case it was a closer association, but that was a result of the recommendations of Sir Daniel Hall, as a result of his visit to East Africa. I do not know whether your Lordship is aware—you may, or may not be: the despatch may not have reached you—that there are very determined efforts being made in Kenya to abolish the Board of Agriculture, and it is for that reason that we very much welcome the statement which we saw that your Lordship had made when examining Sir Edward Grigg, when, I think, your words were: 'Perhaps you have builded better than you knew. I look upon the Board of Agriculture as part of the Constitution of the Colony.' We were all extremely gratified, if I may say so, upon seeing that, because determined efforts are being made in Kenya to-day—I do not say by the Governor, because he is new, and he is holding his hand and waiting for advice; but determined efforts are being made to abolish the Board of Agriculture, and it has actually been closed down until the chairman, Mr. Harper, gets back, when the whole subject is to come up for reconsideration. But there are influences and opinion then. Those words I spoke were absolutely true, and although I naturally cannot hope that this motion will be passed to-day—because presumably the hon. Members on the other side will not be able to exercise their consciences, only their voices—I would ask the hon. the Colonial Secretary and anyone else who speaks on behalf of Government not to treat this resolution lightly, but to realize that we on this side of the House and the people we represent have no knowledge and never have been told why all this change has been made and what is the reason of it. If a good answer can be given and a satisfactory answer, presumably we who can vote as well as in earnestness, and say that unless a satisfactory answer can be given the whole attitude of Government and the whole history of this thing is a conspiracy by bureaucracy.

THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second the motion.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion before the House. It is very difficult following the hon. Member for Nairobi South, as he has quoted numerous references; and as I do not wish to reiterate them I can just state my own opinion. The resolution states "that this Council expresses its profound regret at the decision of the Secretary of State," etc., but in case this Council does not express that regret, I would like to express that regret on behalf of myself and of the country which I represent. In the first place, the Board of Agriculture came into being as a definite recommendation of the Agricultural Commission. Every reason advanced by the Agricultural Commission for the setting up of this Board has now been wiped away, and I see no reason for its continuance under its proposed constitution at the moment. It was originally a non-political body, and I think I can say definitely that it is now constituted on a political basis. It has an official chairman instead of an unofficial chairman.

It was set up for many reasons, and one was to do certain work that was not being done by the Agricultural Department and by the Director of Agriculture. In a measure, it was a Board to overlook the position, and do those things that were not being done, and I ask this House, how can they expect a Board that has as its official chairman the Director of Education—

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. STORT): I beg your pardon.

LT.-COL. THE HON. J. G. KIRKWOOD:—the Director of Agriculture—how can a Board so constituted, with the Director of Agriculture as its chairman, function satisfactorily? The only logical conclusion one can come to is that the Board now, with the Director of Agriculture as its chairman, will advise the Director of Agriculture. I submit that, if the Agricultural Department would function as we hoped it would, and as it ought to function, there would be no occasion for this Board at all. If the Board is coming into being, why should the Director of Agriculture be its chairman to advise himself? Its numerical strength also, some twenty or twenty-one, is unworkable. It is expensive in point of numbers, although I believe the proposed Board will be less expensive probably than the old Board. The number suggested by the Agricultural Commission is nine—now we are going up to something like twenty-one. I think a Board with that number will be futile.

I also take exception to the fact that members of the Board have been nominated without this side of the House being consulted; neither, I have also been informed, has the

executive authority of this country been consulted. It rather looks like really the nominations of the Director of Agriculture. For these reasons, Your Excellency, I am very strongly opposed to the form of this Board at all, and I shall take any opportunity in the future to oppose any financial authority being given to the Board under its present constitution.

MAJOR THE HON. J. O. K. DELAP: While rising to support the motion before the House, I may perhaps be allowed to make a few remarks as a newcomer to this Council, and as one who has had some opportunity lately of testing the feeling of the country. Your Excellency, as you are aware, I have been holding meetings over a large constituency recently, and so I claim to know to some extent the feeling of the country in this matter.

Now, Sir, knowing the feeling as I do, I must deplore the constitution of the Board as suggested. I feel, Sir, that the electorate generally will feel that it does not in the least represent the kind of body which the country is asking for. Of course, everyone believed that owing to Sir Daniel Hall's recommendations the Board would be continued with an unofficial chairman. That is one of the principal sources of disappointment. Again, Sir, I have heard the opinion expressed many a time that we do not want a large Board, and that we do not want an expensive Board. It seems to me, Sir, that twenty-one members will have to meet very often, and the expense of this at a time such as the present, when money is so scarce, would need to have a very good case to justify it; and when we consider what the Board is going to achieve it seems to me that the expense of the Board as reconstituted might perhaps hardly be justified.

Now, Sir, for the sake of co-operation it might possibly be that the country would have accepted it. Of course, they will have to accept it, but I mean they might possibly have accepted with good grace the appointment of an official chairman, supposing that the Board to work under him had been truly representative of the industries which are to be represented on that Board. By that I mean that, if the members of this Board could feel, acting as members of it, that they had the support of the industries they represent, the case they would put up to their chairman, and later to the Director of Agriculture, would be very much stronger.

Now, Sir, as other speakers have emphasized, I have no quarrel with the actual personnel. The only thing I would say about it is that they have, I believe, not been put up by the various organizations responsible for the looking after of the various industries which are to be represented.

Even if this were so, I maintain that the Legislative Council as a whole ought to have been consulted in setting up these appointments. But, Sir, my main point is this: that at present, when it is so necessary to obtain the co-operation of the country at large for dealing with the much more pressing problems with which we shall have to deal, we should obtain the co-operation of the people in general, and, Sir, if the appointment of this Board is looked upon as a concession on the kind of lines laid down by Sir Daniel Hall, then, Sir, it reminds me of the words: "If a child asks for bread, will you give him a stone?" The stone, Sir, will not be accepted gladly, whereas the bread would have been.

I maintain that this is an opportunity missed for a gesture on the part of Government which would have been very opportune. No doubt the only desire of Elected Members—I can only speak for myself, of course, but the only reason why your active opposition is not offered is the expressed wish on our side of the House to co-operate in every way with Government. I wish personally to register my disapproval, and my belief in the likelihood that the Board as at present constituted will be ineffective. I can only hope that it will be regarded as experimental, and that as soon as its ineffectiveness has been proved, as I anticipate will be the case, it will be dropped. I hope Government will not hesitate to abandon it if it seems necessary to do so. On these grounds, Sir, I beg to support the motion.

THE HON. F. A. BRISTON: Your Excellency, I feel in a very definite difficulty with regard to this motion, because with the major part of it my constituency agrees, but with the objection to the appointment of an official chairman we entirely disagree. The reasoning at Mombasa—and, I think, at the Coast—is that the Board of Agriculture does not necessarily mean anything to do with assistance to agriculture, and it has been held at the Coast that the title of the Director of Agriculture would be better expressed and better understood if it were termed the "Director of the Agricultural Department." We consider that the Agricultural Department has assisted agriculture in just about the same manner as the devil would help a converted sinner. The history of the activities of the Agricultural Department

HIS EXCELLENCY: Is the hon. Member speaking strictly to the motion? He is rather ranging over a wide subject—the whole of the Agricultural Department.

THE HON. F. A. BRISTON: I wanted to try and emphasize, Sir, why we agree with the appointment of the Director of Agriculture as chairman of this Board, because it

is absolutely necessary to bring into actual connexion the advice which the executive authority gives to the Director of Agriculture; and, Sir, we hold that unless that is done we shall get no relief whatsoever at the Coast. I notice that for our industries at the Coast you have made an advisory body, but, Sir, I do think that with the great questions of agriculture at the Coast there should be a more definite cohesion between such bodies. In every case, Sir, we can show that our agriculture has been neglected, and it is for that reason that we want to force the joint working of this Board with the Director of Agriculture, making it one with the executive government of the Colony.

CAPT. THE HON. H. F. WARD: Your Excellency, I wish to support this resolution, and in speaking to the first part to support everything that was said by the hon. mover of the motion. I should like also to support the previous speakers who have spoken on the ground of expense, and in that regard to say that I feel that the expenditure which is now provided for will have to again be taken into very careful consideration in the Budget for 1933 by this House.

Sir, I wish to emphasize a point that comes under the second part of the resolution, which has not yet hitherto been referred to. Your Excellency, in your speech at the opening of Council, said there two most important problems to be referred to this Board—one of those problems was the marketing of native produce. I must detain the House very briefly with a history of the subject in order to show. I hope conclusively, that the Board of Agriculture is not the right body to take that matter in hand; alternatively, it would have been courteous for Government to have consulted with those who have struggled with the subject during the last nine years. The earliest record I find on this side of the House is the 15th December, 1923, when a memorandum was submitted to Government on the marketing of produce from the native reserves. That memorandum is extremely interesting to-day, nearly nine years later, because the same issues and suggestions still remain unsolved by Government and will remain a leading issue in the whole of that rather complex problem. In 1926 or 1927 the Unofficial Members raised in Select Committee the question of the marketing of native produce, and it was agreed that the subject should be closely considered by Government and a report made the following year. In 1927 or 1928 it was again raised by the Unofficial Members, and the subject was postponed in order that the matter should be looked into. Several days later it was found that this highly important subject had been referred to a committee considering the question of the conditioning of hides, under the chairmanship, I believe, of the hon. the Director of Agriculture.

Sir, I think hon. Members felt then that the demon was already at work and had done a certain amount, because the subject had been very successfully strangled. The next landmark in the history of marketing in native reserves was in 1930, when the hon. the General Manager in his Budget speech

HIS EXCELLENCY: Is the hon. Member speaking to the motion? The motion is "That this Council expresses its profound regret at the decision of the Secretary of State to reconstitute the Board of Agriculture with an official instead of an unofficial chairman, and further expresses surprise at the method of appointment of the reconstituted personnel." Is what the hon. Member saying strictly relevant? I am not quite sure what the hon. Member is leading up to.

CAPT. THE HON. H. F. WARD: The reference of the marketing of native produce to the Board.

HIS EXCELLENCY: That is not part of the motion.

CAPT. THE HON. H. F. WARD: Then I beg leave to move an amendment, Sir, that the following words be added to the motion: "And with the subjects to be referred."

HIS EXCELLENCY: Will the hon. Member write down his amendment?

Has the motion been seconded.

CAPT. THE HON. H. F. WARD: Your Excellency, I beg to propose it.

HIS EXCELLENCY: That at the end of the original motion be added "and with the subjects to be referred."

CAPT. THE HON. H. F. WARD: I submit to your ruling that I am entitled to introduce my amendment in my speech.

HIS EXCELLENCY: It must be proposed and seconded, according to the Standing Orders, in the usual way.

CAPT. THE HON. H. F. WARD: After I, as the proposer, have put forward my arguments in support; that is the procedure, Sir.

HIS EXCELLENCY: To give the time to look up the point, I propose to adjourn the Council now.

*The Council adjourned for the usual interval.*

*On resuming.*

DEATH OF THE PRESIDENT OF THE FRENCH REPUBLIC.

HIS EXCELLENCY: I feel it will be the wish of the Council that some notice should be taken of the terrible news that we have heard this morning of the assassination of the President of the French Republic. I propose, with your permission, that a motion should be introduced at once by the hon. the Colonial Secretary, which I understand the hon. Member for Rift Valley will second, and that we should accept it by standing.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that Standing Orders be suspended for the purpose of taking the following motion without due notice:—

"That this Council desires to express its sincere sympathy with the Government and people of the French Republic in the irreparable loss which they have sustained through the untimely death of their distinguished President, M. Doumer."

THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that Standing Orders be suspended for the purpose of taking this motion without due notice.

The question was put and carried.

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

"That this Council desires to express its sincere sympathy with the Government and people of the French Republic in the irreparable loss which they have sustained through the untimely death of their distinguished President, M. Doumer."

THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

"That this Council desires to express its sincere sympathy with the Government and people of the French Republic in the irreparable loss which they have sustained through the untimely death of their distinguished President, M. Doumer."

The question was put and carried, hon. Members standing.

### RECONSTITUTION OF BOARD OF AGRICULTURE.

**CAPT. THE HON. H. F. WAIRD:** Your Excellency, on reconsideration I would accept your ruling that my remarks were out of order, and I shall not press the amendment, which I have not had time properly to consider myself or to put before my fellow Members. The point I wish to make is that there is a very large number of persons who for a long period of years have been interested in this particular subject which is to be referred to the Board of Agriculture, and that these persons have gone to very considerable trouble to draw up and make suggestions to Government for arriving at some satisfactory solution. In saying that, I am speaking on the broad point only of machinery, and so on and so forth, and I do not wish to minimise in any way anything that has been done—and a lot has been done recently—by the Department of Agriculture. But I still feel, Sir, that those interested should have been consulted, because I still feel that the machinery is wrong. The Association of Chambers of Commerce at their last session at Jinja passed a resolution on this subject, and the Nairobi Chamber of Commerce quite recently proposed and passed a similar resolution; the Chambers of Commerce have submitted memoranda; the Chambers of Commerce have instructed the Association of Chambers in general meeting to the Governor and the Governors' Conference. I do feel, Sir, that if such an important subject be referred to the Board of Agriculture, those interested and those who have worked at it should at least be consulted.

The Elected Members' organization has not been asked to make any suggestions as to the personnel of this Board. As far as I am aware, the Associated Chambers have not; certainly the Nairobi Chamber of Commerce has not; and individuals who have taken great interest in it have not either.—It would be interesting to learn, Sir, whether the hon. the reverend gentleman who represents native interests in this House has been consulted in regard to what is one of the main problems in the matter of progress in the native reserves.

**LT.-COL. THE HON. C. G. DUNHAM:** Your Excellency, so much of the ground has been covered that I have no intention of boring or delaying the House for more than a minute, that, although Your Excellency at Nakuru said you were willing to co-operate and to extend the hand of co-operation to Elected Members, and others in this country, I am sorry that I can see nothing but an entire lack of such co-operation in the appointment of the Board of Agriculture. Sir, I oppose the appointment as chairman of the Director of Agriculture. With the greatest goodwill in the world, Sir, when it comes

to any decision at all on that Board he must be biased in his position as Director against that of chairman of the Board of Agriculture. For that definite reason, Sir, I oppose it.

Very possibly the new Board will function well if it confines itself to small committees, as suggested in this morning's paper, and it may have a good effect. One understands, of course, that they will probably not call together a matter of twenty-one or twenty-three members to sit on the Board in Nairobi more than once or twice a year perhaps, and if the Board will confine its activities to the smaller committees in the districts particularly concerned, say, wheat, maize, and so on, it may be, as I hope it will, that the country may save an amount of money. If it can be proved to my satisfaction that the cost will be no more to the country, I personally should have no objection to the size of the Board. With the personnel I have no objection at all, except that I definitely oppose the appointment of an official as chairman of the Board. I support the motion, Sir.

**MARSHAL THE HON. R. W. B. ROBERTSON-EL-FAR:** Your Excellency, I do not propose to vote on this motion. I agree with one part of it and disagree with another. This is not the time to discuss Coast agriculture, in which I am deeply interested, but I cannot help feeling that, until Coast agriculture is seriously undertaken by those responsible, the appointment of a new Board—to which, however, I will give my utmost support—will be of little more use than the old one was.

**THE HON. THE COLONIAL SECRETARY:** In dealing with this motion, Sir, it seems to me that we have got to get down to the root of the motion and the feelings that have caused it to be put on the Order Paper to-day. What I mean to say is this: I should like to get it clear as to whether this motion—which, in effect, one may regard as a vote of censure on the action of Government—has been put forward on the ground that the reconstitution of the Board of Agriculture is a retrograde step in the constitutional development of this Colony, or whether it is believed by hon. Members opposite, and by the bulk of the people of this Colony, that the Board which it is now proposed to appoint will not function better, more cheaply and more efficiently in the interests of the agricultural interests of the Colony as a whole, quite apart from all political considerations.

The view, Sir, of this Government is that in reconstituting this Board they were inspired with a real desire to assist agriculture and to make this advisory board function in the most useful manner possible; and in taking that step they have not considered the constitutional—if it can be so called—

aspect of the matter at all. I do not propose, Sir, to go into that side of the question in my reply, but in view of the engaging manner in which the hon. Member for Nairobi South has referred to the hon. the Director of Agriculture and myself as two conspirators, I feel perhaps that I should say just a word on that point. I have some diffidence in dealing with the question of conspiracy because the hon. Member who moved this motion, from his lean and hungry look, is no doubt an authority on the subject. But at the same time I would like at once to say that the suggestion that there has been any conspiracy, either on the part of the Department of Agriculture or myself, not to give the former Board a free run for its money is quite ill-founded. I understand from the Director of Agriculture that the relations between members of the Board and members of the Department were always most cordial. At the same time, it would be idle to pretend that there were not differences of opinion, right from the start of that Board, on matters of procedure. One point in particular arose at an early stage of the proceedings, and that was as to whether the proceedings of the Board should be immediately published or whether, as recommended in the Report of the Agricultural Commission itself, those proceedings should be regarded as confidential. On that question I think I may say with confidence that the late Governor, who has been styled the fair godmother of this Board, was more adamant than anyone, his point being that, as quite clearly laid down in the Agricultural Commission's Report, the functions of this Board were not executive, in that they were advisory to Government. In paragraph 14 the words are used: "formation of a Council or Board which would meet at regular intervals, advise Government and the Director of the needs of the industry, and act in the further capacity of advising upon general development." Government had no desire whatsoever to muzzle the Board, particularly at a period when they were dealing with matters of great interest to this Colony, when our primary industries were depressed; but at the same time it was essential that time should be given for the consideration of those proposals before they were actually delivered to the Press. In certain instances, speaking now from memory, that proved a wise precaution, which I think the chairman of the Board himself probably welcomed, as I remember one set of his figures had to be very considerably revised as a result of departmental scrutiny.

So much for that side of the picture. Further, Sir, it may or may not be within the knowledge of hon. Members opposite, but it is the case—and I feel in making this announcement I may do so without breach of confidence; the despatches in question are open ones—but the Secretary of

State as early as the 7th June, 1930, expressed certain concern over the formation of the Board, particularly on the question as to how far the interests of native agriculture were being sufficiently provided for. So keenly did he feel on this subject that he took the opportunity of discussing the question with Sir Daniel Hall in London, and Sir Daniel Hall's opinion was that he did not consider that the need for more consideration in native agriculture would be met by the addition to the Board of representatives of native interests or of the natives themselves. He pointed out that in such a mixed Board the native side might easily be swamped. Moreover, the problems of native agriculture are less technical than administrative, social and educational; and he suggested as an alternative an *ad hoc* Board to deal with native agriculture. The Secretary of State, however, was not in favour of a separate Board, for the reason that I feel sure will appeal to hon. Members opposite, that we have always taken the stand here that if the dual policy means anything it means the best development of the Colony as a whole in the interests of all races, and that it would be a mistake to suggest, by the separation of European and native agriculture in that manner, that there was any real clash of interests. That was the position in July or August as far as this Government was concerned, and it was a matter which was exercising the very serious consideration of our late Governor as to the best course which should be adopted. He left this Colony without making a final decision on the subject.

In the meantime, as hon. Members are aware, the Board of Agriculture, quite properly, were engaged in exhaustive investigations on subjects such as the sisal industry, the coffee industry, and so forth. The Board therefore was carrying on and doing useful work. Until that work had been completed and the question of the Board's life at the end of the year had been taken into consideration, I, for my part, Sir, felt—I may have been wrong, but I make no apology for it—that an important matter of this nature was not one on which an officer who was merely administering the Government should take a decision, and the matter was left over until your arrival, Sir. So much for the conspiracy and the poison.

As regards the constitutional aspect, Sir, I do not wish to labour the point, but hon. Members who have sat in this House longer than I have will probably remember quite well the origin of the Agricultural Commission itself. It arose as a result of a series of debates on the 1928 Estimates, in which a certain amount of criticism was levelled against the Department of Agriculture, and also anxiously expressed as to the state of our agricultural industries. The terms of reference were finally drawn up for an open Commission, which had no

reference whatsoever to the political aspect of the question at all. Those terms of reference were agreed (and passed by a resolution of this Council) by the late Lord Delamere, who, in speaking to the resolution, made it perfectly clear that for his part he was casting no aspersions on the Department and that he was asking for a comprehensive inquiry into our agricultural industries. Those terms of reference are substantially the same as given to the Agricultural Commission. For reasons which I do not propose to go into in detail, the original constitution of that Commission—of which I, as a newcomer, was originally to have been chairman—was altered. Sir Daniel Hall was appointed to take charge, and, as hon. Members know from the Report of the Agricultural Commission, the question of a Minister of Agriculture, and so forth, was not strictly within the terms of reference at all, and was only allowed to be discussed by arrangement with and by the courtesy of the chairman.

The hon. Member who moved this resolution has suggested that the elimination of an unofficial chairman was definitely retrograde so far as the constitutional development of this Colony was concerned. On that he has quoted certain proceedings from the Joint Committee, at which he was present and on which I am naturally not in the same position to speak as he is—I have only had the opportunity of looking at the printed debate, but on that very point he has quoted, in the passage which passed between himself and the late Secretary of State—which is of course entirely correct—there is a rather singular passage between the Secretary of State and Sir Edward Grigg on this very point. Sir Edward Grigg—who, I would repeat, has been suggested as being the fairly godmother of this Board in which the Director and myself have played the minor part of demons—said before the Joint Committee: "I would never have agreed to the appointment of the Board of Agriculture if I had thought that it was going to interfere in any way with the ordinary work of the constitutional organs of the Colony. It is certainly entirely outside that."

That is the opinion of the fairly godmother, and, having been in close association with him at the time this Board was functioning, I can say quite clearly that that also was his view.

I hope, Sir, that I have disposed of the suggestion that there is anything in the nature of a constitutional setback in comes the practical question as to whether or not the Board, re-constituted as now, with the Director of Agriculture as chairman, is likely to be more effective than the Board as previously constituted. On that point, I have no doubt the Director

will be able to give more detailed information than I can. There is, however, one matter which I believe is fundamental to the Board as it is now proposed to form it. It seems that it will allow for a greater liaison between the various committees, such as the Stockowners Conference, the Coffee Consulting Committee, and so forth, than was possible before, and will stop overlapping in such committees, because much of the work done by them will now, as I understand it, be performed by this Board, which will be fully representative of those interests.

There is, Sir, the further point of the question of expense. That is one of the reasons, Sir, that you have suggested this change. It is believed that, so far from the present constitution of the Board proving more expensive than the last, that in point of fact it will prove to be considerably more economical, for the very reason that we shall save the salary of the unofficial chairman. On that point, I might mention that for the nine months during which the Board sat in 1930, out of a total expenditure of £3,218, £1,317 represented fees and travelling allowances for the chairman; and similarly, during the period that the Board was in operation in 1931, out of some £570 spent on the Board, £560 represented payments to the chairman and his allowances. That being so, Sir, the Government honestly think that provided the Board can function, as we hope it can, as efficiently or even more efficiently under the present constitution, it will, in these hard times, definitely mean a saving in expenditure.

Finally, Sir, there has been a criticism that the Board is too big and too bulky. That, on the face of it, would appear to be perfectly valid criticism, but I understand the intention is to divide the Board into two main sub-committees, namely, husbandry and plant industry, which will function separately. Furthermore, there will be sub-committees of the Board to deal with *ad hoc* matters; and therefore I think the danger of having an unwieldy Board by which nothing will be effectively done is not a danger that need be seriously feared.

In conclusion, Sir, I would like to thank the hon. Member who moved this motion, and other Members who have spoken in the same terms on the other side of the House, for their willingness to co-operate and give this new Board every chance, in spite of the views which they have felt it necessary to express.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. mover to reply.

THE HON. T. J. O'SHEA: On a point of order, Your Excellency, is not the hon. the Director of Agriculture going to speak on this important motion dealing with his Department?

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I thought, if I may say this by way of explanation, that if I had anything to contribute to the debate that I could profitably give the House, it was better that I should do so after the debate had proceeded further and just prior to the reply of the hon. mover of the motion.

THE HON. T. J. O'SHEA: Your Excellency, to save the time of the House, I may explain that I have every intention of speaking when I think fit before the mover of the motion replies.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, in explanation, I, too, have that right also, Sir—(Laughter.)—subject to any direction from you from the chair that I should speak at any particular time.

THE HON. LORD FRANCIS SCOTT: Your Excellency, I have on more than one occasion expressed my views freely and forcibly on this subject. Nothing I have heard to-day from the hon. the Colonial Secretary has changed my views on this matter. He asks whether our opposition to this is that we regard it as a retrograde step in advancing the Colony, or whether it is on the question of the efficient working of the Board. Personally, Sir, I oppose the new constitution on both grounds. I consider that the whole history of this Board of Agriculture and the way it has been throttled and destroyed has been the greatest slap in the face of the unofficial community that has happened in recent years. The culminating part of that, Sir, is the fact that, when the Board was decided to be reconstituted, no official body was consulted in any way whatsoever as to that personnel. That, Sir, Hall Commission, which has been already referred to. It also goes directly against the spirit of co-operation. It also, Sir, has the effect that we think the hon. the Director of Agriculture or the hon. the Colonial Secretary who selects the names of the gentlemen to be put up to you retains in himself the power to see that nobody is on that Board who might in any way prove to be rather tiresome or too inquisitive. I wish to say nothing against any of the individuals appointed; they are gentlemen who have proved themselves efficient in their various capacities; but it does limit the selection to people who are agreeable to members of the Government who select them.

Now, Sir, with regard to the Board functioning better or not. Frankly, I have been thinking it over, Sir, and I cannot see how the Director of Agriculture is going to advise himself as to what method he should take to improve anything he is responsible for. I can only imagine it will be a case of "Alex in the Looking Glass." (Laughter.)

Now, Sir, with regard to one or two other small points. One is the question of liaison with these other committees. Personally, it seems to me that the constitution of the Board will cut right across these other committees. It rather prevents large numbers of people interested in these various industries coming together to discuss these industries at certain periods—the Stockbreeders' Conference, the Maize Conference, and so on.

The only reason that has been put up, I think I am correct in saying—and I have listened carefully—the only reason for the change in the constitution of this Board is the question of expense. The hon. the Colonial Secretary has pointed out that the cost of the unofficial chairman was too high. Now, Sir, I agree that there is a certain amount in that argument; I think the remuneration of the chairman originally was on the high side. But I do say this, Sir: that no opportunity was given to the late chairman as to the methods by which his cost to the country in his opinion could be reduced. It could have been reduced by a considerable amount if Government had agreed to carry on, but he was given no opportunity whatever to put up alternative suggestions.

The hon. the Colonial Secretary stated that the feelings between the members of the old Board and the members of the Department of Agriculture were always the best. That, Sir, I can confirm. I know personally that the feelings between the officers of the Department and the Board were always cordial, and the late chairman had no complaints at all with regard to any of those officers. His complaint was that some of his reports were unduly delayed and in some cases suppressed. I do not think he or anyone else would ever claim that their duties were executive and not advisory. Naturally they were advisory, and this new Board will be the hon. the Director will be the chief adviser to himself.

With regard to the actual point as to whether it was a constitutional body or not, I do not think that we on this side of the House ever actually advanced the argument that the Board was part of the constitution. That was the argument put forward clearly and insistently by the late Secretary of State for the Colonies when I had the honour, along with the mover of this motion, to give evidence before the Joint Committee at home last year.

Your Excellency, I regret deeply the decision which has been taken on this matter, and I regret that even in the last stage, which was in the selection of the members of the Board, we were not taken into any sort of consultation, either as Elected Members representing the people of the country or the various bodies representing the different industries. In spite of that, Sir, as far as I am concerned, I shall do nothing to in any way work against the Board as it is. I only trust that it may prove of benefit to the country. I am very doubtful, because I do not think it is the right method of getting the results which we desire, and which were recommended by the Commission under Sir Daniel Hall already so much referred to.

**THE REV. CANON THE HON. H. LEAKEY:** Your Excellency, with regard to the point stressed so emphatically by the Noble Lord and the hon. Member for Plateau North as to the position of the hon. the Director of Agriculture in being also chairman of the Board, it is analogous to your own advisory committee. You are also chairman, and take the advice of the members. That point really does not strengthen the case at all.

**CAPT. THE HON. J. L. COTTEN:** Your Excellency, nearly every point has been already gone over in debate except that of the personnel. As individuals, I have nothing against any member of the Board. I would, however, point out that in the constitution of the Board the hon. the Director of Agriculture must naturally have recommended to the Governor what that personnel, whoever it might be, should be. I would suggest that in choosing that method it is obvious that any Director of Agriculture in the future, and possibly to-day, will on every occasion choose men who—there is no other word—who are amenable. As the only Member on this side of the House representing entirely the stock interests—I feel, when we have heard so much about co-operation, that I might even have heard possibly who was going to be chosen to represent the stock interest. Looking through the people who have been chosen for this Board—I should say that rather more than a moiety of the fowling stock in this country is in my own constituency—and when I look at their names I should say the stock industry is not represented at all.

**HIS EXCELLENCY:** Perhaps the hon. the Director of Agriculture will reply now?

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, I have no doubt the hesitation of the hon. Member for Plateau South, his hesitation in rising at this stage of the debate in order to express his views, has some relationship to

the challenge which I expressed in, I hope, a few polite words when the debate took place on Friday last in this House; and I have no doubt his desire is that he should be placed in that advantageous position to reply and criticize anything I may say on this subject. Well, Sir, I hope in any remarks I may make that I shall not be critical. I had hoped and believed that the comprehensive reply of the hon. the Colonial Secretary would have satisfied the House, but I understand that it is a desire on the other side of the House that I should have something to say on this question. Now, Sir, I hope that hon. Members will believe me when I say I am very anxious and desirous, insofar as the Director of Agriculture is concerned, that the subject should be dealt with in an entirely impersonal way. I do not propose to repeat the points in the speech made by my hon. friend the Colonial Secretary, but I might perhaps be allowed to emphasise one or two points and to amplify his reply on certain other points. On one point I should like to say this, Sir. From all the information I can get from conversations with responsible people in this country—I mean the sort of people whose primary point of view is not the political one—there is very little support for the motion before the House on the question of whether there should be an unofficial or official chairman of the Board. (Elected Members? Question?) I can only give it as an impression created in my mind as it is in the minds of many other persons both official and unofficial in this Colony.

I should like to associate myself with the reply of the hon. the Colonial Secretary in regard to a conspiracy. I am sorry that so strong a word was used. For my part there has been no conspiracy in this matter. I do not know whether the hon. mover of the motion regards me as the greater or lesser demon, but in any case I do not admit there has been any demou present at all.

Now, Sir, if I may reply to one point which has been raised in the debate, as to the reason why the new Board of Agriculture has been reconstituted, I take it hon. Members agree that it is desirable that in matters of this kind the Governor and the Government of this Colony should always be ready to bring matters under review and act in the light of experience. Now, without in any way disparaging the efforts of Sir Daniel Hall, it became quite clear in the light of experience that a board so constituted of nine worthy men could not cover the whole agricultural industry of this Colony. Efforts made by that Board to reconcile their position with the six or seven consulting committees representative of the different industries failed, with the result that there continued a very considerable amount of overlap in the work. Unnecessary work was created and delay resulted.

One of your objects, Sir, in constituting this new board along much broader lines is, if possible, to do away with that overlapping and waste of effort and delay caused through the presence of so many consulting committees. It is believed that that division of the Board itself into two main committees, one dealing with animal industry, another dealing with plant industry, with the addition of a representative on the Board of the Coast Advisory Committee, will cover the agricultural industries of the Colony in a much more effective manner than was possible for the old Board, with every desire in the world to obviate the disadvantages under which they were placed. I therefore hope that the forecast of the hon. Member for Ukamba, that the new Board will not be effective, will not be true. In connexion, further, with the case of particular industries, the constitution and organization of the new Board provides for the Board itself setting up *ad hoc* or sub-committees to deal with special subjects or the special requirements of particular industries. Then again, I have made a promise, which I shall stand by, that arrangements will be made for periodic conferences of different industries. At these conferences opportunities will be given for those engaged in the industries to put up their recommendations for the consideration of the Board. Then again, it is hoped that those industries which are organized—for example, coffee, sisal, wheat, maize, and so forth—will, of their own volition and on their own initiative put up memoranda and state a case for presentation to the Board. In that way I do believe, Sir, very honestly and very sincerely, that the organization of this new Board will be much more effective than the organization of the late Board could possibly have been.

As to the constitutional question, I am not going to enter into an argument with the hon. member on what or what did not transpire. I accept, entirely the statements he has made from reading certain reports of proceedings, but I may be allowed to say this, that it is the practice in other Crown Colonies and dependencies where a Board of Agriculture has been established for the Governor of the Colony to be president of that Board and the Director of Agriculture to be chairman.

I gathered that the hon. Member for Kenya rather suggested that, having regard to the opportunities which were given to the Director of Agriculture of proposing names to you, Sir, for appointment to the Board, he could avoid the inclusion of gentlemen who were not likely to be amenable. Well, that may or may not be so. I do not believe that the members of the Board, as disclosed in this morning's press, are likely to be fully amenable as, from my knowledge, it

includes the names of some worthy gentlemen in this Colony who are likely to be, not only critical in regard to the affairs of the Department itself, but quite critical in regard to the attitude of Government towards the agricultural industry as a whole. I believe that the right course and the soundest course is to include such people in the Board, and I believe that has been done. There has been no attempt, I would like to assure the hon. Member opposite, to exclude the names of . . .

**CAPT. THE HON. J. L. COTTER:** On a point of explanation, Your Excellency, I was referring to the number of members of the stock industry only in this case.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I would say only in reply that my expression of opinion applies equally to those who have been chosen to represent the stock industry as to other industries. I think the hon. Member suggested that the stock industry was not fully represented on the Board—I understood him to say so, Sir. As a matter of fact, the stock industry, I think, can be regarded as well represented on the Board. It includes as members of the new Board several of the most prominent members of the Stockowners' Consulting Committee who were, after all, appointed in open conference of stockowners in this Colony.

It has been said—I am not sure whether it has been more than hinted at in this debate, but in any case it has been said elsewhere—and a strong point has been made of it, that the Director of Agriculture would not be able to give sufficient time to the work of the Board as its chairman. Now in that connexion may I say this, Sir. I say it, again in an impersonal way, because I think it will apply to any Director of Agriculture in this Colony at any given time. If the Director of Agriculture is to attend regularly the meetings of this Board, less of his time will be taken from his other duties if he is chairman of that Board than if he were a non-member or simply attending in an advisory capacity on the Board: for this reason, if for no other reason, that an unofficial chairman of the Board has no executive powers. He has to pass on to the Director, or to give to the Director the recommendations and wishes of the Board. He has no power to convey any instructions to members or officers of the Department of Agriculture. It will completely short-circuit that line of work—the relationship between the Board and the Director—if the Director is in a position immediately to take executive action; and in many cases it will so happen that he is able to do so without reference to Government at all. He will be able to convey the wishes of the Board to the officers of the Department. That will avoid delay and overlapping of effort, and in every way is the best arrangement possible.

The suggestion has been made, I think, by more than one hon. Member that there are signs of bureaucracy in this system. Well, all I can say, Sir, is this: that I have served elsewhere, other than in Kenya, under Crown Colony Government; I have served under responsible Government and I have served under Dominion Government, and I can say truthfully that in none of these territories where I have served is there less bureaucracy or more democratic relationship between the Department of Agriculture and the people of the country it serves than in this Colony.

In conclusion, may I say, as far as I am concerned—and I can speak for the officers of my Department—that you, Sir, having decided to appoint this new Board of Agriculture along these lines, we shall do everything in our power to make it a success and I shall be very surprised indeed if it does not prove a great success. But let me remind the House of this: that the success of that Board will depend very largely upon the attitude of the members of the Board itself towards their duties and functions.

THE HON. T. J. O'SHEA: Having now had the advantage of hearing the views of the Director of Agriculture, I feel that I am now in a better position to formulate and express my own on this motion. And may I add, Sir, that I think that the debate might have been improved somewhat if the House had had the advantage of the hon. Member's views earlier in the debate. To save the time of the House on another occasion, may I again enter my protest against the growing practice on the part of Government of depriving the House of its views until too late in the debate for those views to be of any help to enable Members on this side of the House to formulate theirs.

Hon. Members on this side of the House, Sir, regret very deeply—and I am sure that regret is shared by Members on the other side—that the success of this reconstituted Board of Agriculture should be jeopardized by something in the nature of a political debate upon it at the outset. We are very sorry indeed that it has been necessary for us to initiate this debate and I would like to add my assurance to those present as to the manner in which it has dealt with Government of this Board, we nevertheless will do what we can up. We consider it very necessary indeed that the Board should be reconstituted now that the country requires such a Board, and while we regret that its constitution may not be such as will enable it to do the best possible, we still believe that it is capable of achieving a lot, and we pledge it our support.

A rather important aspect of the matter has been raised more than once. For my part, I do not share the views of Lord Passfield as to the great constitutional significance of an unofficial chairman. Being an advisory body only, I cannot see that the appointment of an unofficial chairman could have any great constitutional significance. But, Sir, the appointment of an unofficial chairman for such an important advisory Board is certainly not without constitutional significance. Up to a very short time ago constitutional progress was being made in this country, quite voluntarily perhaps. The elected representatives of the people were gradually being given greater responsibility and representatives of the people other than by election were being invited to participate in various ways in the machinery of Government; and we do not regard it as without significance that an unofficial chairman should be appointed to this important advisory board. That being so, we resent very much indeed that Government should have reversed this policy and decided to take away that responsibility from the people and to appoint its own official member as chairman. But also on another ground we advocate that an unofficial chairman is advisable. Our second ground is that we regard the Board as more likely to be successful with an unofficial chairman than with the hon. the Director of Agriculture as chairman. We feel that it would enjoy greater freedom of debate; it would be more free to criticize the Department; it would be more free to initiate improvements in that Department if there were an unofficial chairman; and for those reasons, Sir, I support this motion. We say that in no critical spirit. I think all of us on this side of the House appreciate that the present holder of the post of Director of Agriculture has done much for this country and that to the best of his ability he will continue to serve it, and we should like our view on the subject to be regarded as impersonal. The drawbacks to having the hon. Member as chairman are I think emphasized by the procedure which has been followed by Government in appointing the personnel. There are, as the hon. Member representing Native Interests pointed out, many precedents for an advisory body of which the chairman is the principal officer to whom advice is being offered. But I would like anybody to point out to me precedents for the chairman of that committee himself advising Your Excellency as to the people who should be associated with him in giving that advice. We regard it as an unpardonable departure from well established practice in this country that Members on this side of the House and other representative bodies should not have been consulted as to the unofficial personnel of this committee. We feel that it does not augur well for the future that the personnel should be dependent upon the advice of the official chairman. And one of my

reasons for waiting until I had heard Government's statements on this motion before I spoke was to see whether any explanation would be offered to the country as to why the usual procedure was not followed in selecting the personnel of this Board. Neither the Colonial Secretary nor the Director of Agriculture has offered any explanation. The debate has not yet finished; it is still possible for Government to give, as I believe Government should give, some explanation to the country as to why in this case the appointment of unofficial people to such an important board as the Board of Agriculture—why the advice of the unofficial community was not sought and why it was left dependent solely on the advice of the Director of Agriculture who is to be chairman of the Board.

I am sure regret is generally shared, Sir, that it should have been necessary to adopt such a critical attitude this morning towards this new Board, but that may possibly be forgotten in the near future, and we sincerely hope, with the pledges which the Director of Agriculture has given and the pledges which have been given by members on this side of the House, that the Board will have every support so that it may be of considerable use to the country in getting out of its present difficulties and improving the conditions of the agricultural industry.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will call upon the hon. mover to reply.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, having listened with, I hope, proper care to the apologies of the Colonial Secretary and the Director of Agriculture, I can only express my real amazement that steps were taken which have been taken, and that arguments such as those produced to-day should ever have succeeded in achieving the object which they have achieved.

The hon. the Director of Agriculture, without a smile on his face, referred to the hon. the Colonial Secretary's speech as "a comprehensive reply." I do not know whether I should say that I was surprised at the Colonial Secretary's speech or not. It was a speech, unconvincing, full of speciousness and special pleading. I know his versatility so well, and his ability; that I half expected that somehow he would work a miracle and be able to give an answer really worthy of the subject; but even he is not all-powerful, and the subject was too difficult for him, and he was unable to give any reply that would convince anyone who was not to give any reply on the subject before hearing him. As the Noble Lord has my motion, was one of expense, dealing with the first part of that the Noble Lord has also explained and which I will not repeat.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, on a point of explanation, I think I also referred to the difficulties of adequate representation of native agriculture.

**CAPT. THE HON. H. E. SCHWARTZ:** I will deal with that interpolation if I may. On this very point of native agriculture raised by Lord Passfield, it was pointed out that the first thing the Board of Agriculture had to do was to go into the question of the meat factory and the over-stocking of the Ukamba Reserve.

In regard to the second part of my motion, neither of the spokesmen for Government have even attempted to give any explanation as to the method of appointment of the re-constituted personnel; and that being so, we must presume that there is no explanation, and we must leave it at that.

Now there are one or two things—I do not want to take up time, Your Excellency, but there were one or two things stated, not, I am sure deliberately, but most unfortunately, by the Colonial Secretary. He would have us believe that it was a very good thing that the figures and reports of the late Board of Agriculture were not published, and he quoted as one instance the fact that it turned out that the figures given by the Board, when they had been checked by a certain Government Department, were incorrect. I do not think I am wrong when I state that the facts and figures put up were correct when they were put up, but so great was the time before the report was published that the figures had become out of date. That I state as a fact. I would also remind the hon. gentleman that I never once in my speech referred to the Board of Agriculture with an unofficial chairman as being "constitutional." I took particular care to use the words "closer association" and I did not raise the constitutional issue because I have always thought that Lord Passfield went too far when he talked about the Board of Agriculture being part of the constitution. But whether you call it "constitution" or "closer association," the argument is the same, namely, that it is a retrograde step in the closer association of the unofficials of this Colony with Government.

The hon. the Director of Agriculture has asked us to believe, again, I am sure, perfectly honestly, that the majority feeling in this country favours an official as against an unofficial chairman. I can give him a categorical assurance—and I should have thought the debate of the Convention of Associations would have corroborated me—that there is a very large majority in this country who feel very strongly that it is wrong for the Director of Agriculture to be chairman and that there ought to be an unofficial chairman. I am convinced the Director is wrong when he believes that the feeling in this country is the reverse.

The hon. the Director of Agriculture again stated—and it is a typical example of the special pleading in this debate—he asked us to look at the advantage of having a chairman with executive powers, who can do something he can do himself. Is there really any substance in that argument? If the Board of Agriculture puts up a recommendation which he agrees with he uses his executive powers or he refers it to Your Excellency. The delay is a matter of two or three days and I do not think that even the Director of Agriculture will suggest that two or three days delay where Government departments are concerned is such an awful thing that it makes members on the other side shiver. Further, how will the new Board deal with native agriculture any better than the old Board? No suggestion as to that has been given.

I know it is impossible, Your Excellency, but I do say that anyone flitting to this debate—coming with an open mind and knowing nothing about anything—could not possibly come to my but the conclusion that the case put up in support of this motion is immeasurably stronger than the case put up in defence. The case was a hard case to make and these gentlemen have made the best of it, but they have, in fact, produced no argument at all which would persuade any free body to vote against the motion. Although I know, as I said when I first started, that this motion has got to be lost, I am quite certain that the gentlemen oppose it, if they could vote as they wished would show Government what they think of this business of doing away with the old Board and reconstituting the new. I appeal to them, quite hopelessly I know, to be true to their consciences and not to their orders.

**HIS EXCELLENCY:** The question is that the motion proposed by the hon. Member be approved.

The question was put and lost by 17 votes to 9.

**Ayes:** Captain Cotter, Major Delap, Colonel Durham, Mr. Harvey, Colonel Kirkwood, Mr. O'Shea, Captain Schwartze, Lord Francis Scott, Captain Ward.

**Noes:** Messrs. Bruce, Deck, Duran, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Messrs. Holby, Horne, Logan, Moore, Brigadier-General Rhodes, Messrs. Rushton, Scott, Wade, Walsh, Colonel Wilkinson.

**Declined to Vote:** Mr. Beuister, Major Robertson-Eustace.

#### COMPASSIONATE PENSIONS.

**CAPT. THE HON. H. E. SCHWARTZE:** Your Excellency, with reference to a resolution that I moved earlier in the morning in regard to three motions by the hon. the Treasurer, as I understand that no good object can be served by pressing

this and as I do not wish to waste the time of Council, with the permission of Government and the seconder, I will withdraw.

**HIS EXCELLENCY:** The question is:

"(1) In consideration of Master Tailor D. Nazareth's 28 years and 8 days' satisfactory service in the King's African Rifles, this Council is pleased to grant him a special pension at the rate of Sh. 2,251/20 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz., the 9th May, 1932, inclusive, instead of a gratuity of Sh. 2,597/54 (calculated at the rate of one week's salary for each year of service) to which he is strictly entitled under the Regulations."

"(2) In consideration of Sub-Foreman Kaloo Jiwka's 26 years, 7 months and 19 days' satisfactory service in the Public Works Department, this Council is pleased to grant him a pension at the rate of Sh. 2,792/40 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz., the 16th June, 1932, inclusive, instead of a gratuity of Sh. 3,222 (calculated at the rate of one week's salary for each year of service) to which he is strictly entitled under the Regulations."

"(3) In consideration of Sub-Foreman Dungar Ranji's 18 years, 4 months and 12 days' satisfactory service in the Public Works Department, this Council is pleased to grant him a pension at the rate of Sh. 1,447/20 a year (which is equivalent to the pension which would have been granted to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz., the 22nd June, 1931, inclusive, instead of a gratuity of Sh. 1,669/84 (calculated at the rate of one week's salary for each year of service) to which he is strictly entitled under the Regulations."

The question was put and carried by 17 votes to 11.

**Ayes:** Messrs. Bruce, Deck, Duran, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Messrs. Holby, Horne, Logan, Moore, Brigadier-General Rhodes, Messrs. Rushton, Scott, Wade, Walsh, Colonel Wilkinson.

**Noes:** Mr. Beuister, Captain Cotter, Major Delap, Colonel Durham, Mr. Harvey, Colonel Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Captain Schwartze, Lord Francis Scott, Captain Ward.

*Council adjourned till 10 a.m. on Tuesday,  
10th May, 1932.*

TUESDAY, 10th MAY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, 10th May, 1932. HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 9th May, 1932, were confirmed.

#### PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BRUCE):

Report of the Select Committee on the Civil Procedure (Amendment) Bill.

Report of the Select Committee on the Butter Levy (Amendment) Bill.

By THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN):

Report of the Select Committee on the Mining (Amendment) Bill.

#### MOTIONS.

##### LEASING OF CROWN LAND.

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to move:

"In the opinion of this Council a Select Committee should be appointed at an early date to examine the position regarding residential, commercial and industrial development on land leased from the Crown for grazing and/or agricultural purposes and the alleged "change of user" incidental to such development, and to furnish a report."

My objects in moving this motion, Your Excellency, are three-fold; firstly, to straighten out the tangled position which has arisen owing to a variety of interpretations by eminent local authorities on somewhat ambiguous legislation; secondly, to remove uneasiness which has been created by recent Government action; and thirdly, to emphasize the very grave

danger of the "White Highlands" principle being undermined by the peaceful penetration into the highlands of members of races other than European under the guise of shopkeepers, millers and so on.

Now, Sir, at the outset I should like to express my personal opinion that there is no justification whatever for the most extravagant charges that have been levelled against Government of blackmail and extortion in connexion with this matter, though there is no doubt, Sir, from the letters that have appeared in the Press, that a very grave misunderstanding exists and a very large number of people do genuinely labour under a sense of grievance, which I trust Government will succeed in removing; though I think Government will experience some difficulty in satisfactorily answering the minor charge of "tizzy snatching" in connexion with this matter. Nor is it the case, Sir, that Government action in this connexion has been solely influenced by the present financial position.

A great many of us, Sir, know quite well that action which started four or five years ago is only just now reaching fruition. It was started when the financial position in Kenya was totally different from what it is to-day.

Now, Sir, the main point in this matter in my opinion is the change of user which it is alleged has taken place in connexion with a large number of grants from the Crown. The Traders Licensing Ordinance, 1919, states that "every person selling goods for purposes of profit in a store shall take out a licence and pay an annual licence fee", while section 15 states that "persons engaged in the following occupations shall not, merely in respect of such occupations, be liable to take out a trading licence under the Ordinance, viz., a planter, farmer, market gardener or dairyman disposing of produce of his own estate."

Most of the farm lands of Kenya are held under one of two Crown Lands Ordinances, the Crown Lands Ordinance of 1902, and the Crown Lands Ordinance of 1915, though a great many grantees under the original Ordinance, Your Excellency, have elected to convert their titles into leases under the 1915 Ordinance in order to avail themselves of the very great advantages which they derive from the Registration of Titles Ordinance, sometimes known as the Torrens Act.

Now, Sir, sections 14 and 16 of the Crown Lands Ordinance, 1902, lay down two conditions applicable to agricultural leases by which grantees are enjoined, firstly, to use and develop the natural resources of the land leased with all

reasonable speed, having regard to all the circumstances of the case, and secondly, to improve and develop the resources of the land in a prudent and businesslike manner. These are terms which to the ordinary layman do not appear to debar the lessee from using his land for purposes other than those definitely specified so long as there is no restriction specifically stated in the Ordinance that it cannot be used for the purpose to which the owner wishes to put it.

Now, Sir, between 1902 and 1915 a very considerable number of special purposes leases were issued, and the point to which I wish to draw the very special attention of the Select Committee which I sincerely trust Government will appoint is as to whether Government was within its rights from a legal point of view in incorporating in those leases certain terms and conditions which are at variance with the main principles clearly laid down in the Crown Lands Ordinance, 1902. Some of these leases, Sir, were for grazing purposes, not for grazing purposes only, but it is very questionable, Sir, whether such a grant cannot be used for many purposes other than grazing so long as they are not definitely debarred by the terms of the Ordinance. Having regard to section 15 of the Traders Licensing Ordinance, the interesting point arises as to whether the holder of a grazing licence—a grazing lease—is debarred from erecting a butcher's shop on that plot and conducting the butcher's shop in the ordinary way. So long as he is disposing of the produce of his own land I imagine, Sir, that no objection would be raised; but then the interesting point arises, what period of residence by a bovine on a holding renders it liable to be accurately described as the produce of the land. The owner of a grazing lease might buy two or three hundred head of store stock. In course of time they are sold as meat. Are they not the produce of his estate, and is he not absolved from any special licence under the terms of the Traders Licensing Ordinance.

Another matter, Sir, that in my opinion calls for elucidation is whether a lease under either of the two Crown Lands Ordinances enables a grantee to sub-lease small areas for residential purposes. In my opinion, Sir, this should be encouraged for very obvious reasons, and I suggest that Government is unduly grasping when it demands an annual rent of Sh. 72 per plot, in addition to the cost of endorsement and stamp duty, and other expenses incidental to arranging leases and arranging for people to reside in suitable residential sites on farm lands.

Now, Sir, I doubt very much whether lessees under the 1902 Ordinance can be restricted at all from disposing of residential sites so long as they conform to the requirements

of the Public Health (Division of Lands) Ordinance; and I doubt again, Sir, very much indeed whether Government is within its rights in demanding extra rent for that development. Perhaps, Sir, the Select Committee will look into this point too.

The bulk of the farm land in Kenya is leased under the 1915 Crown Lands Ordinance for agricultural purposes. But, Sir, the official definition of "agricultural purposes" I can find is: "Agricultural purposes shall include grazing and stock raising." It is by no means certain in this case, Your Excellency, that grantees are barred from developing their land in other ways or following other activities which are not specifically barred by the Ordinance, so long as those activities can accurately and reasonably be described as useful public amenities.

I understand, Sir, that Government action in this matter has been prompted by representations from local authorities and that such action as has been taken has been taken in very close consultation with district committees, district councils, administrative officers and other local authorities. Although, Sir, shops, mills, places of worship and residential sites are often a very real necessity, in my opinion in the country districts, I am quite definitely of opinion, Sir, that these should be confined to reasonable public requirements. But here again, Sir, I do hold the view that, under present day conditions, Sh. 72 per acre is a very high figure indeed to ask the lessee to pay to Government for the privilege of having a small shop on his farm. It really means, Your Excellency, that if he had as many as four shops on one acre of land, that acre of land would be capitalized at something like the sum, as I said before, of £210, which I suggest, Sir, is rather absurd. This sum, as I said before, is in addition to an endorsement fee of about Sh. 30, a registration fee of about Sh. 6 and a reason, is not based on the immediate transaction, but appears to be based on the annual rental value of the whole of the property, a portion of which is being sub-leased.

Now, Sir, land administration cannot be carried on by rule of thumb and in my humble opinion when real changes of use have taken place but genuine work of public utility is being carried on, Government should unhesitatingly regularize the position in the most convenient manner, according to the circumstances of each case.

Now, Sir, I should like to say in conclusion that we should be very careful indeed that nothing is done to impair in any degree the value of the leases. A select committee, composed of men who know Kenya conditions, with some

legal knowledge, would in my opinion be the very best body to advise Government as to the right policy to be pursued under existing conditions in the best interests of the Colony as a whole. Your Excellency, I beg to move this motion.

MAJOR THE HON. J. O. K. DELAF: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is, that the motion proposed by the hon. Member for the Lake be approved.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, the Crown lands of this Colony form a national asset of prime importance, and I welcome the opportunity of giving an account to the House of Government's stewardship in one branch of land administration, a somewhat humdrum branch but a branch which has come into prominence recently not only in the manner of a motion in this House but also in the correspondence columns of the Press, where it has excited comments to which the hon. mover has himself referred as having been expressed in somewhat intemperate language. That being so, it seems to me advisable that I should make a fairly complete statement of the steps which Government has taken over a number of years in this matter of change of user. And, with the view to showing at the outset that those steps have not been taken in any capricious manner, I shall in the course of my remarks refer to actions and recommendations of a number of committees, committees of Executive Council, and of the Land Advisory Board.

The general guiding principle which has actuated Government in this matter is that where it can be shown that land which has been leased for a particular purpose is desired to be put to any other purpose Government should facilitate that change of purpose as best it may, but that the State is entitled to receive from the change of user a proportion of the additional value to which that change of user brings to the land leased. The essential point in that connexion is that Government's share should definitely be reasonable and should not be fixed at such a level as will debar any lessee who wishes to make any change in the use of the land where such change of use is definitely an economical advantage to the country as a whole. The facts, or the opinion, that Government is entitled to make any conditions in regard to change of use in their land leases is one on which Government has been consistently advised by its legal advisers.

So far as the Crown Lands Ordinance, 1902, goes, the hon. member quoted a certain section in regard to change of user of land leased for agricultural purposes. He did not, however, quote the full section. Section 14 (c) certainly reads that the lessee shall "use and develop the natural resources of the land leased with all reasonable speed, having regard to all the circumstances of the case"; but my hon. friend quoted section 16 (a) also. Section 16, however, commences: "In all leases under this Ordinance of areas of land for the purposes of agriculture or breeding or raising cattle, or for the growing of india-rubber, cotton, tobacco or other vegetable productions; or as a timber forest, there shall by virtue of this Ordinance be imposed rates, such covenants not expressly varied or excepted; covenants by the lessee to improve and develop the resources of the land"; and so forth. It is the case that expressed covenants have almost invariably been inserted in leases issued under the Ordinance binding the lessee to use the land leased for agricultural and grazing purposes only and specific reference is made in the leases to section 16 of the Ordinance. Insofar as land leased under the Crown Lands Ordinance of 1915 is concerned, land there is dealt with and disposed of under a separate part of that Ordinance, Part IV for agricultural purposes. That, Sir, is the view which has been taken by Government as entitling it, when application is made for change of user, to impose certain conditions on that change of use.

The type of application received divides itself into four parts: we receive applications for the conversion of farm lands for residential purposes, for industrial purposes, for charitable, religious and educational purposes, and lastly for commercial purposes. I will run through as briefly as possible the record of Government's policies in regard to each of these types of change of user. The figure of Sh. 72 per plot to ment in 1921. All arbitrary figures are open to objection. There is no particular ground, I think I am right in saying, for taking Sh. 72 rather than Sh. 74 or Sh. 70, but the townships leases issued prior to that time the rent charged was and, as that was a common and accepted figure and was well known, it was not thought undesirable that it should be taken as the minimum to be charged in cases of change of user. In 1927 the question as to whether that figure itself should be revised was brought under review, and the decision then taken was that the Commissioner of Lands in dealing with cases of the sub-division of plots in townships, should

be given discretion to assess an annual rent for each sub-division fixed on the basis of six per cent of the capital value of the sub-division subject to a minimum of Sh. 10. It so happens that no action was taken on that ruling and, on the ground that perhaps an undue amount of discretion had been placed in the hands of the Commissioner of Lands which it would be somewhat onerous for him to exercise, the matter came under review in the following year, 1928, when that instruction was cancelled, and the instructions given by Government were threefold: (1) that, where release from a covenant or change of user in cases where grants had been made under the ordinary conditions prevailing at the time, a rental of 3 per cent per annum on the value of the sub-divided property at the time of sub-division be imposed. In dealing with this in practice, it has been taken to apply not to the full value of the land but only to the difference in the value created by the new privilege granted; after making full allowance for the costs of survey, provision of roads and other services and other expenses incidental to the proposed use of the land; (2) that in the case of ordinary sub-divisions where no new privilege is desired a rental of Sh. 72 per plot be charged; (3) that the terms on which applications for change of user in the case of grants made on special terms for special purposes should each be submitted to Government and examined on their merits. So much, Sir, for the terms of dealing with township lands to be sub-divided into plots.

As regards agricultural land divided into plots for residential use, the minimum of Sh. 72 was taken, but the practice followed there is that, where it is proposed to divide a farm into residential plots on a large scale, the charge should not become payable except and until an individual plot was sold. That is to say, if a man is proposing to divide up a large area of 200 or 300 acres into plots, the rental should not be charged until a particular plot is sold.

As regards change of user for industrial purposes, that matter came under review in 1930 when a sub-committee of the Executive Council consisting of the hon. the Director of Agriculture, the mover of the present motion, and myself, were appointed to make recommendations to Government in this matter. If I may, I will quote three brief sections from the report, which said:—

"After discussion it was agreed that the present practice of regarding small sub-divisions for purposes primarily commercial or industrial as involving a change of user from agricultural purposes was sound in principle and should be continued. It was noted that where no

change of ownership was involved no objection was raised by Government to the erection on farm lands of factories for the treatment of the crops grown on these lands.

The Committee experienced difficulty in arriving at a formula on which the revised rental of such subdivisions should be based. It was considered that enterprise of this kind should in general be encouraged where there were no specific local objections and that the rental should be such as not to act as a deterrent. On the other hand, the State should secure a reasonable rental on the value of the land when released from the limited usage of agricultural purposes only, particularly in respect of factories established near the borders of a municipality or township which are in enjoyment of the amenities and facilities provided by the municipality or township without making any direct contribution towards their maintenance.

Mr. Harvey considered that a minimum rental of Sh. 72 per plot was excessive, but, while the Acting Commissioner of Lands and the Director of Agriculture could not agree that a case of hardship had been established, it was agreed to recommend that the rental should be fixed at the rate of one per cent of the value of the land as indicated by the purchase price paid to the vendor subject to a minimum of Sh. 10; and further, that each application should be referred to the District Council or Committee concerned for its opinion as to the desirability of approving of the specific application."

That recommendation was adopted by the Governor and is the ruling practice at the present time.

Similarly, in regard to grants for charitable, religious and educational and other purposes, the policy of Government has varied very considerably from time to time. In the early days land was alienated at a nominal rental of Sh. 10, five rupees. Then a change of policy came in and land was alienated free of stamp premium, with the same rental, Sh. 10, but with restricted user, and particular care was taken to see that applications were supported by a reasonable number of people in the particular community affected. Later, that policy was changed, perhaps owing to the number of applications received, and it was then decided that grants should only be made on payment of the full stamp premium and the ordinary rental, that is to say the full commercial value.

That was the rule from 1921 until somewhere about 1920. And then in 1929 and 1930, after reference to further sub-committees, the present practice of granting leases for these purposes at a premium or a rental of Sh. 72 was adopted and

that rental rate has been applied to cases, which are very few in number so far as my recollection serves me, where land leased for agricultural purposes has been transferred to religious, charitable or other bodies.

That brings me to the question of shops on farms. The establishment of shops on farms is a very old practice in this Colony and presumably originated because of the lack of ordinary trading facilities. In the early days there were not the same number of trading centres or townships in the settled areas within easy reach of farmers which there are to-day and it was not an unreasonable thing for a farmer to wish to have on his farm a store where he could keep goods and things which were of use to his labour. But it appears to be clear, Sir, that as early as 1913 the matter of allowing shops on farms had given Government some concern, because the matter was then considered and the ruling was given that Government had no objection to the establishment of stores on leasehold agricultural lands, subject to the restriction that such land should not be sub-leased to others for the purpose of erecting shops, and that only one store, which should be managed by the lessee or his employee should be allowed on each farm.

The question has come up again from time to time in 1921, in 1924 and 1925, and now the policy of Government has been solidified in a circular issued by me in 1931. In the intervening period a number of townships have been created, and what I think perhaps is an important feature of the continuation of this policy of shops on farms, and a feature which has been brought into notice particularly by local district councils and committees, is that in many cases the character of these shops has changed completely. In the first instance, as I have said, they were designed as a means of securing for native labour a small store for the purchase of small goods, but the change in character, which is an important one, is that they have turned from that into general produce buying stores, and it is from that point of view that various district councils urged Government to take some action to bring the establishment of shops on farms under control.

The position was further altered in 1928 by the enactment of the Public Health (Division of Lands) Ordinance, where, if any sub-lease or definite division of land was effected, the method of procedure was for application to be made to the Commissioner for Local Government to regularize the position. With this in mind, Sir, and with the idea, not of stopping the establishment or continuation of shops on farms, but purely with the idea of regularizing their existence in

relationship to the covenants under which the land was held, the matter was reopened, and, as my friend the hon. mover has said, the question was discussed for a passage of four years with local bodies, Provincial Commissioners, sub-committees of Executive Council and the Land Advisory Board, and finally the present policy was put into effect on the authority of the Executive Council.

I hope, Sir, in this review of the position I have shown that the policy of Government in this matter has not been any hole and corner policy. Throughout, the decisions have been based on recommendations put up by very senior officials of Government and unofficials of importance and standing. Government is very well aware of the fact that, in putting into effect any policy of this kind, it is of the greatest importance to secure the intelligent co-operation of the people who are affected. We have thought that in all our discussions on this subject ample opportunity had been given to local people to ventilate their views—and I may say in passing that at no time since the issue of my circular have I received any representations from district councils, not only in regard to the policy itself, but also in regard to the figure of Sh. 72 proposed to be charged. But in order that the matter may be cleared up definitely, and in order that confidence may be restored, I have Your Excellency's authority to say Government will accept this motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in supporting the motion I should like to say how gratified I am that Your Excellency's Government have agreed to accept it. I do not wish to go over the ground which has been so fully traversed by both the hon. mover and the hon. gentleman who has just spoken. There are only one or two small points I should like to touch on. The hon. the Commissioner for Local Government, Lands and Settlement said that he had had no representations from any district councils. That, no doubt, is correct, but I and other Members of this Council have had many representations from individuals on this matter.

Now, Sir, there are two small points in his speech: he said Government has been consistently advised by its legal advisers. If I may recall his memory to one rather outstanding case, not very far from where we are sitting to-day, Sir, the legal advice tendered on that occasion I should say was far from being consistent, and when the question was challenged as to whether Government had the legal right of doing the proposed works being a change of user, I think Government had to admit that they had not been

He also said that a small sub-committee of three generally agreed that this was sound in principle, but the question is, is it sound in law? Many people hold that under the 1902 Crown Lands Ordinance this change of user, as interpreted by Government, is not the strict interpretation of the law and, as I think it is very essential—as the hon. gentleman has just said—that there should be the intelligent co-operation of the people concerned, I am very glad that Government have agreed to having this select committee appointed, which can thoroughly go into the whole question, and I hope perhaps it may be a final settlement of this question which has gone on and on for so many years.

MAJOR THE HON. J. O. K. DILAP: Your Excellency, there is just one aspect of this question that has not been touched upon by either the hon. mover or the hon. the Commissioner for Local Government, Lands and Settlement. In local government bodies it appeared, from statements which I think were either issued by the Commissioner or inspired by his Department, that the ideal from the Government point of view in regard to shops on farms would be that as soon as possible, or as soon as convenient, they should be reduced and finally abolished. We understood—we may have been wrong, but we understood that this was to be achieved by gradually increasing the number of trading centres and that Government would set up trading centres, as convenient, and after consulting with the local bodies concerned, with a view to closing the small shop. Well, according to the regulations which were promulgated, a shop was to be illegal, or would break the regulations, if it was within four miles of a trading centre. It appeared to us, Sir, that a certain amount of hardship would be involved in cases of people who had been put to expense in establishing a small shop, if, shortly after this, a trading centre were to be established within four miles of the shop which they had set up, and thereby the money which they had spent upon it would be wasted. Local authorities endeavoured to get a definite ruling on this point and we have now received the assurance that trading centres will not be set up until after consultation with the local authorities; but even if the local authorities agree to the establishment of a trading centre, I think there still may remain a certain amount of hardship on the small shop-owner. I therefore suggest, Sir, that this aspect of it might well form one of the subjects to be considered in select committee.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. mover to reply.

THE HON. CONWAY HANVY: Your Excellency, there is very little for me to reply to. I do consider that the restoration of confidence will be largely achieved by the admirably lucid and comprehensive statement of the hon. the Commissioner for Local Government. It is a pity, perhaps, Sir, that some such statement was not made by him a year ago.

I do agree with him, Sir, that Government—or the public, through the Government, is entitled to a share of any increased value of land brought about by a change of user. But, Sir, the relationship between Sh. 72 charged as rent for a change of user in the case of a town plot or a sub-lease—its relationship to a small transaction on the slopes of Elgon or at Voi is somewhat obscure.

I am very grateful, Your Excellency, to Government for accepting this motion, and I sincerely trust the results of the select committee will be found to be beneficial to everyone concerned.

HIS EXCELLENCY: The question is:

"In the opinion of this Council a Select Committee should be appointed at an early date to examine the position regarding residential, commercial and industrial development on land leased from the Crown for grazing and/or agricultural purposes and the alleged change of user incidental to such development, and to furnish a report."

The question was put and carried.

#### ROAD vs. RAIL TRANSPORT.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to move that:—

"This Council is of the opinion that the continuation of competition by road transport versus the Kenya and Uganda Railways between Mombasa and Uganda and between Mombasa and Kisumu is wasteful and against the public interests of the Colony, and therefore urges Government to amend the Carriage of Goods by Motor (Control) Ordinance so as to eliminate this wasteful competition."

This, Sir, is a very old story which goes back for many years. It was brought up on several occasions to the notice of this House that it was not in the public interests that the Railway should have this what was described as I think un-economical and unfair competition by road transport. Government appointed two Select Committees to go into the

question of drafting a Bill and the result of those Select Committees was that the original intention of those who were anxious to see this question dealt with by law was somewhat whittled down, and it did not go to the full length that the promoters would like to have seen. The chief reasons of the objectors to the proposed legislation were, I think, (1) that it was never a sound thing to give a monopoly to any one particular interest, and (2) that this road transport would be a useful check on any wasteful expenditure on the part of the Railway.

Now, Sir, dealing with these questions, we will take the monopoly first. I think that most of us will agree that monopoly of private interests for private profit is not a very sound thing, but in this case the Railway is not working for private profit or for profit at all. The Railway is the property of everybody in this country, and it is one of the main arteries of life in this country, and for that reason it is our duty to see that the Railway does get sufficient protection against any unfair competition. Now, Sir, is not this competition unfair? I submit that it is, because while the Railway is a common carrier and has to carry all goods offered to it—the majority of which are low-rated traffic—this road transport, the lorries, can pick the eyes out of the business and only carry those goods which it pays them to carry.

On the other question, of Railway expenditure: in my opinion this competition by road transport has not had that effect on the Railway. Other circumstances quite unconnected with this competition have caused the Railway to thoroughly overhaul its expenditure and reduce it down to a minimum consistent with efficiency. The next point is, what benefits have accrued to the people of the country through this competition? As far as I can see, the public have not benefited in any way from this road transport. (A Member: Question.) Any profits have gone to the people interested in the particular business and have not been passed on to the consumer. The only people who have perhaps found that they have been forced into this road transport are certain firms in Nairobi as a result of the abolition of the Railway distribution rates. I am not going into that question now, it is a question which has got to be settled by the Railway Administration with the advice of the Railway Advisory Council, and is a separate issue.

With regard to the Railway itself, there is no question but that they have suffered very heavy losses from this road competition. To rectify it there are only two methods that I can see which are possible. One is to alter the law, the other is to alter the whole rating system of the Colony. If

the latter was done, it would mean revising the rates of the higher rated traffic and we should have to make up the loss by increasing the rates on the low-rated traffic, and probably the export rates and special rates. A very large sum would be involved, and it is quite certain it would be to the detriment of the commercial life of the country if that policy were adopted. I therefore, Sir, trust that Government will accept the spirit of this motion and will take the necessary steps so as to alter the law so that what I characterize as wasteful competition shall be eliminated.

The crux of the whole question comes under section 6 of the Carriage of Goods by Motor (Control) Ordinance, and the interpretation of that by the Board set up to issue licences. Now, Sir, sub-section (2) of section 6 says:—“(2) It shall not be lawful for the Board to refuse an application solely on the ground that existing railway facilities between the places proposed to be served are in the opinion of the Board adequate to carry the goods or merchandise which the applicant proposes to carry.” A very simple alteration, the elimination of that small but rather important word “not”, would do everything that was required, and I trust that Government may adopt that method.

While wishing to eliminate wasteful competition along the main line, the main road, we do not wish in any way to make it difficult for feeder services to the Railway. They should be encouraged in every way. You will also notice, Sir, in this resolution that I have gone further than the Carriage of Goods by Motor (Control) Ordinance, by suggesting that road competition should be controlled not only to Nakuru as in the Ordinance but I have taken it on to Uganda, and the reason is that when recently the Railway Advisory Council was in Uganda the feeling was expressed very strongly there that this road transport should be prohibited right away through to Uganda. Sir, I beg to move this motion.

CAPT. THE HON. H. F. WARD: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is, that the motion proposed by the hon. Member for the Rift Valley be approved.

CAPT. THE HON. H. F. WARD: Your Excellency, in seconding the motion I should like to explain that the Chambers of Commerce, not only the Nairobi Chamber but have had this question before them for a considerable period, and they have given complete support to the proposals contained in the resolution on the ground argued so ably by the

mover of the resolution. In the case of Nairobi there is a very special point in regard to this matter. The fact that the competition by motor lorries with the Railway involves the Railway in heavy losses and makes the distribution rates difficult, has resulted in Nairobi losing those rates, and it is only fair, on behalf of the constituency I represent, to argue quite briefly that special point. The Railway claims that the loss of £3,000 is the measure of the amount that they could gain by cancelling the distribution rates and thus making some small set-off against this competition by motor cars. That rate means a very great deal to Nairobi, and if we can get the competition by motor cars removed I think we should have every reason to expect that we should get that distribution rate back. It was urged upon the Chambers of Commerce originally, I think I am correct in saying, by the late Sir Christian Felling as a natural corollary to the rating system then introduced, and we were urged to take our position as the retailing centre of Eastern Africa, and we have done our best to carry it out. This competition by motor cars and the elimination of the distribution rates have caused a considerable loss to the community of Nairobi.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, it may be convenient, Sir, if I as acting chairman of the Road Transport Control Board give a short history of the events leading up to the passing of the measure, and generally deal very briefly with the activities of the Board. I desire to do this in view of the fact that in certain quarters it has been and still is held that the Carriage of Goods by Motor (Control) Ordinance, 1931, was passed with the object not of restricting road competition with the Railway but with the object of abolishing it entirely, and that in granting any licences at all under the Ordinance as it stands to-day the Board has been entirely wrong and has exceeded its powers. This opinion, Sir, in my view, is entirely unfounded and is completely without foundation in fact, and it is with the desire to define the actions of the Board set up under that Ordinance that I crave the indulgence of the House to give a very brief history of the events leading up to the passing of the Ordinance and with the actions of the Board since it began to function.

It will be within the recollections of the hon. Members of this House that the difficulty of road and rail competition arose in Kenya during recent years, and may be attributed primarily to the following causes: (1) the differentiation of the Railway rates by which the bulk of the goods of low unit value were carried at very low rates, the losses occasioned being made up by high freight rates on luxuries and other

goods of a high unit value; (2) in some cases where goods are conveyed by road, greater rapidity of transport and avoidance of handling, booking and taking delivery at the railway stations. In 1927 the question was referred to the Roads and Traffic Committee which had recently been appointed and which was under the chairmanship of the hon. the Director of Agriculture. The Committee in their report, which was issued in November, 1928, expressed the opinion that on some roads within the Colony goods were being conveyed by road vehicles to the detriment of the Railway revenue and that the effect of such competition was sufficiently important to justify the enactment of legislation to reduce this competition as far as possible. As regards the form of such legislation, Sir, the Committee felt that any measures which would necessitate an increase in railway freight rates on export produce of low unit value to compensate for loss of traffic on goods bearing high freight rates would be detrimental to the Colony's progress.

It also appeared, Sir, that the Colony's problem could not be met by any form of motor taxation which would fall heavily on motor services operating in places where such motor transport is absolutely essential. The Committee, Sir, came to the conclusion that the best course to follow was to provide by legislation for the scheduling of certain roads and to prohibit the carrying on of motor transport along those roads except under licence to be issued by a co-ordinating authority. This conclusion, Sir, was duly embodied in a Bill to provide for the licensing of motor omnibuses and motor lorry services, which was introduced into this Council in May of last year.

This Bill met with a certain amount of opposition, and accordingly it was referred to a Select Committee under the chairmanship of Mr. MacGregor, the Attorney General. Certain alterations were made in the Bill, which was eventually passed in this Council and was assented to on the 8th September of last year.

Now, Sir, the principle underlying the Bill and the principle which was endorsed at the time by this Council was that competition between road and railway transport should not be abolished but that such competition should be restricted and reduced. That this was so, Sir, was made clear by Mr. MacGregor in his speech when he was introducing the second reading of this Bill. Mr. MacGregor said, *inter alia*—

"At an earlier stage, I said that the Committee had definitely and emphatically declined to take any action which would lead quite clearly to a monopoly on the part

of the Railway: they would neither be a party to legislation which would close or prohibit traffic entirely, or to any other form of legislation that would give the Railway a complete monopoly."

The Committee referred to, Sir, was the Roads and Traffic Committee, whose recommendations for legislation restricting competition between road and railway transport had been embodied in the Bill then before this House, and in Select Committee that Bill was not altered in principle but only in detail, and this House, by passing that Bill—which became the Carriage of Goods by Motor (Control) Ordinance, 1931, gave its adherence to the principle at the time, not of total abolition of road transport, but to the principle of restriction of that competition.

Now, Sir, following the passage of the Ordinance, the Road Transport Control Board was constituted with the Attorney General as its chairman. At the present time, Sir, this Board consists of my hon. friend the Acting Commissioner for Local Government, Lands and Settlement, Mr. A. A. Legat, a prominent banker, Mr. Granum, who only a short time ago was Treasurer of this Colony, and Mr. Hemsted, who until the last year or two was a Provincial Commissioner in this Colony, with myself as acting chairman, in the absence on leave, Sir, of Mr. MacGregor.

The duty of the Board, Sir, has been to grant licences to applicants for the carriage of goods by motor vehicles on the roads scheduled in the Ordinance, and the Ordinance places the granting of these licences in the discretion of the Board, subject to their having regard to certain matters contained in section 6 of the Ordinance. I may say, Sir, that the Board, before granting the licences which it has granted, has given careful consideration to these matters and in using its discretion has been guided by these considerations and the principles underlying the Ordinance, which was, Sir, not to abolish the competition entirely, but to restrict it within reasonable limits.

I may say, for the information of this Council, that the total number of applications received to date has been 117, that 36 of these applications have been granted but that only 25 of these applications have actually been issued owing to 11 of the applications not having been taken up. The Board has cancelled these 11 applications, Sir, in view of the fact that the licences were not taken out in reasonable time. So, Sir, it will be seen that, out of a total of 117 applications, only 25 have been granted—that is, roughly speaking, one out of every five. I submit, Sir, that this result shows that the Board has carried out its duty in the spirit of the principle

upon which the Ordinance is based, and that these figures show that the competition of road transport with the Railway has been very much restricted.

Well, Sir, to pass from the defence of the Road Transport Control Board, I admit that since the Ordinance was passed conditions have changed for the worse so far as the Railway is concerned and with the still greater losses which have fallen upon it in the shape of diminishing receipts, my loss at all in connexion with this competition is an extremely serious matter. This motion, Sir, urges that there should be a change in the policy of Government, as laid down in the principal Ordinance, and that the competition with the Railway should be completely abolished and not, as at present, restricted.

I am authorized by you to say that Government is, in present circumstances, in sympathy with this motion, but it must be borne in mind that the holders of licences already issued have acquired certain rights, namely, that they should continue to operate so long as their licence entitles them to do so. Licences continue in force for a year from the granting of them, and I might say, for the information of the House that the first licence which was issued expires on 8th November of this year, and the last licence issued expires on the 7th February, 1933. So it will be seen that we cannot act too hastily in this matter. In addition, Sir, it may very probably be necessary to consult the Secretary of State on this matter as regards the proposed change, but, as I have said, Sir, Government is in sympathy with the proposition put forward in this motion and will communicate in that sense with the Secretary of State. This being so, Sir, I hope that my hon. friend will accept a proposal that I make not to press the motion to a division.

MR. CHIEF JUSTICE: Your Excellency, with regard to the last remark of the hon. the Attorney General, I quite understand that in view of the fact that of State before permission can be granted to make the necessary amendments to the Ordinance, that they could not my friend the hon. mover will meet the wishes expressed by the Attorney General; but there is one point I should like to make, and that is, I understand the Attorney General to say that because the first of these licences did not expire till November of this year and the last till February of next year, that therefore it would be seen that action could not be too hasty. With great respect, I suggest that is not so, and I think he will agree. If the alteration to the Ordinance is

made, as is suggested by the mover, it will not in the least affect anyone who at present holds a licence, so that whether that amendment is made to-day, to-morrow or next month, it cannot in any way affect the people who do at present hold licences; and if the argument is right that the loss is so serious, then delay is very dangerous, because so long as the Ordinance at present remains in force, the Board must, acting under the Ordinance, consider every application for a licence and cannot refuse such licence without good ground, especially when clause 6 still remains part of the Bill. I therefore hope, Your Excellency, that Government will make its representations to the Secretary of State with the least possible delay, so that, whatever may be decided, it will be possible to consider the matter at the next meeting of Legislative Council.

While I listened for thirteen minutes to my hon. friend defending himself and his Board, I felt quite certain that he was defending himself against a skilful of his own erection, because I have never heard any criticism of the Board. I could not understand what he was defending, unless it was his own guilty conscience, but it could not have been that.

THE REV. CANON THE HON. H. LEAKEY: I feel it is a very great responsibility to record one's vote upon this question because it is a very important one. The Uganda Railway, we feel, made this Colony and therefore we are bound to do anything we can to come to its assistance. On the other hand, motor transport has made such wonderful strides and has helped not only Europeans but natives that one feels it is very distasteful to give a nasty knock to the motor trade. Therefore, Your Excellency, though I shall record my vote in favour of the motion, I shall do so in the hope that Government will do its utmost, as far as finances and circumstances will allow, to increase feeder roads and all side roads, so that, instead of this wasteful competition we have to-day, the motor traffic and the Uganda Railway may work in such happy co-operation that each helps the other. I shall vote in favour of the motion.

*The Council adjourned for the usual interval.*

*On resuming.*

THE HON. T. J. O'SHEA: Your Excellency, I had hoped that the hon. the General Manager of the Railways would speak. As a matter of fact, I am astonished to find that it is not his intention to speak, and it is not for the purpose of waiting to have the last word, as some may think, that I was waiting until after he had spoken, because I am one of the cautious minority on this very serious issue who are not prepared to have their views influenced by the case stated for the other side.

I had hoped that, the movers of the resolution having failed entirely to satisfy me that there is any cause for the alteration of our present legislation, possibly that the General Manager would produce facts and figures to show that the passing of this resolution was desirable. I must say that I regard it as an insult to the House and as an insult to the country that when a motion of this kind is brought up, the officer of the Government, whose Department is most directly concerned, fails to make a statement justifying Government's attitude towards the motion. It reduces the proceedings of the House to a farce, and shows how artificial they are, and how it is a waste of time to talk across the floor of this House.

Having voiced that complaint, I should now like to congratulate the hon. Member who has had the courage of his convictions on the success of his propaganda department. He must be very pleased indeed that he has without the benefit of his widespread organization working so efficiently that in the short time of six months he has succeeded in converting a far-flung opposition to the Railway, taken of view on this important issue. The Bill is now being asked to amend was debated in this House and outside for months before it eventually passed; and if one thing more than another came out very strongly during the course of discussion it was that there was a very strong bias of opinion in favour of, and informed opinion opposed to, giving the Railway a monopoly of the transport along its route, a body of opinion that regards modern transportation development as of such importance that even the investment of twelve millions of pounds should not be allowed to damage its development in this country, a body of opinion that recognized railway transport is an old form that is already becoming obsolete in many directions, and that it is advisable to give full opportunity to these newer forms of transport that tend to replace it.

Although it does not definitely say so, Sir, the purpose of the motion is obvious, I should say. It has been indicated by certain members on this side of the House that the amendment they desire is the abolition of a very small clause in the Bill that protects the more modern form of transport against monopoly by the older form. In my humble opinion, Sir, no case has been made out for amending an Ordinance that has ever been taken full advantage of. If the hon. the General Manager had been asked to get on his feet and say the I might have had occasion to change my views this morning, but I challenge him to change my views this morning. But I challenge him to say that. He cannot. He must acknowledge if he does intervene in this debate now, that

his Department has not yet taken full advantage of it and therefore is not in a position to urge that the Ordinance be amended as a failure. And, even making the restricted use of it that the Railway has made, it has, I think, achieved a definite purpose, of saving the Railway considerable expenditure against the competition of motor transport. Quoting from memory, we were informed at the time the Bill was under discussion that the Railway was losing in the neighbourhood of £100,000 per annum by this motor competition. The only figure mentioned this morning is £40,000 as the sum per annum. In other words, the loss to the Railway has been reduced by £60,000; and that as a result of only the partial application of the Ordinance. I would like to ask somebody, if the hon. Member himself would prefer not to answer, whether he could not expect a further reduction in the loss if the Bill were fully applied? At the present time licences are issued from the Coast to Nakuru only. Would it not be a further saving if licences were issued on the roads from Nakuru to the Uganda border via Eldoret and Nakuru to Kisumu?

Unquestionably, Sir, a very large measure of support for the Railway's desire for a monopoly has been secured by the threat of an alteration in the rating policy as the only alternative. I feel certain that members on this side of the House would see this question in an entirely different light were they not frightened by the repeated threat of the Railway that if they did not get the monopoly they will alter the rating policy and place an additional burden on our agricultural produce. That threat has stamped Members on this side, any many people outside, into allowing the Railway to have its way and grant it a monopoly. Your Excellency, I refuse to be frightened by such a vain threat, and I defy the hon. the General Manager to justify an alteration in our rating policy merely because he is losing £40,000 of traffic per annum from the motor competition. With a very imperfect knowledge of the organization of the Railway, I say this, that there are many ways in which the Railway could, if it wished to, save that £40,000 that it is now losing through this motor competition. In many directions it is pursuing even under the stress of present economic conditions, an extravagant policy, a legacy of the past it is true, but if it had the courage to face the situation in the broad spirit and was not at all obsessed by the desire to secure this monopoly, they would readily in my opinion find other ways of saving this £40,000. But the Railway authorities recognize that the present is the most favourable opportunity they are ever likely to have in this country to secure a monopoly that, under normal conditions, the country is never likely to grant them. Were it not for

the threat of the alteration in the rating policy, were it not for the present economic conditions through which we are passing, I feel certain the country would never agree to passing legislation to place an embargo upon the development of a modern system of transportation in a country in which transportation is essentially important. The more apparent it becomes that I am voicing a dwindling minority in this country the more determined I am to fight the issue to the bitter end, because I believe that as a result of an obsession people, who to-day are unreasonable, would be otherwise more reasonable on the subject. Under any other circumstances I would be astonished that so many representatives on this side of the House particularly should fail to recognize what a serious thing they are doing in placing an embargo on the development of a modern system of transportation in this country. It is true we have invested something like twelve millions in the railway system, it is true that, under to-day's conditions of competition by motor transport, that system involves us in very difficult financial problems; nevertheless, I contend that we should not allow those considerations to lure us into the passing of an Act that may have far-reaching, serious and disastrous consequences on the future development of the country. To-day we are being asked to legislate against the development of motor transport. It may not be five years hence when in the same spirit we shall be asked to legislate against the development of aerial transport. I feel certain that the hon. the General Manager would acknowledge, if he cares to be frank with the House, that there is that possibility. To-day he is worried about the amount of traffic carried from Mombasa to Nairobi by motor, but in five years he may have occasion to be much more worried about that carried by air. What then are we to do? I regret very much indeed, Sir, that under pressure of to-day's conditions we should be so indifferent to the future. I am as anxious as anybody to safeguard the capital that we have invested in the Railway, to safeguard the rating policy under which the agricultural development of the country has taken place, and I am only opposed to the manner in which Government, with the assistance of Members on this side, is endeavouring to meet that problem. In my humble opinion, Sir, the prohibition policy is the wrong one; it could be done in various other ways. I have supported, and will continue to support, Government in any measures taken to ensure that the country as far as to suggest to Government that, as the Railway has been saddled with handicaps by reason of its rating policy—a rating policy which has been forced upon it by the country, and the handicap of having to act as common carriers—that some

equivalent handicaps should be placed upon the motor transport contractors; that, in other words, they should not be allowed to take the plums and leave the Railway to carry the stones. But because prohibition is an easy way out, Government now is apparently going to accept that short-sighted policy. I regret it very much indeed and I feel certain that within a very short time after that policy has been adopted the country will recognize more clearly than it does to-day the dangers to its future development that lie in any such policy. I have great pleasure therefore in opposing the motion.

THE HON. CONWAY HARVEY: I sincerely trust that my hon. friend will not gain adherents to his dwindling minority. Whether or not, Sir, the General Manager is goaded into activity, we are all fully aware of the hon. gentleman's opinion in this matter and I am not at all sure, Sir, that any greater force would be lent to the arguments he has used repeatedly in this House and elsewhere by their constant and frequent iteration.

Opposition to the Railway's point of view, Sir, may be far-flung, as the hon. gentleman said, but I suggest that it is entirely insignificant in volume. Sir, we are not frightened by the Railway threat of a change in rating policy—we have not been stampeded. We have only reached our conclusions after very close examination of this problem in its entirety and many of us have made a close study of what has been done in other countries. Many highly civilized countries in the world have adopted complete prohibition as their policy in the face of unfair and uneconomic road competition with existing railways, whether State, railways or privately owned. In Hungary and Austria no licences for road services is authorized without reference to the railway and if such service is intended to run parallel with the railway a licence is not granted. The same state of affairs is in force in Italy and in twenty of the American States, whereas, nearer home, Your Excellency, most people know quite well that the South African Government has achieved the same end by imposing a penal charge through the wharves at the ports on goods intended to be carried by services other than the railway services and State services—a penal charge of no less than £1 ad valorem.

Unlike my hon. friend who has just spoken, I sincerely trust the Government will take the bull by the horns and make a job of it this time and introduce measures which will mean complete prohibition of unfair and uneconomic competition.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I had no intention of intervening in this debate but, having listened to the remarks of my hon. colleague the Member for Plateau South, I have decided to do so at very short length.

The last occasion on which I spoke on this matter I advocated the policy of prohibition, not because I like prohibition but because I think where it is necessary it is effective, and where it is economic and where it prevents wasteful competition, if you can get no other term in which to describe the policy required, then under those conditions I am in favour of prohibition.

A great deal of stress has been laid on the fact that the Railway is a monopoly. I fail to appreciate that fact. The Kenya and Uganda Railway belongs to the two territories, it represents a very large capital expenditure, and, being the property of the territories concerned, it is, indirectly and directly, the property of everybody in the Colony. We are all interested in its welfare and I think it is a sound policy to prevent unnecessary and wasteful competition where reasonable facilities are supplied; and I maintain that reasonable and adequate Railway facilities are supplied and obtainable from Mombasa right to the terminus in Uganda on the roads parallel to the Railway. That would not apply to feeder roads and I am consequently in favour of the motion, and I trust that Government will hasten the alteration of the Ordinance in question and thereby prevent the further granting of motor licences and wasteful competition with the Railway between Mombasa and Uganda.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIGADIER-GENERAL RHODES) : Your Excellency, I feel that my rôle in a debate of this nature is purely one of giving information which might be of use to this House in considering such a motion. Until the hon. Member for Plateau South spoke, Sir, there was no need and no call for any additional information beyond what had already been so ably given to the House by the previous speakers. There are, however, Sir, as a result of the speech of the hon. Member for Plateau South, one or two points which I think should be reiterated. As the hon. Member for the Lake has stated, a good case can be spoilt by too constant reiteration of the same facts, and I think all Members will agree that the facts of this question have been debated and discussed for the last three or four years and that very little fresh information can be given. The hon. Member, however, made the point that this road competition could be made a fair and not a wasteful competition by making them common carriers. I suggest, Sir, that that is not possible. It has not been even possible in other countries where this matter has

arisen. How can you make lorries common carriers to the extent that they can deal with the export crops of this country? It is quite impossible. They may take back maize on every trip to the Coast, or other commodities, for nothing. That will not solve your transport difficulties in this country. You still require some form of transport for the remainder of your crops, and that is where the Railway is forced to make provision. This particular form of competition is wasteful, must be wasteful, and there is no way whatever of equalizing the two forms of service. Other countries have made every effort to make the conditions for railway and road transport exactly equal and they have found it impossible to do so. Therefore, you must come back to some sort of method as this before the House, which is based purely on public advantage and convenience; and I suggest these twenty-five lorries to whom licences have been issued have not shown that they are to anybody's advantage, except perhaps one or two individual owners. It is quite possible that one or two consumers in Nairobi or up-country may obtain an advantage in the running of a motor lorry, but what is that compared with the general advantage.

It has been suggested that £40,000 is too small a sum of money to worry about. I would suggest that £40,000 is a very serious sum at the present time. We have been looking for a saving of one or two shillings, and £40,000 is a very serious consideration to the Railway Advisory Council at the present time.

The hon. Member has suggested that there are other ways in which this money can be found. If that is so, we shall be only too eager to adopt those measures in addition. Both are necessary at the present time.

In preparing our Estimates for the present year we have made no allowance for losses due to road competition because we hope the new Bill will prevent the issue of licences at all. We have represented our case at every meeting of the Board, but we have failed to prevent this number of licences being issued for the reasons which have been so clearly stated to this House. I understand that the chief reason for the issue of these licences has been due to what the hon. the Attorney General has stated to be the underlying principle of the Bill. I trust, Sir, the vote of this House to-day will show that that underlying principle, which may have existed when the Bill was originally passed, should now be altered, and that it will remove any difficulty the Board may have in dealing with applications for licences. I support the motion before the House because I feel this is the wrong time to consider the alternative of an alteration in rates if we are to obtain this sum of money.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. member to reply.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I would like to get this quite clear. I understood from the Acting Attorney General that Government would like me to withdraw this motion, but that they undertake to carry out the spirit of it. Is that correct?

THE HON. THE ACTING ATTORNEY GENERAL: Yes, Sir.

HIS EXCELLENCY: What we promised to do—the Secretary of State will have to be referred to and there may be some question involved, but in principle we are in sympathy with the motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: That is the point, Sir—that Government do accept the underlying principle of it.

My hon. friend, the Member for Plateau South said that in moving this motion I had quite failed to convince him of the need. I can only return the compliment, Sir, by saying that after listening very carefully to his speech, he completely failed to convince me that this present competition was doing any good to the country at all. He said, Sir, that there had been far-flung opposition and that a large body of opinion was opposed to such a measure. I personally was not in the country when the first debate on this matter took place, though I was back here when the final Bill was passed. As I understood it then, Sir, a large body of opinion in this House was in favour then of prohibition, but in deference to opinions voiced by my hon. friend and one or two others, this compromise Bill was adopted. He further said that the Railway had not taken full advantage of the Bill. I am afraid I do not understand that quite. I do not know what further the Railway could have done. They did their best to get these licences not issued, but they failed, as the hon. the General Manager has just said. As the Attorney General has made an apology for the Board, I should just like to ask him, taking the Ordinance as it is, whether they issued these licences under the Ordinance or whether they merely issued them because of some mistake made by the Attorney General, under the impression that it was only to be a reasonable reduction of licences. If you read the conditions to which the Board have to have regard in issuing licences they are:—

- (a) whether the condition of the road or roads included in any proposed route is such that the running thereon of the vehicle in respect of which the application is made will not cause unreasonable damage to such road or roads;

I think we must all agree that these lorries do do damage to the roads.

(b) the extent to which the proposed service is necessary or desirable in the public interest;

I do not think any case has been put up that they are in the least necessary to the public interest.

(c) whether existing facilities for the conveyance of goods or merchandise of the kinds which it is proposed to carry between the places proposed to be served are adequate, having regard to the quantity of goods or merchandise which can be carried by existing forms of transport, the time normally taken in such transport, and the cost of such transport;

Well, Sir, those facilities are available.

(d) the needs of the area to be served in relation to traffic, including the provision of adequate, suitable and efficient services, the elimination of unnecessary and unremunerative services, and the co-ordination of all forms of transport, including transport by rail.

Well, Sir, looking at those conditions as an ordinary person with a certain amount of common sense, I cannot honestly see under which of those headings these licences have been granted, and if it was not that the Board seem to be obsessed with the idea that they are to issue a certain number of licences irrespective of whether they actually comply with the regulations laid down in the Ordinance, it seems to me that it would not be necessary to have this alteration of the law. But as they have interpreted it in that way it does seem necessary, if we are to have the law properly administered, that this amendment should be brought in. My hon. friend told us that there were various other methods by which the same results could have been achieved, but frankly, listening as closely as I could, I did not hear him put forward any practical suggestions as to how to do it. The hon. the General Manager has explained how impossible it is to make these motor lorries common carriers, and as it has failed in other countries where they adopted other methods I suggest that that is not a practical way. In Great Britain and other places this problem has become a very crucial one for the railways. They have allowed things to go so far as to get beyond their control. I suggest that here we have not got to that stage and that we should shut the door before the horse is stolen. I ask leave, Your Excellency, to withdraw the motion.

The motion was by leave withdrawn.

## GRANT OF LAND TO Y.M.C.A.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg\* to move:

"Be it resolved that this Council do approve an arrangement being made between Government and the Y.M.C.A. on the following terms: Government will make to the Y.M.C.A. a grant of a plot of land comprising approximately four acres at the junction of Hospital and Clewett Roads, Nairobi, without stand premium and at a rental of Sh. 72 per annum for 99 years upon the condition that the plot No. 1297 in Elliot Street now occupied by the Y.M.C.A. is surrendered to Government; upon the sale by Government of the plot so surrendered Government will make to the Y.M.C.A. an *ex gratia* payment of £3,000 and also pay over to the Association the proceeds of the sale of the present buildings. Government will not require any further payments in redemption of the loan already made by Government to the Y.M.C.A."

Your Excellency, the motion, as Members will observe, seeks the ratification of the House to an arrangement which has been made, subject to the approval of the Council, between Government and the Y.M.C.A. in respect of the relinquishment by that Association of the plot at present occupied by them and the grant to them of an alternative site in the town. The plot at present occupied by them in Elliot Street was granted them in the year 1910 for 99 years at a rental of Sh. 72 per annum. In 1921 or thereabouts the Association wished to expand their building and obtained from Government the loan of £3,000 for that purpose. By the end of 1928 repayments had been made which effected the reduction of the loan to £1,600. In 1928 the Association prepared plans for a further extension. The new scheme was estimated to cost roundabout £10,000, and the representatives of the Association came to Government with a view to asking whether further assistance by way of a loan could be given in order to enable them to prosecute that scheme. In the meantime, town planning activities in Nairobi had proceeded and plans were well in hand in regard to the City Square, and it was quite apparent that, situated as it is—the present plot lies at the entrance to the square from this end—it would be necessary for town planning considerations, to require if the plot were built on—extensions to the existing building—some of the very special architectural features. That would have meant that the Association would have been required to put up a building more extensive than there was actual necessity for for their requirements, and it was therefore a very considerable lion leap from their point of view. Further, because of the

situation of the plot in the heart of the town, it was no longer suitable for the purpose of the Association. The matter was discussed between them and the Government, and it was amicably arranged that a better site should be chosen and that suitable terms should be arranged by which they would relinquish their existing plot. From an ordinary commercial point of view the plot they had occupied is of considerable value, and Government felt therefore they should deal with the Association in a generous spirit and enable them, in relinquishing their plot to obtain the foundation of a new building on the new plot granted.

The terms, Sir, which have been agreed to by the Y.M.C.A. are that upon the sale by Government of their present plot the sum of £3,000 should be granted to the Association, that the plot at the junction of Hospital and Clewett Roads, Nairobi, should be granted free of stand premium at the usual rental of Sh. 72 per annum, and that Government should also wipe out the balance of the old debt of £3,000, so that the consideration of Government for the Y.M.C.A. relinquishing the plot made the total of £4,600. It is proposed that action should be taken to implement that by the sale of the plot, and the money which has to be found will be found from the proceeds of the sale. In order to do that it will be necessary to amend the normal formula under which Crown Land is usually alienated in Nairobi, so that practically the whole of the purchase price of the plot will be available. I estimate that it is not unlikely, if the sale takes place at a convenient and suitable time, that Government will obtain from the proceeds of the sale of the plot an ample sum of money from which to pay this sum of £4,600. I beg\* to move the motion.

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

HIS EXCELLENCY: The question is, that the motion proposed by the hon. Member be approved.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I am just rising to ask one or two questions. The first is, what is the value of this plot today? Again, is Government going to set off the value of the plot against this £3,000? I should also like to ask, suppose that plot does not sell for £3,000, are we still at liberty to give them that money?

CAPT. THE HON. H. F. WAUO: Your Excellency, I have been asked quite briefly to represent one point in this transaction. The letter of acceptance by the Y.M.C.A. of the Government's offer, dated early in 1930, at the same time

asked Government to advance a further sum of £3,000, and Government eventually agreed to guarantee a new loan of £3,000 to be secured by a mortgage. A formal application for the loan was made in October of that year, and I understand was accepted by Government, Sir, in the point of view of the Y.M.C.A. I think it is fair to recall the statement made by the mover of the motion that some years ago when times were prosperous and good, this institution had arranged its finances up to the extent of £10,000 for the extension of its premises according to its own needs, but owing to the town planning activities the whole of this arrangement had to go by the board. In 1930, if this proposal had been before Government, times were again better, and no doubt Government would have cleared its obligation by the loan of the additional £3,000 with which they could proceed and without which it remained in the position of stalemate. By the acceptance of the proposals at this date without securing the obligation of Government, the institution is left completely in the air and unable to proceed with its activities.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, there is no actual valuation so far as I know of the plot at present occupied by the Y.M.C.A. because under the rating provisions it is excluded from rating and has therefore never been valued. I think that is a correct statement. Taking the relative value between its position and the value received by Government for plots in the neighbourhood, I have no reason to think that a sum of at least double the amount proposed to be paid the Y.M.C.A. will not be the capital value of that particular plot on sale. The value of the plot to be offered them in Clement Road is, on a conservative basis, probably in the neighbourhood of £500 or £600, but under the ordinary policy which Government has adopted of making grants to institutions of this kind, if this were a new application this land would be granted free of premium, so that possibly the value of the land offered them should not be brought in.

It is the case that the Y.M.C.A. in accepting the proposals which were offered them made the additional request to Government for the loan of £3,000. I was surprised to hear my hon. friend opposite say the financial arrangement to extend the £10,000 made by the Association in 1928.

CAPT. THE HON. H. F. WARD: Your Excellency, on a point of explanation I understood the hon. Member to say that himself.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, the arrangement in 1928 was a scheme costing £10,000, and

the Y.M.C.A. came to Government with a view to obtaining a loan for that scheme. It has no funds of its own at all. The loan of £3,000 was agreed to by Government in 1929 or 1930, and had the building been relinquished and had it been possible for Government to have effected the sale of the plot within a reasonable period after the offer, I see no reason to think the loan of £3,000 would not have been implemented. In the meantime the general financial position changed considerably not only in the Colony but in the Y.M.C.A. Unfortunately the institution has not been paying its way, and it is very doubtful whether a scheme of that sort would pay its way at the present time. I was very doubtful because opinions are divided on the point. But after a scrutiny of the Y.M.C.A. accounts for the last few years, and taking into account the general financial position, the Government has advised the Y.M.C.A. that in view of the altered financial circumstances which have supervened, it would be unable to fulfil its promise to make a loan of £3,000. That loan was, however, quite a distinct arrangement from the arrangement which this House is now asked to approve.

HIS EXCELLENCY: The question is:

"Be it resolved that this Council do approve an arrangement being made between Government and the Y.M.C.A. on the following terms: Government will make to the Y.M.C.A. a grant of a plot of land comprising approximately four acres at the junction of Hospital and Clement Roads, Nairobi, without stand premium and at a rental of Sh. 72 per annum for 99 years upon condition that the Plot No. 1297 in Elliot Street now occupied by the Y.M.C.A. is surrendered to Government. Upon the sale by Government of the plot so surrendered Government will make to the Y.M.C.A. an *ex gratia* payment of £3,000 and also pay over to the Association the proceeds of the sale of the present buildings. Government will not require any further payments in redemption of the loan already made by Government to the Y.M.C.A." The question was put and carried.

#### SUPPLEMENTARY ESTIMATES, 1931.

THE HON. THE COLONIAL SECRETARY: (MR. H. M. M. MOORE): Your Excellency, in rising to move the motion standing in my name, I would just like to remind hon. Members of the position in respect of the Supplementary Estimates. I do not think it has ever been customary for a long speech, dealing with detailed items, to be made at this stage, because the items can be more usefully examined in the Select Committee. But it will be within the memory of hon. Members that at the last session of Council a Schedule

of Additional Provision for the year 1931 (No. 4 of 1931) was referred by agreement to the Select Committee. Owing, I understand, to pressure of business at that season, that Select Committee never actually considered these items or reported to Council. In the meantime the accounts for the year have been closed and, as always happens on such occasions, certain adjustments have had to be made—excess expenditure on the one side and savings on the other. It was therefore considered that it would save time, and also be clearer of understanding by all concerned if the total additional provision for the year 1931 was incorporated in one document. That is the document which I laid before Council the other day under the heading of "Schedule of Additional Provision: No. 5 of 1931." That incorporates the additional provision already before Members and adds certain additional provision thereto.

The total additional provision comprised in this Schedule is a sum of £217,000 odd. That, without explanation, would seem to be a very large sum. In point of fact that additional expenditure, now the full accounts for the year have been closed, has been shown to be more than covered by savings on general heads of expenditure.

The actual position on the working of the year on the expenditure side is this:

When the sanctioned Estimates for the year were laid before Council the expenditure figure was ... £3,444,032

The actual expenditure for the year, as disclosed at the end of the year was ... £3,216,080

resulting in a saving on the total expenditure of the year, including this additional provision of £217,954, of

£228,843.

Therefore, I think, on the expenditure side, it will be said that the workings of the year were not so unsatisfactory. What has caused the fact that the year ended in a deficit of some £149,000 is the very large fall in revenue for last year—no less a sum than £449,000 odd. That, Sir, I think is sufficient to explain the general position to hon. Members and I shall be happy, so far as I am able, to deal with any matters of detail in Select Committee. I beg to move that Supplementary Expenditure, 1931, be referred to a Select Committee.

THE HON. THE TREASURER (MR. H. H. RUSHBY): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that Supplementary Expenditure, 1931, be referred to a Select Committee.

The question was put and carried.

### SUPPLEMENTARY EXPENDITURE, 1932.

THE HON. THE COLONIAL SECRETARY: With Your Excellency's permission and the leave of this Council I would take the two motions standing in my name together, with this word of explanation. The First Supplementary Estimates, 1932, are for the quarter ended the 31st March. That statement is made up automatically, whether there is a meeting of Council or not, because a statement in that form has, in due course, to be forwarded to the Secretary of State. Since, however, this Council has met, the Government, in accordance with its usual practice, desires at the earliest possible opportunity to bring to the notice of hon. Members certain further supplementary expenditure which is foreseen at the moment. That is included in resolution No. 3 standing in my name on the Order of the Day and amounts to a figure of £19,053. With the permission of Council, Sir, I will put these two motions together and the Select Committee can then consider the full supplementary provision for this year as we know it at the moment, which is included in these two documents before the House.

I beg to move:

"(1) That First Supplementary Estimates, 1932, be referred to a Select Committee.

(2) Be it resolved that Supplementary Expenditure for the year 1932 of a sum of nineteen thousand, nine hundred and fifty-three pounds, to be expended on the services specified in the schedule hereto, be referred to a Select Committee:

#### SCHEDULE.

1. Agricultural Department Extraordinary.	
Locust Campaign	£16,000
2. Miscellaneous Services Extraordinary.	
Geological and Mining Investigations	2,800
3. Kenya and Italian Somaliland Air Reconnaissance	214
4. Compensation to Mr. C. H. Pitchford	39
Printing and Stationery	
5. Telephones	5
Public Works Extraordinary	
6. Miscellaneous: Fire Extinguishers for Government House, Nairobi	295
7. Education Department.	
Administration. Expenses of Overseas Examination	600

£10,053.

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

HIS EXCELLENCY: The question is that First Supplementary Estimates, 1932, and the additional Supplementary Estimates be referred to a Select Committee.

The question was put and carried.

#### APPOINTMENT OF SELECT COMMITTEE.

##### LEASING OF CROWN LANDS.

HIS EXCELLENCY: I should like to announce the composition of the Committee resulting from the motion of the hon. Member for the Lake:—

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

The Hon. the Acting Attorney General.

The Hon. the Director of Agriculture.

The Hon. the Surveyor General.

The Hon. Member for Rift Valley.

The Hon. Member for Nairobi South.

The Hon. Member for the Lake.

#### BILL.

##### FIRST READING.

##### LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

On motion of the hon. the Acting Commissioner for Local Government, Lands and Settlement a Bill to Amend the Local Government (Rating) Ordinance, 1928, was read a first time.

Notice was given to move the second reading of this Bill at a subsequent stage of the session.

The Council adjourned till 10 a.m. on Wednesday, 11th May, 1932.

WEDNESDAY, 11th MAY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 11th May, 1932, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOISIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

#### MINUTES.

The Minutes of the meeting of 10th May, 1932, 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):

- (1) Report of the Select Committee on Supplementary Estimates, 1931.
- (2) Statement of Colonial Loans, May, 1932.
- (3) Report of the Public Works Department Committee of Inquiry, with observations on the Report by the Director of Public Works and subsequent papers connected therewith.

#### WASINI LAND INQUIRY REPORT.

THE HON. THE COLONIAL SECRETARY: With the leave of Council, Sir, I should like to correct a statement I made last week with reference to the Wasini Inquiry Report. I stated that it would be laid before Council during the present session. I had hoped that we would be able to do so but the Report has not yet been received from the Printer. The Report of Mr. Justice Dickinson will, however, be printed and laid before Council.

#### NOTICE OF MOTION.

MAJOR THE HON. J. O. K. DELAP: I beg to give notice of motion in the following terms:

"That in view of the anomalies and hardships involved in the operation of the Butter Levy Ordinance, 1931, this Council appoints a Committee, distinct from the Butter Levy Board, composed as follows:—

Two Co-operators.

Two Non-co-operators.

Two consumers unconnected with the Dairy Industry, under an official chairman.

This Committee shall hold a comprehensive inquiry into the working of the Ordinance and report."

May I ask Your Excellency to be so good as to allow this motion to be considered at the next session in view of the fact that the present session is nearly over. That will allow time for the preparation of the case by the parties concerned.

#### MOTIONS.

##### COMPASSIONATE PENSION TO THE WIDOW OF THE LATE MR. C. F. HICKIE.

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, may I make a slight amendment to the terms of the motion appearing under my name in the Order of the Day:

"In consideration of the straitened circumstances of the widow of the late Mr. C. F. Hickie, who, after sixteen years, two months and twenty-two days' satisfactory service in the Treasury of this Colony, retired on the 22nd July, 1919, on a pension of £177 17s. 6d. a year and died in Australia on the 9th August, 1931, this Council is pleased to award her a Compassionate Pension at the rate of £75 10s. 4d. a year (which represents one-sixth of the emoluments drawn by her deceased husband at the time of his retirement) with effect from the 10th August, 1931."

The amendment is that instead of £75 10s. 4d. the pension proposed is £74 2s. 1d. I offer my apologies for the mistake, Sir.

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

This morning, Sir, I feel rather like Don Quixote having a last tilt at the windmills. I can only hope that my aim on this occasion will be better than the last, or that the windmills will be less elusive. In any case, I feel I am to-day in the position of an *exquise aux dunes*, and therefore I am on a better wicket than last time.

Now, Sir, having attempted to create a friendly atmosphere, we will return to our motions.

In January, 1921, the principle of granting pensions to the widows of deceased officers in the East African Territories was introduced in this House and was passed and accepted unanimously by the Elected Members. In fact, Sir, more than one hon. Member expressed appreciation that such a proposal had been initiated. I know that because I was in Council myself at the time. Your Excellency, the principle accepted was that destitute dependents of deceased officers who

had had no opportunity of joining the Widows and Orphans Pensions Scheme should be considered eligible for compassionate pensions and the agreed basis was one-sixth of the average emoluments of the last three years at the time of the death of the officer. With that accepted principle, Sir, it seems to me that I have only to prove two things: (1) that the late Mr. Hickie did not have an opportunity of joining the Widows and Orphans Pensions Scheme; and (2) that his widow is destitute.

On the point of opportunity, Mr. Hickie retired from the Service in July, 1919, and the Widows and Orphans Pensions Scheme was introduced in this Council, curiously enough by myself, in February, 1921. That proves that Mr. Hickie had no opportunity of joining the Scheme.

As regards destitution, Sir, I propose, with the leave of Council, to read three short extracts from letters which have been received on this subject. There is one from Mrs. Hickie, dated the 14th August, 1931, addressed from Melbourne to the Secretary of State:—

"I have to report the death on the 9th August of my husband, Clarence Frederick Hickie, late Assistant Treasurer, Kenya Colony. The Sub-Treasury Accountant, Commonwealth of Australia, who has been paying my husband's pensions from India and Kenya, has already been verbally informed.

My husband retired from Government Service in the year 1919, and I understand at that date there were no regulations regarding widows and orphans pensions. I have now no income of any kind and the only estate that my husband has left is a four-roomed cottage and the section of land on which it is built.

I understand from my solicitor that the selling value of this property to-day is something under £300, but that I should have great difficulty in realizing that amount.

My son, who is now nineteen years of age, has a temporary clerkship at a salary of £2 10s. per week, and he is barely able to keep himself."

The reply of the Secretary of State was that the case was not sufficiently strong to receive consideration.

Mrs. Hickie made a further appeal to the Secretary of State in these terms:—

"I have no income whatever. As regards relatives, none are in a position to help. I have four unmarried sisters, two of them complete invalids, and my only brother has been assisting me for the last twenty years and is still doing so, and it would mean hardship for

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them and for him if I had to be supported too. As it is, he has sent a portion of his income to supplement my late husband's pension all the time he served in Nigeria. My husband's health was in a most precarious state by the time he had finished his thirty-two years' service—ten in India and twenty-two in Kenya. My husband's people would have been glad to help had it been possible, but they are on small Indian pensions";

and then follow the names of these people.

That was corroborated by a letter from Mrs. Hickie's brother in these terms:—

"As regards the circumstances in which Mrs. Hickie has been left I would point out that at present she is entirely dependent on me.

About two years ago I retired from the Colonial Service in Nigeria, and came out to Australia and New Zealand for the sake of economy in living, and in the hope of getting some kind of remunerative employment, but so far without any success.

I had hoped to go on to Fiji, but now I have not the means to do so, as I have four elderly unmarried sisters who are dependent on me, and out of my pension of £654 a year I shall be unable to support Mrs. Hickie in addition to my four other sisters.

Two of my sisters are invalids and a considerable portion of my pension is required for their medical expenses."

On receipt of these letters, Sir, the Secretary of State decided that there was a sufficient case to be referred to the Government of this Colony.

The circumstances of this family have been confirmed by letters from a solicitor, who has known the family for many years; so there does not seem to be any question, Sir, as to the facts of the case. I submit, Sir, if this is not a case of destitution, it so nearly resembles it as to be indistinguishable. Here you have an elderly family who have cannot bear their level best to help each other and who faced.

It may be argued that Mr. Hickie ought to have made provision for his wife and family while he was alive and in the Service, but it seems to me that he would have been very difficult if not impossible. The highest salary he ever had in the Service was £420 a year and his pension was only £274 a year.

That, Sir, closes the Government case on behalf of Mrs. Hickie. Assume if you like that hon. Members opposite are without compassion, but I am still convinced that if anywhere in the Colony is to be found the milk of human kindness, it is to be found amongst the hon. Elected Members of this Council.

THE HON. THE ACTING ATTORNEY GENERAL (MR. T. D. H. BRUCE): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the motion be approved.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, after the very moving appeal by the hon. mover of this motion, it is a very thankless task to have to oppose it. If we were a charity organization society, there is no question about it that the case put up must meet with our sympathy and approval, but, in fact, Sir, are we or are we not going to have some definite line drawn where we do contribute in these very sad and certainly deserving cases. In this case, Sir, Mr. Hickie retired from the Service before there was any question of a Widows and Orphans Pensions Scheme, so naturally he could not take part in that, nor is he entitled to any benefits under that Scheme. Officers in the Service who do come under that Scheme have to contribute compulsorily to that Scheme and therefore naturally are entitled to get something from it afterwards. So I do not think that argument really bears on the case.

With regard to destitution, we must all agree that this unfortunate lady is very near destitution; she is not absolutely destitute but very near it. But it still remains, Sir, are we going to consider this question on a matter of hard and fast principle, or are we just going to vote away the country's money—other people's money—because the Council's emotions are moved by the eloquence of the hon. mover. I regret very much that I cannot support the motion.

HIS EXCELLENCY: If no other hon. Member wishes to speak...

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, on this occasion I do not know whether to say I am glad or sorry that I disagree with the hon. Member for the Rift Valley. The position with regard to this motion is a very different one from the position in regard to the three motions we were asked to approve three days ago. Then there was no question at all of destitution, either of the persons concerned or their

dependents. If the argument put forward by the Noble Lord is a completely logical one, then no matter what position the officer who had been in the service of the Government held, and no matter how destitute the circumstances of those dependent upon him as a result of his death, still this Council should never consider anything from the compassionate point of view. If that had been the case, this Council would not have voted money for the widow of the late Sir Robert Coryndon, nor would any money have been voted to the son of the late Sir Christian Felling. I am not suggesting for a minute that the late Mr. Hickie was a person of such importance, or that his services to this Colony, however, good they may have been, could compare with those of the other two gentlemen whom I have mentioned; but if we are to be logical that does not matter, and if a man has faithfully served this Colony, and if, as a result of his retirement before the now existing Widows and Orphans Pensions Scheme came into force it is found that his widow is really destitute I could never bring myself to oppose this motion, and I do not think that hon. Members on this side, by supporting this motion, would at all be betraying any trust which the electorate had put on them, or would be going counter to the wishes of the vast majority, and I hope that on consideration the majority of Members on this side of the House at any rate will give support to this resolution.

**THE REV. CASON THE HON. H. LEAKEY:** Your Excellency, I should like to see whether there are not two sides to the point made by the Noble Lord in regard to the responsibility of Members of this House in voting away the taxpayers' money. Is it not correct to consider what the taxpayers' point of view would be had they the opportunity as we have had of hearing the circumstances and of granting the money or not? In my opinion, were it possible for all taxpayers to hear the words spoken this morning and to know exactly the position of this lady, I believe, if a referendum could be taken, the great majority would be in favour of helping in this case; and therefore I think we are perfectly justified in voting in favour of it.

**THE HON. T. J. O'SHEA:** Your Excellency, I should think one of the most unpleasant duties which some of us on this side of the House have to perform from time to time is voting against these appeals for compassionate allowances. I am prepared to admit that Government never does bring up a case without having some justification for so doing. I have listened to a good many of these claims and quite frankly I acknowledge that there always is a case deserving of sympathy, and this one certainly does not lack features calculated to arouse that

sympathy. But, Sir, can we possibly look at the motion from that point of view. If we do, then I suggest it is open to the hon. Treasurer to bring up in this House at every sitting cases almost without number. Are we to dispense charity? If we are, I ask to be allowed to bring forward very deserving cases and to put up as strong an appeal to Government as the case under review.

During the past twelve months Government has had of necessity to dispense with officers whose circumstances to-day are such as appeal to my sympathy to a much greater extent than those of this unfortunate lady. But I do not see that it is possible for us, as guardians of the public purse—and I include Members on the other side of the House as well as ourselves in that term—I do not see how it is possible for us to regard this issue from that point of view. It is competent for Government to give away public money to charity it is true, but in times like these we have not got the money to give away.

The hon. Member for Nairobi South has made comparison to the case of the widow of the late Sir Christian Felling. He might also have mentioned the names of one or two other people to whom on occasions in the past this House has very gladly and very freely voted compassionate allowances. But I suggest that circumstances then were entirely different from what they are now. We were then comparatively affluent; we had surplus balances; we had revenue coming in, not only in excess of expenditure, but in excess of a very large amount of capital expenditure. We were well off; we could afford to be generous; we could afford to have our sympathies aroused. But in the circumstances of to-day I suggest we cannot. That being so, I think we have to look at the thing in a cold, white light and refuse for the moment to have our sympathies aroused by the hon. member. What are the facts? Mr. Hickie was in the service of the Government here for a period of sixteen years and two months. During that time he spent at least eighteen months not on service, so that in actual fact he did fourteen to fourteen and a-half years' service. In return for that he enjoyed a definite salary of something over £400 a year. That has been spoken of as a small salary, but his salary not many years ago would have been regarded as a good one by the majority of the people in Government service, and it is only because of the absurd idea that we have to-day of a reasonable salary that we could hear to speak about it as small. After fourteen and a-half years work he enjoys for a period of eleven years a pension of £237 a year. I ask the hon. the Treasurer to just tot up what that fourteen years' service cost the country, because in addition to his substantive

pay and pension there are different things which have to be added on which would show that his services were paid for on a very handsome scale indeed. I suggest that out of that he could have made provision for a small family, and I suggest that the circumstances of the unfortunate widow to-day are not so bad as would appear on the surface. She has a home over her head, and a son at work. In the circumstances, I suggest that the Government, the country being situated as it is to-day in relation to finance, is not in a position to give free play to the sympathies that may be aroused.

**LT.-COL. THE HON. C. G. DURHAM:** Your Excellency, on a point of explanation, the hon. the Treasurer quoted the figure of £257 as the pension that the late Mr. Hickie was drawing; the amount according to the motion is £177. Which is correct?

**THE HON. THE TREASURER:** Your Excellency, on a point of explanation, the amount of £177 mentioned in the motion is the pension paid by this Government; the figure I gave is the total pension including the amount from the Government of India. I do not want hon. Members to be under any misapprehension as to the total amount of the emoluments.

**THE HON. F. J. O'SHEA:** Your Excellency, in view of that my figures are altered as regards the cost of the service to this Government.

**LT.-COL. THE HON. J. G. KIRKWOOD:** Your Excellency, as on previous occasions in similar circumstances I intend to oppose the present motion, I agree with the hon. the Elected Members who have spoken, I do not intend to reiterate their arguments, but what I want to ask is—is it not possible that on occasions of this kind relief should be found from the Widows and Orphans Fund and not come from the public funds of Government? I should also like to ask whether it has been taken into consideration, in view of the fact that this officer retired in 1919—I understand that the Widows and Orphans Pension Fund came into operation two years afterwards—not paid into that fund that he would have paid in had he been allowed to do so?

**HIS EXCELLENCY:** This is a border line case, and Government does not wish to force the motion through if there is any other hon. Member wants to express his views it would help me.

**THE HON. CONWAY HARVEY:** Your Excellency, the feeling on this matter is fairly unanimous. I want to associate myself with the views expressed by the Noble Lord, and there is one other aspect that up till now has not been ventilated. Perhaps the hon. the mover of the motion will explain in his reply to the debate precisely why the dependents of deceased officials should be singled out for special privileges which are denied ordinary members of society? I do like to regard officials in this and other Colonies as ordinary human beings. We know quite well they enjoy many privileges denied other classes of society during their lifetime, and I should like to hear some cogent reason as to why they should be given these very special privileges when they die. (Laughter.)

**HIS EXCELLENCY:** Does any other hon. Member wish to speak? I take it that with the two exceptions it is the unanimous feeling on that side of the House that this pension should not be granted.

**CAPT. THE HON. H. F. WALEY:** Your Excellency, I have not spoken, and I wish to say that very regretfully I must join the minority and support my colleague the hon. Member for Nairobi South. I am further influenced by his arguments by the fact that hon. Members on this side have already told Government unanimously they were in favour of the principle of assisting deceased officers' widows. (Hon. Members: No.) On a point of explanation I would ask the hon. the Treasurer whether he did not quote a resolution of 1921 to that effect.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, on a point of order may I ask, in view of there not being unanimity, and quite appreciating that Your Excellency does not wish to use the Government official majority, that you will use this as an opportunity for a free vote? I understand that the Noble Lord approves of that suggestion.

**HIS EXCELLENCY:** I will postpone the debate until after the adjournment and until I have had a consultation with my advisers.

#### REPORT OF SELECT COMMITTEE ON THE BUTTER LEVY BILL.

**THE HON. THE ACTING ATTORNEY GENERAL:** Your Excellency, I beg to move that the report of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to amend the Butter Levy Ordinance, be adopted.

The Committee, Sir, recommend two alterations to the Bill as drafted. The first one is the deletion of clause 4 and the re-numbering of the following clauses accordingly. The reason for the proposed deletion of clause 4, Sir, is that the

Committee found itself unable to reach agreement in regard to the alteration to be made in section 4 of the Principal Ordinance which clause 4 of the Bill purported to amend. They recommend, therefore, that clause 4 be deleted from the amending Bill in order that the matter of the alteration of section 4 of the Principal Ordinance may be further inquired into by the Butter Levy Advisory Board, and the Committee further recommend that the matter be disposed of before the end of this year. Clause 4 of the Bill as it stands adds a proviso to sub-section 2 of section 4 of the Principal Ordinance in the following terms, if I may read it: "Provided that the amount of the bounty payable on each pound of butter exported shall in no case exceed the amount of the levy for the time being in operation and if any portion of the levy be undistributed at the close of the year the Treasurer may dispose of such undistributed portion as the Governor may in the interests of the dairying industry direct." That is how it stands in the amending Bill. This proviso was originally drafted at the request of and on the advice of the Butter Levy Advisory Board, but when they came to reconsider it, shortly before this Bill was introduced into the Council, the Board considered that the proviso in the Bill, that the amount of the bounty payable on each pound of butter exported should not in any case exceed the amount of the levy for the time being in operation, was inequitable, and proposed that the following proviso should be inserted in Select Committee: "Provided that the amount realized free on rail Kenya stations for export butter plus the bounty payable on butter so exported should not exceed the average wholesale price as determined by the Treasurer for butter of fair average quality sold locally less the amount of the levy for the time being in operation." Well, Sir, this proposed new clause was discussed in Committee. The proviso met with the acceptance of some Members but did not meet with the acceptance of others, and therefore as I say we were unable to reach an agreement, and as we were at an impasse the Committee recommend that clause 4 of the Bill be deleted, and the matter referred further again to the Board.

The only other amendment is in clause 6. The Committee felt that Europeans only should be authorized to enter the books where butter is being manufactured and inspect books. The books are kept in English, and so on, and it was thought that probably only Europeans would be able to understand them. Under those circumstances, they recommend that clause 6 be amended by the insertion of the word "European" between the words "of" and "officer" which occur five about clause 4 this is a unanimous report, and I commend it to the favourable consideration of the Council.

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

HIS EXCELLENCY: The question is, that the report of the Select Committee on the Butter Levy Bill be adopted.

The question was put and carried.

#### REPORT OF SELECT COMMITTEE ON THE CIVIL PROCEDURE (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the adoption of the report of the Select Committee of this Council appointed by Your Excellency to consider and report upon a Bill to Amend the Civil Procedure Ordinance, 1924.

The Committee, Sir, recommend three alterations in the Bill which was referred to them. The effect of the first alteration is to make debts due or accruing due liable to judgment and sale in execution of a decree. The second recommendation, Sir, is that clause 8 of the Bill be deleted and that the following clauses be re-numbered accordingly.

I should just like to explain the reason for that. As I explained on the second reading of this Bill, Sir, clause 8 proposes to substitute for the principle at present in force of *pro rata* distribution of assets—which follows the Indian practice—the English practice, which allows an energetic judgment creditor to reap the fruits of his energy. As the law now stands where assets are held by a Court and more persons than one have, before the receipt of such assets, made application to the Court for the execution of decrees for the payment of money against the same judgment-debtor and have not obtained satisfaction thereof, the assets, after deducting the costs of realization, shall be rateably distributed among all such persons. The amendment, if it was passed, would provide that the assets in similar circumstances would be distributed among such decree holders in accordance with the priorities of the filing of their several applications.

I should like to take this opportunity of informing Council that all Members of the Committee are strongly in favour of the principle of this change from the Indian practice to the English practice, but, Sir, it was brought to the notice of the Committee by the Association of Chambers of Commerce of Eastern Africa and by the commercial community generally that this was not the proper time to introduce this change. They put before us, Sir, the fact that there is a great deal of financial depression, and their fear is, I think, Sir, that if this principle were introduced at the present time it might

be and very probably would be disastrous. Their fear is, Sir, that if the creditors agreed not to take action against a particular judgment debtor and one of the creditors did not keep to the agreement but made straight to the court and made application to enforce his decree, if the English principle were in force he would get the whole of the assets, whereas if the Indian principle were still in force they would all have an equal chance of sharing in the assets; and the fear is that if this principle were brought in now creditors, rather than run the risk of being deprived of their portion of the assets by the superior agility of one of their number, would all see who could be the first to enforce his decree, and that this would undoubtedly lead to a great increase in the number of bankruptcies. And so, Sir, as I say, while the Committee feel that the principle of the change is a very excellent one and should be introduced as soon as the present financial depression is over, yet they do think that the reasons given them for passing it just now are extremely cogent and they therefore recommend that clause 8 be deleted.

The third amendment is new clause 10 (old clause 11) and is merely a re-wording of that clause for the purpose of greater clarity.

In conclusion, Sir, I might say that the Committee were of the opinion that no alteration at the present moment should be made in clause 3 of the Bill providing that section 11 of the Principal Ordinance should be amended to read as if the word "concurrent" in the third line thereof were deleted. This clause, Sir, deals with the jurisdiction of the courts and the Committee were of the opinion that wider scope should be given to a court the bench of which is occupied by a qualified lawyer than is at present the case, and the deletion of this word "concurrent" would have had this effect. Owing, however, to representations from my hon. friend the Chief Native Commissioner, that although he and more than one of the Provincial Commissioners were in favour of such alteration and extension of jurisdiction, yet the matter was of such importance, and it was so difficult to decide to what extent the power of jurisdiction should be extended, that the matter in his view in the present Bill, it being a recommendation Sir, of the Committee to Government that this matter should be further considered at an early date with a view to amending section 11 of the Principal Ordinance as soon as possible in a way that is agreed upon by all parties.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second. I have very little to say . . .

HIS EXCELLENCY: Might I put the question? The question is that the report of the Select Committee appointed to consider the provisions of a Bill to Amend the Civil Procedure Ordinance, 1924, be adopted.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, merely on a point of order, to get the procedure established one way or the other, I would submit for your consideration that I think I am right, when seconding a motion, in speaking to that motion before the question is put. I do not want to jump up and be doing wrong in future.

The hon. the Acting Attorney General referred to the Associated Chambers of Commerce. Strictly speaking, it was a standing committee of the Nairobi Chamber of Commerce, which standing committee has been appointed to consider all Bills published for information.

There is nothing more to be said with regard to the decision not at present to bring in an alteration in favour of the English practice. I will merely confine my remarks to the suggested amendment to clause 11. I think perhaps if we had had a little more time the sub-committee, with the help of the Chief Native Commissioner, might have been able to have arrived at a formula which would have been satisfactory to everyone; but we felt it was so important, in altering a clause which deals with the jurisdiction of all resident magistrates, to make quite certain that the new clause should be properly worded, that this step has been recommended to Government. I do not know whether the Attorney General is aware, he probably is, that a meeting of the Rules Committee is taking place at Mombasa in the second week in June; nor do I know whether he will be able to be present, but if he is not I suggest to him that he send a copy of this part of the Select Committee's report to the president of the Rules Committee and ask him for their views, and then, when these have been received, we can get busy again, so that at the next session of Council the necessary amendment can be made.

THE HON. THE ACTING ATTORNEY GENERAL: I will communicate with the President of the Rules Committee.

HIS EXCELLENCY: If no other hon. Member wishes to speak—do you wish to make any reply?

THE HON. THE ACTING ATTORNEY GENERAL: No, Sir.

HIS EXCELLENCY: Then I propose to put the question.

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE MINING (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the report of the Select Committee on the amending Bill to the Mining Ordinance, 1930, be adopted.

The report, Sir, is commendably brief, and recommends one new clause should be added to the Bill giving the Ordinance, as it will then become, effective operation from the 16th day of March, 1932. The object of that addition is that those amendments should have effect from the same date as that on which the Principal Ordinance was brought into operation. The committee has had during its sittings the advantage of discussing various points in this Bill with three or four gentlemen in Nairobi interested in mining, and suggestions were put up by them for the inclusion of amendments to the main Ordinance not provided for in the Bill as drafted. There were also certain suggestions made in regard to the proposal to abolish the limitation on the number of alluvial claims which may be held by one person. Generally speaking, although one or two members of the Committee were inclined to agree with some of the views expressed, it was thought that as we had gone to the trouble in 1931 of passing an Ordinance specifically for the purpose of bringing our legislation into uniformity with the legislation of Tanganyika and Uganda, we should not take steps, although of trifling importance, in introducing such additions into our legislation which would destroy that uniformity unless we were quite sure those steps were right and proper ones to take. The office of administering the mining law has been thrust on me, and I do not set up myself—and nobody does in this Colony—as an authority on mining law and administration. We are, however, shortly to receive a visit from a recognized authority in these matters, and it was generally agreed that any further amendment on points of arrival. It was then said, in view of that general attitude, what was the necessity of proceeding with this amending Bill at the present session of Council? The reply to that is that we had already had a visit from the mining inspector of Tanganyika Territory during the early months of this year, who went to Kakamega and advised us as to the bringing of the Ordinance into operation and of making this amendment in respect of the number of alluvial claims. That amendment has been made in Tanganyika, and after discussion with the Mining Association of Kakamega and with the general public, I undertook that an amendment should be made in our laws, I undertook that an amendment of that sort would be introduced. In view of the complete lack of opposition at

that time to such amendment, I think there is an obligation upon us to redeem that promise to the Association to bring in this amendment now. If it is necessary to introduce some further restrictions of minor character in this regard we will do so at an early date. In the meantime, if the Bill is held over there will be considerable confusion with regard to claims staked by miners.

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

HIS EXCELLENCY: The question is, that the motion for the adoption of the Select Committee's report on the Mining (Amendment) Bill be approved.

CAPT. THE HON. H. F. WARD: Your Excellency, very briefly I should like to ask the hon. the mover of this resolution to give some assurance that Government is more concerned with introducing legislation into this country that is in terms of modern practice than concerned with having legislation on all matters with similar legislation in adjacent territories. I am sure I shall get that assurance, but the people outside want it because otherwise the value of the visiting expert will be largely wasted. One other small point. Owing to these various amendments and certain imperfections in the Ordinance, it is difficult for the ordinary man in the field to understand the Ordinance as easily as is the case in other parts of the world. Some years ago the Department did issue a small brochure which gave the explanations required in simple language. If that could be done again in a reasonable time it would be of considerable assistance.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT, Your Excellency, I feel sure the expert will advise us from the point of view of obtaining the most modern and up-to-date practice. As soon as the point is cleared out of the way I will take steps to see that the brochure is prepared.

HIS EXCELLENCY: The question is that the report of the Select Committee on the Mining (Amendment) Bill be adopted.

The question was put and carried.

BILLS.

SECOND READINGS.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that a Bill to amend the Local Government (Rating) Ordinance, 1924, be read a second time.

The necessity for this Bill, Sir, has arisen from a change in the financial policy during the present year by the Mombasa Municipal Board. I should like to explain briefly the effects of the change and how it necessitated an amendment of this Ordinance. During the first three years of its existence, the Mombasa Municipal Board obtained revenues by direct charges for services supplied by them for the removal of refuse. The cost of collecting these fees has been unusually high owing to the peculiar nature of the conditions in Mombasa. It is further the case also that in the collection of the fee there was always the possibility of hardship on certain members of the community because of those conditions. The old town of Mombasa was built in such a way that it is quite impossible for many of the inhabitants actually to receive the direct service. Members who have wandered through the labyrinthine streets will appreciate the fact that in a great number of cases it is impossible for a householder to have a dust bin of his own, and it also happens that when an enthusiastic public health official has required that these dust bins should be kept they have been kept—and removed at a very early date by a near neighbour without fear of detection. That being so, it seemed to the Board that a change and an overhauling of the system of raising revenue was desirable. It was also thought, and I think with some justice, that the imposition of the fee on the native population represented a definite hardship. The Board therefore decided to abolish the direct charge, and proposed to recover the cost of the services by an increase of the unimproved site value rate. In a normal way the financial policy of municipal authorities, if it has the support of the ratepayers, is a matter on which they should follow their own theme, but in this case, owing to the fact that Government is a very substantial landowner in Mombasa and therefore an important contributor to the rates, it became my duty to take into consideration the effect which this change of policy would have on Government's finances. In a town which has been developed along normal lines, if a direct charge for services of this sort were to be abolished, the normal procedure would be to recover that charge from a levy on improved property. In that it is essentially a service to occupied property, that I agree was impossible in Mombasa from the nature of the case and owing to the fact that as much as half the cost of the service given to improved property is a service given to ordinary street cleaning, owing to the habits of a certain part of the population at Mombasa from the nature of a public thoroughfare as a useful dust bin. After discussion with the Board it was agreed there was considerable importance in the attitude Government took, and an arrangement was arrived at which I think as a whole is fair and reasonable. The actual cost of the service, as computed to developed property, was taken and

a rate was struck to cover that cost, so that the abolition of the refuse removal fee will mean the greater part of the revenue derived from those fees will now be derived from a rate on improved property and the balance from an increased rate on unimproved property. That was not possible within the four corners of the Ordinance as it stood, because where a Board desires to impose an improvements rate it cannot do so as an additional rate which is in excess of the additional rate struck on unimproved site values of land. I hope that will form an explanation and a justification for bringing this Bill before the House. Members will note that the Board is authorized to proceed without reference to the limitations in the Principal Ordinance up to 1st January, 1935. That date has been put in because during 1933 we expect to completely overhaul the basis on which Government contributes to local authorities and it was thought desirable that a terminating date should be definitely fixed in the Ordinance if it is passed.

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

**HIS EXCELLENCY:** The question is that the Local Government (Rating) (Amendment) Bill be read a second time.

**THE HON. F. A. BEMISTER:** Your Excellency, I should like to support the motion entirely on behalf of the most economically run municipality in the Colony. (Laughter.)

The question was put and carried.

**COMPASSIONATE PENSION TO THE WIDOW OF THE LATE MR. C. F. HICKIE.**

**HIS EXCELLENCY:** As regards the motion by the Treasurer with reference to a pension to Mrs. Hickie, I think we all feel some doubt about it. It is a border line case; it is a difficult case, and as it is so exceptional I propose to allow the Official Members to vote as they think fit.

Everybody has spoken, I believe—no other hon. Member wishes to speak?

**THE HON. THE TREASURER:** Your Excellency, there are one or two points which I should like to make. In reply to the hon. Member for the Rift Valley, the only reply I can give is that the principle has been accepted by this House. The question is, does this case fall within that principle. I have tried to state a case that it does fall within that principle.

In reply to the remark by the hon. Member for Plateau South, who suggested that if Government was going to adopt the practice of giving pensions of this kind, that he could produce a number of destitute or deserving cases, I should like to point out that there is a sum of £1,500 in the Estimates for the aid of destitute persons, controlled by myself.

With regard to the question as to why this money cannot be found from the Widows and Orphans Pensions Fund, I should like to say that there is no such fund. It is a pensions scheme and the moneys have to be met from general revenue. Years ago, when the Pensions Bill was before Council, the suggestion was made that the widows of deceased officers should be dealt with under that Scheme. But it could not be done. That is a water-tight Ordinance—a water-tight scheme and you cannot alter the benefits to be derived from it. If I understood the hon. Member correctly, I do not quite see how we can get contributions from a dead man who left no estate.

In reply to the hon. Member for the Lake's request for a statement, I can only say again that the principle has been accepted and if it is to be withdrawn, it should be withdrawn by a motion from the other side of the House and debated properly. But I think the State should be a model employer, and in looking after the widows of officers we are by no means exceptional. Large firms—banks, insurance companies, and mercantile firms, make it their duty to look after the dependents of deceased officers, and we should be failing in our duty if we fell below that standard of responsibility to such dependents as these. I think those are the only points which require answering.

HIS EXCELLENCY: The question is:

"In consideration of the straitened circumstances of the widow of the late Mr. C. F. Hickie, who, after sixteen years, two months and twenty-two days' satisfactory service in the Treasury of this Colony, retired on the 22nd July, 1919, on a pension of £177 17s. 1d. a year and died in Australia on the 9th August, 1931, this Council is pleased to award her a compassionate pension at the rate of £74 2s. 1d. a year (which represents one-sixth of the emoluments drawn by her deceased husband at the time of his retirement), with effect from the 10th August, 1931."

On a division the motion was carried by 17 votes to 9.

(Ayes: Messrs. Bruce, Deck, Doran, Feild-Jones, Fitzgerald, Gilbert, Holm, Canon Leakey, Mr. Logan, Brig.-Gen. Rhodes, Major Robertson-Eustace, Capt. Schwartz, Mr. Wade, Mr. Walsh, Capt. Ward, Col. Watkins, Col. Wilkinson.)

(Noes: Mr. Bemister, Major Delap, Dr. Gilks, Mr. Hurvey, Col. Kirkwood, Mr. Moore, Mr. Rushton, Mr. Scott, Lord Francis Scott.)

### BILL.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the House resolve itself into a Committee to consider clause by clause the Local Government (Rating) (Amendment) Bill.

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

The question was put and carried.

The Council went into Committee.

In Committee.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I beg to move that the Local Government (Rating) (Amendment) Bill be reported to Council without amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report to Council that the Local Government (Rating) (Amendment) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

### THIRD READINGS.

THE LOCAL GOVERNMENT (RATING) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I beg to move that the Local Government (Rating) (Amendment) Bill be read a third time and passed.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE BUTTER LEVY (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the third reading and passing of the Butter Levy (Amendment) Bill.

THE HON. THE COLONIAL SECRETARY: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move the third reading and passing of the Civil Procedure (Amendment) Bill.

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

The question was put and carried.

The Bill was read a third time and passed.

#### THE MINING (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : I beg to move the third reading and passing of the Mining (Amendment) Bill.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

#### SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY : Your Excellency, I understand it would make for the expedition of public business and be agreeable to all Members of the House if Standing Rules and Orders were suspended for the purpose of formally adopting the report of the Select Committee on Supplementary Estimates, 1931, which were tabled this morning. I beg to move that Standing Rules and Orders be suspended.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to second the motion.

The question was put and carried.

#### REPORT OF SELECT COMMITTEE ON SUPPLEMENTARY ESTIMATES, 1931.

THE HON. THE COLONIAL SECRETARY : I beg to move the adoption of the Report of the Select Committee on Supplementary Estimates, 1931. Subject to certain quite minor verbal amendments in the explanatory memorandum, the figures and estimates in the schedules were approved by the Select Committee without amendment.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to second the motion.

HIS EXCELLENCY : The question is that the report of the Select Committee on Supplementary Estimates, 1931, be approved.

The question was put and carried.

HIS EXCELLENCY : That closes the work we have on to-day. We will adjourn sine die.

The Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

## LEGISLATIVE COUNCIL DEBATES

1932

SECOND SESSION

TUESDAY, 26th JULY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, 26th July, 1932, His Excellency the Governor (BURGHEM-GENERAL SIR JOSEPH ALOYSIUS DUNSTON, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

The Proclamations summoning Council were read.

#### ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

NONISATED OFFICIAL MEMBER ;

CYRIL OWEN GILBERT, Surveyor General.

#### COMMUNICATION FROM THE CHAIR.

HONORABLE MEMBERS OF COUNCIL.

Apart from the ordinary measures which will require your attention during this Session, there are several matters of importance arising out of the present financial position of the Colony which must be dealt with without delay.

When I opened the last Session on the 4th May, I laid the financial position before you, and you will see that my summary does not greatly differ from that contained in Lord Moyne's Report. I regret, however, to announce that in the interval the position has deteriorated rather than improved, and the latest advice that I have received is that a shortfall of £250,000 on the year's Revenue Estimates must be regarded as inevitable and that it would be wise definitely to contemplate that the shortfall is more likely to be £300,000.

The Expenditure Advisory Committee to which I referred in my last Address has since been appointed, and it is certain that this Committee will leave no stone unturned in an endeavour to put forward practical suggestions for running the Government machine on the most economical basis possible consistent with reasonable efficiency, and bearing in mind that our aim and object must be to increase both our exports and internal trade to the utmost extent.

Now although the economies which will result from the deliberations of the Committee will be most welcome, it is clear, as Lord Moyne points out, that something more than mere reduction of expenditure is necessary if the present estimated deficit on the year's working is to be materially reduced and, in addition, the equilibrium of the Budget restored so as to provide a reasonable hope for some surplus in 1933 and succeeding years. I realize that for it will be impossible, either by further economies or increased taxation, or a combination of the two, to wipe out the deficit on this year's working with which we are at present faced. None the less, I conceive it to be the duty of the Government to do all it can in that direction at the moment and, further, to take such immediate steps as are necessary to ensure the balancing of the Budget in 1933.

The problem which faces us is the fundamental one of balancing our Budget, leaving if possible something in hand to build up a reserve. It is a problem which no one who has the interests of the Colony at heart should burke. A continuation of unbalanced Budgets would soon prove fatal to the credit of Kenya, and it would reduce materially our chances of persuading those with capital—whether it be large or small—to come and invest it in the Colony.

In this connexion, I may mention that within the past few weeks I endeavoured to obtain further funds for the Land Bank. The reply I received from the Secretary of State was to the effect that as the Bank is a Government institution the Government must accept liability for any loan which might be raised to supplement its funds; and that any addition to the loan liabilities of the Colony would not be justifiable until the steps have been taken which will ensure not only the balancing of the Budget in the future, but also restoring to a reasonable degree the cash and surplus balance position.

It may be urged that, as we are going through exceptional times due to the locust invasion coinciding with the world-wide depression, it would be safe to tide over our difficulties by incurring further deficits in anticipation of better times coming. My own feeling is that to drift on in such a way would be thoroughly unsound. The right policy, I submit, is to face the facts and put our house in order without further delay.

I advocate this policy although I believe that Kenya is in a better position than the majority of territories relying for their livelihood on agricultural produce, and although I am convinced that when prices begin to rise she will respond as she responded after the last serious depression.

The following extract from a recent leading article in the *Times* appears to apply very aptly to the conditions now obtaining in Kenya:—

“The temptation therefore to challenge a particular tax or particular cut will be strong; but there never was a better reason why it should be resisted. A balanced Budget is the indispensable foundation of any sound financial policy; and nation after nation has discovered that the necessity to balance a Budget grows with the difficulty of doing so.”

This leads to the question of the steps that should, I consider, be taken to put our house in order, and I will deal first with the remaining months of 1932.

Apart from any further economies which it may be possible to effect this year, the following measures have been or are about to be taken by the Government: First, the existing levy of 5 per cent and 7½ per cent on official salaries has been raised to 6 per cent and 10 per cent respectively. This is purely a temporary sacrifice, for this extra levy will next year be merged in the income-tax. Its justification at the moment is the further deterioration of the financial position to which I have already referred, and the fact that the Government has decided to restore a modified form of commuted travelling allowance to officers whose duties necessitate constant travelling, and who are at present put to considerable additional expense in consequence. From what I learn, the officials are quite ready to bear their fair share of sacrifice provided others with means pay their share also. Now it is not possible during the remaining months of this year to devise measures to obtain adequate contributions from such persons, and I trust that the officials will understand the position and that they will accept this extra burden in the same loyal spirit as they have accepted those already imposed.

Secondly, it is proposed to raise further revenue by additional non-native poll tax. A Bill to give effect to this has already been published in the *Gazette*; it contains, you will notice, the usual provision for exemption in case of hardship.

Thirdly, it is proposed to ask you to suspend Standing Orders to-day for the purpose of passing through all its stages a Bill increasing the petrol consumption tax by 20 cents per gallon.

These three measures together should provide approximately an additional £50,000 during the remaining months of the year. In the past, Elected Members have taken the view that no additional general taxation should be imposed until they are satisfied that expenditure has been reduced to a minimum. Conditions are, however, now altogether different. Very large economies in expenditure have already been made, and a Committee has been appointed to see what other economies are possible, but, as I have already stated, reduction in expenditure alone will not meet the situation. Owing to the very heavy shortfall in revenue, particularly in Customs revenue, to a figure far below what the most pessimistic anticipated at the time the Estimates were under consideration, it is imperative that the Government should look for other sources of revenue. The additional taxation now proposed is not onerous, and I trust, therefore, that it will receive general assent.

To turn now to what further steps are necessary to stabilize our position in 1933.

Now without going into the details of Lord Moyne's very able report, I think that all those who have knowledge of the country must agree with his opinion that the amount of direct taxation imposed on the native population should not at present be increased, although its incidence should not be varied in accordance with ability to pay. I may state here that the method of variation is engaging the close examination of Government, for the measures eventually decided upon cannot hastily be introduced, as previous decisions upon caution are necessary. The reasonableness of these measures must be made clear to the native population, which my short experience leads me to believe is reasonably minded. How then are we to bridge the gap which will undoubtedly exist in 1933 if the economies which may be recommended by the Expenditure Advisory Committee? Well, I and my advisers have examined the position from every angle, and we see no possible alternative but to recommend that Lord Moyne's advice be accepted and that a mill form of income-tax be introduced, the funds derived therefrom to become available in 1933.

The figures contained in the last Annual Trade Report of Kenya as to Customs duties reveal that since the year 1929 there has been a steady drop in the revenue derived from that source. Whereas in 1929 the amount of revenue which accrued was £250,000 approximately, the receipts last year amounted to only about £700,000. Further, the indications are that this revenue during the current year will be over £100,000 less than in 1931. This enormous drop in the yield of our principal

source of revenue is mainly responsible for our present difficulties in balancing the Budget. I am well aware that the drop is primarily due to the world-wide depression and the general stagnation in trade which has resulted therefrom, but at the same time an examination of the incidence of the decrease shows that while between 1926 and 1931 the contributions to Customs revenue of the European and Asiatic communities have fallen respectively 42 per cent and 27 per cent, the contributions of the native community have risen by 7 per cent. These figures are of considerable significance, and show to my mind that, quite apart from the drop in Customs receipts due to stagnation of trade, another factor has arisen which must also be taken into account. That factor is the increasing extent to which all the essential foodstuffs of everyday life are being produced within the Colony. We recently had a convincing demonstration of that growth in the exhibition of Kenya products, and we are all agreed that it is a movement which we should do everything in our power to foster. Whereas, formerly, very considerable revenue was obtained from import duties on such items as sugar, flour and tea, we are now in a position very largely to rely on local products in these directions, so much so that excise duties have had to be introduced as some compensation for the loss in Customs revenue. In other words, our Customs receipts are increasingly being received from duties on articles, either of the luxury class or, if not actually luxuries, articles of a nature which can be dispensed with in hard times like the present. This means that the old system of relying upon indirect taxation through Customs duties is rapidly breaking down, and that the basic principle of taxation, namely, that it should be imposed on all sections of the community as far as possible in accordance with their capacity to pay, no longer applies. For these reasons, apart from the general considerations put forward by Lord Moyne in his Report, it seems to me that a case for a low income-tax as an equitable instrument of taxation is unanswerable and will, I believe, obtain the assent of a large section of the community. Having regard to these facts, it is proposed to introduce an Income-tax Bill during the forthcoming Budget Session.

\* It would not be out of place for me to repeat here the words used by Lord Moyne in one of the last paragraphs of his Report. They are as follows:—

"The opposition to income-tax now evident in Kenya may perhaps be based very largely on imperfect knowledge of the real financial position and prospects of the Colony. When the facts and alternatives are realized, the non-native population, whose enterprise and belief in the future of their new country have hitherto contributed so much to

its progress, will doubtless not fail to respond to the need of enabling the Colony again to balance its Budget, by accepting an equitable system of taxation in proportion to capacity. Neither her youth among peoples nor her fair inheritance among nations can save Kenya from facing hard facts, and from the need to adjust her circumstances to new and harsh economic conditions."

Might I, as Governor, also make an appeal to the non-native population? The welfare of the country is vitally at stake, and I am sure all will be ready and willing to play the same public-spirited part as the people in the Motherland have done. There is no desire to cripple further those who have suffered misfortune, or those who have only small incomes, but let those who have incomes, great or small, which fall within the terms of the Bill to be introduced vie with each other in seeing how they can contribute rather than how they can evade their liability. The circumstances in which the income-tax imposed in 1921 was withdrawn afford no justification for refraining from introducing such a measure now, for, for one thing, much experience has since been gained in other Colonies—with conditions not entirely dissimilar to our own—where this equitable form of taxation is successfully being operated.

If the tax is to become operative in 1933, preliminary arrangements must be made at once. It is therefore proposed to request the secondment of an experienced officer from Somerset House to assist in setting up the necessary administrative machinery and also to advise on the form of legislation most suitable for local conditions, which I hope to have ready for the next Session of Council.

I understand that the question of the introduction of similar legislation in Uganda and Tanganyika is now engaging the consideration of the Governments concerned and the Secretary of State, and should it ultimately be decided to introduce this form of taxation in either of those territories it would be for consideration whether economies could not be effected by arranging that the officer in question should be attached to the Secretariat of the Governors' Conference, in which case the cost of such advisory service would, by agreement, be apportioned between the territories concerned.

I need not at this stage touch further on the 1933 position: the Budget is being prepared, and will in due course be laid before you for your consideration. I might, however, refer briefly to one of Lord Moyne's main recommendations, namely, the establishment of a Native Betterment Fund, which will affect this Budget. I can state definitely that the Government is in favour of the principle involved, and I may add that I am informed that His Majesty's Government is

equally in favour of it. As regards the financial details, however, we shall be better able to form an opinion when the Budget figures have been collected and examined.

The future is still obscure, but signs are not wanting of a move in the direction of improving conditions. Meanwhile, our best hope lies in not surrendering to the difficulties which surround us, but in all doing our best and working together.

In conclusion, I am sure honourable Members will join me in recording our sympathy with those unfortunate people who have again suffered loss owing to the infestation of locusts, which in some districts has been even more severe than last year. The sustained efforts made by everyone to combat this plague are beyond praise.

#### MINUTES.

The minutes of the meeting of 11th May, 1932, 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. MUMBE):

Report of the Select Committee on the 1st Supplementary Estimates, 1932.

Report of the Judicial Inquiry into Arab Claims to Land on the Wasin Peninsula.

Kenya Police Annual Report, 1931.

Kenya Prisons Annual Report, 1931.

Judicial Department Annual Report, 1931.

Registrar General's Annual Report, 1931.

By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE):—

Summaries of Local Native Council Fund Accounts, 1931.

By THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES):

Report of the General Manager on the Administration of the Railways and Harbours for the year ended 31st December, 1931 (Parts I and II).

Kenya and Uganda Railways and Harbours Supplementary Estimates, 1931.

## NOTICE OF MOTION.

THE HON. T. J. O'SHA : Your Excellency, I beg to give notice of the following motion :

" This House records its deep appreciation of Lord Moyne's study of Certain Questions in Kenya and of his valuable Report thereon, but regrets that he was unable to devote the time necessary to a more detailed study of important aspects of them, and to the collection of data essential to the formation of final decisions upon them."

In giving this notice of motion, Sir, may I ask, if it would meet the convenience of Government, that at least twenty-four hours notice be given of the date when it is proposed that the motion should be debated.

## SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGIBBON, K.C.): Your Excellency, I beg to move, under Standing Order No. 108, that Standing Rules and Orders be suspended for the purpose of enabling a Bill to Amend the Dangerous Petroleum Tax Ordinance to be introduced and passed through all its stages without due notice.

THE HON. T. D. H. BRUCE : Your Excellency, I beg to second the motion.

HIS EXCELLENCY : The question is that Standing Rules and Orders be suspended for the purpose of enabling a Bill to Amend the Dangerous Petroleum Tax Ordinance to be introduced and passed through all its stages without due notice.

LT.-COL. THE HON. LORD FRANCIS SCOTT : Your Excellency, speaking on behalf of Elected Members on this side of the House, I should like to remind Government, as we have reminded them before, that during the last two years estimates of Revenue were unduly optimistic; that the purchasing capacity of the country was so low that there was no chance of their being realized, and that in consequence it was necessary for the Government—to use your own words, Sir, which you used this morning—to put its house in order without further delay. We urged time and time again that a committee should be appointed by Government thoroughly to investigate the economic and financial position of the country in regard to putting that house in order.

Government has turned a deaf ear to our warnings and a deaf ear to our advice, and the result is, Sir, that to-day than realized.

Now, Sir, at the last moment, Government has come forward with a motion to-day to add further taxation to the community to help them out of the hole into which they have got themselves. Sir, we maintain that as Government up to date have shouldered the whole responsibility for putting its house in order and have failed to do so, so must the responsibility remain on them for any additional taxation which they propose to impose on an already highly tried population. Government have made their bed and on that bed they must lie; but we consider there is no reason why they should invite us to share their couch. Your Excellency, for these reasons I regret we are unable to support Government's motion.

HIS EXCELLENCY : The question is that standing Rules and Orders be suspended in order to enable a Bill to Amend the Dangerous Petroleum Tax Ordinance to be introduced and passed through all its stages without due notice.

The question was put and carried.

## BILL.

## FIRST READING.

## THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Dangerous Petroleum Tax (Amendment) Bill was read a first time.

## SECOND READING.

## THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, in your communication from the Chair this morning you have dealt at such length and with such clarity with the present financial position that I feel there is little, if anything, left for me to say in moving the second reading of this Bill. I can only remind hon. Members that this is one of the special emergency measures necessitated by the most recent financial appreciation of the Standing Finance Committee. That Committee has intimated, Sir, that in their estimation there is a likelihood of a further shortfall in the current year's revenue of some £50,000.

This is the first of the three measures—the others being the Non-Native Poll Tax legislation and the increased levy on Civil Servants—designed to meet that particular shortfall. As hon. Members are aware, there has been taxation on dangerous petroleum in this Colony since 1st January, 1922, when a tax of 25 cents of a shilling was imposed. In 1929 it was found possible to reduce that amount to 15 cents, but now, unfortunately, it is found necessary in the judgment of

Government to increase that taxation again to 35 cents, at which figure, Sir, it is estimated, coming into force as it will to-day, to produce an additional revenue of £13,500 for the balance of this year.

Hon. Members will no doubt observe from the Objects and Reasons that the figure is stated to be £17,000, but a more close and reasoned estimation of the probable yield has given the slightly lower figure of £13,500. Still, Sir, on present estimation, all the three measures together are estimated to yield £19,400, and they therefore practically cover the estimated additional shortfall. That, Sir, deals with clause 2 of the Bill.

In clause 3 opportunity has been taken to make it clear that rules may be made not only for securing the payment of the tax, but also for providing for refunds and rebates on the tax paid.

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

THE HON. T. D. H. BURCE: I beg, Sir, to second the motion.

HIS EXCELLENCY: The question is that a Bill to Amend the Dangerous Petroleum Tax Ordinance be read a second time.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I have already voiced my reasons—reasons which we all feel on this side of the House—for my general opposition. I will not go over that ground again on this Bill.

With regard to this tax, many people, I think, hold the view that a tax on petrol is perhaps one of the most equitable ones. Personally, I am one of those old-fashioned people who think all taxation is bad and that the less we have of it the better; because all taxation, whatever form it takes, when the country is hard up, as it is to-day, must be a drain on development.

Optimists believe, Sir, that this tax will not be passed on to the consumer. I hope they will be right, but if that is not so, there is no question that the price of petrol in this country is high and is a great burden on the community. I know myself that petrol is the largest item in my monthly expenditure. A short while ago the petrol companies in this country were talking a rather mad cut-throat competition amongst themselves, with the result that they lost a good deal of money through their agencies, but they have now come to an agreement amongst themselves by which they have stabilized the price, with the result that the consumer has to pay a bit more for his petrol towards meeting the petrol

companies' losses incurred during the previous fight. That being the case, I am not very optimistic myself that the consumer will not have to bear this added burden; and I do feel that any burden to-day is not helping on the development and productive wealth which it is so necessary to increase in this country.

THE HON. T. J. O'SHEA: Your Excellency, first of all, I should like to ask why it is that this motion is moved by the Legal Department? I ask that question, Sir, not for the purpose of being impertinent, but in order to ascertain why it is that, on a Bill which has to deal primarily with the revenue of the country, we are deprived of the opportunity of hearing the voice of the officer responsible for the Revenue Department. I should, therefore, like to make a protest against a Bill of this nature being introduced by the Legal Department, and in doing so I would ask whether we cannot have our revenue and taxation measures introduced by the Department primarily responsible for that basis of its activities.

I oppose the passing of this measure, Sir, because, first of all, it means additional taxation upon an already impoverished community at a time when additional taxation should not be imposed until every possible effort has been made to remove the necessity for extra taxation. I am far from satisfied that the proper steps have been taken by Government for removing the necessity for additional taxation. As the hon. Member for Rift Valley has already said, had Government listened to the voices and the warnings from this side of the House during the past eighteen months there would have been no necessity for the introduction of this emergency measure this morning. We have always got to be quite clear about that. When we are satisfied that everything Government can do to reduce expenditure has been done, then we are prepared to support any measures which may be considered necessary to increase the taxation of the country, but not until then can we possibly think of doing so.

I take exception to this measure, Sir, because the incidence of it will not be fair. In your opening address this morning you drew attention to some very wise remarks of Lord Moyne on the subject of the incidence of taxation in this country. I think it is astonishing, Sir, that within less than an hour after you have commented in support of those wise comments of Lord Moyne on the extraordinary lack of equity in our taxation, that we should be asked to vote for a measure in which the same faulty principle of inequality has been applied. In the circumstances that the country is in to-day, surely it is one of the essentials of any new piece of taxation legislation that there should be some attempt to

make it apply only to those who can afford to pay, and special steps should be taken to avoid adding to the burden of those who are suffering unduly. I say, Sir, that on any analysis of the incidence of this taxation it will surely be found that people who already can ill afford to pay what Government is demanding from them, will have that burden added to by the passing of this measure. The people are already paying to Government a tax of sixpence on every gallon of petrol they consume—I speak subject to correction—I have not been able to verify my remark this morning, but I believe that is the present amount of the tax on petrol. As a large proportion of the petrol consumed in this country is for industrial purposes, is for, in fact, a necessity, this extra taxation can only be regarded as, to that extent, an additional burden on industry and an additional check upon the process of recovery.

Lastly, Sir, I very strongly object to the passing of this measure because it is a continuation of the policy of Government of dealing with a grave situation with a piecemeal measure. Government does not yet realize that radical changes are taking place and that radical measures are necessary. I do not see how it is possible for us to emerge safely from the position we are in to-day so long as that policy is continued. The only way in which these radical measures can be devised is by making a complete study of the situation and bringing in a complete scheme to meet that situation. To continue doing it in the piecemeal manner in which Government is attempting to do it is fraught with such danger to the country that I cannot possibly give it my support. I strongly oppose the passing of this motion.

**CHIEF THE HON. H. F. WARD:** Your Excellency, opportunity will be offered to hon. Members on this side to speak on matters relating to the budgetary position on several occasions during this session, but as I, Sir, have a word of advice and warning to offer to Government, I think it would be better if I did it at this juncture. I feel that the air has not yet been completely cleared by Your Excellency's speech in Council this morning, nor has any added argument been produced that has altered the general consensus of opinion running through the country. I think that general opinion can best be described as a condemnation of Government's financial policy, a grave condemnation which is contained in Lord Mynne's Report, but in very much finer words than anything we have used; and in reading the extract which Your Excellency quoted I have never read it in any other manner than as addressed to the Government of this Colony, as we have addressed similar remarks to the Government in the last two years.

Your Excellency, I would like to support the previous speaker when he said that all we have been asking for for these last two years is a complete picture with which we can agree, so that we can all share in the sacrifices necessary to carry on the country. There is nothing that can be attributed to us which can give any impression that we wish to avoid sacrifices or increased taxation, when justified, but we feel that the Government position is utterly wrong and that is the first thing to be put right.

What I am afraid of is that Government has taken a very grave risk for a very small sum of money—fifty thousand pounds—and that is only a small portion of the budgetary deficit, and it is only a small portion of the actual deficit estimated for the current year; and I cannot see why Government should take the risk of spoiling the spirit of the people of this country when they know that in a very few months time very grave sacrifices are to be called for from the community as a whole. In regard to income tax, which Your Excellency has foreshadowed, the one thing we fear is that the position of hon. Members on the other side of the House is to be put back 100 per cent of their earning power in the boom period and that taxation is to be imposed upon the community as a whole, with one large section enjoying 100 per cent and the remainder, if they are lucky, enjoying 50 per cent. That is a position the people of this country will not tolerate.

And so, Sir, even at this late hour, I would ask Government not to press this piecemeal legislation—not to add a pin-prick of £30,000, not to risk anything with this pin-prick—but to drop this legislation for the time being and to treat the Economic and Finance Committee as a matter of extreme urgency, so that the picture as a whole can be taken at the earliest possible moment and so that an appeal in the fullest and most patriotic sense can be made to the country once and once only.

**LT.-COL. THE HON. J. G. KIMWOOD:** Your Excellency, I am opposed to this Bill. On general principles I still maintain that the Elected Members on this side of the House, who represent the country, have not been taken into the confidence of Government, notwithstanding the assurances which we have had from time to time on the offer of co-operation on the part of settlers. I maintain that had the Elected Members been allowed to co-operate with Government early in this year, or late last year, and had that co-operation been continued, there would have been no need for taxation measures to have been brought before Council this morning. To give one instance, in the Customs estimates last year, the hon. the Commissioner of Customs budgetted for £866,000.

Elected Members suggested a figure of £675,000, which they failed to get. Government eventually agreed to a figure of £750,000. Our estimate would have put us over the £50,000 mark, had our estimate been accepted. However, we were swamped out, notwithstanding the fact that we were nearer £50,000 near than Government. The result is we are now faced with a deficit of £250,000 or £300,000 at the end of this year.

I am opposed to an extra tax on petrol because it is going to put up the cost of transport. At the present time, and for some considerable time past, maize has been carried by lorries, mostly I believe at 5 cents per bag mile, which is a very low figure; and it is very doubtful whether it will leave any profit at all. To my mind nobody can cart maize at that price. This is going to put up the cost of transport of maize. It has an uneconomic price at the present day; the acreage has been decreased; every day farmers are failing for various reasons, and their failures are going to be accentuated by increased taxation. We are not in a position, in a Colony like Kenya, to bear the extra taxation which is going to be put upon us.

I cannot agree that the amount estimated to be realized by the increase of 20 cents per gallon will eventuate. Like all increased taxation in distressful times like we are going through now, it has a reaction. It will definitely mean that the quantity of petrol used in the past will not be used in the future by the individual. It will also mean that adulteration with paraffin will be resorted to bring down the petrol bill. It is a very heavy item and, as one hon. Member on this side of the House has already said this morning, it is a very heavy time of personal expenditure. It applies to everyone—it certainly does to me. But I will use a great deal less in future and go in for adulteration. There is a limit to what can be borne by the individual, whether he is a producer, a shop assistant or a civil servant. That limit I maintain has been reached.

I think Government will be very-unwise to bring in additional taxation without taking the country into its confidence and satisfying the country—satisfying the Elected Members that it has done everything possible to put its house in order and has put the cost of administration at the lowest possible figure to keep the machine in working order. You have put up no proposal to justify that; you have not even maintained that you have done so, and we on this side of the House do not believe that all the possible economies to reduce cost of administration in this Colony has been resorted to. Until that is done I certainly will, on this and all other occasions, oppose extra taxation.

THE HON. F. A. DUMSTON: Your Excellency, there must be some kind of fate following me in all my actions in this House, because I think it will be remembered that the actual idea of a tax on petrol was one of those "rabbits" which the hon. the Attorney General asked me to let out of the bag on December 8th. I then showed that I believed an extra tax on petrol would not affect the consumer, because a new company is coming in, backed by heavy British capital, which has brought down the price of petrol 50 cents already. In other words, it can supply and is supplying petrol at 50 cents less than the other companies at the Coast. But, Sir, while I disagree with my colleagues in thinking the consumer will not pay, I am still going to vote against the motion at present before the House, because I contend that we Elected Members would be committing a criminal action in encouraging Government at the present moment in its profligate policy. There are ways and means, Sir, which are plain to the ordinary man in the street: I will in-stance one definite point—I like definite points—one definite item which, owing to the maladministration of one of the departments of Government, has left the revenue of the country £3,000 to £5,000 out of pocket; and that money is to-day standing in a bank waiting for a statement of accounts from the Education Department on the expenditure of the Ali bin Salim School at Malindi. Now, Sir, that is only one item, but it seems to me quite reasonable that if one item can be pointed out, as it has been, in such a negligible part of the country as the Coast, there is no doubt that other items could be found in the more important parts.

Another point, Sir, is the intolerable waste along the road to Malindi. Your Excellency will have had the pleasure of travelling over it with some of your officers during the last few days. I should like a personal report on it. There was a causeway built which fell down. I am not saying who was to blame, but I certainly do think, Sir, that somebody should be blamed for wasting the country's money on making an eight miles road impassable in a storm instead of repairing the original mistake.

You are asking, Sir, for more money in order to carry on the development of the country, but I contend, Sir, that the subscription of funds to pay the salaries of incompetent officials has no relation whatever to the development of the Colony. Waste is rampant right through, and unless the report of the Committee which has been appointed can be awaited there can be no reasonable judgment on the whole picture. I implore you, Sir, and your advisers to wait a bit, find out the real truth, and you will find there is not a mother's son in the whole country who will not be willing to help you out of the hole in which you may find yourself.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I am opposing this motion very largely because Government, in spite of the fact that you say you have got to put your house in order without delay, have delayed for a period of eighteen months without attempting to do so. Sir, last August we had a Select Committee on the Budget, when the hon. the Commissioner of Customs put up a certain figure. He anticipated getting £666,000 out of Customs duties. There was not a difference of £50,000—as stated by the hon. Member on my left (the hon. Member for Plateau North)—the difference between our figures and his was a difference of £101,000, not £50,000.

Mention has been made of the Economy Committee. I am sorry to say that I think the terms of reference do not go far enough. The Committee is allowed to look at one side of the picture only, and even then there are definite items of moneys which are left out of their purview. I agree, Sir, that the Government ship has got a very bad list, but you will never get on an even keel until you cut out the post-luncheoners on that ship, Sir. When you do that, as far as I am concerned, I will help in every way to keep that ship on an even keel in this country.

MAJOR THE HON. J. O. K. DELAF: Your Excellency, I will not occupy the time of the House for more than long enough to associate myself with the remarks made by the hon. Member for Nairobi North, and to express my own personal view, as representing my constituents, that I have urged many times ever since my election campaign, that the country demanded an economic committee and collaboration with Government in this terrible situation; and without arguing the pros and cons of the measure proposed, I wish to say that I feel absolutely certain that I have not a mandate from my constituents for voting for any extra taxation, whether good or bad, until the wishes of the people I represent can be ascertained.

The thing, to my mind, Sir, is just a matter of principle, and on that ground mainly I must refuse my support.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, this Bill involves additional taxation and so, Sir, personally, I am not surprised that there has again been almost unanimous opposition on every phase voiced by my hon. friends opposite.

We all know, Sir, that petrol is a most excellent motive spirit, and on this occasion it has driven us through schools, canyons and along roads as far away as Malindi. I do not propose to follow hon. Members to Malindi, or any other

remote place, and I shall endeavour, Sir, to restrict myself to an examination of the arguments directed particularly to the principle of this Bill.

We have been twitted, Sir—Government has been twitted—with dealing—once again with the subject in a piecemeal manner. Government has been twitted with inflicting a pin-prick on the community. This, Sir, is a piecemeal solution. I have no doubt Government will be told non-native taxation will be a piecemeal solution, and that the further surrendering of their salaries by members of the Civil Service is a pin-prick. I did endeavour, Sir, to make it clear that we were in this legislation attempting to bridge a gap which had not been anticipated until the most recent appreciation of the position by the Finance Committee. To that extent, Sir, it is—and I think I was most open in moving this Bill—to that extent, Sir, it is a piecemeal solution.

These measures, Sir, are designed to cover the situation during the present year; and I should like to correct what I think is a misapprehension in the mind of the hon. Member for Plateau North. It is not anticipated that there will be a deficit of £250,000, as we hope the anticipated shortfall will be reduced by savings amounting to £100,000. But that is by the way.

I do not think, Sir, anyone on this side of the House was sufficiently optimistic to expect the measure to go through without opposition, but I was a little surprised that, after being twitted, we were further charged with not allowing hon. Members to see a complete picture. I was particularly surprised at that, in view of what Your Excellency said from the Chair. There has been quite openly pronounced this morning a complete scheme for repairing the budgetary position, but in my submission, Sir, a Bill dealing with petrol is hardly the most appropriate or satisfactory occasion for dealing with that; and I would ask hon. Members to go back with me to this time last year and to cast their minds back to the Select Committee which sat on the Estimates for the current year—to remind themselves how very thorough were the investigations and how much opportunity was given for a full consideration of the whole picture.

I will only add, Sir, that the Budget for the coming year will shortly be prepared and that a similar opportunity will be given in Select Committee for all hon. Members to examine the whole picture.

As Your Excellency mentioned this morning, in the interim there has been set up an Expenditure Advisory Committee, and I should like to give an assurance, Sir, that on this side of the House, just as much as on the other side, the work of that Committee is regarded as a matter of urgency.

There is one other point, Sir, though it does not deal in any way with the subject-matter of the Bill, and I would ask the leave of the House to say a word on it. The hon. Member for Plateau South, before making his fulmination against the Bill itself, asked why I was in charge of this measure. I may be wrong, the experience I have gained in other Colonies may be entirely wrong also, but I have hitherto regarded it as a function primarily of the Law Officers of the Crown to make themselves responsible for the form of all legislation. The responsibility of the drafting is that of the Department of which I have the honour to be the head. I think, therefore, Sir, that it is not an improper corollary that this legislation should be introduced and explained by me, as a considerable amount of the explanation involved in the form of the legislation devolved upon myself and the Solicitor General. If I am wrong in that, Sir, it is one which Your Excellency can easily put right. I can only express my apologies to hon. Members if I have unwittingly erred in that way.

I should like, Sir, to assure the Noble Lord the hon. Member for the Rift Valley that we on this side of the House have just as deep-rooted an aversion to increased taxation as hon. Members on the other side; but a time does come, Sir, when stern necessity steps in and taxation is necessary. I hope the Noble Lord, when he finds the Utopia of which he spoke, will invite me to share his bed with him.

**HIS EXCELLENCY:** The question is that a Bill to Amend the Dangerous Petroleum Tax Ordinance be read a second time.

The question was put and carried by 21 votes to 11.

**AYES:** Messrs. Bruce, Deck, Feild-Jones, Fitzgerald, Gilbert, Dr. Gills, Messrs. Hahn, Horne, Canon Leakey, Messrs. Logan, MacGregor, Montgomery, Moore, Brig-Gen. Rhodes, Messrs. Rushton, Scott, Sikes, Wade, Walsh, Lt.-Col. Watkins, Col. Wilkinson.

**NOES:** Mr. Bannister, Captain Cotter, Major Delap, Col. Durham, Mr. Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Enstace, Lord Francis Scott, Sheriff Abdulla bin Salim, Captain Ward.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that this Council resolve itself into a Committee of the whole Council for the consideration clause by clause of the Dangerous Petroleum Tax (Amendment) Bill.

**THE HON. T. D. H. BURCE:** Your Excellency, I beg to second the motion.

The question was put and carried.

The Council went into Committee.

### In Committee:

#### THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

The Bill was considered clause by clause.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that this Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

### On resuming.

**HIS EXCELLENCY:** I have to report that the Dangerous Petroleum Tax (Amendment) Bill has been considered clause by clause in Committee of the whole Council, and has been reported to Council without amendment.

### THIRD READING.

#### THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

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

**THE HON. T. D. H. BURCE:** Your Excellency, I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

### FIRST READINGS.

On motion of the hon. the Attorney General the following Bill was read a first time:

- The Non-Native Poll Tax (Additional Taxes) Bill.
- Widows' and Orphans' Pensions (Amendment) Bill.
- Beer (Amendment) Bill.
- K.A.R. Reserve of Officers (Amendment) Bill.
- Traffic (Amendment) Bill.
- Minimum Wage Bill.
- Electric Power (Amendment) Bill.
- Morris Pension Bill.
- 1931 Supplementary Appropriation Bill, 1932.
- Non-European Officers' Pensions Bill.

Notice was given that the second reading of each of these Bills would be moved at a subsequent stage of the Session.

Council adjourned till 10 a.m. on Wednesday.

27th July, 1932.

WEDNESDAY, 27th JULY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 27th July, 1932, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 26th July, 1932, were confirmed.

#### NOTICE OF MOTIONS.

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

"This Council is of the opinion that the introduction of a Bill to impose income tax on the Colony can in no way be justified until the Report of the Expenditure Advisory Committee is before the Colony, and until the Colony is satisfied that expenditure has been reduced to the lowest figure possible and that no other means are available by which the Budget for 1933 can be balanced."

LT.-COL. THE HON. J. G. KIRKWOOD: I wish to give notice of the following motion:—

"This Council recommends that the composition of the Central Roads and Traffic Board be reconsidered."

#### ORAL ANSWERS TO QUESTIONS.

##### COMMITTEE ON GRANTS-IN-AID.

THE HON. F. A. BEMISTER asked:—

What are the names of the members of the Committee promised to be appointed by the Director of Education to advise on allocation of grants-in-aid?

On what dates have this Committee met?

THE HON. THE DIRECTOR OF EDUCATION (MR. H. B. SCOTT): The personnel of the Committee was as follows:—

The Director of Education.

The Chief Native Commissioner.

The Provincial Commissioner, Coast.

The Nominated Unofficial Member to represent the interests of the African Community.

The Hon. Conway Harvey.

The Committee met on the 10th September, 1931.

It should be noted that this Committee was a re-allocation Committee.

## BUMBURI AERODROME.

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

Will Government please lay on the table all papers in connexion with the acquisition of land at Bumburi for an aerodrome; and state—

- (a) what cost has been incurred in the acquisition and preparation of this aerodrome;
- (b) whether any alternative offers of land, or to make an aerodrome were received from any companies or persons;
- (c) if so, whether they were not considered;
- (d) what has been the cost of the upkeep of the road to the aerodrome from the Malindi Road;
- (e) what was the cost of the survey of the road to Bumburi through the Nyali Estate;
- (f) what was the cost of the telephone installation?

THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOON): Government does not propose to lay on the table all papers in connexion with the acquisition of land at Bumburi for an aerodrome; they are voluminous and can be seen by the hon. Member at the Secretariat.

In reply to the particular questions asked by the hon. Member:—

- (a) the cost of acquisition of the land at Bumburi, comprising 500 acres, was £1,530; the cost of preparation was £1,873;
- (b) the alternative offers of land which were received before the date of the purchase at Bumburi were:—
  - (1) An offer from Mr. J. B. Dopsell, of L.R. No. 517/VI, Mombasa Mainland North, comprising 57 acres.
  - (2) An offer from Mr. F. H. Considine, of L.R. No. 309/III, Mombasa Mainland North, comprising 130 acres.
- (3) A proposal made to the Provincial Commissioner, Coast Province, by the Manager of the Nyali Sisal Estate that his Company might agree to cede an area of approximately 230 acres to Government for aerodrome purposes on condition that in ten years time an arbitration board be appointed to consider the price payable, the board to consist of two members of the Company and two members appointed by Government, with the Chief Justice as referee.  
The cost of preparing this ground was estimated to be approximately £5,750.

- (c) These proposals were not proceeded with. The decision to construct an aerodrome at Bumburi was made after a full expert examination and in accordance with expert advice.
- (d) The cost of the upkeep of the road to the Bumburi Aerodrome from the Malindi Road was met from the funds allocated to the maintenance of the aerodrome and separate records have not been kept. The cost of maintenance in 1931 was £153 and the estimated amount spent on the road in that year was £40.
- (e) The cost of the unskilled labour, rations, materials, transport and bridge tolls expended on the survey of the road to Bumburi through the Nyali Estate was £9,367, 49s.
- (f) The cost of the telephone installation at Bumburi Aerodrome was £300.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, may I ask when I may expect an answer to my question on the subject of the new policy by which the police refuse to take action in the case of thefts of small quantities of farm produce?

THE HON. T. J. O'SHEA: Following the intrusion—but the hon. Member got up to ask another question before the previous question was finished with—but arising out of the answer to the question, may I ask whether any investigation was made as to what would be the cost of preparing an all-weather aerodrome and further arising out of the answer what was the cause of the very high cost in preparing this aerodrome.

LT.-COL. THE HON. C. G. DUNHAM: Was the ground prepared by Government or was it put out to tender?

THE HON. THE COLONIAL SECRETARY: Perhaps the Director of Public Works can give the answer, but to the best of my knowledge it was prepared by his Department.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES): The work of preparing the aerodrome was done by contract, after asking for tenders.

LT.-COL. THE HON. LOED FRANCIS SCOTT: Your Excellency, may I ask if it is a fact that this Bumburi Aerodrome is quite unfit for use in bad weather?

THE HON. THE COLONIAL SECRETARY: It is the case, Sir, that during a certain period of the heavy rains it has been unusable, but during a large portion of the year it answers the purpose admirably.

**THE HON. T. J. O'SHEA:** Arising out of that reply, Sir, have Government any proposals in mind by which it can have an aerodrome which is fit for use all the year round.

**THE HON. THE COLONIAL SECRETARY:** The answer is in the affirmative, Sir. Quite recently a special investigation has been made for a site on the island and there is a possibility of that being used as an all-weather aerodrome all through the year. As soon as a contour survey of the land in question has been made a decision will be taken.

**THE HON. T. J. O'SHEA:** May I have an answer to my two supplementary questions.

**THE HON. THE COLONIAL SECRETARY:** I should like to have notice of those questions.

**MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE:** May I ask, Sir, why this new site was not investigated previously, before the others were gone into?

**THE HON. THE COLONIAL SECRETARY:** Hon. Members will be aware that the question of this Mombasa Aerodrome was very much in the public eye about two years ago and it was as a result of a meeting at Government House, at which full unofficial representation was present, that it was decided to send down two officers, Mr. Swaffer and Captain Tynms, to Mombasa. They went down and made a full report, after investigating all the available sites, and it was as a result of their report and with the full approval of the Select Committee at the time that a decision was taken to purchase the Bamburi Aerodrome.

**MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE:** Did they condemn the site proposed because it was unsuitable?

**THE HON. THE COLONIAL SECRETARY:** To the best of my knowledge they did not condemn the site.

**LT.-COL. THE HON. C. G. DURHAM:** If it is decided to build a new aerodrome is this £1,800 spent on the old one to be a dead loss to the country—in the case of a new aerodrome being built?

**THE HON. THE COLONIAL SECRETARY:** No decision at the moment has been taken to build a new aerodrome.

**THE HON. CONWAY HARVEY:** May I have an answer to my question on a point of order?

**THE HON. THE COLONIAL SECRETARY:** If the hon. Member will tell me when the question was put up—it has not yet been brought to my notice—I will give him an answer.

**THE HON. CONWAY HARVEY:** I will telephone the desired information this afternoon, but to the best of my knowledge it went in about a fortnight or ten days ago.

### MOTIONS.

#### CIVIL SERVAANTS' HOUSING SCHEME.

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** Your Excellency, with the leave of Council I should like to ask that this motion be deferred till to-morrow.

#### RAILWAY SUPPLEMENTARY ESTIMATES, 1931.

**THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BURTBARRIE-GENERAL RHODES):** Your Excellency, in moving the motion standing in my name—

That the Kenya and Uganda Railways and Harbours Supplementary Estimates, 1931, be approved", it will, I think, be unnecessary to amplify in any detail the explanations that have been attached to the supplementary estimates in the form of a memorandum, particularly as all hon. Members have already had in their possession the Annual Report for the year in question, which deals in very complete detail with the financial results for the year. I shall, of course, be only too glad to answer to the best of my ability any question which may be put to me during the course of the debate. I may, however, say that these estimates have received the approval of the Railway Advisory Council and of the Harbour Board, and also of Your Excellency as High Commissioner, and they now await the approval of this House before being forwarded to the Secretary of State.

This House will no doubt, however, wish me to give them some account of the present financial position of the Railways and Harbours Administration, in accordance with the usual custom at this particular time. I would like first of all to deal with the revenue side.

Last year's earnings, as hon. Members will recollect, amounted to the sum of £2,219,000 for Railways and Harbours, which is a figure of £82,000 below the estimate. This year's estimate of Railway earnings, after much consideration by the Advisory Council and by the Administration, was fixed at £1,930,000, while the Harbour revenue was fixed at £255,000. Even at the present time, Sir, it is very difficult indeed to estimate what our actual revenue for the year is going to be. I may, however, state that for the six months just concluded the export traffic of principal commodities for the half-year

was nearly 30 per cent less than it was for the corresponding period last year. Import traffic is 46 per cent below the same period for last year, while the total traffic, which includes all the local movements, is some 23 per cent below last year's figures. All these figures show a very serious diminution, while the drop in the import traffic particularly affects the revenue position. Taking all these factors into consideration, Sir, it would appear probable that the revenue for this year will be somewhere between £1,700,000 and £1,800,000, or roughly £150,000 to £200,000 below our estimate. Similarly for the Harbour, we shall be fortunate if we obtain £260,000, roughly £100,000 below our estimate.

Turning now, Sir, to the expenditure side, it will have been noted from the Annual Report for 1931 that expenditure was reduced below the estimate for that year by some £300,000. This year our estimated expenditure on Railways is over £377,000 and for Harbours over £95,000 below last year's estimate, or a total of £470,000 below the previous year's estimates. Actually, Sir, we are hoping to improve on these figures to the extent of a further £100,000, making a total of £570,000, or just under £600,000 less than the previous year's estimates.

Our total ordinary working expenditure for the Railways and Harbours this year will be £1,170,000, or well over £450,000 less than the actual expenditure in 1930, and £200,000 less than the actual expenditure last year. These figures, I think, speak for themselves, and will, I hope, convince this House that everything possible is being done and with these reductions and with the estimate of revenue that I have indicated, and after making contributions to the Renewals Fund on account of depreciation, and after meeting all loan charges, we shall probably end up the year with a deficit of approximately £350,000. That is for the combined Harbours and Railway Services and is a sum approximately equal to the actual amount contributed to the Renewals Fund on account of depreciation.

Now, Sir, with regard to the prospects for next year. It has been difficult enough to try and estimate what our revenue for the present year is going to be: it is almost impossible to estimate with any accuracy what will be the position next year. The position is extremely obscure and is very difficult indeed. But there are a number of encouraging factors. We have good crops coming on in this territory. The planting of cotton (upon which we depend so much) in Uganda has been greater than last year, which was a record year; and also we have indications of certain new industries, cement factories, wood pulp, additional electric power, etc., coming into this country. The position at home too, Sir, seems to be improving.

thanks to the efforts of the British Government and the British people, but there is still an absence of general confidence in business circles and there is still the prevailing low prices for all primary products. With these conditions in view, Sir, it would appear that the trade revival when it does come, will come very gradually indeed. Everything points to the need for extreme caution and conservatism, but I do not think there is any need for pessimism in any way. Owing to the uncertainty of the position, for the reasons I have explained, we hope to postpone consideration of our revenue estimates to as late a date as possible in order to enable us to obtain a more reliable figure. All I can say at the present moment is that our revenue for next year should be in the neighbourhood of £1,700,000 or £1,800,000 for Railways and £260,000 or £270,000 for Harbours. In these circumstances, Sir, close and careful examination has again been made of all expenditure and I hope that our estimated expenditure figures for next year will be well below the actual figures for the present year. It will be necessary closely to examine the possibility or desirability of closing down unremunerative sections of the line. It will also be necessary to consider the need for increasing rates next year, but in this connexion, Sir, I think I can say that there is no likelihood of anything being done this year or before we have had an opportunity of closely considering Mr. Gibb's Report. As hon. Members will be aware, Mr. Gibb, who is chairman of the Rhodesian Railway Commission, recently visited these territories to examine our rates and rates policy and the financial position of this Railway and the Tanganyika Railway system. It is, of course, impossible to forecast what Mr. Gibb will have to say in his Report, but there is no doubt that it will be one of considerable assistance in every way during the difficult times we are in at present.

Hon. Members will see that the present is a time of anxiety for their Railway. The only consolation, if it is a consolation, which I can give is that every railway in the world, as far as I know, is in exactly the same position. We on our part are doing our best to restrict and reduce expenditure in every way, while at the same time giving reasonably adequate and efficient service. Members on their part, Sir, can assist by increasing production and development, by restraining demands for uneconomic services, by stopping leakages of revenue in every possible way; and in that connexion I might say, Sir, that the need for total abolition of wasteful road services is more than ever necessary at the present time. With co-operation on all sides, Sir, and with a determination to increase production and accelerate development of all our assets we can look forward, I think with confidence, to a gradual betterment of the position during the coming year.

With these few remarks, Sir, I beg leave to move the motion standing in my name.

**THE HON. THE ATTORNEY GENERAL MR. A. D. A. MATHIAS:** Sir, Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is—

That the Kenya and Uganda Railway and Harbours (Amendment) Bill, 1932, be approved."

**MR. LEAD:** THE HON. LORD FRANCIS SCOTT: Your Excellency, before referring to the motion before the House I should like, if I may, on behalf of Members on this side of the House, to offer my very sincere congratulations to my hon. friend the Chief Native Commissioner on his recent appointment to that post. (Hear, hear.)

Appointments to this country are very often open to criticism and so forth. I think this appointment, Sir, has met with approbation and congratulations from every section of the community, and I should like to congratulate the Government, as well as the hon. Member, for their wisdom in making such a good selection.

I should like to refer to your statement put forward in the past by the General Manager of the Railway. There are some two points I should like to touch upon. First of all, I think the hon. Member's accounts more have exploded the myth that all the losses on the Railway have been due to the carriage of maize and wheat for export. This year there has been very little carriage of those products and the Railway is worse off than before, and it is reflected as well in the decrease on imports.

The hon. member says, Sir, I should like to raise to you a question which the Government when they propose to introduce a measure to deal with the road versus Railway question, as I understand it at the last meeting of Council."

**THE HON. THE GENERAL SECRETARY:** Your Excellency, on the last point raised by the Noble Lord I would say that a draft Bill has been prepared; that it was submitted to Mr. Mathias, of whose speech I have the honour of reference was to deal with the Government's proposal, and he has expressed first in substance with a request of the Secretary of State, and has asked for a report on the subject, the draft Bill has been forwarded home, and it is our intention, Sir, subject to the approval of the Secretary of State, to introduce it at the next session of Council.

**THE HON. T. J. O'SHEA:** Your Excellency, I should like to ask the hon. mover whether he has availed himself of the protection of the existing Ordinance by getting control extended beyond Nakuru in the direction of the Uganda border, and, if so, why that has not solved the question of this railroad?

**THE HON. F. A. BEMISTER:** Your Excellency, there was one line in the hon. General Manager's speech which interested me considerably, and that was the call for the co-operation of Members in stopping leakage. It is only a small matter, Sir, but I think it should be ventilated, and that is that people are granted concessions on this Railway which they have no right to claim; and in one case in which I was interested, and which I brought to the notice of the General Manager, a leader of a hunting party claimed and alleged to the Director of Railways that he was representing a certain firm, but that firm denied definitely that they had any connexion with him; and yet that man had facilities granted to him which are denied to other people and which must have cost the Railway hundreds of pounds.

I should like to know what steps have been taken to recover the money after his privileges had been stopped.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will ask the hon. mover to reply.

**THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS:** Your Excellency, there are, I think only two points to which replies are necessary. The hon. Member for Plateau South has asked whether I have made a request for protection between Nakuru and the Uganda border. I have not done so for two reasons. Firstly, because the Uganda Government is introducing legislation to protect us from the border onwards, and secondly, until full protection is given between Mombasa and Nakuru it is impossible to do much. The actual section between Mombasa and Nakuru is, of course, by far the most important section, and once that is protected I doubt whether the other will be necessary. That point will, however, have to be carefully watched.

With regard to the point about concessions to a certain individual, I would explain that the concession in question was given to an individual who expressed an intention of taking moving pictures on certain parts of the country, and, in accordance with our usual practice, a concession was offered to him in return for certain advertising results which we hoped to obtain. Actually, although the concessions were offered, I cannot trace that any single advantage was taken of those concessions. The individual went up-country by car and, as far as I am aware, no particular advantage was taken. The

concession has now been withdrawn principally for the reason explained by the hon. Member, and particularly because the pictures which were to have been taken have not actually been taken.

**HIS EXCELLENCY:** The question is that the Kenya and Uganda Railways and Harbours Supplementary Estimates for 1931 be approved.

The question was put and carried.

#### REPORT OF SELECT COMMITTEE ON FIRST SUPPLEMENTARY ESTIMATES, 1932.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, I beg to move that the Report of the Select Committee on the First Supplementary Estimates, 1932, be adopted. These Estimates, Sir, were considered in Select Committee and agreed to and this motion, therefore, is purely a formal motion.

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** I beg to second, Sir.

**HIS EXCELLENCY:** The question is that the Report of the Select Committee on the First Supplementary Estimates, 1932, be adopted.

The question was put and carried.

### BILLS

#### SECOND READINGS.

##### THE NON-NATIVE POLL TAX (ADDITIONAL TAXES) BILL.

**THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.):** Your Excellency, once again at this session it is my duty to commend to the approval of hon. Members a measure imposing additional taxation. Once again, Sir, it may be said—possibly it will be said—that this is a piece-meal attempt to deal with the situation. There is even more justification for making such a statement in this case, Sir, as hon. Members will see from the last section of the Bill that the legislation is expressly stated to be temporary and to expire at the end of this financial year.

Once again, Sir, I feel that I am bound at the risk of wearying the House to reiterate what I said yesterday. This is a temporary measure, it is expressed to be a temporary measure, designed to produce at least an estimated sum of £30,000 towards the shortfall which we have been warned is likely to eventuate this year. Beyond saying that, Sir, I do not propose to deal at any greater length with the general principles underlying this legislation, and I propose now merely to deal shortly with the details of the measure.

As stated in the Objects and Reasons, Sir, the legislation in form closely follows the form of the existing Non-Native Poll Tax Ordinance; but, Sir, there are two entirely new principles imported into this legislation—once a principle of major importance and the second of minor importance and entirely contingent upon the acceptance of the former. The important principle, Sir, is that for the first time non-native women of this country in receipt of remuneration during the first nine months of 1932 for services rendered within the Colony, and non-native women of the country who from private sources have received within the Colony the sum of £135 or more during the same period—that sum, Sir, being the average of £15 per month for nine months—are given the opportunity of coming to the assistance of their country in its time of need. That is an entirely new principle, Sir, on which for the moment I propose to say no more than to hazard the assumption that it will commend itself not only to hon. Members but to all our womenfolk who are in receipt of a private income to that extent, who, I am sure, will gladly play their part in coming to the rescue of their country.

The second minor point, Sir, is having proposed what is, in effect, a means test of a rudimentary nature, we cannot hope to examine the employees without assistance; and so, Sir, the Bill includes provision for placing upon employers of non-native female labour the obligation of rendering returns of those employed in receipt of an average remuneration of £15 per month or over.

Apart from those two points, Sir, the legislation, I repeat, closely follows the model in Chapter 52 of the Revised Edition.

There is one other point and that, Sir, is the definition of "Non-Native" in section 2 of the Bill. At first sight, Sir, the definition is a curious one. It almost approximates to *obscurum per obscurius*, and possibly it may be held to justify, in part at least, a particularly curt criticism which I read this morning that the Bill is foolish and idiotic, badly framed and badly drafted. There is method in this seeming madness, Sir, since the definition is essential and it is impossible to adopt in  *toto*  the definition of "Native" as it is in the principal Ordinance, as that definition is restricted to adult males only. And so, Sir, we have this curious definition that a non-native is a person who is not a native. My reason for mentioning it, Sir, is that the definition includes every native who is a Somali and Swahili in this country, and possibly it may be felt that the inclusion of Swahilis as the law now stands as non-natives for the purpose of this taxation is unjustifiable.

The other point to which I specifically wish to refer, Sir, is that certain sections of the Non-Native Poll Tax Ordinance are made applicable to this new legislation, and

one of those is the provision which deals with exemption. Sympathetic consideration will be given to claims for exemption by those who honestly feel that they are unable owing to their present financial condition to make this contribution; but I feel there is a far greater consideration that will prevail. I cannot feel, Sir, that when the public as a whole is made aware of the crying needs of their country during the remaining months of this financial year they will fail to do their utmost patriotically to see their country through.

I feel sure, Sir, myself that claims for exemption will only be made when they must be made. The provisions of the law, Sir, are for an additional payment of Sh. 30 (the same amount as that in the existing Non-Native Poll Tax Ordinance) not only by every male over the age of eighteen, but also, in the case of those non-native women to whom I have referred, a corresponding sum. But that sum need not be paid, Sir, until the 30th November of this year. The tax is expressly payable by the 31st October, but the ordinary provisions for double payment in default are made and these provisions give an additional month for payment without the penalty, and so, Sir, taxpayers have from the 27th July until the 30th day of November in which to make this payment. That is the utmost time, Sir, which could be given consistent with getting the yield from the tax in the current year's revenue, and I do suggest to hon. Members that Government has gone as far as it can in making the incidence of this tax as light as possible.

Those, Sir, are, I think, briefly the details of the measure to which I feel attention ought to be called, and I can only repeat, Sir, that I shall endeavour, in replying to the debate, to deal with any other points which may be raised. I beg, Sir, to move that the Bill be read a second time.

THE HON. T. D. H. BUCK: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Non-Native Poll Tax (Additional Taxes) Bill be read a second time.

—CAPT. THE HON. H. T. SCHWARTZ: Your Excellency, there is very little I have to say and my chief excuse for speaking at all is that I was unfortunately unable to be present yesterday when the whole question of this tax and the petrol tax was fully debated. But I do feel it my duty to say on behalf of myself and those I represent that I agree with what was stated by nearly every member on this side of the House who spoke yesterday, namely, that the people of this country will be just as anxious to share any burden which is placed upon them, provided always they are satisfied in the first instance that such burden is a necessary one. The people of this country I feel convinced are no less patriotic, no less

desirous of seeing the Colony's finances put in a sound condition than are the people at home, but I would emphasize that they must, as the hon. Member for Nairobi North stated yesterday, first be allowed to see the picture as a whole. Government, I think, in their heart of hearts cannot honestly expect Members on this side of the House actively to support what has been admitted to be piecemeal efforts to lessen the deficit when it is remembered that to a very large extent, though not entirely, the present position has been brought about by what Government must admit now as completely unjustified optimism ever since the Budget for 1930 was introduced into this Council in October, 1929.

With regard to this particular tax, I do not think there can be any two opinions that theoretically the whole tax is unsound, but though theoretically unsound, in view of the smallness of the original Poll Tax of Sh. 30, no harm was done in 1930 because there were very few people in this Colony when times were good who could not afford to pay Sh. 30; and therefore in practice the tax was not unjust, however, theoretically unsound it may have been. But to pay Sh. 30 in good times is a very different story to being asked to pay an additional Sh. 30 in quite abnormally bad times, and there can be no question that a very large number of people in this Colony will be very hard hit by this extra taxation, and they will be hard hit because I am quite certain that very large numbers of them, though they can ill-afford to pay this tax, will have a pride too great to apply to any officer to be remitted from the payment of the tax. For these reasons, Sir, much as I regret it, I certainly cannot at this stage support any proposal for additional taxation, theoretically unsound taxation and taxation which must hit a large number of people who can ill-afford to pay it.

With regard to the details of the Bill, it is possible I shall not be here when the Committee stage is reached, so I would ask the hon.—the Attorney-General to consider the provisions of the last clause. It is at least arguable—whether rightly or not I am not in a position to say—that the proviso to that section is a meaningless proviso, because when a Bill ceases to be a Bill, every part of that Bill becomes abortive. As a result I think it can well be argued that the proviso is inoperative; and once the 31st December is reached and the Bill is nothing more than a piece of paper, how can action be taken under a proviso to institute proceedings against people who do not pay, or continue proceedings which have started? How can action be taken under a proviso which has ceased to become law? It may be possible—I am not suggesting for a moment that that argument is a sound one—but it is an

arguable one, and I should like the Attorney General's assurance that he is satisfied that the proviso will still be operative even though the Bill is dead.

**THE HON. CONWAY HARVEY:** Your Excellency, I intend to oppose this motion on general grounds, as I share the doubts expressed by my colleagues as to the necessity for these panicly revenue measures, had Government paid heed to the advice of the unofficial community, both inside and outside this House two years ago. During a very long period of association with public life in this Colony, Your Excellency, I cannot remember unofficial advice ever having been so disregarded and flouted by Government as during the last eighteen months.

Although at first sight, Sir, as my learned friend the previous speaker stated, this Bill appears to be unscientific—and no doubt it violates one of the most cherished principles of taxation enthusiasts, that taxation should, as far as possible, be based on ability to pay—I suggest, Your Excellency, that the Non-Native Poll Tax is singularly suited to Kenya conditions in as much, Sir, as there are a very large number of people in this Colony who enjoy all the advantages of government institutions and social amenities who would not be called upon otherwise to contribute to the public revenues.

Now, Sir, I should like to say—and I have had an opportunity of discussing this aspect of the Bill with several of the women I represent—the women of Nyanza anyhow, Your Excellency, and I imagine it applies equally to the whole Colony. These women do welcome this somewhat belated recognition of their right to participate in direct taxation, and in view of that I do rather deprecate the limitations imposed in this connexion, and I see no reason whatever why women who are able to pay should not be asked to pay permanently in the same way as other people.

There is just one other point, Your Excellency, and perhaps the hon. and learned mover will give us some further explanation in replying to the debate. I should like to know why women have to be in receipt of £15 a month before they become liable for this payment, whereas everyone must know, Your Excellency, that a very large number of young men drawing £3, £4 and £5 a month have to pay and have been paying for a number of years. It does not seem logical, Your Excellency. And there is just one other point which I mentioned when the Poll Tax was first introduced into this Council, and that is that I do feel very strongly Sir, that if people are required to pay direct taxation at the age of eighteen they should also be allowed to vote and be at least given some voice in saying how the money which they contribute is to be spent.

**CAPT. THE HON. J. L. COTTER:** Your Excellency, in rising to oppose the motion now before the House I would say that I do not believe any further taxation is necessary at all; and beyond that I would say I believe that the position of the average person living in this country has got to such a state that there is no possible means of obtaining more taxation. Yesterday we had an example of taxation on petrol, but I am afraid Government will be very disappointed with the result. Now we have before us a proposal to impose further taxation by doubling the present Poll Tax—a proposal for which there is no adjective I consider strong enough. In doubling the Poll Tax you are applying extra taxation to rich and poor alike, at a time when, as Your Excellency said in your opening address, the world is faced with possibly the greatest economic depression that has occurred in the life of any member of this House. Added to that, as far as Kenya is concerned, we have a loust menace of unprecedented extent.

Now, Sir, this is exactly in plain words what has come about. We say to the people of this country: "The country is now in a state where, on account of economic depression and loust invasion poverty is rampant. Therefore the amount of money available in the hands of the Government is too small." Now, Sir, on top of that we are asking all these people to double their Poll Tax and face other taxation, with a promise of extra taxation to come in the future.

I have before me a means taken in the Dominion of New Zealand. I do not know whether the Attorney General has ever noticed it. It is known as the "National Expenditure Adjustment Bill." Here we have in the Dominion of New Zealand an attempt made to relieve the population by what is more or less a moratorium, or a partial moratorium. In other words they take the exactly opposite way in treating the taxpayers of the country that they propose to take in this country.

Now, Sir, I have said before and I say again that as far as this country is concerned, the cost of living having gone down below 1914, there is no reason at all why the emoluments of the senior officers of the Government service should not be brought down to the 1914 level. I can see no reason why that is not the way we should take to make the Budget balance, and there is no possibility of making the Budget balance as things are at present. I believe myself that this country is a victim of bureaucracy for the benefit of bureaucracy and I maintain that that should be altered.

**THE HON. T. J. O'BRIEN:** Your Excellency, having computed that this House costs the taxpayers £40 per hour to sit and listen to us talking to no purpose, I shall not take up much of its time in repeating my general objections to the

introduction of taxation measures at this stage. I shall as far as possible confine myself to taking the Bill on its merits. Its merits have been displayed to us for the first time with the versatile ability of the hon. mover, of which we are becoming quite proud. I suggest, as one immediate way in which a saving might be effected, the combination of the two posts of Treasurer and Attorney General.

I agree, Sir, that if you examine this Bill from the usual principles to which taxation measures are supposed to apply it has certain merits. It can, I think, be contended with some degree of truth that it has the merit of easy collection, of low cost of collection, but I suggest that one provision in it will not make the revenue under this Bill so easy or so cheap to collect as would have been the case had it been introduced under more normal circumstances. The provisions under the Bill, Sir, by which a person can apply for exemption will make it more costly and difficult to operate.

The more important principle of taxation, however, is the equality of sacrifice. I regard it as one of the principal axioms which should apply, but under this Bill not even the ability of the hon. mover could persuade this House that there is an equality of sacrifice.

He has mentioned a figure which might have been and should have been disclosed in the Bill or in the explanation, the figure Government expects to realize—£23,000. I venture to suggest, Sir, that of that £23,000 not less than £20,000 will come, or would be expected, from people to whom it will be a real sacrifice to have to pay an extra Sh. 30.

The more I see of Government's intention as to ways to get out of its difficulties the more I realize that here in Nairobi—particularly in Government circles—complete ignorance prevails as to conditions in outlying districts. Because the clubs, and the picture houses and hotels still show signs of life Government continues to labour under the delusion that the masses of the people have not been seriously affected by the abnormal depression whereas plain people like myself who are compelled and willingly move among the plain people can assure you of the truth of their statement when they say that the masses of the non-native population of this country are indeed in very straitened circumstances—very many are suffering real hardship—and that it is a crime and a scandal to attempt to inflict increased taxation on them to-day.

I agree that, as to some small proportion of the people who will be affected, there will be no sacrifice whatever, but as regards the great majority the sacrifice which will be imposed by the imposition of this measure is out of all proportion to the value which will accrue to the State, and again I say that on the principle of general application in countries with more understanding Governments this Bill is inequitable.

The last test I will apply to it, Sir, is whether it may reasonably be expected to bring to the State the figure that has been estimated. It is hoped that on the imposition of this measure the revenue of the State will be increased during the next six months by £33,000. Government acknowledges in bringing in the Bill that there may be some shortage in revenue from other sources which cannot be estimated. I would say, Sir, that it is more than likely that the shortage from the application of this Bill will be greater than you anticipate and that you will lose more by reason of the fact that a large number of people will have to curtail their expenditure in directions in which Government will lose at least an equal amount of revenue.

Government receives, I understand, something in the nature of Sh. 9 per bottle on whisky consumed in this country. Four times nine are thirty-six; therefore if you have four bottles of whisky saved it will mean a loss to Government of Sh. 36. (Laughter.) I say quite definitely that I anticipate that large numbers of the non-native community will deliberately find the money for this Bill from savings which in other ways would go to the Government. So at the end of this year the money realized will not be £33,000 which you estimate on this most iniquitous principle.

In the absence, Sir, of any member of the Indian community it will not, perhaps, be considered an impertinence on my part to say something in regard to the Indians. I wonder, Sir, if Government is aware that very large numbers of the 40,000 Indians in this country are suffering from poverty. Your Statistician, Sir, has shown that numbers of them are going out of the country. Holding long range views in politics, from the point of view of Government, perhaps it is not undesirable, but in the light of present circumstances of the Colony that is to be regretted.

Government may not be aware that the building trade of the country has collapsed as an economic proposition because so many of the Indian artisans are in the position of having to give their labour in return for 2 lb. of rice and 2 chapatties per day.

I would like to ask, Sir, whether in view of the interpretation of the word "Non-Native" it applies to Somalis. Possibly Government is not aware that under the conditions prevailing the stock trade under which these people very largely exist is dead, and a large number of His Majesty's Somali subjects in this country are also in a state of dire poverty. Only the other day I listened to a painful appeal from some of the Somalis settled in the Usasin Gishu district against a demand of small amount due for services rendered in their township.

I do not wish to raise any objection to the inclusion of women under this Bill, but, Sir, I think I may reasonably point out that at the present time a very large number of women are of necessity working to earn their living because their husbands are unable to obtain employment, and that is the only way they can keep their homes together, and by taking advantage of this opportunity of offering a privilege to our womenfolk you are conferring a very doubtful advantage.

The hon. mover, Sir, has endeavoured to appeal to the patriotism of our people willingly to submit themselves to this measure. I repeat, Sir, that when the situation is dealt with the colonists of this country will not be found one wit less patriotic than people of any other part of the Empire. For the moment, the manner in which the problems of the country have been dealt with by Government for the past eighteen months is not one likely to stimulate patriotism and justify further sacrifices in their difficult times. On the contrary, Sir, I feel that the manner in which our problems have been handled during the last eighteen months has so aggravated the taxpayers that they are hardly likely to respond to the appeal of the hon. mover.

I therefore oppose the measure, Sir.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I concur with the previous speakers. Yesterday I accused Government of not taking the country into its confidence. The hon. the Attorney General in taking up that point tried to make a case for the Government by stating that Government had taken the country into its confidence by giving information to the country through this House yesterday. I accept that explanation as a complete confirmation of my assertion. I cannot understand how the fact that measures are brought in and placed on this table for our consideration can be considered as taking us into the confidence of Government, when we have them before us but for a few hours; but I realize conditions in this country can be described as "happiness is but a dream; locusts and taxation are a reality."

I would like to illustrate my opinions on this subject by giving you a concrete case from history. Some forty years ago there was an economic competition between the Hudder Park Steamship Company and the Union Steamship Company of New Zealand. The S.S. *Tasmania*, which the speaker travelled on, from Auckland to Sydney at the time I am detailing arrived at Sydney, and she arrived back at Auckland safe and sound. Her companion the S.S. *Wairapa* did her best to beat her, as because she could not move faster, those on board working hard. I would liken that ship to the ship of state in this Colony. You have the officials of the Government conducting

that boat; you have the passengers—likened to the unofficials of this Colony—who are travelling by it. The S.S. *Wairapa* did the journey from Sydney to Auckland in some twelve hours less than the S.S. *Tasmania*. The S.S. *Wairapa* stunted; the official machine left late in the afternoon and not in the morning. Those in authority decided to carry out the stunt and make up that twelve hours by driving the boat under whatever conditions they met. Unfortunately they struck a very heavy fog. The captain's orders were "full steam ahead, regardless of consequences." The unofficials appealed to that boat to slow down. Their appeal was ignored. Full steam ahead she went. It was rather a miraculous performance but she rounded the North Cape of New Zealand without going on shore. They managed to navigate her down the coast, missing all the islands that are scattered along that coast and close to the shore. She arrived at the gateway of her goal, the Hauraki Gulf, where she was piled up on the Barrier Islands. The captain of that ship has not been heard of since and I have yet to learn that any spirit medium had any message from him from heaven. I leave you, gentlemen, to draw the rest of the moral from that story. But one thing is plain in regard to the administrators of this Colony—"tempt them not, they may fall; they are but human after all."

*The Council adjourned for the usual interval.*

*On resuming.*

MAJOR THE HON. J. O. K. DIBAP: Your Excellency, there is a virtue in consistent behaviour, and recently I had occasion to address the public several times and each time I stated: "I am willing and anxious to co-operate with Government in such economies as are necessary before any additional taxation can fairly be imposed." Now, Sir, I maintain, and I am certain that my constituents are of opinion that such economies have not been effected, and I especially regret the lack of all co-operation with hon. Members on this side of the House to obtain those economies.

It therefore would be an inconsistency on my part, Sir, to vote for any additional taxation, and the reason I should feel unable to do so would be that I feel convinced that if economies were tackled with sufficient ruthlessness additional taxation would not be necessary.

A large mass of my constituents agree with me in that. If steps had been taken to convince them that additional taxation were really necessary you would have a different spirit in the country; and, Sir, it is so important in my view to obtain that spirit that I would appeal again, as I have done in the past, for more co-operation with Members on this side of the House than we have yet received. If that could only be obtained—whether it is necessary to do so through the

Home Government or whether such action could be undertaken here, independently of the Home Government, I do not know, but if only it could be done you would be able to impose taxation up to the limit people would be able to pay and it would be responded to with good grace.

**THE HON. SHERIFF ABDULLA BIN SALIM:** Your Excellency, I rise to associate myself with the views expressed by hon. Members on this side of the House. I think it is very unfair and unjust on the part of Government to impose additional taxation on the Arab community in Kenya. I say so for this reason, Sir, that it is only in this Ordinance that they are treated as non-natives. In all other Ordinances they are classified as natives.

Your Excellency, it seems to have been forgotten in some quarters that the Arabs have been always loyal and friendly and have given all assistance for the time they have been under British Government, and particularly I would say in respect of the abolition of the slave trade and of slavery itself. It can only be expected that certain of them may have given trouble, but there is no doubt that on the whole they have rendered every possible assistance. They have been all along a peaceful and law-abiding community standing aloof from political agitations in the hope that their justified grievances would be sympathetically considered. But now, Sir, it appears that the more peaceful and quiet they are, the more they are imposed upon on account of having been totally ignored by the Government. Now, Sir, that feeling is becoming very acute in the minds of the Arabs, and I am sure it would add considerably to the complications if the claims of the Arabs were treated with indifference.

When I first became a member of this Council, Sir, I raised a question here and asked the Government to tell me whether they would define the status of the Arabs. The reply which I received from the hon. The Attorney General at the time was "Yes", and he pointed out that under the Interpretation and General Clauses Ordinance they were treated as natives; and he also told me, gave me an assurance, that the Arab status question would be introduced in the next session of the House, but that Bill has not yet been introduced into this Council. Therefore, Sir, I am not in favour of this Bill.

**MAJOR THE HON. R. W. B. ROBERTSON-ESTACE:** Your Excellency, I should like to associate myself with the remarks made by the last speaker with reference to the Arabs.

By this Bill, Sir, an Arab boy of eighteen, still at school, will now be expected to pay Sh. 50 extra. It is with great difficulty that parents at present can pay their school fees, and how on earth they are going to find another Sh. 50 I do not understand.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will call upon the hon. mover to reply.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, the debate on this Bill has been even more lengthy than I anticipated, and before I deal with those questions which have direct application to the subject matter of the measure now under consideration I feel, even at the risk of making further drains on the time of this House which we have assessed this morning at £40 per hour from the pockets of the taxpayers, there are one or two general matters which have been raised in the course of the debate and on which I feel I ought to say a few words.

The first of these, Sir, is this: The hon. Members for the Lake, Plateau North, and Ukamba have taken this opportunity of repeating the charge against Government that they have deliberately and consistently flouted the offers of assistance from hon. Members opposite and have refused their co-operation. The hon. Member for the Lake actually gave us the period, Sir, of the last eighteen months during which that malignant manifestation on the part of Government had been most marked; and further, Sir, hon. Members have taken this opportunity of reiterating the charge that no real attempt at economy has been made by Government. I think, Sir, it is only right that as those charges have been made in the course of this debate I should remind the House of what has happened, and I can most conveniently give that reminder, Sir, if I quote from the speech which Your Excellency made from the Chair on the opening of the session of this House on the 4th May: On that occasion, Sir, you intimated to hon. Members the appointment of what Your Excellency called the Watch Dog Committee, and you stated thus: "I am informed that in this Committee there is no division of opinion between the Government and the non-Government members. They are a united body jointly doing their best to lay a proper appreciation of the position before Government. After their first meeting they advised as a measure of precaution that the Government should take immediate steps to reduce expenditure so as to save a sum of not less than £100,000 in 1932. We had already foreseen the necessity of a further curtailing of expenditure and the plans which were in course of preparation, including a six months' moratorium on leave, were immediately put into operation, with the result that savings to the amount of £107,156 have been effected and a statement will be laid before Council giving details as to how this result has been reached. The difficulty of achieving this result will be realized when I tell you the present revised 1932 Estimates of working expenditure, by which I mean all expenditure with the exception of public debt charges, represent a reduction on the corresponding expenditure of 1930 of over

half a million pounds. The first cuts are not so troublesome but those nearer the bone constitute a somewhat delicate operation."

This then, Sir, was the position publicly announced at the beginning of May. Since then, Sir, a further Expenditure Advisory Committee has been appointed and is at present holding its meetings—there is a meeting again this week, Sir, and on that Committee the unofficial community is adequately represented. That, Sir, I do submit refutes the charge of deliberate refusal of assistance and systematic non-co-operation, but on this particular subject, Sir, I would go further and remind hon. Members that according to the constitution of this Colony no important matter can be decided without prior reference to Executive Council, and further that every Bill in detail is submitted to that Council on which the Elected Members have a representation of two of their Members.

THE HON. J. G. KIRKWOOD: On a point of order. Your Excellency, those Members, the two Elected Members, are sworn to secrecy on that Council.

THE HON. THE ATTORNEY GENERAL: On a further point of order, I have never suggested that that was not the case. I am dealing with consultation and co-operation, not with the subsequent publication of what may take place in that Council. I repeat, Sir, that that is a complete refusal of the suggestion that there is not adequate co-operation with the unofficial community. At no time, Sir, has any concrete instance been given of an offer of assistance and co-operation and its non-acceptance.

If I may pass to a second point, Sir, I would like to emphasize that what we are dealing with is the cash position. The object of this legislation is to improve our cash position, and I do not think, Sir, it is an unfair commentary to make that the necessity for so rehabilitating our cash position is in large measure due to the fact that, with the full co-operation of Unofficial Members and of the public of the Colony, our surplus balances have in the last year or two been considerably frozen by being devoted to a series of subsidies to agriculture which have not yet been recovered. To that, in large measure, Sir, is due the necessity for ameliorating our cash position by this and other similar measures. We are dealing here with the cash position and with nothing else.

As the debate has been so lengthy and so many points of detail have been taken up, I hope that hon. Members will pardon me if I deal with the points in the order in which they were taken by the various speakers. I admit, Sir, it is perhaps not the best order, but I am a great believer in some sort of order, and if we cannot have chronological order, we will have some kind of order at any rate.

I will turn now to the points which have the Bill. If I may parody Lord Tennyson it so be the view of the Elected Members on the Bill merits, rooted in demerits, stand." But they while some of its principles have been lukewarm others have been roundly condemned.

The points I wish specifically to deal with hon. Member for Nairobi South, whose absence circumstances I know we all very greatly regret question on the strict legal construction of the last clause of the Bill. Well, Sir, the hon. Member here, would be the first to remember that interpretation Ordinance itself a similar provision case of the repeal of an ordinance. No one knows the hon. Member that in the Penal Code and Procedure Code—in the detailed preparation rendered such immense assistance—both confessions. The reason for making the proviso in order to keep alive the power to seek a repayment of tax. If that proviso were not made no such remedy. As it has been made, Sir, five body, within its competence, I have no objection to which the courts of the Colony will give me wrong, Sir, then it will be for the courts to

The hon. Member for the Lake, Sir, if I stood him, was all for going further than this gone and taxing non-native women as a class the limit of £15 a month. If I am right in that say no more than this—that the hon. Member opportunity for raising that point when the appointment comes up for consideration on the Committee's

The hon. Member for Kenya, Sir, is also absent, but I would like to express my thank drawing my attention to the New Zealand Nature-Adjustment Bill. I do not, unfortunately, law of that Dominion, but if the hon. Member as to let me have his copy of the Bill, he may rest I will very carefully examine it and that it will for examination to Government.

The hon. Member for Plateau South, Sir, of his speech, threatened Government, if I may with losing more than it is going to gain from this of this legislation in that a simple way of the additional taxation of Sh. 30 was to reduce budget for the coming five months by four bob I think I may say, Sir, that Government with prospect of that with equanimity because it is disquieting fact that Customs revenue from ep

25 per cent of the whole Customs revenue and that though in recent months the Customs revenue has shown a long drop in every other respect, the revenue from spirits is very nearly constant. Those, Sir, are the facts as I understand them. I submit that it would not be a bad thing from every point of view if that high proportion were somewhat decreased and the hon. Member for Plateau South has shown us one way by which that decrease may conveniently come about.

The hon. Member for Plateau South also, Sir, if I correctly understood him, suggested that Somalis were to be made to pay this tax, though they were not liable for the existing taxation. That, Sir, is not a fact. I said, in moving the second reading, that the Bill, as drafted, was not applicable to natives, which includes Swahilis and Somalis—the existing Non-Native Poll Tax Ordinance is specifically applied to Somalis—and therefore in that regard, Sir, there is no change in this legislation.

I do not propose to follow the hon. Member for Plateau North on his allegorical voyage, though I may express a certain amount of not unnatural curiosity as to which of my colleagues was the captain. But I would like to say, Sir, that here again I perhaps misunderstood the hon. Member. There has been full publication of the details of this measure. I understood the hon. Member to charge Government with only having given the public a few hours notice of this Bill. That is not so. The Bill which was introduced yesterday, was introduced as an immediate taxation measure under suspension of Standing Orders. This Bill has been published for the prescribed period of fourteen days in the Official Gazette before it is introduced.

Now, Sir, I come to the hon. the Arab Member, who first made a statement, Sir, that in this Colony Arabs were treated as natives except for the purpose of the Non-Native Tax. That, Sir, I do suggest, is hardly a correct statement. The definition of "native" in the Interpretation and General Clauses Ordinance is "a native of Africa not of European or Asiatic origin but shall not include a Somali or a Swahili." There is certainly no inclusion of Arab in that, Sir, and, speaking from memory, I do not think there are more than two or three statutory measures at the outside in which Arabs are treated in the same way as natives.

THE HON. SHERIFF ABDULLA BIN SALIH: On a point of explanation, may I say that in the Criminal Procedure Ordinance Arabs are treated as natives—they are included as natives.

THE HON. THE ATTORNEY GENERAL: That, Sir, is one of the two or three measures which I had in mind when I made my somewhat guarded statement.

The question of the status of Arabs, Sir, is one on which my memory, if I may say so, does not completely accord with that of the hon. Member. It is true that at the last session of this Council which I attended the hon. Member spoke to me on this subject and I told him that a Bill had been prepared and had been submitted to Government, but I feel sure that I never made the statement that it would be introduced at the next session of Council as it is a statement which obviously I had no right to make. The fact is that that Bill has been prepared and is receiving the consideration of Government.

Lastly, Sir, the hon. Member for the Coast, forgetting that hard cases notoriously make bad law, has propounded the conundrum of the Arab boy of eighteen at school. It is to cover cases such as that that I mentioned the exemption clause. But consolation has been brought to me by the hon. the Arab representative, who reminded us that Arabs had invariably been loyal and friendly and good citizens, and I am sure that in the kind of case the hon. Member for the Coast has in mind every effort will be made to pay, to help the Colony, and that it will only be where it is frankly impossible to pay that a claim for exemption will be made.

HIS EXCELLENCY: The question is that the Non-Native Poll Tax (Additional Taxes) Bill be read a second time.

The question was put and carried by 21 votes to 10.

(Ayes: Messrs. Bruce, Deek, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Messrs. Holm, Horne, Canon Leakey, Messrs. Logan, MacGregor, Montgomery, Moore, Brig.-Gen. Rhodes, Messrs. Rushton, Scott, Sikes, Wale, Walsh, Lt.-Col. Watkins, Col. Wilkinson.)

(Noes: Mr. Bemister, Major Delap, Col. Durham, Mr. Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Lord Francis Scott, Sheriff Abdulla bin Salim, Capt. Ward.)

THE HON. THE ATTORNEY GENERAL: Your Excellency, I would like to ask the indulgence of the House, in view of the hour, Sir, to permit me to take, because of the short remaining time, those small Bills which should be non-contentious. I have in mind particularly those marked 3, 4, 5, 6, 7, 8 and 9 on the Order Paper.

#### BEER (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Beer Ordinance be read a second time.

In mentioning the title, Sir, I would like to point out to hon. Members that the figure "1923" in the title is an anachronism. The Ordinance is now part of the Revised Statute Law of the Colony and in due course I shall move that the figure be deleted.

The purpose of this Bill can be explained in very few words. When the Beer Ordinance was drafted it was never contemplated that there would arise a local industry of such importance that its products would be sought outside this Colony in the contiguous East African Territories and might be required for export to other parts of the world or as ships' stores; and therefore, Sir, though an excise duty was imposed, no provision was made for a rebate of the duty payable or a refund of the duty paid in those events. There are apparently indications, Sir, that the local product in question has met with so great a degree of favour that it may be shipped as ships' stores from the Colony or exported to parts of the world other than Uganda and Tanganyika Territory. If that is correct, Sir—and I am sure we all hope that it is correct—then there is no reason why this excisable product should receive different and less favourable terms than other excisable products in the Colony; and this Bill is introduced in order to put it on the same footing as such excisable products as tobacco, tea and sugar.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

#### KING'S AFRICAN RIFLES RESERVE OF OFFICERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the King's African Rifles Reserve of Officers (Amendment) Bill.

This Bill is purely consequential, Sir, on a measure which received the approval of this House last year. The object of that measure was to confine the Reserve of Officers of the King's African Rifles to British subjects in the Colony. That Bill became law, Sir, and it was unfortunately overlooked at the time that in various sections, namely sections 5, 6 and 7 of that legislation, reference was made to "Officers" and "an Officer"; and in case there may be any doubt in the minds of the community as a whole as to membership of the Reserve of Officers this opportunity has been taken to clear up the point by substituting the words "British subjects" for the word "Officers" in section 5 and the words "A British subject" for the words "An Officer" in sections 6 and 7.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

HIS EXCELLENCY: If no other hon. Member wishes to speak I will put the question.

The question was put and carried.

#### THE TRAFFIC (AMENDMENT) BILL.

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

It was recently pointed out by the Nairobi Chamber of Commerce, Sir, that our Traffic Ordinance was silent on a matter which is dealt with in most corresponding codes, there being no provision for a refund of licence paid in the event of a licensed vehicle being destroyed, broken up or permanently removed from the Colony during the currency of the licence.

It is possible, Sir, that the acceptance of this measure may result in a loss of revenue to the Colony, but it is unlikely I think, Sir, that that loss of revenue could conceivably be more than extremely small, but even if such loss were to occur I suggest to hon. Members that that is no reason why we should not follow in this regard many other countries whose traffic legislation provides for a refund of licence in the case of those unfortunate circumstances intervening which render that licence to a large extent nugatory.

No provision is made for any refund of licence when the vehicle is withdrawn from use during the last quarter of the year. The Bill provides, Sir, in respect of other quarters, a refund of 15 per cent where three quarters of the year have been enjoyed, 45 per cent where half the currency of the licence has been valid, and 70 per cent where the licence has only been operative for one quarter.

This Bill closely follows the legislation which has been enacted in most other parts of the world.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

THE HON. H. F. WANN: Your Excellency, I believe I am correct in saying that this matter was raised by the Nairobi Chamber of Commerce only during the last two months, and I think it only right to say that I offer a word of thanks to the hon. Member of the Department responsible for the preparation of this Bill.



labour. The African unskilled labourer of to-day does understand better what work really means and does put in much better work than his father did when he first started work in this Colony, and owing to that fact, when times are better and we can afford it, he should be paid better wages.

I therefore, Sir, welcome the setting up of machinery so that if occasion arises a minimum wage can be speedily fixed without undue delay.

I therefore support the Bill wholeheartedly.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will ask the hon. member to reply.

**THE HON. THE ATTORNEY GENERAL:** I greatly regret, Sir, that my introduction of this Bill was such as to convey to the Noble Lord the impression that Government considered this measure unnecessary and redundant. What I intended to convey, Sir, was that the views of this Government were that legislation on the English model, which set up an elaborate system of Trades Boards and Tribunals was unnecessary and all we required was a permissive measure such as the present.

I do not think, Sir, this is the time or the place to discuss the merits or demerits of the League of Nations. The Convention has been ratified; its ratification has been approved by both Houses of Parliament in Great Britain, and legislation has in fact been passed. There are certain obligations under the Treaty of Versailles which devolve upon the Colonies, and it is because of our wish not to be false to our obligations that this legislation is introduced.

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

The question was put and carried.

#### ELECTRIC POWER (AMENDMENT) BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Amend the Electric Power Ordinance be read a second time.

This Bill, Sir, deals really with three quite separate problems. Those problems can be stated quite shortly, Sir. The first and perhaps the most important, Sir, is the adequate protection of those ignorant of the danger to which they subject themselves when casually compelled to work in connexion with dangerous electrical installations. It is true, Sir, that in such a case, where death results from the neglect of ordinary or proper precautions, the law may be able to punish the real

offender for manslaughter, but in general, Sir, it is extremely difficult in practice to get the requisite evidence. And so, Sir, this Bill provides, not only that the neglect of elementary and proper precautions shall be an offence, even though no harm is done to anyone, but that where hurt or injury to human being or loss of life supervenes a specific penalty is imposed. That object, Sir, is one which I am sure commends itself to every member of this House.

The second point, Sir, is that, though the law regards a scheme of electrical energy as the stealing of an immovable object, the law at present does not go sufficiently far to obviate and to put elementary obstacles in the way of those who desire to steal energy. And so, Sir, this Bill provides for a system of stamping meters in the interests not only of the supplier but, I suggest, equally in the interests of all honest consumers.

Thirdly, Sir—and here I am referring to the first portion of the Bill—the anomalies which at present arise in regard to the generation and use of electricity by public bodies, local authorities and members of the public will be—I hope to hear the hon. Member for Nairobi North agree—greatly removed and the position clarified and simplified by the present proposals. At present public or local authorities cannot generate and use electricity outside their own district; they cannot supply at all, but any private person may generate and use any electricity up to any power on his farm. If the local authority desires to use power, there is a very cumbersome machinery provided—advertisements, legal expenses, publication, unavoidable delay, unavoidable cost. It is now proposed, Sir, that the Governor in Council or the Governor—depending on the nature and type of the application—may grant authority outside any licensed area to any public or local authority to generate and sell energy to one or more particularized specified persons, and at the same time a public or local authority may instal a small plant, the power of which hon. Members will find stated in the Bill—25 kilowatts rated capacity—inside or outside a licensed area, to generate for their own use, and in the event of their desiring so to do, Sir, they require no licence, provided grants are in the ambit of the law and the same provision is applied to them for the protection of the public.

Those are the three quite separate matters with which this legislation deals, Sir, and I commend it to hon. Members.

**THE HON. T. D. H. BAKER:** Your Excellency, I beg to second the motion.

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

The question was put and carried.

## MORRIS PENSION BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Legalise the Payment of a Gratuity and a Reduced Pension to Alban Wesley Morris be read a second time.

This, Sir, is another of those cases, of which there have been several incidences in the course of the last year or two, where an officer left the service of this Colony prior to the introduction of the European Officers' Pensions Ordinance, 1927, and was not duly notified of the option which he was entitled under that legislation to exercise in order that he might get a gratuity and reduced pension.

In the present case, Sir, the facts are not quite on all fours with those of previous cases in that Mr. Morris, with whom this Bill deals, has in fact retired on pension; and so, Sir, it is possible to estimate what the financial implications in this case are. The proportion of pension which Mr. Wesley Morris is entitled to under Kenya legislation in respect of his service of eleven years and one month in this Colony is £158 13s. 6d. That is the pension computed in accordance with the ordinary provisions of the law. Had Mr. Morris exercised his option under Regulation No. 12 that pension would have been commuted as to one-quarter into a gratuity and he would have been entitled to a gratuity of £396 13s. 4d., and his pension would have been proportionately reduced to £119 0s. 2d. It is merely in order to enable Mr. Morris to exercise that option, Sir, that this Bill is introduced.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to second the motion.

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

The question was put and carried.

## 1931 SUPPLEMENTARY APPROPRIATION BILL.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, I beg to move the second reading of a Bill to supply a further Sum of Money for the Service of the Year ended 31st December, 1931.

As hon. Members will appreciate, this is a purely formal measure giving statutory effect to the adoption of the Select Committee's Report on the Supplementary Estimates, 1931, which was agreed to at the last session.

I beg, Sir, formally to move the second reading.

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

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**HIS EXCELLENCY:** The question is that a Bill to supply a further Sum of Money for the Service of the Year ended 31st December, 1931, be read a second time.

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 for the consideration clause by clause of the following Bills:—

Non-Native Poll Tax (Additional Taxes) Bill.

Beer (Amendment) Bill.

K.A.R. Reserve of Officers (Amendment) Bill.

Traffic (Amendment) Bill.

Mjiniwani Wage Bill.

Electric Power (Amendment) Bill.

Morris Pension Bill.

1931 Supplementary Appropriation Bill, 1932.

**THE HON. THE COLONIAL SECRETARY:** I beg to second the motion.

The question was put and carried.

The Council went into Committee.

## In Committee.

## THE NON-NATIVE POLL TAX (ADDITIONAL TAXES) BILL.

The Bill was considered clause by clause.

## Clause 2.—Interpretation.

**THE HON. THE ATTORNEY GENERAL:** In this clause, Sir, as I have already indicated, the question of the definition of Swahili has to be considered. I took the opportunity during the interval of ascertaining the opinion of the Chief Native Commissioner and of the Provincial Commissioners, and they are in favour, Sir, of exempting Swahili natives from the application of this tax, so that the tax will be on all-fours with the existing taxation. I suggest therefore that the clause be amended by adding, after the word "native" at the end, the words "or a Swahili."

**LT.-COL. THE HON. LORD FRANKS SCOTT:** Your Excellency, I do urge upon Government that the time has come when we should get this vexed question of the definition of "natives" solved. With nearly every Bill which comes up it gives us trouble. I understood from the hon. and learned Member opposite that he had a Bill in preparation. I hope it will be introduced as soon as possible.

**THE HON. THE ATTORNEY GENERAL:** The Bill has been prepared, Sir, and deals not only with Arabs but with Somalis as well as, speaking from memory, Madagascar, Comoro Islands, and so on.

**HIS EXCELLENCY:** The question is that at the end of clause 2 be added the words "or a Swahili".

The question was put and carried.

**Clause 3.—Additional taxes payable by non-natives in 1932.**

**LT.-COL. THE HON. C. G. DURHAM:** Your Excellency, I would like to make an appeal on behalf of lads of 18, who have just left school, that they be exempt, Sir, from this tax. Lads coming down from school at the age of 18, in their first job, only get from £0 to £2 a month.

**HIS EXCELLENCY:** In that case they would probably get exemption.

**LT.-COL. THE HON. C. G. DURHAM:** If he is a youngster, he has pride, and will not ask for exemption. I think we should apply the same figure of £15 a month to a lad of 18.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** It might help a little if we might be told how Government arrived at the figure of £15. When I have been told that—that the figure of £15 is based—we can deal with the point raised by the hon. Member for Kikuyu.

**THE HON. THE ATTORNEY GENERAL:** I had not the advantage of being in the Colony when the early discussions took place, Sir, but I might hazard a guess that the figure taken is that of a minimum income, above which this tax could properly be expected to be imposed on non-native women. Every figure must be arbitrary. If the hon. Member can make out a case for a figure higher or lower than the £15, one so late taken, I am sure it will be considered. On the other hand, I am not quite clear what the hon. Member for Kikuyu had in mind.

**LT.-COL. THE HON. C. G. DURHAM:** That the amount you tax him on is £15 a month, the same as for the women. A woman gets away with £15 a month, so why should you tax a youngster getting £0 a month? Do you call that fair? I want the £15 to be applied to the youth just as it is to the woman.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** I am sure the £15 applies not only to the youthful woman but to the aged woman also, tax unless he is earning £15 a month.

**THE HON. T. J. O'SHEA:** I wonder if the requirements of the hon. Member be met by the amendment I am going to move—the age 18 be deleted and that the age 21 be substituted therefor. The justification for that, Sir, I maintain, is that it has first of all the advantage of making the age of direct taxation the same as the age at which a person is regarded as a citizen and has a vote. But I would like to urge the more direct side of the case, which is that in it a very large number of cases, if you apply the age of 18, the there are a lot of cases of hardship due to parents having to pay for the grown-up members of the family, and that adds another burden to many cases of hardship would be automatically removed if the Government would agree to the deletion of the age of 18 and the substitution of the age of 21, and I make that suggestion.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** I should like to support the last speaker's proposal. I believe the reason for putting any put an unnecessary burden on the family budget, and for that reason, Sir, I should like to support the last proposal.

**HIS EXCELLENCY:** The last amendment is that the age of 18 in sub-clauses (a) and (b) should be deleted and the age of 21 substituted therefor.

**THE HON. THE ATTORNEY GENERAL:** The age of 18 is taken from the existing law. An hon. Member is aware, the object of this legislation is the estimated yield, which has been given, Sir, and my hon. friend the Treasurer tells me that it would be quite impossible in this regard in this purely temporary legislation. I do suggest, Sir, that if the evils which have been envisaged do flow from the fixing of the taxing age at 18, the remedy is to amend Chapter 62, and not merely to amend what on the face of it and from every point of view is a temporary measure, from which we hope to get a certain sum of money—a sum which cannot possibly be obtained if this amendment is accepted.

**THE REV. CANON THE HON. H. LEAKEY:** Your Excellency, I am very much in sympathy with what has been said when I think of entirely covered by exemptions. I do not see how you can have the age of 18 for natives and bring in 21 for non-natives.

**THE HON. T. J. O'SHEA:** Your Excellency, in reply to the last speaker, I feel rather hurt that the standard of civilization attained by our people should be contrasted with that of natives. I see no reason why we should alter the age for natives to 21 to suit the requirements of the civilized peoples of this country. With regard to the objection to the amendment which was made by the hon. the Attorney General, had it not been for the fact that Government's offers have been in such a low state, I should have appealed to Government within the last year or two to alter the principal legislation. But, Sir, it only makes matters very much worse if we perpetuate something in the nature of an injustice in this amending legislation. What is at issue is based on the original Bill, it will add to the burden if they have to pay double under this amending legislation. I am hoping Government will see the wisdom of not increasing that hardship by inflicting an additional hardship. I would suggest that the amount of revenue to be lost would not be very great inasmuch as if the age of 18 is retained it is extremely likely that most of the people affected will have to apply for exemptions in any case. Unfortunately, Sir, it is a remarkable fact that the largest families prevail in circles where perhaps the burden is heaviest on the head of the family.

**THE REV. CANON THE HON. H. LEAKEY:** I cannot understand why the uncivilized should be made to pay money earlier than the civilized.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, there are two points which have arisen. The first point is in regard to the raising of the age. The reason why I think it is quite easy to put in the age as 21 instead of 18 is because it is a temporary measure. I do not think we are proposing to go so far as to affect the permanent measure, which would affect the revenue to double the extent this one does.

With regard to the dispute between the Rev. Member and my hon. friend, I cannot see how this arises, because if the age is changed to 21 it affects only non-natives. The question of race does not come in. As this is a Bill essentially to tax non-natives, it does not affect the natives, so I do not see how that racial points affects the natives at all.

**HIS EXCELLENCY:** I will put the question now. The question is that the age of 18 in sub-clauses (a) and (b) be deleted and the age 21 substituted therefor.

THE HON. T. J. O'SHEA: Your Excellency, as Government is unable to accept this amendment, I suggest the time of Council would be saved if I withdraw it.

HIS EXCELLENCY: There is a further amendment by the hon. Member for Kikuyu.

LT.-COL. THE HON. C. G. DERRHAM: I withdraw it, Sir.

THE HON. CONWAY HARVEY: Your Excellency, I wish to move that in line 7, sub-clause 3 (b), the word "twelve" be substituted for the word "fifteen". A girl drawing £12 a month, could quite easily afford to pay this tax. It would only mean a pound box of chocolates less per month. That is no great hardship. It may easily mean more revenue, and it widens the scope of this measure.

THE HON. THE ATTORNEY GENERAL: I take it, Sir, the hon. Member wishes to make a consequential amendment as well, as two lines further down the hon. Member will find "a sum not less than £15". That figure is obtained by multiplying £15 by 0.

THE HON. CONWAY HARVEY: I take it that is a natural corollary.

THE HON. T. J. O'SHEA: May I take this opportunity of opposing this suggestion. I am extremely surprised to find that any Member on this side of the House should only be able to think of young ladies who spend their money on chocolates. I have in mind a class of person in quite a different category—people who would be very adversely affected indeed if a change in that direction were made to this clause. I suppose Government is very ready to accept that amendment, but not the other.

LT.-COL. THE HON. C. G. DERRHAM: Your Excellency, I have the greatest pleasure in opposing the amendment.

LT.-COL. THE HON. J. G. KIRKWOOD: I hope Government will not accept the amendment put forward by the hon. Member for the Lake.

HIS EXCELLENCY: Apparently there is some opposition.

THE HON. CONWAY HARVEY: That does not worry me a bit, Your Excellency. We have been saying for years and years and years that women should participate in this non-native poll tax. It will not break my heart if I am in a minority, but my opinion is unchanged.

THE HON. THE ATTORNEY GENERAL: I might suggest, Sir, to the hon. Member for the Lake that there is nothing in the Bill to the effect that ladies in receipt of only £12 a month are not permitted to pay this tax. If they do not receive £15 a month and they choose to go along to the District Commissioner and pay the tax, there will be no undue cross-examination as to their means.

THE HON. T. FITZGERALD: I suggest the proportion of ladies in receipt of £12 and less than £15 is considerable, and, after all, one hardship. In view of that provision for relief in the case of a sure that the amount could not be reduced to £10.

THE HON. T. J. O'SHEA: If the suggestion is going to be taken seriously by Government, may I ask the hon. the Treasurer what he thinks the effect of such a change would be.

LT.-COL. THE HON. J. G. KIRKWOOD: The Attorney General said and I do hope Government is not going to waste further time over this. Things are laid enough. The expression of opinion from everybody on this side of the House is all against the Bill, and it is proposed now, apart from everything, to make it more severe.

The burden is going to be on the family, and not on single individuals. If the proposal were to tax bachelors, I should probably be for that.

HIS EXCELLENCY: I think the best thing would be to give the House a free vote.

THE HON. T. J. O'SHEA: In that case, Your Excellency, if you are going to depart from the usual practice, I would like to make a strong last-minute appeal to Members of this side of the House to bear in mind that chocolate-eating young ladies of my friend's acquaintance probably the larger number of people who will be affected by this measure are outside those areas, and are not in a position to buy decent food to-day, much less chocolates.

THE HON. F. A. BEMISTER: If there are people who have no food, they do not earn £12 a month.

LT.-COL. THE HON. O. F. WATKINS: Your Excellency, I think I ought perhaps to say that from those parts of the world from which the hon. Member for Plateau South and myself have come the additional taxable capacity of the people, as far as I can see, is not there. If we merely impose another Sh. 50 it will probably have to come from other sources. As an instance, I think my hon. friend the Director of Education will find that probably every extra Sh. 30 we get in this way will mean that another child will be put on the free education roll.

HIS EXCELLENCY: The amendment is that the word "fifteen" in sub-paragraph (b) be deleted and the word "twelve" substituted therefor; and that in the tenth line of the same sub-paragraph the word "eight" be substituted for the words "thirty-five".

The question was put and lost by 8 votes to 22.

Agcs: Messrs. Bomister, Dock, Fitzgeralld, Harvy, Rushton, Scott, Sikes, Col. Wilkinson.

Nays: Mr. Bruce, Major DeLay, Col. Durham, Messrs. Field-Jones, Gilbert, Dr. Gilks, Messrs. Holt, Horne, Col. Kirkwood, Canon Leakey, Messrs. Logan, MacGregor, Montgomery, Moore, O'Shea, Brig.-Gen. Rhodes, Major Robertson-Easton, Lord Francis Scott, Sheriff Abdulla bin Salim, Messrs. Wade, Walsh, Col. Watkins.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I think it is very regrettable that the hon. Member should have put that suggestion up and wasted the time of the House after opposing the Bill in Council.

THE HON. CONWAY HARVEY: That is his affair.

#### THE BEER (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### Title and Preamble.

THE HON. THE ATTORNEY GENERAL: I beg to move that in the title the figures "1932" be deleted—it is now Chapter 100 of the Revised Edition.

The question was put and carried.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, are we going on, through all these Bills? It is now five minutes past one, Sir, and some of us have a meeting at a quarter past two.

**THE HON. THE ATTORNEY GENERAL:** Shall we resume in Committee to-morrow, Sir, or shall we move the House back at this stage?

**HIS EXCELLENCY:** We will resume in Council and go into Committee later on in the morning.

**THE HON. THE ATTORNEY GENERAL:** I beg to move, Sir, that a Bill to Provide for the Payment of Additional Poll Tax by Non-Natives in the year 1932 be reported to Council without amendment, and that a Bill to Amend the Beer Ordinance be reported to Council with amendment.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** On a point of order, Sir, I think the first Bill was amended.

**THE HON. THE ATTORNEY GENERAL:** I beg your pardon, Sir.

**HIS EXCELLENCY:** The question is that a Bill to Provide for the Payment of Additional Poll Tax by Non-Natives in the year 1932, and a Bill to Amend the Beer Ordinance be reported to Council with amendments.

*The Council resumed its sitting.*

**HIS EXCELLENCY:** I have to report that the Non-Native Poll Tax (Additional Taxes) Bill and the Beer (Amendment) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendments.

### THIRD READINGS.

NON-NATIVE POLL TAX (ADDITIONAL TAXES) BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that the Non-Native Poll Tax (Additional Taxes) Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

BEER (AMENDMENT) BILL.

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

**THE HON. T. D. H. BRUCE:** I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

*The Council adjourned till 10 a.m. on Thursday, 25th July, 1932.*

THURSDAY, 28th JULY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 28th July, 1932 His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

### MINUTES.

The minutes of the meeting of the 27th July, 1932, were confirmed.

### PAPERS LAID ON THE TABLE.

The following paper was laid on the Table.

By **THE HON. THE DIRECTOR OF AGRICULTURE (MR. ALEX. HOLM):**

Annual Agricultural Census Report, 1932.

### ORAL ANSWERS TO QUESTIONS.

TWELVE TRIBES OF MOMBASA.

**CAPT. THE HON. H. E. SCHWARTZ** asked:

1. Have representations been made to Government by the Afro-Asian Association with regard to members of the twelve tribes of Mombasa being enfranchised?

2. If so, is it the intention of Government to accede to the request for enfranchisement?

3. For what reason was the annual payment of Sh. 3,251 made to the twelve tribes in lieu of their exemption from Customs duties under the Firman of H.H. the Sultan of Zanzibar, discontinued?

4. Will Government consider the recommencing of such annual payments?

5. Have Government received representations with regard to the abolition of Kathis at the Coast?

6. If so, what steps, if any, does Government propose to take in this respect?

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

1. The answer is in the affirmative.

2. Government is not prepared to extend the Arab franchise unless it is ascertained that such extension has the full support of the Arab community.

3. The reason for the discontinuance is that the payment was personal to the original grantees all of whom are now dead.

1. The answer is in the negative.

5. The answer is in the affirmative.

6. Government has given this matter the fullest consideration and sees no reason to reverse decisions arrived at except that the advisability of restoring the post of Kathi of M'anga will be examined if and when financial conditions permit. This post was abolished solely on grounds of economy.

### MOTIONS.

#### INCOME TAX.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in moving the motion standing in my name, I would like to ask whether I might be allowed by the House to move a small amendment, which is to introduce the word "satisfactory" in the last line but one, between the word "other" and the word "means".

HIS EXCELLENCY: "No other satisfactory means"?

LT.-COL. THE HON. LORD FRANCIS SCOTT: Yes, Sir.

HIS EXCELLENCY: The House, I take it, has no objection that.

LT.-COL. THE HON. LORD FRANCIS SCOTT: In that case, motion will read:

"That this Council is of opinion that the introduction of a Bill to Impose Income Tax on the Colony can in no way be justified until the Report of the Expenditure Advisory Committee is before the Colony and until the Colony is satisfied that expenditure has been reduced to the lowest figure possible and that no other satisfactory means are available by which the Budget for 1933 can be balanced."

Your Excellency, in moving this resolution, I want to make it quite clear that no one is more anxious to see our Budget balanced and the finances of the Colony once more based on a sound basis than I am myself; and I think, in saying that, Sir, that I have the support anyhow of the majority of the people for whom I speak. I should like to say further, Sir, that I believe the people of this country are prepared to make whatever sacrifices they are in a position to make for the benefit of the country as a whole once they are satisfied that those sacrifices are absolutely necessary for

the good of the country and that they are not being called on merely for the sake of bolstering up the extravagant rate of expenditure under which the country is at present groaning. I submit, Sir, that at the present moment this country, which has been going through an abnormally bad time, is in no position to stand further taxation, and therefore, before the people can be called on to bear this added burden, it is absolutely necessary that Government expenditure must be drastically overhauled and reduced to the minimum which is necessary to keep the machine going—to use the words which you yourself used yesterday—"with reasonable efficiency."

In the past, I think perhaps we have all been to blame in aiming at too high a standard, in trying to get perfection instead of reasonable efficiency. The benefits which accrued as a result of the recommendations of the Bowring Committee ten years ago were somewhat squandered during the following years when we felt we had more money to spend, and I think we were led astray by the fact that we were living on capital and not on income. Sir, just to illustrate my point, I should like to give one or two figures. The gross figures of expenditure for the year 1924, after deducting the items under Public Debt Funded and Interest, amounted to £1,554,215. The similar figure for 1932, after deducting similar items, comes to £2,114,227, or an increase of a little over half a million. That is in eight years. If I may give another set of figures—if I may take the salaries paid in the year 1914 and the year 1930, they disclose a very remarkable position. In 1914, taking some of the principal items, His Excellency the Governor received—I may say, Sir, they have been averaged to 15 rupees in the £—the Governor £4,000; in 1930, £8,500. That, I admit, is a great deal due—that big rise—to the action of Members on this side of the House.

The Colonial Secretary, £1,000; now £2,200.

Principal Assistant, £700; now £1,200.

Secretaries in the Secretariat; £280 to £420; now, £660 to £840.

Clerks, £64 to £160; now £120 to £372.

Government Printer, £262; now £1,000.

His Assistant, £100, now £600.

Principal Commissioners, £700; now, £1,350 for Senior Commissioners and £1,200 for Junior Commissioners.

District Commissioners, £250 to £440; now, £400 to £1,200.

Treasurer, £650; now £1,700.

Principal Assistant Treasurer, £300; now, £1,125.

Commissioner of Customs, £700; now £1,500.

His Deputy, £400; now, £1,000.

Auditor, £700; now £1,350.  
 His Principal Assistant, £420; now, £950.  
 Chief Justice, £1,000; now, £2,400.  
 Puisne Judges, £800; now £1,450.  
 Attorney General, £800; now, £1,800.  
 Commissioner of Police, £600; now, £1,350.  
 Director of Agriculture, £1,000; now, £1,500.  
 Mycologist, £450; now, £660.

We notice, Sir, that the Agricultural Department has not gone up quite in the same proportion to most of the others:

Director of Education, £500; now, £1,500.  
 Director of Public Works, £700 to £900; now, £1,350.

There are many other figures.

Those figures are very illuminating in showing how the standard has gone up in the course of years from 100 to 150 per cent in most cases. I think, Sir, we must admit it is a justification of that interesting address which many of us listened to about six years ago from Major Grogan which was headed "The March of the Sifa". The general line of Major Grogan's lecture was that the various departments of Government devoured all that was produced by the various industries.

Now, Sir, I think it must be admitted that in a country like this everything depends on the primary producers; and the primary producers are not only European but also native. If one compares the price of primary products in 1914 and 1932 one finds that so far from those products having increased by 100 to 150 per cent, they are mostly lower to-day than they were in 1914. If I may just quote one or two figures, Sir—take sisal, which in 1914 was valued at £18/10 a ton, is now worth about £15; maize, then worth Sh. 27 a quarter, is now worth Sh. 20 to Sh. 22. Wheat is also lower, as also has gone up slightly. It was valued at £80 then and is probably worth about £100 to-day. I do not know, Sir, whether the hon. the Director of Agriculture can tell us what his latest estimate is for domestic exports for 1932, but the figure we were given last was about £1,250,000 or £1,300,000 this year, which of course goes a very short way towards paying for the cost of Government. In fact, that figure just about pays for what we have got pay in the way of interest, pensions, and so forth, in London.

Now, Sir, while on this subject of how the increases of standards have gone up, I wonder if we have all yet fully realized the implication of this recent great conversion loan in London. In the old days before the war, some years before

the war, I think, all trust securities were based more or less on a 3 per cent to a 3½ per cent basis. During the war it went up to 5 per cent—the 5 per cent loan—and I think correspondingly all ideas of incomes and salaries and so on all went up proportionately, or perhaps more than proportionately. Now, Sir, we have got to face the fact that the 5 per cent basis has come down again to the 3½ per cent basis. That is a reduction of 30 per cent. To-day on the London market that 3½ per cent conversion loan is standing at over 100. I think we have all got to face this fact, that our ideas have all got to be very much contracted. We have all been hit in various ways and I am afraid that the officials cannot stand out alone and carry on on a 100 per cent basis when all the rest of the world have had to come down so much.

It has been pointed out in Lord Moyne's report that it is impossible to take more taxation from the natives, and therefore, which does not seem an illogical argument, more must be extracted from the non-natives.

Now, Sir, if you study Lord Moyne's own figures I think they are very illuminating as to what this small community of Europeans is contributing. On his figures it works out at about £30 per head contributed to this country, and if you take an average family of a man, wife and two children it means that that family is contributing £150 towards the cost of Government. I submit it is no small amount of money and I submit under present conditions you cannot expect to get much more.

With regard to native contribution, Sir, I do not think they can do any more at the present time; in fact, their contributions this year will probably be considerably reduced as in the Customs return this year one of the most alarming symptoms is the fact that receipts from cotton piece goods have been reduced by over 50 per cent.

Now, Sir, I have tried to deal with the general lines of why it is necessary that the expenditure of this country has got to be thoroughly overhauled, and I should like to advance a few arguments as to why I do not consider income tax is a suitable tax for a young country like this.

To begin with it is a tax on the bulk of development. What is taken away has got to be found from income which would otherwise be put into the land, and it must be admitted that in a country like this, which is purely agricultural, income tax is not a equitable form of taxation. Again, what money you extract from income tax will, to a great extent, cause a decrease of revenue from other sources.

Further, Sir, at this time when we are all trying to make an effort to increase the wealth of the country by getting settlers to come and invest their capital there is no question that the imposition of income tax will be a great deterrent.

These seems to be an idea, which I believe will lead to disillusionment, that there are a lot of people with large amounts of money hidden away in Nairobi, and therefore money must be expected from them. Personally, Sir, I have been unlucky and have failed to meet these people, and so I think Government will be disappointed when they try to get large amounts of revenue from them. But it is not a great thing to get people to come and invest money here and get profits and so help the development of the country? They are not to be discouraged: we want to encourage them.

Now, Sir, a great objection to income tax, especially in a country like this where, in fact, there is autocratic government, is that once you have got an income tax it is the easiest possible method for Government to hide extravagance by adding another sixpence or shilling or more to the income tax, and as long as the people have no say in the government of the country, that is a dangerous position to arrive at.

My hon. and learned friend the Attorney General, in the course of his speech, said that we had had the full picture before us on the Select Committee on Estimates. I think possibly we had a full picture, but I do not think it did us much good when Government refused to accept any of the recommendations that we put forward. He also stated, Sir, that a great instance of the co-operation of Government with the unofficial members was that the Watch Dog Committee which Your Excellency had appointed had at all their meetings come to a unanimous decision. That is perfectly true, and I think it is usually the case that when officials are on a Committee where they are acting on their own judgment and belief they usually do come to a unanimous decision. They recommended exactly what the unofficial members in the Report of the Select Committee on last year's Estimates had recommended, and that was that Government should immediately as a first step save a sum of £100,000.

Now, Sir, I do not want again to go over the question whether we have co-operation or not: what I do say is this, Sir. We have been urging Government over and over again in the course of the last 18 months to have a thorough overhaul of the whole of the economic situation of this country. We have not got it. We have got two piecemeal committees, the Watch Dog Committee, just merely advisory, and this new committee to go into the question of economy on expenditure. I have, however, very great hopes that we may in this new committee achieve something really worth while for the country; if we don't I shall feel we have failed in our duty and wasted time and money.

But, Sir, I do regret that you have not explored one original idea, and that was to have one committee dealing with expenditure and revenue and the productive side altogether.

My hon. and learned friend somewhat twisted one of my colleagues with the fact that one of the reasons why the surplus balance was so depleted was that it had been devoted to what he called "subsidies." Subsidies is not the right word. By those loans, Sir, the primary producers were enabled to continue in their work instead of going broke and having to close down.

Now, Sir, in conclusion I should like to refer to your speech the day before yesterday when you said that one of our great needs was to increase our exports and internal trade. You also congratulated the community on the consistent efforts they had made during these hard times. I do submit, Sir, that those efforts will not be assisted by the imposition of further taxation.

Might I appeal to you, Sir, really to convince the people of this country that Government are in earnest, that they really mean to cut down expenditure to the lowest possible sum and to such a sum as can be borne by this country without inflicting hardship on the country which will have a deterrent effect on the attempts to increase its productive wealth. I believe that you yourself, Sir, do believe in economy and I most earnestly hope that you will not antagonize the people of this country by taking up an attitude which may be interpreted by them as an attitude that at all costs salaries must be maintained, that it does not matter what else happens, that extra taxation does not matter. I do hope, Sir, that you will do your very best to take the people of the country into your confidence and to gain their confidence in what you are doing, so that we may all pull together satisfied that Government are genuine in their determination to get the situation right; and having been satisfied that everything possible has been done I am certain that you will find every man, woman and child in the country will do their best to see the country once more on a firm keel.

CHIEF. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second the motion, and in doing so, I know that I speak, not only for Members on this side of the House but equally for those on the other side of the House when I pay a genuine and real tribute to the very able and earnest speech to which we have just listened from the Noble Lord. After listening to that speech, Sir, it makes it very difficult for me, or, I am sure, for any other Member on this side of the House to follow him. I know that I and others will as far as possible refrain merely from repeating the arguments and remarks that he has made.

Now, Sir, in Lord Moyne's Report, in paragraph 101, appear the following words:

"There are other reasons to justify renewed efforts to retrench at the present time. If it be decided that the financial situation and prospects make further taxation unavoidable, those who will have to bear new burdens may fairly ask that these be lightened to the utmost by a further examination and application of the maximum measures of economy consistent with administrative efficiency."

"That follows on other remarks of Lord Moyne to the effect that this country is unable to bear the cost of the present administration."

Now, Sir, what do those words mean? What is the proper, and I submit, the only interpretation of those words? It is that before the people of this country can be asked to bear further taxation and before any decision can be reached, either as to what form or what amount this taxation should be, the result of the investigation of the Economy Committee must be before the Government, and only after Government have received and considered those recommendations can they be justified in suggesting new taxation to the people of this country; and then only will they be in a proper position to judge how much is needed to make up the deficit, if any, and to balance the Budget. That, Sir, I say, without fear of contradiction, is the ordinary interpretation of those words in paragraph 101 of Lord Moyne's Report. What however, has happened? I suggest Government have regard to the recommendation later on in the report with regard to income tax and, to use a colloquialism, put the cart before the horse. Hardly has the Economy Committee been appointed than it is announced Government definitely propose to introduce and pass a Bill to Impose Income Tax on the Colony at the Budget Session of Council, presumably some time in October or November. They make this announcement before they know the recommendations of that Economy Committee will be necessary for they possibly know what figure, if any, it will be necessary to raise by further taxation to balance the Budget. Surely, Sir, a line like that, an action like that cannot possibly be justified. It is, in fact, saying that it is essential that a Bill to Impose Income Tax should become law before the 31st December. With great respect, there is no such necessity necessary, can quite easily be introduced at the beginning—then Government will be in a position, having received the Report of the Economy Committee, to know whether taxation is a necessary and how much should be raised. It seems an incredible thing that, having appointed six men to give you vital information with regard to the future financial position

of the Colony, that you should anticipate and prejudice their Report and make an announcement of your intention to bring in further taxation before that Report is received or considered. It seems to have been anticipated, both by Lord Moyne and by Your Excellency and Government generally, that this Economy Committee cannot really make any recommendations which will result in substantial economies. I am not prepared to admit that for one moment. The people of this country hope and believe that as a result of the efforts and investigations of this Economy Committee and as a result of the action taken by Government after seeing those recommendations, if, as the Noble Lord says, Government are really genuine, the economies which can be effected will be very large indeed and probably sufficient to avoid the necessity for any new taxation at all. Surely, I suggest to Your Excellency, with respect, the right procedure of Government would have been to have waited until it had seen what the new picture looked like and then, if it were necessary to impose new taxation, to have called together in conference the Elected Members representing the people and shown them the position and asked their aid to balance the Budget and discuss with them, fully and frankly, what are the best means of new taxation to effect the desired result. That, indeed, would have been full co-operation. This is far from it.

Now, Sir, I do not propose at this stage—I think, in fact, it might be beyond the terms of the motion—to deal at any length with the many objections to income tax in a young and growing colony. They have been ventilated many times in this Colony, not only in 1931, but quite recently in many parts of the Colony and by bodies and associations of substance. But there are two grave objections which must be mentioned. The first one is, as has already been stated by the Noble Lord, that with an income tax obtaining in the Colony it must be a direct incentive to increased expenditure. I do not suggest, Sir, that that is the reason that you or your Government are proposing to put this income tax on at present. I do not suggest for one moment that Your Excellency will utilize the income tax to go in for wild cat schemes and extravagance, but I do suggest, and it cannot be gainsaid, that with an income tax obtaining in the Colony and with Government alone able to say what that income tax shall be that it must necessarily be a temptation—I will put it no higher—to Government to raise more money for schemes they consider, if not necessary, at all events advantageous to the Colony.

And that brings us to the second point, that once an income tax is foisted on this Colony, there is no security and no control. It is all very well for Lord Moyne to say that—to brush aside the argument that a Colony with no income tax is a direct incentive to new settlers to come out to it by

saying that a Colony with a balanced Budget and a very small income tax would be an equal incentive. Sir, the slogan "Come to Kenya where there is no income tax" is an advertising medium of very great force and effect. The slogan "Come to Kenya where there is only a low income tax" is not worth the paper it is printed on. As everyone knows, a low income tax may become a high income tax in a very short space of time.

And that brings us to the question of control or security. What security have we, Sir; what security can we possibly have for the future. Your Excellency could not possibly give any pledge yourself that the rate of income tax and the schedule to the income tax bill would not be raised in the future. It does not matter how low it starts; there is always the grave danger of the rate going up. The only thing to stop that danger is to give the people who pay that income tax control of the situation. Now, Sir, I do not propose—this would not be the right time to go into the whole constitutional question of financial control by unofficial majorities, but I will say this; that although the deputation last year stated definitely to the Joint Committee that they were prepared for the present not to press for any further constitutional advances, that was said with no idea whatever that there was ever in the near future to be any suggestion of fastening an income tax on to this Colony. And I think you will find, Sir—I speak for myself now—I think you will find, if there is going to be a change in our fiscal system and an introduction of income tax, that this country is wisely demanding that the next step in its constitutional evolution, namely an unofficial majority, should be advanced and brought into being at the earliest possible moment. Without such an unofficial majority there can be no possible control of the income tax by the people of the Colony who have to bear the burden of that taxation.

Now, Sir, there has been a lot of talk about a mild form of income tax and I think on more than one occasion in recent months Your Excellency, when announcing new taxation has stated that this is only a small tax and will not be a very heavy burden for the citizens of the Colony to bear; but I would remind Your Excellency that, perhaps when the cares of State were less heavy on you and you were able to go and old music halls in London, you may possibly have heard a little song which went:

Every little bit added to what you've got  
makes just a little bit more;

Every little bit taken from what you've got  
makes just a little bit less.

"That is the position to-day. "Many a mickle makes a mickle." We are finding 20 cents on petrol and Sh. 30 Poll Tax. That is not very much. This, that and the other is not very much. But when the sum total of this, that and the other things which have to be paid is considered it assumes alarming proportions; and I have no doubt, if we have income tax in this Colony, Your Excellency or Your Excellency's successor will get up without a smile on your or his face and say: "We propose to put up the income tax by sixpence. That is only a very little really," quite forgetting that there is something behind it.

Another thing, which has never been mentioned at all in regard to this income tax, is what about the present Customs duties? The financial system of this Colony at present is to raise the revenue necessary entirely—except for Poll Tax and Education Tax, amounting in all to Sh. 65—by indirect taxation, and it is because of that financial system that the Customs duties in this country stand as high as they do to-day. It was never anticipated by a single living man in this Colony that if the financial system of the Colony was to be changed and direct taxation indulged in that the Customs duties should remain as they are at present. The great argument in the past was: shall this Colony raise its revenue by direct or indirect taxation. The decision was taken to raise it by indirect taxation. When the income tax ten years ago was repealed, up went the Customs duties. In fact, the Customs duties went up the same morning that the income tax was repealed. That was by agreement. Since then Customs duties have been revised, and I think the hon. the Commissioner of Customs will agree with me—everyone will agree—that the sole excuse and the sole means of defending the present high Customs duties is that they form the revenue of the Colony. Now it is proposed, not only to alter the fiscal position of the Colony and indulge in a system of direct taxation, but also, apparently keep the indirect taxation at the present high level. If that is the intention of Government, I say it is quite unjustified.

Now, Sir, the noble lord has made an appeal to you which I and all hon. Members on this side of the House endorse, and it is in no disrespectful spirit that I would quote two statesmen, two great men. The first is President Lincoln. To paraphrase him: "You can drive some of the people all the time, and you can drive all of the people some of the time, but you cannot drive all the people all the time." The second quotation is: "the captains and the kings depart," and I would say, Sir, that sometimes passengers, if things get too bad, have a say in matters, and it may be possible that the captain and lieutenants of the present ship, if they ignore—which I am sure they will not—if they ignore entirely the wishes of the people of this Colony, may find that they will

perish like the captain of the ship of which the hon. Member for Plateau North told us yesterday if not in the financial bog which they have done so much to produce and so little to dispel, then in the storm of indignation which will go through this Colony from north to south and east to west.

**THE HON. T. J. O'SHEA:** Your Excellency, I am very sorry indeed that the hon. mover and hon. seconder of this motion have allowed themselves to be tempted by the opportunity to air their objections to income tax, as I fear in so doing they may prejudice Government's mind against the acceptance of this motion.

I am therefore, Sir, hastening to support the motion as strongly as I can by arguing its merits from an entirely different point of view. Strange as it may seem, Sir, I am very strongly in support of this motion and urge its acceptance upon Government, because I am a strong advocate of the inclusion of income tax in our system of raising revenue, and because I am a strong supporter of income tax I do most earnestly support the appeal of my two hon. colleagues that Government accept the motion, believing as I do, Sir, that it is necessary to the future progress of this country that we revise our methods of raising revenue and restore it with some attempt to get on to a scientific basis of raising revenue. It is because I hold these views that I urge Government to go very slowly in its efforts to introduce income tax.

It seems to me essential, Sir, bearing in mind the disaster which overtook the effort of 1921, that Government should act with caution and should not attempt to bring in income tax until it has gained the confidence of the public and satisfied them that this change is advisable and commands their support. Rightly or wrongly, Sir, the great majority of people who will be affected have the strongest objection possible to its introduction, the objection of prejudice. I say that with all respect to these Members on this and the other side, the dislike income tax. They have an inborn objection and they have to be given time in which to see that it is a prejudice and unjustifiable on sound grounds, and if time is given I feel sure it will be possible for Government to bring about this change within a reasonable time.

Also, Sir, I would strongly support the view put forward by the hon. the mover that there can be no justification for this radical change until the country is satisfied that the sacrifice actually cannot be avoided. He gave us figures to show that during the last decade not only have we suffered from monetary inflation but we have gone along the course at a rate which cannot be borne by the country to-day and for some years to come. It is essential, first that the cost of running the country should be cut down to a figure which bears some reasonable relation to the productive capacity of the country.

Furthermore, Sir, I do not see how it is possible to justify the bringing in of income tax until Government is in a position to tell the people to what extent it agrees to a revision of the taxation which has been imposed up to the present in the absence of income tax.

Right or wrongly we have for a period of years preferred, so far as the non-native people of the country are concerned, to raise the bulk of our revenue by what is known as indirect taxation. Now, Sir, that being the system which has been in force, it must be obvious to Government that they cannot make this change without showing that they have carefully reviewed the likely effect of the change in the course of the next few years and shown what provision will be made to remit some portion of taxation imposed by more indirect methods.

Surely, Sir, Government is not going to keep its mind so closely focussed on the abnormal conditions to-day as to obscure its vision. In your opening speech Your Excellency said there are already rifts in the clouds, and if in the course of the next year or two we have a return to prosperity surely Government can see that more than the amount of revenue necessary for the needs of the country will be raised by the old and new taxation.

That being the case I do urge upon Government that no steps be taken to introduce this new method until they have considered what will be the result of it.

It is only about three or four months ago since a debate was held on the subject of income tax and I believe I got the support of some of the members of a very large assembly in my advocacy of income tax. To-day, public opinion is not only wavering but is already swinging round to the view that income tax is a necessity in this country as it has been represented. I have been agreeably surprised to find that many people who only six months ago regarded me as a maniac because of my advocacy of this form of revenue; now believe in it; and not only those people but most reasonable minded persons hold my views, not because they have lost their money, Sir, but because they have recognized that injustice cannot be perpetuated indefinitely.

As the hon. member the seconder of the motion has reminded us, we cannot fool all the people all the time, and you cannot expect all the people of this country to go on permanently being bluffed by the terrors of income tax; and so, feeling sure it will benefit the country in every way if time is given to the people to study the question and if time is taken by Government to consider all the implications of the change, I strongly urge upon Government the advisability of accepting the motion.

**MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE:** Your Excellency, having your permission I would like, before speaking to this motion, to make a brief and passing reference to the recent death of two gentlemen who were, during their lives, intimately connected with this country: Mr. A. J. Maclean, a Government servant here, and the other Mr. J. H. Wilson, head of Smith Mackenzie and Co., and one of the first Members of this Council.

Now, Sir, as the Economic Committee, as asked for by Elected Members some time past, was not agreed to, I should like to congratulate Government on the belated appointment of an Advisory Committee, and in this connexion I would like to quote from *The Times* the report of the Miscellaneous Public Accounts Committee in England. It is worth noting. "The main duty of this Committee is to ensure that public money is spent for the purpose for which it is voted. It also works very closely with the Estimates Committee in seeking to correct inefficient administration and it exercises great influence over individual departments. This Committee dealing with economy again draws attention to the almost forgotten tradition established by Mr. Gladstone under which the financial policy of the nation was by saving numerous pounds to spend effective pounds. It considers that economies in administration can still be achieved and it criticizes expenditure on the cost of delegations" (omissions out here) "on stationery and printing, on buildings and travelling." These points are very well worth the consideration of our Committee.

I also welcome the fact, Sir, that the terms of reference include what amount is required to be voted annually for the department to provide the cost of essential services. Government must intimate to every department by how much their estimates must be reduced; in fact, Sir, it amounts to rationing them; and it will be for the department concerned to point out what modification will be necessary in general legislation. By this means we should be able to make substantial reductions in our expenditure.

A great deal has already been done in the way of effecting economies and a great deal more must be done. Our income has fallen during the last few years and our expenditure has not, and if Government continues to pursue this uneconomic policy the prosperity of this country will not return. A return to prosperity is entirely connected or associated with the reduction of taxation.

I think, Sir, that I am voicing the public opinion when I say that economy must be exercised and reorganization insisted upon. I do not think it much use dabbling in the methods at present put forward for raising revenue or cutting bits of the Budget. We must reorganize from the bottom to the top.

We are not alone, Sir, in our desire and demand for reorganization. Only lately in the small Dependency or Colony of Dominica four Elected Members absented themselves—two Nominated Members rising—because Government, before asking for further taxation, refused to go into the question of administration and the reduction of it. France is trying to economize to an enormous extent by overhauling their military expenditure. They do not even propose touching Civil Servants salaries or bonuses except as a last resort, but they do propose making savings by a suspension for the time of the appointments and promotions of Civil Servants. We have Sir, I believe, in this country about 100 officials, each costing the country £1,000 a year or more. Our pension list increases annually in proportion. This we cannot afford. We must offer other terms of service and I am sure we will still get suitable applicants for the Service. I, Sir, was one of those who joined at a salary of £250 a year, with many others, several of whom I am glad to say are still in the Service. We had hopes of a pension, though in proportion to our salary. Mr. Aspinall, when the matter was referred to him, stated in the House of Commons that pensions were in the nature of deferred pay. With the enormous increase in salaries nowadays and pensions in proportion to them, our expenditure is very heavy. I do not think it can be said that the officials who joined under the old rates of pay are in any way inferior to those who join these days and to whom it is necessary to give such large rates of pay. There is no service in the world which offers such terms as the Colonial Service—military, naval, mercantile, legal—no profession can afford to do it; nor can we, Sir. I must therefore decline to vote for any further taxation until such time as Government shows a real determination to reduce expenditure.

**MR. COL. THE HON. C. G. DEWHY:** After the appalling figures quoted by the Noble Lord, the Member for the Rift Valley, one wonders why the Colony as a whole accepts the present position. The figures are reminding us more and more that Government must clean up its own stable before it calls upon the country to stand by and give a hand. One of the last straws on the camel's back is the fact that, without any consideration of the views of Elected Members, Government has made up its mind to introduce an income tax, inviting another expert to come out from home and tell Government that the sum anticipated will not be realized. So much for cooperation.

Your Excellency, Government seems to be under the impression that this Colony is peopled with a lot of worms. Your Excellency, there never was a great mistake, the people of the Colony are loyal to the core, but there is a limit to their endurance. I appeal to Government not to exceed it.

MAJOR THE HON. J. O. K. DELAP: Your Excellency, in rising to support the motion before the House, I should like to approach this question from a slightly different point of view. To my mind the threat to impose income tax at this stage is evidence of a curious defect in our national character, of which, apparently, one does not become aware until one has been resident for some time in one of the British Dependencies overseas. I do not know whether it arises from a sort of jealousy, a kind of dog-in-the-manger attitude, or whether it is a kind of perverted sense of fair play—a kind of thing which makes an older boy at school rather hard on his younger brother—or whether it is a national feeling which we cannot help. It is exemplified by the inability to believe that a man who lives on the job can know as much about his business as the theorist from home, and the refusal to believe that an interested party can also be an honest party. Look what a terrible muddle the poor old human man makes about affairs he does not understand. When he has to deal with things of which he has only little knowledge, then is confusion worse confounded. Now, Sir, this country has got to a stage, as much due to this curious defect in human nature as to recent causes, when we require but one more push to send us down for the count. The citizens of this country, still working away to repair the damage to their homes, like blind ants working in the dark, are hardly yet aware of this new threat of destruction which hangs over them. The condition of agriculture is such that I would, I think, say that I doubt whether there are five sound farms in this country which are on a paying basis if their finances were calculated properly. We have no other industry. We have practically no income except what is derived from agricultural enterprise and everyone in this country, officials, traders, doctors, dentists, lawyers, everyone who lives and has his being in this country, lives upon the results of agriculture. From the Governor to the road sweeper, everyone is dependent for his living or salary from what is derived from agriculture; and in addition to this, agriculture pays the wages due upon our debt, so that one cannot get away from it but that an income tax or any additional taxation will be levied on agriculture—and agriculture cannot pay it. Agriculture cannot pay it, and any additional taxation must only push the industry of agriculture deeper into the mire than it is now. Only one thing can save us; the load on agriculture must be lightened. Farmers themselves have cut expenses to the very last cent, the bare cost of living. The Railway is running at a loss, the trader, doctor, lawyer, are all reduced by the shortage of money very much indeed. The Administration of this country is entirely out of proportion to what agriculture can pay. Not only are salaries and emoluments double what is sufficient to compare with the

cost of living, but whole departments could be scrapped without greatly damaging the country. That I say advisedly and after due thought. I admit that Civil Servants, to their credit and honour, acknowledge the truth of these facts. The same alternative faces the administration of this country as has faced a great many commercial concerns in this country. Put briefly it may be stated as "cut or crash."

In addition to agriculture—one is not perfectly accurate in saying there is no other source by which money is introduced into this country. There are a few people who bring income to this country, whom I accurately designate as "the little goose that lays eggs, lays a tiny little golden egg," and their contribution relatively to their incomes by way of indirect taxation from Customs is high. The man from Somerset House, with his little gun, will kill that little goose, like that.

LT.-COL. THE HON. G. KIMWOOD: Your Excellency, I rise to support the motion before the House. I do not intend to reiterate anything which has been said by the two hon. Members, the hon. Member for the Rift Valley and the hon. Member for Nairobi South, in proposing and seconding the motion before the House. I am one of those who believe that the incidence of income tax is probably one of the fairest forms of taxation which can be imposed under normal conditions. But it is wrong to bring it in at the present time when incomes have been decreased to a minimum. The proper time to have brought in income tax in this Colony was in more prosperous days, and I suggest it should have been brought in by Government and an undertaking given that immediately the revenue obtainable from income had been ascertained that the fiscal policy of the Colony would be overhauled and an equal amount of reduction made on the other side. That would have been the proper way to have brought it in and you could have put up strong arguments on those lines. But I am definitely against it being brought in now. We have already had one tragedy like this some years ago, but it was ultimately decided to withdraw that form of taxation. I suggest, Your Excellency, that the same experience will probably repeat itself, as it has a habit of doing, but you will find that bringing out experts, getting out people from home and setting up a new Department will be merely taking money from one pocket and putting it into another.

I should like to congratulate the Members on this side of the House who have spoken. I think they have put up a concise and precise case against income tax at the moment and I hope Government will accept this motion. It is utterly illogical to impose such taxation, or any taxation in any shape or form until Government has satisfied this country, which they have not done, that the utmost has been done to reduce

expenditure. Until that is done, not only this measure but any other measure I feel I must oppose and insist on the overhaul and an investigation of the Government machine to find out what further reductions can be made.

*Council adjourned for the usual interval.*

*On resuming.*

**THE HON. THE TREASURER (MR. H. H. RUSHTON) :** Your Excellency, I propose to confine such remarks as I have to make strictly to the motion which, as I understand it, is a request for the postponement of the introduction of an Income Tax Bill until the report of the Expenditure Advisory Board has been received and the Colony is satisfied as to the need for income tax. It does not raise the question of the merits or demerits of income tax itself.

It appears to Government, Sir, that there is very considerable mis-understanding on the part of Elected Members. There is no intention on the part of Government to rush a Bill through Council without taking into consideration all suggestions made by the Advisory Committee or anyone else in the direction of economy. Even if the Expenditure Advisory Committee is not able to finish its Report in time for the further consideration of this matter it is their intention to send in, when they can, memoranda of items which they think can be introduced and which will effect economies.

Neither is it the intention of Government, Sir, to rush a Bill such as an Income Tax Bill through Council without reviewing the other side of the Estimates, the revenue side, and seeing if it is possible to make reductions in others items, such as Customs.

The main difficulty is, as hon. Members I think must be aware, that the foundations of our fiscal policy have changed and we cannot, as we have done in the past, rely upon customs revenue to furnish us with a very large portion of our revenue.

That these changes are taking place are in themselves good; they show robust internal trade in the Colony which is to its benefit, but we cannot overlook the effects of that development on the customs revenue.

There are many other factors which will have to come before Government before they bring in the Bill to introduce Income Tax to this Council, and I should like to mention one or two of them.

We know, for instance, that there will be a loss on this year's working of £150,000, and it is impossible at the present time to frame any estimate of revenue for next year. There is the possibility of some additional expenditure in connexion with Lord Moyne's Report, although no decision

has yet been arrived at; there is the possibility which has been suggested this morning, the possible difficulty of collecting native hut and poll tax next year.

The Noble Lord has mentioned the falling off of Customs duties already apparent in the goods mostly consumed by natives. There is again the matter of really balancing our Budget on a basis which will command confidence, and in that connexion also the need for doing something to build up our surplus balances. Again the Expenditure Advisory Committee have to put up something in the nature of a four year's plan and the Government must look forward then beyond next year.

In 1934 and 1935 the existing charges will be increased by £22,000.

It is possible, Sir, and we all hope that there will be improvement in price levels and in production, but I think it will be a very slow recovery, and in the first year or two expect farmers will be sufficiently wise to use any profits they make in reduction of their debts and not in excessive new development.

The most important point to bear in mind is, of course, so to arrange our affairs as to encourage the renewal of the life-giving stream of credit without which this Colony cannot be very prosperous; and the two most urgent points are, of course, the balancing of the Budget and provision towards building up our surplus balances, which, although not entirely exhausted, are frozen for the time being and may be for some time to come.

You have in the first place the Expenditure Advisory Committee and its work you will see from the terms of reference will be very difficult and extensive. What the result will be it is entirely impossible to estimate. As to the work to be entrusted to it I may perhaps be at liberty to read a short extract from an address which I gave at the first meeting of the Expenditure Advisory Committee:

"I don't yet know, of course, how you view the problem before us but it seems to me that we have first to question the whole design and structure of the existing Government machine and endeavour to produce something different and cheaper which will yet serve the purpose. This will require imagination and a wide view. Doubtless large portion of the existing machine, modified perhaps, will have to be built into the new structure but they will have to be carefully examined first."

I feel that to take the machine as it stands and endeavour to tinker about with details will lead us nowhere. In its present form it has been fairly well stripped by heads of departments already and rightly or wrongly is in some quarters held to be still unwieldy."

The Committee unanimously accepted that view, Sir, and there is not the slightest doubt they intend to do their work thoroughly.

I have, Sir, as much dislike to additional taxation as anyone else, but an income tax cannot be imposed in five minutes. If it is to be equitably and fully collected months of preparation are necessary; and it may be (I think myself it was) due to insufficient preparation that the last income tax failed. The organization is difficult and demands the close attention of a man with very considerable experience in that particular class of work. Some preliminary work may be possible; I think it is necessary for the organizing officer to have his law before him before he can get very far.

For that reason, Sir, I do not think it possible to postpone the introduction of the Bill until the early part of next year, and the position facing the Government does not permit of a delay of another twelve months.

I can assure hon. Members that there is no desire on the part of Government to take any more money from the pockets of the people than is necessary for essential needs though it may have to be taken in a different form on account of new and growing industries which tend to reduce importations.

I cannot myself see, Sir, why income tax should lead to extravagant expenditure, and I am given to understand that during the recent years there has been extravagant expenditure in the absence of income tax.

I do not think I can say any more on this subject, except that Government has been perfectly open about this measure and will, so far as they are able, take Elected Members into consultation on the financial position when it is clear to Government itself.

**THE HON. F. A. BENISTER:** Your Excellency, I am not quite clear what the hon. Treasurer really meant when he said at first there was no intention of bringing in an income tax and then later on he said that the preparations were being made and no doubt before the end of next year it would be in.

**THE HON. THE TREASURER:** On a point of order, Sir, I did not say that. I said rushing a Bill through Council without consideration of other economies.

**THE HON. F. A. BENISTER:** I am sorry I misunderstood. The point which alarms us, Sir, is the fact that it is the definite intention of Government to bring in this legislation, otherwise why should they ask an expert to come and show them how to do it? Let us admit at once that it is the intention of Government to introduce income tax into this Colony.

and then let us examine what the suggestion is—and a very fair one, too—that by reason of the fact that our internal industries are increasing there will be more internal trade and more internal profits made by individuals, and therefore those people will not import so much and we shall lose a relative amount from the Customs revenue.

The proposition is a good one, Sir, but my whole difficulty in the matter is that I so strongly object to any taxation at all that it is obvious I am absolutely frightened at additional taxation of any kind, and I take it that taxation should be based upon the actual necessities of the Colony or the country. I disagree entirely with the hon. Member for Nairobi South that you can have as much—it does not matter when we are having prosperous times—we can have this tax and the other tax. I contend that has been the whole trouble during the last ten years. The saddest thing that ever happened in this Colony was the Bowring Economy Committee. It ruined confidence, it ruined enterprise, it ruined initiative, and it certainly ruined the whole of the natives of the Coast, for we were left from Vanga to Lamu with one sub-assistant surgeon for the whole of that area; and we at the Coast feel very strongly that any kind of economy committees are wrong. The reflex of that, Sir, was that directly the so-called economies occurred a most wonderful revival of trade took place, and, exactly like a boy who has been starved, when he gets into his hand a few shillings for nothing, out we went, spending right and left, not only in Government circles, Sir—not at all, it was in commercial circles as well. The whole Colony went mad; salaries went up, allowances went up, everything went up. Staff was added to, new firms joined up, and the inevitable happened. In a few years' time trade was not found to support it and out things went. But it is in Government that that economy has not been enforced which has had to be in commercial life, and it is in that, Sir, that I want to impress on the Economy Committee that any fool can sack people. I believe if you were to organize your services here, place your emoluments on a proper basis, you would then encourage development in this country which would take away absolutely and entirely the necessity for even the present taxation. There would be no necessity for any idea of additional means of getting more money out of people's pockets.

What has the Government done, or any of their departments done, to encourage native industry in the Colony? Within the last six months the Railway has put hides on a separate rate so that they can get a bigger revenue from carrying the hides of natives, and there are natives to-day with plenty of hides who cannot bring them to the Coast because they cannot get a market for them. I say you have not the interests of the country a bit at heart; you do not study

how the people can live. All you study is keeping up your staffs, maintaining your great dignity, and ignoring entirely the real basic prosperity of the whole Colony.

**CAPT. THE HON. H. F. WARD:** Your Excellency, I hoped that the hon. the Treasurer in his statement would have said something which would perhaps have allayed the feelings that we have on this side of the House, but in fact, Sir, what he said was—the basis of the arguments used by the Noble Lord the mover of this resolution—that it is the intention of Government to prejudice the consideration of the Expenditure Advisory Committee by the introduction of income tax in the Budget session of this year. Sir, that again arouses, I think, the feelings that we, the unofficial community, have towards this attitude of Government, and though the ground has been very well covered by the mover and seconder of this resolution I would like to put it in just a little different way. The unofficial viewpoint, as we see it, is that the Government to a very large extent, and the individuals of Government, occupy an entrenched position, a position that is absolutely above the economic conditions of the day and which should not be subjected in any way to the economic conditions of the day or of the future, and, in fact, should be protected. Their only suggestions in these years, Sir, apart from very obvious economies—not basic economies—has been an increase in taxation, and we feel convinced that their only ideas for the future are to increase taxation in order to bridge the gap now estimated between expenditure and revenue. That is what we are frightened of. Our view, Sir, is that that gap can be wholly covered by reducing the cost of administration, and we believe, in any case, Sir, that before any form of increased taxation can be considered it must be proved to the satisfaction of the country as a whole that the gap, by reducing the cost of administration, cannot be fully covered, and until that can be given us, I am afraid you will only get resistance to any proposals for increased taxation.

There is another very vital reason, Sir. This state of affairs has, in my opinion, dragged on for a very much longer period of time than was ever necessary. If the advice that was tendered to Government in 1931 had been accepted fully and in the directions in which it was submitted, the present position in which we find ourselves would never have arisen, or at any rate would have been very much more largely countered by Government measures than it is to-day. The Attorney General yesterday said that Government had accepted our recommendations. He said that no sooner had we recommended a reduction of £100,000 than Government immediately set itself the task of reducing to that figure. But that is not the sense of the recommendation. The sense of the recommendation was this: that Government's estimates of revenue

are far too optimistic and can only be accepted with a margin of at least 10 per cent. What it is reasonable to ask Government to do as an immediate measure is to reduce their expenditure by at least £100,000. If that full recommendation had been accepted, Government would have seen very much earlier than it did the way the Colony's finances were going, and than they have done.

The second point is on the question of frozen assets and surplus balances. Now, Sir, any thinking man who knows this country knows that that is the one measure of Government that has prevented a complete collapse. Without that, the position to-day which might have arisen is one too terrible to contemplate, and it is the one bulwark against depression, locusts and other menaces which has enabled this country to face up to these difficulties in the marvellous manner it has. Why, Sir, quote that, and overlook the high cost of administration?

Sir, the feeling that we have at the back of our minds is just exactly this: If Government do not make a real job of the position this time, this state of affairs is going to drift on very much longer than it need. If the gap cannot be bridged by a reduction in the cost of the administration of this country, it will certainly not be bridged by increased taxation. In the middle of next year we shall be faced with exactly the same stalemate position that Government has forced us into to-day. That is what we wish to emphasize upon Government to-day—that we will not contemplate or consider extra taxation until we have had the report of the Expenditure Advisory Committee before us.

In conclusion, I would like again to emphasize the attitude of the unofficial community as represented by hon. Members on this side of the House. We want to help the country. After all, it is our home. We have lived here all our lives. We are no different from any other community in the Colonial Empire. But the point is this: Government has never given us a reasonable opportunity—and they do not look to-day as though they intend to in the near future. That is all we want. Get the Government house in order, and let us be in a position really to help and carry the burden to the utmost of our ability. As it stands now, we are just asked to part with the little more of that which we still have left in order that this high cost of administration may be maintained.

**THE HON. CANON THE HON. H. LARLEY:** Your Excellency, I am sure there is no hon. Member on this side of the House or anyone in this hall who dislikes the duty of paying income tax more than I do. But everyone must agree that of all taxes

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income tax is the most equitable because it is based upon the ability to pay. Unlike indirect taxation, where possibly the father of a large family is obliged to pay enormous prices for food and necessary clothing; unlike the poll tax that a rich man pays no more than a poor man; this is based equitably, so that those who can afford to pay, pay. Of course, I am sorry for the farmers of this country, very sorry indeed; but the very fact that they have no incomes surely means that they will not have to pay.

SEVERAL HON. MEMBERS: Question.

THE REV. CANON THE HON. H. LRAKEY: The motion before the House, as it stands, so far as the second part of it is concerned, I entirely agree with. So far as the second part is concerned, I do consider that before any new taxation is introduced, be it an extra tax on petrol or doubling the poll tax, as introduced yesterday, as well as income tax, everything should be done to reduce expenditure. But, Sir, having the honour, like the hon. mover and the hon. seconder of this motion, of being a member of your Advisory Committee, I know, as they must know, that a real attempt has been made to make possible reductions. Still, in spite of this, I agree with Lord Moyne and what he says in his report, which I have studied very carefully, and I feel that the time has come when income tax is inevitable and should be given a fair trial. I earnestly hope it will do what we want to see it do, that is, put our present unfortunate financial position in order. This being the case, I think Government is justified in getting some unclarity going so that at an early date next year an income tax can be brought in; and I congratulate Government on announcing their intention of what they propose to do at this early date so as to allow the country time to consider it. I am very sorry that I do not find myself able to support the motion as it stands.

THE HON. THE COLONIAL SECRETARY: Your Excellency, after listening to the trend of the debate, the impression I have formed is this: that in one respect hon. Members opposite are unanimous and in another respect they are divided. They are unanimous, as I understand it, in wishing to be thoroughly satisfied that the necessity for additional taxation of any kind exists at the moment before any such measure as an income tax should be introduced, and in putting that view forward they have emphasized the fact that when they are so satisfied Government can rely upon them to sink possible personal feelings on the subject of taxation, and to come forward and willingly make any sacrifices required, just as has been done in the Mother Country.

On that point, Sir, I feel sure that I am voicing your feelings, and the feelings of Government, when I say that it would only be in accordance with the history of Kenya and of the feelings in the constituencies which hon. Members opposite represent that when a case is proved we can rely upon them all to make such a sacrifice. But we are in this difficulty, and, as I see it, it is the real bone of contention, that firstly, hon. Members opposite are not satisfied at the moment that all reasonable or possible economies have been effected, and secondly, that the general financial position of the Colony is such that at any rate some additional taxation is required in order to bring the Budget into equilibrium.

As regards economies, Sir, I do not want to go over the old ground. On almost every occasion that we have met, Government has stated what we have done in regard to cutting down expenditure. The reduction of working expenditure since 1930 comes to some 19 per cent. In addition, and in order to effect these economies, very considerable calls have been made upon the Government's servants, and in that respect, Sir, I, as leader of the *aidya*, find some difficulty in assuming that degree of dignity the maintenance of which I understand from the hon. Member for Mombasa is one of the principal preoccupations of the members of the Service. I would like to suggest, Sir, that we Civil Servants do not enjoy an entirely entrenched position, and to say that we have made no contribution in the present state of the Colony is not entirely in accordance with facts. As hon. Members are aware, apart from the levy on salaries, the leave moratorium has gone through and travelling allowances have been cut down to the minimum; and I think it only due to the officers I represent to say that they have up to date responded most loyally to all demands made upon them.

The hon. Member for the Coast, in dealing with the necessity for further economies, pointed out the methods adopted in other countries, and remarked that in France the reduction of official salaries was regarded as a last resort. From the rest of his speech, Sir, I gathered that, possibly owing to his francophobia, he personally considered that in the case of Kenya an attack on official salaries should be the first resort. I take it also, that, holding those views, he feels that, if we are to overhaul official salaries, we should include pensions as well as salaries.

The Noble Lord, in introducing this motion, Sir, drew especial attention to the disparity between rates of salary from 1911 to 1932. I do not think it is really germane to this motion for me to go into details, but I would like to point out that in many cases the functions performed are not entirely the same as in 1911. For instance, Sir, the responsibilities of the Governor at that time did not include those of High Commissioner for Transport. The responsibilities of the

Treasurer and the Commissioner of Customs have increased, and similarly, no doubt, if inquiry were made, the same would be found applicable to many other departments. Apart from that, however, it is undoubtedly the case that salaries have been considerably increased since 1914, and I would remind—and gratefully remind—hon. Members that that was done with their full concurrence and support as one of the recommendations of the Bowring Commission, which has recently received the commendation of the hon. Member for Mombasa.

At that time, I would observe, the proposals in fact put forward and assented to by hon. Members opposite were even more liberal than the Government and the Secretary of State thought it proper to sanction, and salaries were not increased to the extent originally suggested. It is the case, however, that an all round 20 per cent increase was given, and, in dealing with that, perhaps I might just quote the words of the Noble Lord the hon. Member for Rift Valley. The date is 28th May, 1926. He stated: "I beg leave to second the motion. The representatives of the Elected Members who have considered this question did very definitely consider that this 20 per cent increase should be granted, because we realized, as Your Excellency said this morning, that it is absolutely essential for the welfare of this country that we should have the best possible Civil Service and the most contented conditions in that Service, and we do very much hope that these new scales of salaries may lead to that object."

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** The Noble Lord the hon. Member for Rift Valley at that time was the late Lord Delamere.

**THE HON. THE COLONIAL SECRETARY:** I am referring to the speech of Lord Francis Scott.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** The hon. Member for Rift Valley at that time was Lord Delamere.

**THE HON. THE COLONIAL SECRETARY:** I am quoting from the speech of the then hon. Member for Ukamba.

While, Sir, I do not wish for a moment to prejudice the results of the Expenditure Advisory Committee, and while we on the Government side are as anxious as hon. Members opposite that, as a result of the deliberations of that Committee, real economies may be effected; while I do not also suggest that conditions may not have altered in the world at large—in fact, Sir, we know that conditions have been altering since 1926—I would suggest that if the only method of getting the Colony out of its present difficulties is by wholesale, either reduction or eradication of the administrative machinery, I, for one, am very doubtful whether that would be wise, or whether, on further examination, it would be possible in that way to obtain all the moneys which we on this side of the House think

it essential to obtain. I say that for this reason, Sir, that not only are we faced with a deficit on the current year's working, and we are looking forward with no degree of satisfaction at the prospect of balancing our Budget next year, but if this Colony is to progress in the way that it has done in the past then we must go further and lay aside a substantial reserve balance. That fact has been rather rudely rubbed in by the latest instructions from the Secretary of State with regard to the Land Bank.

I agree with what has been said by hon. Members opposite as to the wisdom of freezing our balance in subsidies to agriculture, but the result that that action has taken cannot be ignored. The money is no longer there. Further, as in our desire to stimulate agricultural development we wish to provide further funds for the Land Bank, we are told quite definitely that until our Budget is balanced and our house put in order such funds will not be forthcoming.

For that reason, Sir, it would appear to me to be a matter of common prudence to take the step we propose to take to-day. It has been made abundantly clear that, before any income tax is imposed—the Bill, of course, will be fully considered in this Council—we shall have had the advantage of the advice of one with full knowledge of such measures and who has been in the Colony for some time, and we shall then, I hope, have a full or interim report from the Advisory Committee to know what funds will be required.

There is one last point, Sir. I do not wish to go into the question for or against income tax, but the point has been made that once income tax has been introduced it raises a new constitutional position. I would suggest to hon. Members—if I am wrong, the Attorney General will no doubt put me right on this point—if income tax is introduced it will require the assent of this Council just as any other legislation, and it is therefore not clear to me why its introduction should strengthen the case for increased unofficial representation.

**CAPT. THE HON. J. L. COTTER:** Your Excellency, I do not wish to speak to the motion except to take up one point which the hon. the Colonial Secretary spoke about, and that is the Land Bank. We have continually had what amount to threats that if we do not accept this taxation and balance the Budget, we shall not get the capital for the Land Bank.

Now, as I see it, I doubt very much whether we will get it in any case. But I hope Members on this side of the House will not be misled by any such statement; that threat is always held over us. Remember, the Secretary of State for the Colonies has stated: "You will not get this money unless you balance your Budget." I cannot believe that it has anything to do with the matter at all.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the Noble Lord to reply.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I feel there is very little for me to reply to, but there are one or two points which have been raised by my hon. friend the Colonial Secretary.

With regard to the official attitude on the question of their salaries, I should like to make it quite clear, Sir, that anything I say is in no way an attack on the officials of this Colony or on the attitude they have taken up. It is also quite true, Sir, that Members on this side of the House supported that increase of 20 per cent in 1926.

Now, Sir, I think one must just go back over the whole history of that. I was not a Member of this House when income tax was introduced in 1921—or was it 1920—and at the same time we were suffering under the mismanagement of the currency affairs of this Colony by the Colonial Office, with the result that people who had overdrafts at the bank suddenly woke up one morning and found that they were increased by 50 per cent. The Government of this Colony, realizing that that had happened, safeguarded the official community from the effect of that by giving them all a local allowance of 50 per cent to counteract it. That local allowance continued for several years, I think; was gradually reduced, and eventually was consolidated into their salaries by a substantive increase of 20 per cent. Now, Sir, that 20 per cent was not only an increase to their salaries, but also was an increase of other costs to the country in the way of subsequent pensions, house allowance, and such like things. I have always held, and I still hold, that one wants the best people we can get in the Administration here. We want a well-paid, contented service, but as I said when I opened this debate, I do consider—as I said at the time—that we were to blame on this side too. We rather lost our sense of proportion during those good times, and allowed expenses to mount up too much. Since those days, Sir, the cost of living, according to the Government Statistician, has fallen by 16 per cent (I think that was the figure he gave), and yet the increase of 20 per cent has remained. My only reason for pointing out how the salaries have increased and the cost of administration increased is that it is my firm belief that we cannot afford to-day to pay such high rates of salary when the whole monetary position of the world has gone down to a much lower level. I do not want in any way, and I hope I never will be accused of making attacks on officials, as indeed I have the greatest respect for them. Large numbers among them are my personal friends, and a large majority of them do their duties very efficiently, and I believe the large majority have the interests of this country deeply at

heart. It is purely from the economic point of view that I do not believe we can afford the rate at which we have been living.

Now, Sir, my hon. friend said that these "frozen assets"—I think they have been called—are not there and are not fluid, but of course, equally so, if salaries cannot be paid, salaries, passages, pensions, and so on, they also are not there, nor are they fluid.

I am very sorry, Sir, that Government apparently are not prepared to accept this motion, as from the speech of the hon. Treasurer I gathered he held the same views very much that we do on this side of the House. I only wish that this could have been accepted by Government.

HIS EXCELLENCY: The question is:—

That this Council is of opinion that the introduction of a Bill to impose income tax on the Colony can in no way be justified until the report of the Expenditure Advisory Committee is before the Colony and until the Colony is satisfied that expenditure has been reduced to the lowest figure possible and that no other satisfactory means are available by which the Budget for 1933 can be balanced."

The question was put and lost by 11 votes to 19.

(Ayes: Mr. Bemister, Captain Cotter, Major Delap, Col. Durham, Mr. Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Lord Francis Scott, Sheriff Abdulla bin Salim, Captain Ward.)

(Nays: Messrs. Bruce, Deck, Feild-Jones, Fitzgerald, Gilbert, Dr. Gilks, Messrs. Holm, Horne, Cannon Leakey, Messrs. Logan, MacGregor, Montgomery, Moore, Rushton, Scott, Sikes, Wade, Walsh, Col. Wilkinson.)

#### SECONDMENT OF INCOME TAX OFFICIAL FROM SOMERSET HOUSE.

HIS EXCELLENCY: I understand the next motion is purely a formal one.

THE HON. THE COLONIAL SECRETARY: I think the proposal was, Sir, that the principal debate which has now taken place should be on the first motion, and therefore the next motion by the Treasurer will probably not be of a full dress character.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as far as I am concerned, we have had a debate on this question. I do not know whether other Members may want to speak.

**THE HON. THE TREASURER :** Your Excellency, I beg to move the motion standing in my name :—

" Be it resolved that the expenditure in 1932 of a sum not exceeding £1,500 be approved for the purpose of defraying the salary, passage and other expenses incidental to the temporary secondment from Somerset House of an officer of the Inland Revenue Department to advise on the imposition of income tax in Kenya."

In view of the very thorough and exhaustive debate on the previous motion, I should hesitate to occupy the time of this £10-per-hour Council any more than to mention something in regard to the sum not exceeding £1,500. When the motion was prepared we had no information as to the type of officer we may get, the salary he may draw, or whether he will be accompanied by his wife; what accommodation he will want, furniture, and all that kind of thing. The figure had to be a shot in the dark. We have since learned that Uganda has decided to institute income tax, and we know that Tanganyika is considering the same question, so that if the officer proceeds to advise two or three Governments, the amount that this Government will be called upon to pay will be proportionately reduced.

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

**THE HON. T. J. O'SHEA :** Your Excellency, arising out of the hon. mover's address, I sincerely hope that we are not going to be called upon to pay for the expenses of the officer's wife.

**HIS EXCELLENCY :** If no other hon. Member wishes to speak, I will put the question. The question is :—

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The question was put and carried.

## BILLS.

### SECOND READINGS.

#### WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

**THE HON. THE ATTORNEY GENERAL :** Your Excellency, I beg to move that a Bill to Amend the Widows' and Orphans' Pensions Ordinance be read a second time.

The main object of this proposed legislation, Sir, is twofold. In the first place it is necessary to make additional provision for officers transferred from the Service of the Government. The Railway Administration, as hon. Members are aware, have a Railway Provident Fund, but as the law now stands officers transferred from Government Service to the Transport Administration who are contributors to the Widows' and Orphans' Pensions Scheme must become contributors to the Railway Provident Fund and they have still to continue to contribute to the Widows' and Orphans' Pensions Scheme. That places a dual obligation on those officers, Sir. It is not only unfair to them but it might in certain cases prevent the willing transfer of the most suitable officer from one administration to the other. And so it is proposed in clauses 2 and 3 of the Bill to give those officers an option—an exemption from the provisions of this Ordinance unless they like to continue to pay both contributions.

The other major matter, Sir, which is dealt with in the sixth and seventh clauses, is the unfortunate position of officers who have recently been retrenched from the service of this Colony before obtaining pensionable status. The provisions of the Ordinance, which never contemplated the necessity for wholesale retrenchment, are that those officers are not entitled even to a refund of contributions and their dependents are covered only for a very few months after their leaving the service. It is proposed, Sir, and confidently proposed, in as much as we are assured that it will not in any way interfere with the actuarial balance of the scheme, to treat these officers as we would officers who have been invalided out of the service or who left the service after obtaining pensionable status. They will be entitled to the benefits under the scheme, if they elect to be dealt with under section 27, in exactly the same way as pensionable officers.

Opportunity has been taken at the same time, Sir, to make three minor, but by no means unimportant alterations. Last year this Council passed a Bill to which a schedule was attached containing a list of names of officers on construction work, and these officers were exempted from the obligation to contribute. Four of them have been transferred from construction work to open lines again, Sir, and therefore ought to be given the opportunity of becoming contributors to the scheme. Clause 8 effects that purpose.

The other two are minor points, Sir, remedying obvious defects in the law. If a contributor makes a false statement, which might affect the amount of the pension of his dependents, the only punishment which can be imposed on him is the taking from him his right to recover contributions in certain remote eventualities. If his wife makes a similar false

statement she is liable to lose her pension, and so I suggest, Sir, that the prudent wife who desires to increase her pension will conspire with her husband to make a false statement. That we propose now to remedy by providing that if the contributor makes a false statement the penalty may affect the amount of the pension.

For years there has been a practice, which is quite outside the strict letter of the law, that officers on reaching the age of fifty-five and being still unmarried may have a refund of half their contributions. There is no statutory authority for that, Sir, and it is therefore proposed to embody that provision, which has been the practice for years, in the Ordinance.

Those are the only points, Sir.

I have just been handed by the Colonial Secretary a note of the personnel of the unofficial side of the Select Committee to which it was some time ago agreed that this Bill should be referred. If Your Excellency will allow me a few minutes I will suggest names on the other side.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

CAPT. THE HON. H. F. WARD: I particularly do not want to take up the time of the House at this late hour, Your Excellency, but might I ask a question, which will probably avoid that. At one of the recent sessions of this House a resolution was adopted by the House that a committee should be appointed to inquire into certain points in connexion with the Widows' and Orphans' Pensions Ordinance. This is the particular Ordinance that was referred to. May I take it that it is the intention of Government to make this Select Committee that Committee?

THE HON. THE ATTORNEY GENERAL: Sir, the facts are as stated by the hon. Member, and if my recollection is right, the particular points that gave rise to that resolution are dealt with, particularly the case of temporary officers and officers on the loan staff. Independently of any representations made on their behalf in this Council, a petition was made to the Secretary of State and we have forwarded that petition to the Secretary of State, to which we have had as yet no reply. I understand it was Your Excellency's intention to await that reply before formally appointing that Committee. But if it is possible for the Select Committee to go over that ground without an *ad hoc* committee I can see no objection. In fact, the Government would welcome it.

CAPT. THE HON. H. F. WARD: Your Excellency, my personal position would be simply met by that.

HIS EXCELLENCY: The question is that the Widows' and Orphans' Pensions (Amendment) Bill be referred to a Select Committee.

The question was put and carried.

#### Appointment of Select Committee.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Bill be referred to the following Select Committee:

The Treasurer,

The Postmaster General,

The hon. Member for Nairobi North,

The hon. Member for Kikuyu,

The hon. Member for the Coast,

and myself as Chairman. May I suggest also the name of the Chief Native Commissioner.

#### THE NON-EUROPEAN OFFICERS' PENSIONS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill for Regulating Pensions, Gratuities and other Allowances to be granted in respect of the Service of Non-European Officers in the Colony and Protectorate of Kenya be read a second time.

THE HON. T. J. O'SHEA: Your Excellency, I thought in view of the undertaking given by Government this Bill would be withdrawn.

THE HON. THE COLONIAL SECRETARY: I am not aware of any such undertaking.

THE HON. T. J. O'SHEA: I am referring to the undertaking by Government that this Expenditure Advisory Committee were going to examine the expenditure of Government.

THE HON. THE COLONIAL SECRETARY: It was never anticipated that a Bill of this sort, which is largely of a consolidating nature, should stand over owing to the appointment of this Committee. I do not know whether I am in order, Sir, in giving an explanation at this stage but this goes back many years and we are quite definitely pledged to proceed with the Bill. It was withdrawn for Government to refer it to a Select Committee the details of which have been gone into.

THE HON. THE ATTORNEY GENERAL: Perhaps, Sir, it may add very slightly to the explanation just given by the hon. Colonial Secretary but I would refer hon. Members first to the last clause of Part I of the Bill. Clause 19 Sir.

definitely limits the scope of this legislation to non-European officers serving in Kenya at the commencement of this Ordinance and to those having served in the Colony and been transferred elsewhere and are still in public service at the commencement of this Ordinance.

I would draw your attention, Sir, to that clause for the reason that I desire to make it quite clear that this legislation is not making provision for pensionable status for non-European officers generally, but is merely a measure giving statutory effect to existing commitments, and the justification for it, Sir, is this, that those commitments do exist. They are characteristic to a certain extent of a lack of uniformity; they are based on calculations which are difficult—which are based on Superannuation Acts which are in some respects obsolete; they are based on a mass of details which are difficult to sift and fathom. And so, Sir, dealing only with non-European officers who are at present in the Service and who are either holders of pensionable posts or have been granted pensionable status, it does not go beyond those officers.

The Second Part has also been explained by the hon. the Colonial Secretary. The provisions of this measure are to a large extent similar to those of the European Officers Pensions Ordinance. In that legislation the rate of pension is one four hundred and eightieth for each complete month of pensionable service and this is taken as one seven hundred and fiftieth, and after that the suggested provisions are closely analogous to the European Officers Pensions Ordinance, 1927.

It is very necessary, Sir, in my submission, that this Bill having been given a second reading should be referred to a Select Committee, because there is a good deal of detail which calls for close examination, not only for the reasons given by the hon. Member for Plateau South but because it will be for that Committee to consider how far conditions applicable to members of the European staff are applicable to non-European officers.

I have stated, Sir, that this legislation closely follows the model of the European Officers Pensions Ordinance. I do not propose to weary hon. Members with a discussion of the details now. The motives underlying the introduction of the legislation have been mainly put before hon. Members and particularly in view of the hour, Sir, I shall content myself with moving the second reading.

**HIS EXCELLENCY:** The question is that the Non-European Officers Pensions Bill be read a second time.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, after considering the debate we have had this morning it is somewhat ironical that this Bill should come up imme-

diately afterwards, especially in view of the sentence on the last page, which states: "It is not possible accurately to estimate the cost to the Colony if the provisions of the Bill become law."

Now, Sir, it does not seem as though we are getting on very far as regards reducing the cost of the administration of this Colony. I, personally, have never been able to understand why, when people have served on certain terms for a certain time quite satisfied with the conditions, why it should then be necessary to give them a lot of privileges which were not included in their original agreements; and as this is not to refer to future entrants I cannot see why this Bill should be introduced.

We have always taken up the attitude, Sir, that we want the whole question going into as we believe that pensions should be based on a contributory basis as the present system is unduly expensive to the Colony and should be revised.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will put the question.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, I might just make one remark on the ground of explanation, that as a corollary of the passing of this Bill a Circular has been issued to all Asiatic members of the Civil Service that in future they will not be entitled to pensionable rights, and if once this Bill can be got out of the way we shall be on a perfectly good wicket to consider a contributory scheme. Further, the object of this Bill is to consolidate the pensions position, with certain exceptions, on the lines of the European Officers Pensions Bill in accordance with the general principles of the pensions scheme.

**MAJOR THE HON. R. W. B. ROBERTSON-EVSTACE:** May I ask, Sir, does this Bill refer only to British subjects?

**THE HON. THE ATTORNEY GENERAL:** The definition of non-European, Sir, the hon. Member will find in the second clause. "Non-European Officer" means any officer who is not within the meaning of the definition of European officer in the European Officers' Pensions Ordinance, 1927, but excludes a native of Africa unless appointed under the conditions of service ordinarily applicable to Asiatics, and it also excludes those serving under conditions made applicable to members of the Arab and African staff.

**CAPT. THE HON. H. F. WARD:** May I ask, Sir, whether the undertakings referred to by the hon. Member in his address and in section 19, whether these undertakings will be laid before the Committee for their examination?

**THE HON. THE ATTORNEY GENERAL:** I am not sure, Sir, whether I quite understand which undertaking the hon. Member refers to.

**CAPT. THE HON. H. F. WARD:** Clause 10. "Provided that, if the Governor in Council is satisfied that any non-European officer to whom the provisions of this Ordinance apply has received an undertaking that he will be regarded as eligible for pension or gratuity under conditions more favourable to him than those prescribed by this Ordinance, the Governor in Council may direct that his pension or gratuity shall be computed with due regard to such undertaking."

**THE HON. THE ATTORNEY GENERAL:** I will ascertain to the best of my ability if there are such undertakings, and if so there will be no objection to their going before the Committee.

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

The question was put and carried.

*Council adjourned till 10 a.m. on Friday,  
29th July, 1932.*

FRIDAY, 29th JULY, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 29th July, 1932. **HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BIRN, K.C.M.G., K.B.E., C.B.)** presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 28th July, 1932, were confirmed.

#### ORAL ANSWERS TO QUESTIONS.

##### SURVEY FEES.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, on a point of order, may I ask when a question which I sent in many weeks ago with regard to the practice of Government in charging survey fees in certain cases will be answered?

**THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE):** Your Excellency, I can send the hon. Member a written answer to that. Immediately the papers came before me yesterday the answer was approved.

##### POLICE PROSECUTIONS IN MINOR OFFENCES.

No. 24. **THE HON. CONWAY HARVEY** asked:

1. If it is a fact that the Commissioner of Police has issued instructions that Police Officers are not to take action in cognizable cases under the Stock and Produce Theft Ordinance when the value of property stolen is small?

2. In view of the disastrous effect such inaction must inevitably have on native morals and Government Revenue, will Government be pleased to take prompt and appropriate action to bring policy and practice into line with local requirements?

**THE HON. THE COLONIAL SECRETARY:**

1. The Commissioner of Police has notified Police Officers that, in view of the necessity for economy and as a consequence of the recent reduction of staff, they should use their discretion in the matter of the investigation of trivial offences such as "the theft of a cob of maize, a small quantity of fruit, a handful of sugar or flour, and so on", where the cost of travelling and setting in motion the machinery of police

and magisterial procedure seems disproportionate to the nature of the offence. He has pointed out that where investigation is refused in such circumstances the complainant should invariably be informed that he may apply to a magistrate for process under the provisions of section 87 of the Criminal Procedure Code.

2. It is not thought that compliance with these recommendations can be described as "inaction" or that the result will have the effect that the hon. Member suggests or that conformity with these instructions will be prejudicial to local requirements.

**THE HON. CONWAY HARVEY:** Your Excellency, has it not occurred to Government that the procedure recommended by the Commissioner of Police will undoubtedly be very much more costly than the carrying on of what has been the practice in the past.

**THE HON. THE COLONIAL SECRETARY:** That has not occurred to Government. (Laughter.)

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, has the Commissioner of Police given any guide as to what constitutes unimportant theft because, in the case of maize, for instance, it amounts to a very large amount in total if these petty thefts are not dealt with.

**THE HON. THE COLONIAL SECRETARY:** He has left it to the discretion of the officer on the spot, but he has made it clear that where there is any question of consistent and concerted thefts of predial produce naturally that should be taken up.

#### APPOINTMENT OF SELECT COMMITTEE.

##### NON-EUROPEAN OFFICERS PENSIONS BILL.

**THE HON. THE ATTORNEY GENERAL:** Before Your Excellency takes the motion on the Order Paper perhaps the House will give me leave to announce the personnel of the Select Committee which was appointed yesterday on the Non-European Officers Pensions Bill. Your Excellency has approved of the following Select Committee on that Bill:—

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The hon. the Director of Public Works.

The hon. the Postmaster General.

The hon. Member for the Lake.

The hon. Member for Nairobi North.

The hon. Member for the Coast.

with myself as chairman.

#### MOTIONS.

##### LORD MOYNE'S REPORT.

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

"This House records its deep appreciation of Lord Moyne's study of certain questions in Kenya, and of his valuable report thereon, but regrets that he was unable to devote the time necessary to a more detailed study of important aspects of them and to the collection of data essential to the formation of final decisions upon them."

Your Excellency, I have endeavoured to word the motion in a manner that will meet with the entire support of this House and in a way that will lead to a fruitful debate on this very important Report. I hope, Sir, I have to some extent succeeded. It is a document of very considerable importance to this country, Sir, and one upon which I think the country is entitled to hear a frank expression of opinion from all sides of this House and I hope, therefore, that we shall be treated to an expression of views, not only from the official spokesmen of Government, but from those administrators of experience whose presence here day after day lends dignity to the Council but whose silence does not add very much to the wisdom of its debates. I even think, Sir—or perhaps should I say even I think that the occasion is a proper one for the able intervention of the hon. and learned Attorney General.

I feel certain I am expressing the universally held view when I speak of this Report as of considerable value to the country, and I think it will be agreed that it is such, even by those who least agree with some of the conclusions arrived at. If that be so, it is unnecessary for me to dwell at length upon the conclusions arrived at on which we are likely to be in general agreement; and I think it is also unnecessary for me to attempt to cover the whole orbit of the Report, as certain speakers to follow will deal with those portions of it which appeal to them particularly. I should like, therefore, to confine myself to a few of the more important problems dealt with by the Report in regard to which conclusions have been arrived at that, with all respect to the author of the Report, are open to question. I believe, Sir, that these conclusions are open to question not because of any shortcomings on the part of the author of the Report but entirely because he was unfortunately unable to devote the time essential to the study and proper understanding of them before forming conclusions on them. It is obvious to anybody who reads that Report, the outcome of a deep intellect, a mind of wide and deep experience and a mind given to the impartial study of problems as far as possible without bias of any sort. But I

and magisterial procedure seems disproportionate to the nature of the offence. He has pointed out that where investigation is refused in such circumstances the complainant should invariably be informed that he may apply to a magistrate for process under the provisions of section 87 of the Criminal Procedure Code.

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I feel certain I am expressing the universally held view when I speak of this Report as of considerable value to the country, and I think it will be agreed that it is such, even by those who least agree with some of the conclusions arrived at. If that be so, it is unnecessary for me to dwell at length upon the conclusions arrived at on which we are likely to be in general agreement; and I think it is also unnecessary for me to attempt to cover the whole orbit of the Report, as certain speakers to follow will deal with those portions of it which appeal to them particularly. I should like, therefore, to confine myself to a few of the more important problems dealt with by the Report in regard to which conclusions have been arrived at that, with all respect to the author of the Report, are open to question. I believe, Sir, that these conclusions are open to question not because of any shortcomings on the part of the author of the Report but entirely because he was unfortunately unable to devote the time essential to the study and proper understanding of them before forming conclusions on them. It is obvious to anybody who reads that Report, the outcome of a deep intellect, a mind of wide and deep experience and a mind given to the impartial study of problems as far as possible without bias of any sort. But I

feel certain that the compliment I am endeavouring to pay the author has not been lessened by my saying that many of his conclusions suffer because of lack of time given to their formation, and valuable as his Report is in many respects, it would have been of much more value had greater time been devoted to it.

One very important recommendation made by his lordship is the establishment of a Native Betterment Fund. I feel confident, Sir, that that recommendation will be widely approved, but I feel hardly less confident that regret will be expressed with Lord Moyne that he thought it fit to go into such detail in regard to the operation of that fund. I think, Sir, the suggestion would have appealed to us more strongly if he had left it to those who had a wider knowledge of the requirements of the country to work out the details of his valuable suggestion.

There is one aspect of it that is sure to occasion a lot of controversy if Government is so unwise as to adhere strictly to his recommendations in regard to it. I refer to the suggestion that this Fund should be removed from the purview of the Legislative Council of the country—that, in fact, this Legislative Council should be regarded as in many ways unsatisfactory for the purpose of the Government of the country and should have its operations curtailed so as to ensure an object that can be secured in other ways. I suggest, Sir, that it would be most unwise to violate the constitution, imperfect as it is, by accepting any such suggestion, more especially as there is absolutely no necessity. In the first place, it is not within the power of the representative minority of this House to alter any programme of Government without Government's consent. Why then should suspicion of this minority go so far as to deprive them of an opportunity of examining and possibly advising on proposals of an autocratic Government. Also, Sir, I think it unwise to adopt that suggestion because it will entail the setting up of another piece of independent machinery while we have in existence machinery by which the purpose intended can be carried out within that framework. I offer the suggestion to Government that the purpose could be just as well secured were the control of these funds placed under the supervision of the Central Native Lands Trust Board or a committee thereof. That Board is so composed that a committee of it would in fact have the personnel that is recommended by Lord Moyne. I put forward for the consideration of Government, Sir, also, the suggestion that the machinery for the operation of this fund ought to be as flexible as possible, whereas Lord Moyne has suggested that it should be most inflexible. I should like to hear the opinions of our experienced Provincial Commissioners on these details. I should like to hear Government's opinion as to whether it is

advisable in the interests of the natives themselves or in the interests of Government—looking to the future and not concentrating on present day conditions—to have it laid down by law that the amount to be paid to it must be a definite fixed amount, the amount received from direct native taxation. Surely, Sir, it is most inadvisable that that amount should be fixed. Again, I feel that the author of the Report has hardly taken into consideration the further requirements of our native tribes and he has not allowed for the fact that the requirements of some native districts is in inverse ratio to the ability of the natives of those districts to pay for the services they so badly require. If therefore, Sir, we start off this fund with such a fixed constitution as has been suggested, I feel certain that in the course of a short number of years Government will find it necessary for many reasons to alter the operations of the Fund, and that any such alteration would almost certainly be regarded by the natives as a breach of faith.

It occurred to me also, Sir, that his lordship has not sufficiently taken into consideration that an increasing number of natives are living permanently outside the reserves and that the industrial advantage to the country that may be expected by that process may develop. In other words, Sir, I perceive that it will be necessary and advisable that such local government bodies who are to a very large extent taking over native welfare work be entrusted with this Fund, and in the same way that at the present time Government and these local bodies co-operate in providing funds for roads and other purposes.

Lastly, Sir, I would criticize the Report by drawing attention to the most extraordinary allocation of expenditure between the Central Government and the Fund which has been recommended. Why, if the fund should bear the cost of the personnel operating the Native Betterment Services, the fund should not also bear the cost of reliefs, pensions, leave pay and passages I cannot for the life of me understand.

In that same connexion, Sir—the allocation of expenditure—may I also point out that it has been my experience in this country that when there is native development of services in outside districts it seems automatically to involve a very considerable increase of expenditure at headquarters, and it is suggested that the cost of headquarters should not be borne by the fund. I do hope, therefore, Sir, that while the idea of a Native Betterment Fund will receive general approval, the details of its machinery and operations will receive much closer attention and that Government will not blindly follow a suggestion based upon a very short study of the country.

Another aspect of the Report which I think, Sir, is likely to meet with a considerable amount of criticism is that dealing with medical services. In dealing with it I should like to remind the House that the greatest development in native medical services took place at a time when the influence on Government's policy of members on this side of the House was at its greatest; that, in fact, the development of medical services in native reserves has been one of the policies of Government that has received the fullest possible support from the colonists; and it is and has been claimed to be generally responsible for the development which took place in the reserve areas. If you take what was done in the reserves at a time when we had no influence whatever on Government it will be seen that until influence from this side of the House came to bear on Government nothing was done in medical services in the reserves.

Furthermore, Sir, I should like to say that the cutting down of expenditure referred to by Lord Moyne on page 33 was, so far as I know, entirely the work of Government, un-influenced by Members on this side of the House, and we cannot, therefore, be held in any way to blame if these services were cut down more on the native side than on non-native. Lord Moyne has unwittingly fallen into a grave error in his criticism of this question. He has completely overlooked that the service at the time it had to be cut down was a native service and to a small extent non-native, and the greater part of it was bound to be for native services. Furthermore, he seems to have overlooked that the greater side of non-native services is very largely necessary to enable Government to carry out its obligations to its servants. Also, Sir, I think it necessary to draw attention to a statement on page 33 which, while true in itself, if not read in the light of a greater knowledge of what has been done in the way of medical services for natives, is likely to be very misleading. It is stated there is only one medical officer in Central Kavirondo for something like 313,000 people. Lord Moyne has not been made aware, or has forgotten, that there are other medical services in that area generally subsidised by Government.

Lastly, Sir, I should like to deal with the portions of the Report covering taxation. It is not only my opinion—I should think it is an opinion fairly widely held by those who have studied the Report in the light of greater knowledge of the country—that this is by far the weakest part of the Report, because it requires the greatest amount of study, and Lord Moyne had not the time for that study. Speaking for myself, Sir, I entirely agree with him that our methods of taxation require overhauling, but I do hope Government will not too hastily take the suggestion regarding the need for revision and

I do hope they will not make the mistake of adopting this part of the Report without consideration, not only of the part which deals with the question of the country's present expenditure, but of future requirements.

The Report gives one the impression that Lord Moyne thought that Government could not succeed in bringing down the costly administration very much below the figure at which it had arrived while he was here, and in consequence there would be a shortfall of £250,000 at the end of this year, and many have fallen into the error of thinking the Lord Moyne has recommended that that shortfall should be met by additional taxation of non-native people. Frankly, Sir, I had got that impression when I first read the Report, but after consideration I decided that Lord Moyne had done better than to arrive at any such conclusion.

He has been very tactful in his suggestions as to what could be done to diminish the cost of administration, and I think, Sir, his views on that subject are quite precise, quite adequate, and after having studied the Report further I have come to the conclusion that he had expected Government to recognize that the taxable capacity of the country had been so damaged that strenuous efforts would have to be made to reduce the cost of administration before deciding to raise further taxation. At the same time, Sir, I also got the impression that, in addition to having devoted too short a time to the proper consideration of this aspect of the subject, his lordship was unduly influenced by the conditions prevailing at the time of his visit, and that he was seriously handicapped in his efforts by the non-existence of the data necessary to give him a proper idea of the respective taxable capacities of the native and non-native peoples.

I consider it as a real blemish on the Report, Sir, that it should be thought that the native people are unable to bear further taxation and the non-natives are. Admittedly, Sir, he had little or no evidence before him during his stay in Nairobi of any element of the non-native people who are unable to bear further taxation, and during his tour through the country he had not much opportunity of seeing the rest; but while he may have been impressed by the sight of individuals who could possibly bear further taxation, I feel that he has not taken into consideration the strain upon the country of the amount already raised by taxation however inequitably it may be distributed.

It also seems to me, Sir, a serious slip-up that having been able to see the change that has taken place in the taxable capacity of the native as a result of the effort and the numbers of primary producers, he should not have carried his process of reasoning one step further and concluded that

the cost of production of similar commodities by the Europeans are probably higher than that of the native, that the European primary producer has had his taxable capacity affected in the same way. I have been unable to find again the jargon in the Report in which His Lordship makes a comparison between the amount of taxation borne by the natives of this country to that borne by the people of Europe, but I still believe there is a passage in the Report which does make such a comparison. If that be so, Sir, I suggest the most important point is that it leaves out of account the extraordinary divergence of conditions in this young, undeveloped, semi-civilized country and those of the civilized countries of Europe; and it would be unwise of Government to be influenced in the slightest by that comment in the Report.

Lastly, Sir, I would like to comment on that section of the Report which deals with local government finance. I cannot help feeling that His Lordship was unwittingly unwise, or perhaps it would be nearer the case if I said that he possibly misunderstood the information that I feel sure was laid before him by Government regarding local government bodies and the finances thereof. The hon. Member for the Lake and myself took a very active part in the establishment of these local government bodies. We were very closely associated with the hon. the Acting Commissioner of Lands and Settlement at the time and I personally assisted in helping to persuade the people of the Usisi Gishu district to accept the new institution, and in doing so, Sir, I feel certain I led them to understand that so long as their requirements did not exceed the amount of the basic grant there would be no need for them to embark on a policy of local rating; and I should be very surprised indeed if the hon. Member opposite can inform this House that that is not what we told the people; and in fairness to him I would add we also made it equally plain that if the requirements in the future did exceed what was covered by these basic amounts that Government would expect them to contribute to the difference in the form of local rating. From reading this Report it seems to me that His Lordship was very ill-informed on this matter, and completely misunderstood the information laid before him. In consequence it has given rise to an entire misunderstanding of the conditions under which these local districts have accepted local government.

My excuse for having kept the House so long is that the Report is a very valuable one and one entitled to some detailed expression of opinion from us. I feel confident that an expression of our appreciation is desired by the whole House, and I commend my motion to the House.

LT.-COL. THE HON. C. G. DEWITT: Your Excellency, for the purpose of debate I second the motion.

HIS EXCELLENCY: The question is:

"This House records its deep appreciation of Lord Moyne's study of certain questions in Kenya and of his valuable Report thereon, but regrets that he was unable to devote the time necessary to a more detailed study of important aspects of them and to the collection of data essential to the formation of final decisions upon them."

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion. While I appreciate the very valuable Report which I have before me I would like to draw attention to one or two points. I quite agree with the hon. Member for Plateau South that Lord Moyne suffered from lack of time, local experience and the sifting of local opinion during his short visit to this Colony.

I do not propose to go into any other matter except in so far as the Report makes some reference to local authorities and district councils. On page 41, paragraph 58, it says:—

58. Contributions to Local Government Authorities and services of the Public Works Department in settled areas which are shown in detail in Appendix 1, Schedule 5 (Statement B) on page 83, and Note No. 7 on page 95, are doubtless of greater direct benefit to non-natives who live under civilized conditions than to natives whose present mode of life precludes any but indirect advantages from many of the principal services provided.

#### Road finance.

59. Examination of the system of road finance discloses an anomaly which calls for remedy. In 1931, Local Native Councils contributed £9,509 to supplement Government grants. By this means they actually paid the capital cost of bridges which would otherwise have had to be borne by Colonial funds. In European (District Council) rural areas no such contributions are made either from local rating or otherwise. District Councils have now entered their fifth year of life and there is no evidence that they intend to raise any local contribution by means of levying rates, as was expected when they were founded, while the present system relieves them from such necessity. Although, owing to the different class of traffic carried, it is not necessary for roads primarily serving native areas to be of such expensive construction as in settled areas, they fulfil just as necessary a function in the life of the Native Reserves in giving access to markets and offering facilities for communication, and should in equity be afforded a larger share of assistance from central funds.

Your Excellency, I maintain that while the facts in the main are correct, the deductions are incorrect. In paragraph 68 it infers that in European areas, owing to our high standard of civilization compared with that of the natives, there is a larger sum of money spent by Europeans in these areas compared with the natives in the reserves; also that the natives get only an indirect benefit from the roads in the European areas. Those facts are more or less correct, but I say the deductions are wrong. In the Trans Nzoia I think we have contributed £3,900 for bridges last year. There is a sum of approximately £3,900 per year for motor licences and other licences. That is going on for ever. Although the natives only get an indirect benefit from our roads in settled areas, we get no benefit whatever, or very little from roads in the native reserves. That was also the criticism of the previous commission, the Feetham Commission. The Report of that Commission was accepted by this Government. It cannot be said that it was accepted by the different local authorities; it was forced on them. It is also incorrect to say that they have been functioning for five years. The Trans Nzoia District Council has only been functioning for three years. That statement is incorrect.

I understood, and I still understand that the conditions on which my own area, the Trans Nzoia, agreed to the formation of a district council was on the basic grant, 1927, plus 25 per cent overheads for administration purposes; and if and when the amount was insufficient for our needs and requirements that we would have to rate ourselves to get the extra money. That was the agreement—it might be called a bargain entered into by Government with that district council, and I understand they are prepared to honour that agreement if and when necessary and that if further funds are required they will then consent to rate themselves to get the extra money.

There is just one more extract, Your Excellency. I would like to quote: paragraph 60, page 32:—

Local Government finance is not working in accordance with the principles upon which the enabling legislation was founded.

I deny that.

It appears from the Feetham Report and from section 101 of the Local Government (District Councils) Ordinance of 1925 that it was originally intended that basic road grants with their percentage surcharge should be devoted entirely to expenditure in respect of road work. Owing, however, to the failure of district councils to rate

their districts for general purposes, as provided in Part VI of the Ordinance, these grants are now subject to miscellaneous charges, including those mentioned above not directly connected with road upkeep.

It rather seems to me it was inferred there that the over-rates for local authorities were to be got by rating. We were never warned of that. That interpretation was never conveyed by the hon. Member responsible for Local Government, and I say definitely we have not broken our agreement and we do not accept that as a correct interpretation of the Feetham Report. That opinion could not have been expressed if Lord Moyne had been advised, and had taken the trouble to visit the district councils and get their views and opinions and interpretation of the situation in which they are working.

There is a matter, Your Excellency, which I should like to refer to which arises directly out of this Report. It starts—“I am asking your permission, Sir, to read this—‘A reply from the Trans Nzoia District Council remarking on certain observations in the Report of the Financial Commissioner dealing with Local Government Services in District Council Areas.’”

This is an advertisement from the Trans Nzoia District Council calling a public meeting on the 5th August at Kitale to discuss whether the District will agree to rate themselves approximately to £1,000 on a basis of four cents per acre on alienated land in the District.

I do not intend to read the whole thing, Sir. (Laughter.) I appreciate the laugh, for after all it is a matter of great public importance; it shows how quickly this country reacts to reports like this. What the result of that meeting will be, of course, it is not for me to say. I read the opening paragraph to show that it is an unusual document calling a public meeting to rate themselves.

Out of all the great Government services in respect of which this revenue has been expended, one service, and one only, has been singled out as possibly inefficient and wasteful—that of Local Government in (District Council) rural areas (which is in receipt of grants totalling £33,418)—the one organization that is administered by settlers and not by Government officials.

I will read a further paragraph dealing with the Public Works Department: “The reasons are as follows: for a period of years through its Elected Member the District has opposed without avail the wasteful and extravagant financial policy of Government. For years it has witnessed the Public Works Department spending approximately £30 per mile on Main Trunk Roads, plus Bridge Votes, plus Tools and Plant

Votes, plus Personal Emolument Votes. It has seen 42½ miles of earth road constructed in the District at a cost of £407 per mile direct cost, plus a non-ascertainable indirect cost, estimated at a further £100 per mile." In other words, Sir, the cost was in the region of £500 per mile for a rough road.

As a result of an expenditure of over £3,000 per annum between 1921 and 1920 . . .

**HIS EXCELLENCY:** Is not the hon. Member going rather too much into detail on the debate of Lord Moyne's Report?

**THE HON. J. G. KIRKWOOD:** I am in conclusion now, Sir. To debate Lord Moyne's Report adequately would take this Council at least a month.

I am referring to the meeting at Kitale on the 5th August now, Sir. If the District accepts the rating proposal now, the position of Council will be immensely strengthened in its negotiations with Government. The issue is clear. It is for the public to decide whether a rate, amounting to a total of less than £1,000, shall be levied on the District in support of the road system, or whether the Council shall dissolve and revert to the place to the Road Board, the possibility of which is suggested in the Financial Commissioner's Report."

I would suggest, Your Excellency, that if that should take place—I have served on the District Rate Committee since 1920—it will be a desirable result.

After a careful reading of the Report, Sir, I think it is a very valuable one; but notwithstanding the very valuable information it contains and the compiling of that information, in many cases, Sir, the deductions are wrong.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, I beg leave to move an amendment which I hope the hon. mover will accept and which, I am given to understand, will be acceptable to Government, and that is the deleting of all the words after "thereon", and to add after "This House," the words "while not necessarily accepting without further and fuller investigation the whole of the detailed recommendations contained therein wishes to place on record, etc." The resolution, if amended and carried will therefore read: "That this House, while not necessarily accepting without further and fuller investigation the whole of the detailed recommendations contained therein, wishes to place on record its deep appreciation of Lord Moyne's study of certain questions in Kenya and of his valuable Report thereon."

Your Excellency, I do not propose to deal at all with the details of the Report—they have already been dealt with with the greatest ability by the hon. mover—but I do appeal to him and to hon. Members on this side of the House to accept this amendment because I think it would be a great pity if the resolution were entirely thrown out because of its containing certain words which Government feels unable to accept, as Council would not then be able to record its appreciation of the Report.

The Report as such does deserve this Council's appreciation, and I think that the object of the hon. mover will be achieved, and it will also make it quite clear that neither Government nor the Elected Members are binding themselves in any way to accept the detailed recommendations without further and fuller investigation.

**THE HON. COMPTON HARVEY:** I beg leave to second the amendment, Sir.

**HIS EXCELLENCY:** The question is that the amendment proposed by the hon. Member for Nairobi South be approved.

**THE HON. T. J. O'SHEA:** I have great pleasure in accepting it, Sir; as it will secure the purpose I had in view.

**CAPT. THE HON. J. L. CORTER:** Your Excellency, I am going to oppose the amendment here and also the motion, because I do not appreciate the Report because it goes particularly against one rule. That may be seen in the first page and that is that it breaks the well-known rule that the man who pays the piper has the right to call the tune.

I see in the first place that all expenditure of Lord Moyne's visit, except the printing of the Report, was borne by the Government of Kenya, and it is on that account and that alone, Sir, that I am afraid I cannot support this motion; but if some Members of Government are going to speak I would ask what is the usual procedure in this sort of case as to who pays, because it was a Commission sent out by the Home Government without any request from Kenya, and I submit in ordinary circumstances they should pay.

**LT.-COL. THE HON. C. G. DUNHAM:** Your Excellency, I am only rising to challenge the Report where it says that District Councils as a whole are wasteful and throw away money. I should like to know where the information was obtained, Sir. And I will go further, Sir, I will challenge the Public Works Department to produce figures to show that they can work more economically than District Councils or even as economically; and further I will say that our roads are in a far better condition than ever they were under the Public Works Department.

**THE HON. THE COLONIAL SECRETARY :** Your Excellency, in view of the amendment which is now being debated, I do not think it necessary for me to deal in great detail with the various points which have arisen on Lord Moyne's Report. I should, however, like to associate myself both with the opinion expressed by the hon. Member for Plateau South and, I believe, shared by all Members of this House, that the pervading spirit of the Report is one of strict impartiality.

It is quite clear to everyone who reads it, Sir, that in view of the resources at his disposal and the shortness of his visit the manner in which Lord Moyne has dealt with the general aspects of our problems is quite remarkable.

Let me now just deal rather briefly with one or two points. The attitude of the Government over the Report has already been made clear, Sir, in Your Excellency's speech to Council. The principle of the Betterment Fund the Government are in agreement with. At the same time we agree with the mover of this motion that a great deal of detailed care and examination will be required before we finally decide how that Fund is to be worked and the organization which should control it. This debate has been so free from anything of what I might call a controversial nature that I do not wish to introduce anything of a controversial element now, but the hon. Member for Plateau South did suggest that the proposal that the Betterment Fund should be taken outside the purview of Legislative Council might suggest that there was some suspicion of hon. Members opposite. As regards that, Sir, Lord Moyne has made it, I think, quite clear in his Report as to the reasons which actuated him in making that recommendation. He says :

The expedient of a Native Betterment Fund is admittedly inconsistent in theory with the unitary system of Colonial Government, but I am convinced of the urgent need of a temporary guarantee that the more backward community shall get a fair share from central funds during the present period of unequal racial needs and political representation.

I have no more authority than hon. Members opposite to speak as to the reasons which actuated him in making those recommendations. It may be—I will not suggest that it is so, but possibly in reading the debates which have occurred at times in this House, he may have thought that such important questions as medical and education services in native reserves might profit were they taken outside the purview of this House. In that connexion, Sir, I do not know but possibly the hon. mover of this motion himself in this House possibly

made comments on our native education policy (which it is proposed now should be taken out of the purview of the House) which may or may not have aroused in Lord Moyne some of those suspicions. In speaking on the Education Department vote in the Estimates for 1930 he stated :

I have carefully refrained from any comments on its work in the matter of native education up to the present, but as this may be the last occasion upon which I shall have an opportunity to express my opinion, I want to express the opinion now that 50 per cent of the money spent upon native education is absolute waste, that another 25 per cent of the total includes probably a lot of waste, and I am doubtful about the value of the other 25 per cent. The policy of that department in relation to the native population of the country is, in my opinion, absurd. To be told time after time that we have got to spend large sums of money on native education merely because there is an incessant demand is, I think, the most absurd way of basing your expenditure. No policy that I can see, with any relation to the life of the natives, has yet been worked out. As long as I can remember they have been talking about native education, native education, native education, but even to-day they are still as far off as ever from working out a policy that bears any relation to the needs of the natives. Rightly or wrongly, I contend that in relation to his environment and in relation to his needs the native is, in a broad sense, an educated man, and that what our Education Department is now offering is only in a very restricted sense indeed education.

Rather similar words have been used in reference to our medical policy. If the House will bear with me I will quote them.—By the hon. Member for Nairobi North (Major Grogan) :

The policy of the Medical Department, which is another great spending Department, and which, of course, can be admitted into this category, is entirely unknown. Nobody knows what the policy is; no policy is ever claimed, so far as I understand. We can only pick hints here and there by watching what they are doing, and the only thing I can see they are doing is building concrete drains through inaccessible portions of the bush.

Those speeches were made during the consideration of the Estimates for 1930, Sir, and I only throw it out as a suggestion as to why possibly these most important services are to be entrusted to the care of the Native Betterment Committee if appointed.

On the question of the allocation of expenditure—I am speaking to the amendment, Sir, and therefore I do not think it is proper for me to go into such questions as allocations of expenditure raised by the hon. Member for Plateau South, but I agree with him that that is a matter which may very probably need to be carefully looked into.

The question of taxation, Sir. The hon. Member for Plateau South suggested that on first reading the Report he came to the conclusion that Lord Moyne was reporting in favour of additional non-native taxation but that subsequently he revised that view. I can only suggest to him that perhaps in this case first thoughts are best for, if I may, I will quote from the recent speech of the Secretary of State for the Colonies, when debating Lord Moyne's report on the 1st July, 1932. The Secretary of State used these words:

If we accept these four broad proposals, as I think everybody must, we are led to the conclusion to which Lord Moyne was inevitably led, that the financial position of Kenya, as disclosed at the present time, requires the imposition of non-native direct taxation.

I can only assume that the Secretary of State did not make so categorical a statement without previous consultation with Lord Moyne.

The last point, Sir, which has aroused considerable debate, is the question of local government finance. On that, Sir, I must agree with what has been said in this House, but before Government commits itself one way or another on that account a very careful investigation must be gone into, and indeed, one such investigation is being undertaken in one direction by the special committee of which the Commissioner for Local Government is chairman.

Before I sit down I would like to deal with the point made by the hon. Member for West Kenya under the old slogan "Who pays." I can only say, Sir, that in accordance with the recommendation of the Select Committee on the first Supplementary Estimates, the Government has written a despatch to the Secretary of State raising the question of the cost, both of this and other commissions and has as yet received no reply thereto. I wish to express the Government's concurrence with the amendment.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, I do not think there is an amendment before the House. It is the substantive motion now.

THE HON. THE COLONIAL SECRETARY: I stand corrected. I did not realize it had now become the substantive motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, it seems there is no half-way house, in dealing with this motion, except either to be very brief in regard to the motion or to take up the time of this House for a period of at least an hour for the purpose of going into all the details of the main report. As I do not propose to do the latter I shall deal only very briefly with the motion.

I am sure, Sir, we all feel grateful and we all realize the extraordinary hard work which Lord Moyne gave to his task out here; and how hard he tried to get at our problems in the short time at his disposal; and that he did keep a very fair and open mind in dealing with those problems. I must say, Sir, for my part I consider that the terms of reference under which he worked were in two directions somewhat of a handicap. The original terms of reference were very narrow and he did deal with these I think very thoroughly. The added terms of reference given to him half-way through his visit, were added to his inquiry the task of making recommendations as to readjusting taxation and expenditure.

I submit, Sir, that it was quite impossible for Lord Moyne in the brief space of one month to make an adequate report on those very important and fundamental questions. Personally, Sir, I hoped very much that he might have found it possible to stay longer in the Colony so that we could have utilized his valuable services as chairman of our present Economy Committee—I say that not in any way as a reflection on the present chairman—but Lord Moyne said it was impossible as he could not spare the time. The result is, Sir, that when we get to some of his conclusions on the major issues of this country I do not think the deductions are quite justified by the figures and arguments which appear in his Report. In some cases he gives his opinion unsubstantiated by any details or arguments, and for that and other reasons I do think there is a great deal of his Report open to criticism which I do not think one can accept as a completely correct statement of affairs.

Having said that I would like to join in the appreciation which we are trying to show by this motion for the admirable service which Lord Moyne has given to this Colony, and I do believe this Report of his—settling certain questions which have been long in dispute and bringing up to the surface other questions which require thoroughly threshing out—I do believe that this Report of Lord Moyne's and the work which he has done will be of very great use to this Colony.

THE REV. CANON THE HON. H. LEARNEY: I am very pleased indeed that this motion has been brought forward and accepted by Government. Unfortunately, owing to the very

On resuming.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, might I ask the leave of the House; in putting the amendment in one word was inserted which should not have gone in, namely, the word "detailed."

HIS EXCELLENCY: The motion before the House is as follows:

"This Council, while not necessarily accepting without further and fuller investigation the whole of the recommendations contained therein, wishes to place on record its deep appreciation of Lord Moyne's study of certain questions in Kenya and of his valuable Report thereon."

The question was put and carried.

#### OPERATION OF THE BUTTER LEVY ORDINANCE.

THE HON. J. O. K. DELAP: Your Excellency, before introducing the motion which stands in my name I wish to ask your permission to modify the wording in some respects. I have no wish to alter the general sense, but it seems to me that it might be important, and if I may, Sir, I will tell you what my suggestion is for a slight alteration.

I wish to cut out the words "the anomalies and hardships involved in", and substitute the words "the widespread demand for an examination into", etc.

My object in doing this, Sir, . . .

HIS EXCELLENCY: What did you say? "The widespread demand . . ."

THE HON. J. O. K. DELAP: "That in view of the widespread demand for an examination into the operation of the Butter Levy Ordinance", etc.

HIS EXCELLENCY: Does the House raise any objection?

HON. MEMBERS: No, Sir.

THE HON. J. O. K. DELAP: And secondly, Sir, I realize that in view of the fact that I am suggesting in my resolution the composition of the Committee, for which I hope the Council will vote, I see that I shall do better, right from the beginning, to leave the composition of that Committee in the hands of Council. I feel it would be better if you would allow me to do so. That would involve an alteration to the second part of the resolution, and I would set it out to read: "This Council appoints a Committee distinct from the Butter Levy Board, who shall hold a comprehensive inquiry into the working of the Ordinance and report."

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As Your Excellency is aware, there is a very strong divergence of opinion in the industry on the merits and effectiveness of the Butter Levy Ordinance, 1931. It was, I believe, originally introduced at the instance of hon. Members on this side of the House, and there is no denying that it is to some extent assisting the dairy industry and has benefitted the export of butter. It is equally indisputable that it has involved a certain amount of hardship.

In the course of my researches at the request of my constituents I have become convinced that there are certain aspects which are not entirely satisfactory, and there is a certain case for inquiry. It will be my task, Sir, to show that there is such a case, and I have no wish to go beyond that; I am merely concerned to show that there is a case for inquiry, not at a later date, but now.

I believe the primary object of the Ordinance was to help and foster the export of butter, and this, of course, is most desirable. The bounty collected from the local seller by means of a levy on butter sold locally is paid out by way of bounty to butter exported from the Colony. This bounty is intended to encourage the exporter of butter in an attempt to send his butter out of the country by helping to raise the amount received per pound to the price level of butter sold locally.

My object in introducing this motion, Sir, is not to summarize the arguments for and against the butter levy, but, as I have already said, to do my best to make out a case for a Committee of Inquiry, and I hope to show there are aspects which make it desirable.

To my mind, the most important arguments in favour of an inquiry may be stated in this way—and, in parenthesis, I must draw your attention to the fact that the Ordinance has not yet run a whole calendar year and therefore the figures are based on the production, consumption and export of butter in 1931.

It appears that local sales by non-co-operators in 1931 totalled about 300,000 lb. and this, if the butter levy had been in operation during the whole of 1931, would have realized a sum amounting to £3,750. That is on the 1931 figures.

I am informed, and it appears from the information so far available, that the approximate cost of the administration of this fund comes to approximately five cents out of twenty-five, or twenty per cent of the total sum received by way of levy. I do not think I mentioned, Sir, that the amount exported by the Creameries in 1931 was 600,000 lb., double the amount on which the levy would have been payable; so that with 20 cents net of the levy available for the assistance

of export butter there would have remained on the 1931 figures a sum of approximately 10 cents per pound, to assist export butter. In this connexion, Sir, I will quote from a letter published by the Secretary to the Co-operative Creamery during this year: "The levy is insufficient to redress the balance"—the balance, I take it, referring to the balance between the net payment received for export butter per pound and the same received per pound for butter sold locally—"The Butter Levy Board would have to pay a bonus on export butter of 50 cents a pound to do that." And Your Excellency will note that in 1931 export butter would have been helped to the extent of about 10 cents per pound.

The latest statement from the Creameries, dated June, 1932, states: "This month we have a record production of 136,131 lb., the exportable surplus being 103,431 lb. That is more than 100,000 lb. for the month of May. Everyone knows that May is a good dairying month, but locusts have had a great effect upon grazing, and it is fair to assume that if there had been no locusts the amount available for export in May this year would have been greatly in excess of 100,000 lb. This bears out the statement which I hear on all sides that the quantity of butter exported, is rising and will rise, levy or no levy.

Now the 10 cents per pound bounty on export, payable on a quantity of 600,000 lb. is only 20 per cent of the sum required to redress the balance. As export increases the bounty will become less and less adequate for this purpose, and must inevitably, it seems to me, reach a point, if it has not already done so when the result achieved does not justify the sacrifices imposed upon the local seller. If it is worth while at 10 cents per pound on 600,000 lb., will it be worth while at 5 cents per lb. on 1,200,000 lb.? We already have the statement by the Secretary of the Creamery that in 1931 the actual assistance to the Creameries in their total production of 1,000,000 lb. would have been only 6 cents per lb. I am, of course, aware that, in addition to the butter they export, the Creameries sell a good deal locally and pay the levy on it; but as it is paid back to them less 20 per cent for administration, it must be cancelled out in following the argument except to recognize that this 20 per cent is utterly wasted.

If the Creameries had refrained from selling this quantity locally and if the non-co-operators had been able to supply it, a larger sum would have been received by levy which would also have raised the rate of bounty per pound on export; but we must always expect that the Creameries will take as big a cut of the local trade as they can so long as local prices rule higher than net export prices.

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I am aware of the argument that but for the levy, the Creameries would drop the local price and destroy the local seller, but if the creameries could sell 25 cents cheaper, so could the local seller and, incidentally, the consumer would reap the benefit.

This argument, that the Creamery is being paid by its competitors to refrain from destroying them is one which, reasonably or unreasonably, has caused a good deal of bad feeling and is on that account regrettable. I am aware, of course to sell at a price lower than Sh. 1/50 per pound retail, but I am only dealing now, Sir, with a Committee to consider the Ordinance, and the Ordinance contains no such proviso.

It is held by a good many people that the imposition of the levy is doing more to drive the non-co-operator out of business than open competition would do. And if this is so, and I believe it is, the Ordinance is helping to defeat its own ends, for by driving people out of the butter business it reduces the exportable surplus which it was designed to increase.

Another point I must mention is that as the levy is a constant, and the price of butter on the local market fluctuates in some sympathy with world prices, so the proportion of levy to gross takings varies for the non-co-operator. At present some of them are paying 30 per cent of their gross takings and as much as 100 per cent of their net profits.

The Ordinance provides for exemptions in cases of undue hardship, but I submit that undue hardship has never been defined. Exemptions have been granted in a few cases and withheld in apparently similar cases and this has naturally caused bitterness and disappointment.

Some dairymen express the view that it is inequitable to collect the levy from men who are so situated that they cannot send their cream to any Creamery quickly enough to obtain a good price for it, and demand that the Creameries should be obliged to establish factories within the reach of all before qualifying for a levy without exemption.

An organized body in my constituency, the members of which are largely dairy farmers, supported my suggestion for an inquiry and expressed the view put forward by them when the Bill was introduced, that if a levy were to be imposed, the whole dairy industry should be called upon to contribute and not butter only.

But in my view the main justification for the promotion of a Committee of Inquiry is the fact, which, I assert without fear of contradiction that, owing to our comparatively small population and our vast grazing areas, the Butter Levy Ordinance can be but a temporary measure and must soon pass away.

Are we to allow it to remain if we find that it does more harm than good, shutting our eyes to hardship imposed, perhaps, without commensurate advantage?

I would not presume to ask Council to prejudice the question, but I submit, Sir, that there is need for a comprehensive inquiry. It was with this conviction that I gave notice of the resolution before the House.

Finally, I submit that unless in Your Excellency's opinion and in that of Council, the Butter Levy Ordinance is perfect there is a good case for a Committee of Inquiry.

Our minds are no doubt greatly exercised at the present time by the far greater problems awaiting solution and this matter may seem small and relatively unimportant. But I maintain that to sit back smugly satisfied and refuse to listen to the cry for help would be to fail in our duty as the guardians and champions of the people whom we represent and whom Your Excellency with the assistance of the hon. Members opposite has the privilege of governing.

It has been suggested that at this time of financial stringency we are not justified in incurring the expense of an inquiry, but I would remind Your Excellency that people who contribute £3,750 per annum, representing a third of their gross takings would think it a mean thing to refuse one on those grounds.

It has been suggested that the Butter Levy Advisory Board is fully competent to carry out any inquiry, and that may be so, but it has been represented to me that as they have been appointed for the purpose of advising the hon. the Treasurer in the administration of the Fund they would not command the complete confidence of the industry for an examination into the principles on which the Fund is collected.

I should like to leave the composition of the Committee in the hands of the Council asking that it be as far as possible impartial, disinterested and that it shall especially make a point of hearing evidence from the public.

It may be argued that as the Ordinance has not yet had a complete calendar year's working, we should wait until a whole year's figures are available before deciding if any change is necessary. But in view of the fact that, in spite of locusts, quantities are increasing, and that already the bounty is very small in comparison to the levy, I submit that justification exists for the holding of an inquiry without delay.

May I appeal to Your Excellency not to refuse acceptance of my resolution because I wish to appeal to that sense of fair play which is eminently an attribute of hon. Members in all parts of the House.

THE HON. F. A. BEMISTER: Your Excellency, ...

HIS EXCELLENCY: Do you second?

THE HON. F. A. BEMISTER: I do, Sir. May I speak now? I have the greatest pleasure in seconding this motion, and I would draw Your Excellency's attention to the fact that the mover, the proposer of the motion, was a successful candidate in the last election in the Colony after the date of the Butter Levy being imposed and in a constituency which knew much of the butter question, and it may be reasonably taken that the Butter Levy was one of the chief planks of his platform.

I doubt, Sir, if there has ever been a case so plainly forced upon the attention of Government that their action was at least hasty in passing that Ordinance, because immediately people had an opportunity of speaking their minds and giving their opinions they definitely put in a man who was against the levy.

It is also a peculiar fact, Sir, that, notwithstanding that this measure has not been in operation for twelve months yet, there are activities in all parts of the country querying its justice and efficacy, and I was intensely pleased to be able to meet some of the directors of the Creamery when in front of us they admitted that the levy did not carry out the functions for which it was intended.

HON. MEMBERS: Question.

THE HON. F. A. BEMISTER: I have not the minutes of the meeting, Sir, but I do assure you that the directors proved that as the export of butter increased they would be in a worse position than they were before, and I do think, Sir, that that proves that the levy is not fulfilling the functions for which it was originally intended, which was to enable them by collaborating sufficiently in this Colony to make up the loss on the export trade. If it was not, Sir, then why did you put it up at all? You all stated it was going to help the dairy farmer in his export trade. How in the world is ten cents, when twenty-five cents was estimated, how in the world is ten cents going to cover what twenty-five would not?

The point really is, Sir, that we are not asking you at the moment to prejudice the question, we are asking you to appoint a Committee to inquire into the working and effects of the Butter Levy. There can be no objection to such an inquiry, Sir, and one great essential of real government is to govern the people as they wish and to their best advantage. The advantage of this levy, Sir, is neither to the consumer nor the producer, and in consequence it cannot take long for the Committee to understand the whole thing is useless.

His EXCELLENCY: The question is:

"That in view of a widespread demand for an examination into the operation of the Butter Levy Ordinance, 1931, this Council appoints a Committee, distinct from the Butter Levy Board, who shall hold a comprehensive inquiry into the working of the Ordinance and report."

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, in rising to support this motion I do so because I honestly believe that there are cases of hardship which should have been considered and have not been. I regret to say, Sir, that I am of opinion that section 10 of the Bill has not been interpreted in its widest sense. I would ask Government to consider in its terms of reference the possibility of inquiring into the whole of the dairy business because there are people who send in milk and produce cheese who would welcome the cess or, at least, would have no objection.

I would like to ask the hon. Member who spoke last how he makes it out that because he makes an increase in exports he makes a loss. I cannot fathom it. I may be a child, but I certainly cannot understand it.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to support the motion, and I will not delay the House more than a few moments.

I should like to say, Sir, that the Butter Levy was put on for the purpose of assisting export. The principle I think is sound. It goes to the industry itself. There is no argument put forward that the principle is wrong, but I think a case has been made out, Sir, for consideration of the Ordinance. Before the levy was put on and ever since undoubtedly there has been an application for its removal by the non-co-operators. The bulk of the suppliers to the Creameries and the members of these Creameries are in the large majority and I do maintain, Sir, that the majority should get consideration from Government.

I would suggest to Government that you have the machinery in existence in the form of the Board of Agriculture; it could be referred to them with little difficulty. That is the appropriate body and I hope Your Excellency will take that view.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I did not propose to intervene at this stage, but time is passing and I think it might assist Council if I speak now.

Let me say, Sir, with great respect to the hon. mover that I feel sure I am expressing a sense of disappointment in this House that its newest Member, who appeared to fulfil the promise of a great political career in this House should have made such a weak case. I have no doubt, Sir, that he feels a sense of satisfaction in having fulfilled his promise in bringing this motion before the House. I should not have mentioned that had not the seconder brought the notice of the House to the relations between the hon. mover and his constituents with regard to this particular matter.

The motion is, in fact, based upon a widespread demand for an examination of the operation of the Ordinance. It is quite true that there has been a great deal of criticism in the Press—many letters have been published on the subject. Looking at it from an independent and impartial point of view but with some knowledge of the subject I am satisfied that 90 per cent of the correspondents to the Press were very ill-informed. I am quite convinced too from the speech of the hon. mover that he has not grasped the principles of the Ordinance. The principles underlying the Ordinance passed by this House only twelve months ago were these. I hope hon. Members who were here at the time will agree with me: I was unfortunately away from the Colony.

It may be said that these principles fall under three heads: (1) the equalization of the terms to all producers, whether co-operators or not; (2) the stabilization of internal prices at a reasonable price to consumers; (3) provision against one set of producers gaining an improper advantage over others on whose efforts the dairy industry has been built up and through whom development can only be achieved on an export basis.

There is every reason to believe, Sir, that the Butter Levy Board is fulfilling its functions in the proper administration of the principles underlying the Ordinance.

The hon. mover, it seems to me, occupied three-quarters of his speech in giving specious calculations of what might have been the return had there been no levy. I suggest, Sir, it is not necessary to hold an inquiry to find out what those returns might have been. It is possible to make that calculation without any inquiry or waste of time; and I say further, Sir, that if the position is going to be as he suggests it is going to be, and there I quite agree with him, then the returns of the butter producers from the levy will be comparatively small.

There is provision in section 2 of the Ordinance, Sir, whereby the imposition of the levy is dealt with, and I think the hon. the Attorney General will agree with me that the authority which has power to impose the levy also has the

power to take it away; and as and when the time arrives when this country's exports are so much higher in proportion to the butter consumed locally and when the proceeds from the levy become so small then I will be quite prepared to advise you, Sir, that the Ordinance should be repealed. But that is not the position at the moment and was not contemplated for a year or two after the House passed this Ordinance.

With regard to that, Sir, I can give the House some figures. Export butter will rise this month because butter is well in advance, to 115,000 lb. weight for export, and during the last three months exported butter has averaged 100,000 lb. weight per month. The consumption of butter in the Colony is estimated pretty correctly between 45,000 lb. and 50,000 lb. per month, so at the present time there are about two-and-a-half times the amount of butter exported to that consumed locally, so I hope and believe that as the dairy industry develops the exportable amount will steadily increase until there will arrive a time when it will not be advisable to operate the Ordinance at all.

With regard to the question of hardship, Sir, that is a matter of judgment and not of fact; and speaking as a member of the Butter Levy Board and for my colleagues, we have done our best to exercise a sane and proper judgment in any case of hardship put before us.

So far as we are concerned, if any hon. Member of this House or any other person in the Colony interested in butter production will state a case to the Butter Levy Board as one of hardship I am sure the Butter Levy Board will go into the matter carefully. Speaking again as a member of the Butter Levy Board, I should regard the passing of this motion by this House as somewhat of a reflection upon the Board itself. The Board was actually only in operation for six months when this motion was tabled. The Ordinance itself had only been passed twelve months and the intervening period between July and December was occupied by the chairman's Department in doing the necessary preliminary work.

I may say, I think, with Your Excellency's authority that it is the view of Government that an inquiry into the operation of the Ordinance at this stage is entirely premature. The Butter Levy Board will be prepared I feel sure to issue an interim report upon its working and will in the ordinary course at the end of the first year of operations furnish a complete annual report; and I suggest that should satisfy any reasonable thinking person, whether he is a butter producer or not. But let me say, while I am on this point about inquiries, that we have recently had under review another instance where a very insistent demand was made upon you, Sir, for an inquiry into a certain industry. That inquiry was

demanding when the operation of the Ordinance had only been carried out for a period of about a year. All those connected with the industry were gathered together, the whole question was gone into by the organizations operating the Ordinance, and I think I can safely say that the position of those organizations, in so far as the administration of the Ordinance was concerned and the responsibility of Government for any control or supervision, completely vindicated. The same thing would happen in this case, but meanwhile a number of very busy men would be occupied in conducting an inquiry for which in my judgment a *prima facie* case has not been made out.

It may interest the House perhaps if I say in conclusion that a similar ordinance is being operated in the Union of South Africa. There they have realized that to maintain the dairy industry on an export basis a very substantial contribution has to be made. Quite recently it has been raised to one penny a pound in respect of the levy and the contribution to butter exporters has been raised from 4jd. to 6d. per pound. Unfortunately butter exporters in this Colony will not receive so large benefits. Had it not been for the patience and energy of those members who started the Creamery organization in this Colony the butter market would have completely collapsed, to the detriment not only of the co-operators but of the non-co-operators, and the fact is in my judgment that the so-called non-co-operators owe a substantial debt of gratitude to the Creamery organization for the development of the industry and for the maintenance of the local market on a reasonable basis.

THE HON. THE TREASURER: Your Excellency, I have just a word or two to say. First of all as chairman of the Butter Levy Advisory Board, I wish to associate myself with every word that the Director of Agriculture has said. In the matter of exemptions that Board is now re-examining the whole position and the whole of the exemptions already made are expected to be reviewed at their next meeting.

With regard to the interim report, it is here in draft, Sir, almost ready, and with your permission I will issue it for study. For the period to 4th July the costs of administration were 2½ per cent. not 20 per cent. as stated by the hon. member.

I have a suggestion to make, Sir, which I hope will meet all views, but first I must for one minute occupy the attention of Council by giving my experience as chairman of the Board. I can tell you that it has been the most difficult and the hardest job I have had. My sleep has been destroyed and my reputation menaced. The volume of correspondence and the vituperation and abuse have been perfectly amazing. I

have been reported to the Colonial Secretary personally, I have been reported to the Director of Agriculture, two or three times to the Private Secretary six times to the Governor and once to the Secretary of State.

I would like to suggest, Sir, that the Advisory Board is a perfectly proper and competent body to make any investigation necessary and I should like here and now to tender my resignation and ask the hon. Member for Ukamba to undertake the duties of chairman. He will find the correspondence extraordinarily interesting and in all sorts of languages. I think that my suggestion should meet the wishes of his constituents.

The other point is one of economy, Sir. This particular Board is a voluntary one; nobody gets any pay for it. We cannot continue to appoint committees, each member of which gets Sh. 30 per day, plus travelling allowance, and I would ask the hon. Member if he would accept my suggestion, subject to Your Excellency's concurrence.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will call upon the hon. member to reply.

**MAJOR THE HON. J. O. K. DELAF:** Your Excellency, the disappointment felt by the Director of Agriculture finds an echo in my mind. He has entirely missed all the points, as far as I can see, and confined himself to details of the Butter Levy Committee. I submit, Sir, as I explained at the beginning, my object is merely to put up a case for a committee of inquiry and I was careful to avoid discussion in detail. The main question which I put, and which seems to me to require an answer, is what sum is worth collecting for the assistance of export butter at the expense of 25 cents per pound to the local producer. For what advantage is it worth inflicting that hardship? If it is worth inflicting, how long would it be worth while inflicting it?

I was glad to hear that the levy will be stopped as soon as it becomes inadequate. If we could get a pronouncement on that subject it would perhaps be a real help and comfort to people who are affected by it, because they do not know now whether they are bankrupt or whether they can hold on a bit longer. We are told the Butter Levy Board have to consider cases of hardship, but I submit hardship in this case has never been defined. I have heard of a good many cases of hardship which have been turned down by the Board. In one case an exemption was granted and in another it was not. We are told by the Director of Agriculture that the provisions of the Butter Levy Ordinance would surely satisfy any reasonable man. Can he state in his considered opinion that all the people who have protested are unreasonable people. I submit, Sir, that his parallel of South Africa is not a good one.

With reference to the speech made by the Treasurer, my figures were not entirely figments of my imagination. They were, I submit, accurate deductions from the figures supplied by the secretary of the Creameries. They are not my own deductions alone but were submitted to a good many of my friends. But I am grateful for his arguments in favour of the appointment of a committee of inquiry when he informs me that he is bombarded with complaints. Surely, Sir, that shows that there is a very strong, a very general and widespread demand for an inquiry, and it is in order to give those people who are bombarding the chairman of the Butter Levy Advisory Board a chance of voicing their grievances to a committee, who would consider the matter *de novo* and who might possibly be able to make some recommendation for their relief that I put this resolution before Council.

**HIS EXCELLENCY:** The question is:

That in view of a wide-spread demand for an examination into the operation of the Butter Levy Ordinance, 1931, this Council appoints a Committee, distinct from the Butter Levy Board, who shall hold a comprehensive inquiry into the working of the Ordinance and report."

The motion was lost by 6 votes to 20.

(**Yea:** Mr. Bemister, Major Delaf, Col. Durham, Col. Kirkwood, Mr. O'Shea, Colonel Watkins.)

(**Noes:** Messrs. Bruce, Deck, Feild-Jones, Fitzgerald, Dr. Gilks, Messrs. Harvey, Holm, Horne, Logan, McGregor, Montgomery, Moore, Major Robertson-Eustace, Messrs. Rushton, Scott, Lord Francis Scott, Sheriff Abdulla bin Salim, Messrs. Wade, Ward, Colonel Wilkinson.)

(**Declined to vote:** Canon Leakey.)

#### COMPOSITION OF CENTRAL ROADS AND TRAFFIC BOARD.

**LT.-COL. THE HON. J. G. KIRKWOOD:** Your Excellency, I rise to propose the motion standing in my name, that this Council recommends that the composition of the Central Roads and Traffic Board be reconsidered.

It is a very short resolution, Sir, and we are not binding Government to take any definite action, or any action at all beyond giving the matter consideration. I will put it that way and I hope it will be accepted and that you will give me an opportunity for a few moments to point out to Your Excellency the reason for this motion.

As Council is aware, the districts which have the Central Roads and Traffic Board—the appointments to that Board are made, I believe, by the Governor in Council—there are a certain number of officials and a certain number of unofficials. There is no definite rule on what lines these appointments should be made, but it does happen, Your Excellency, at the moment that you have I believe five Elected Members on that Board and four of those Elected Members represent constituencies in which District Councils are operating.

The District Council which is not represented on that Board, Sir, is the Trans Nzoia District Council and they feel very strongly on the matter that it is to their advantage that they be represented, and I believe that they have asked—I am informed that they have asked—that the Member for Plateau North should be a member of that Board to equalize matters.

It may be thought, Sir, that the Central Roads and Traffic Board have little or nothing to do with a Local Authority, but I would refer to the Report of the Select Committee on Draft Estimates, 1931, Head XIV, page 21, which deals fully with this matter, and which recommends that it should have the consideration of Government and that an inquiry should be held.

The Committee recommends that the Estimates as drafted be approved, but suggests that the earliest possible steps should be taken, preferably by a committee and if possible before 1931, to re-examine the basis upon which some of the contributions to Local Authorities are calculated. It realizes that, with the development of Local Government, circumstances may arise which point to the desirability of amending the basis of payment and suggests that opportunity should be taken during the course of the next year to go into this matter with a view to ascertaining whether adjustment on more equitable lines could be introduced in the near future. It understands that the present grants are in many instances statutory and that an amendment of the law would be necessary before the basis could be changed."

That paragraph is there for everybody to read, and it was the unanimous decision of the Select Committee.

As a result of the memorandum put up by the Trans Nzoia District Council I am informed that this matter of basic grants was considered by the Central Roads and Traffic Board and an unfavourable decision was given.

I will leave the matter there, Your Excellency, and I trust that you will accept it and that you will consider this matter and come to some decision about it. You might then appoint the Member for Plateau North; you might decide to do away with the five Elected Members of the Board; you might decide

to do away with the Central Roads and Traffic Board altogether. But I do maintain at the present moment there is a distinct hardship and disadvantage on the Trans Nzoia District Council owing to the present method of appointment to the Board.

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

HIS EXCELLENCY: The question is that the composition of the Central Roads and Traffic Board be reconsidered.

THE HON. CONWAY HARVEY: Your Excellency, although to those unfamiliar with the working of the Central Roads and Traffic Board the proposal would appear to be a very reasonable one, yet I suggest, Sir, that this case is of a purely political character and speaking as a member of that Committee I should quite definitely deprecate any change in the existing order of things. Members are not appointed on a geographical basis, but I understand that members whose services are likely to be valuable are appointed to this Board. They do not approach the problems in a party spirit; they do their best for the Colony as a whole.

I suggest, Sir, for the consideration of those who are not aware of it, that the activities of this Committee have very little to do with the work of District Councils; their work deals with the very broad aspect of transportation and road and traffic problems, quite apart from local application, and I cannot remember a single case since the Board has been in operation that the local aspect has been unduly emphasized by any Member domiciled in the area under discussion.

I suggest it is highly undesirable, Sir, that these various committees, statutory or otherwise, should degenerate into mass meetings, and I do suggest that notions of this kind and many others of the kind should be objected to.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, it is the case, as the hon. Member for the Lake has stated, that in making the appointments of officials to various Boards constituted under various Ordinances Your Excellency endeavours to obtain as nominee for those posts persons who are best qualified to advise.

It has been repeated on several occasions in connexion with this particular Board that more attention should be given to geographical representation than has actually been given, and the answer to that argument has been adduced by the hon. Member for the Lake.

The Trans Nzoia District Council's case rests, Sir, on the fact that the Central Roads and Traffic Board took over the duties formerly performed by the Central Roads Board constituted under the District Councils Ordinance itself, and quite clearly the same applies, if we are put on representatives of each Council, we must increase the representation not only for Trans Nzoia alone; and there is no particular reason why the settled areas where there are no District Councils should not be represented. If we follow the argument on the Board would assume great proportions.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I regret very much that Government has failed to grant a very modest request and has turned it down. Both the hon. Member for the Lake and the hon. the Commissioner of Local Government, Lands and Settlement have referred—one to mass meetings of the Central Roads and Traffic Board, and the other hon. Member intimated that he agreed.

All I suggested was that Your Excellency should be allowed to view this situation and decide whether you would appoint when a vacancy occurred, for instance, someone to represent Trans Nzoia. I do not wish to dwell on it. It is a dog-in-the-manger principle and it has neither logic, reason or justice.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of explanation, Sir, I offered to resign my seat on the Board and make way for the hon. Member the other day but other hon. Members thought the chairman should be on.

HIS EXCELLENCY: The question is that this Council recommends that the composition of the Central Roads and Traffic Board be reconsidered.

The question was put and lost.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolves itself into a Committee of the whole Council for the purpose of considering clause by clause the six Bills on the Order Paper.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that Council resolve itself into a Committee of the whole Council for consideration clause by clause of the following Bills:—

K.A.R. Reserve of Officers (Amendment) Bill.

Traffic (Amendment) Bill.

Minimum Wage Bill.

Electric Power (Amendment) Bill.

Morris Pension Bill.

1931 Supplementary Appropriation Bill, 1932.

The question was put and carried.

The Council went into Committee.

*In Committee.*

THE KING'S AFRICAN RIFLES RESERVE OF OFFICERS  
(AMENDMENT) BILL.

The Bill was considered clause by clause.

THE TRAFFIC (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Refunds of licence fees.

THE HON. THE ATTORNEY GENERAL: In this clause, Your Excellency, I beg to move that in the eleventh line the word "or" be substituted for the word "and" where it occurs between the word "second" and the word "first"—the third, second or first quarter of the year—and that in the last line but two the word "period" be substituted for the word "prior".

The question was put and carried.

THE MINIMUM WAGE BILL.

The Bill was considered clause by clause.

THE ELECTRIC POWER (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 4.—Meter to be used except by agreement.

THE HON. THE ATTORNEY GENERAL: In this clause, Sir, I beg to move that in the fourth line of that portion marked "83. (1)" the word "hereinafter" be substituted for the word "hereafter".

The question was put and carried.

Clause 6.—Licensee may discontinue supply.

THE HON. THE ATTORNEY GENERAL: In this clause, Sir, sub-clause (3), second line, I beg to move that the word "fraudulently" be substituted for the word "fraudulently". It is merely a misspelling.

The question was put and carried.

THE MORRIS PENSION BILL.

The Bill was considered clause by clause.

1931 SUPPLEMENTARY APPROPRIATION BILL, 1932.

The Bill was considered clause by clause.

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

The King's African Rifles Reserve of Officers (Amendment) Bill,

The Minimum Wage Bill,

The Morris Pension Bill, and

The 1931 Supplementary Appropriation Bill, 1932,

be reported to Council without amendment; and that

The Traffic (Amendment) Bill, and

The Electric Power (Amendment) Bill,

be reported to Council with amendment.

The question was put and carried.

*The Council resumed its sitting.*

**HIS EXCELLENCY** : I have to report that the following Bills—the King's African Rifles Reserve of Officers (Amendment) Bill, the Minimum Wage Bill, the Morris Pension Bill and the 1931 Supplementary Appropriation Bill, 1932, have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment; and that the Traffic (Amendment) Bill and the Electric Power (Amendment) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council with certain amendments.

**THIRD READINGS.**

**THE HON. THE ATTORNEY GENERAL** : I beg to move that :

The K.A.R. Reserve of Officers (Amendment) Bill.

The Traffic (Amendment) Bill.

The Minimum Wage Bill.

The Electric Power (Amendment) Bill.

The Morris Pension Bill, and

The 1931 Supplementary Appropriation Bill, 1932.

be read a third time and passed.

**THE HON. T. D. H. DUTCH** : I beg to second the motion.

The question was put and carried.

The Bills were read a third time and passed.

*The Council adjourned sine die.*



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

1932

THIRD-SESSION

WEDNESDAY, 14th DECEMBER, 1932

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Wednesday, 14th December, 1932, **HIS EXCELLENCY THE GOVERNOR (BRITANNIC-GERMAN SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.)**, 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 :—

**EUROPEAN ELECTED MEMBER (ACTING) :**

**MAJOR THE HON. SIR ROBERT SHAW, Bt., M.C.**, Member for Ukamba.

**INDIAN ELECTED MEMBERS**

**HON. HAKIM SINGH.**

**HON. ABDUL WAHID.**

**PRESENTATION OF INSIGNIA.**

On behalf of His Majesty the King **HIS EXCELLENCY** presented Insignia of Honorary Officer of the British Empire to :—

**DR. R. A. DA P. RIBEIRO, O.B.E.**

## COMMUNICATION FROM THE CHAIR.

## HONORABLE MEMBERS OF LEGISLATIVE COUNCIL.

Before I commence my address I should like to extend a welcome to the Indian members who have for the first time taken their seats this morning. I appreciate fully that this action has only been taken in view of the disabilities under which the Indian community have been labouring due to their prolonged abstention from Legislative Council. I realize that in taking their seats they have done so without prejudice to the formal claim of their community to be represented on a Common Roll.

Usually at this period the Estimates are presented to you in their final form and after scrutiny and amendment in Select Committee they are referred back for the approval of Council. The Appropriation Ordinance is then passed and it constitutes the authority for expenditure in the following year. This year, however, we propose to deal with the Budget in a manner somewhat out of the normal for we feel that hon. Members and indeed the public at large are entitled to see the Expenditure Advisory Committee's final recommendations before any proposals for raising additional revenue are laid before this Council. The report of the Committee will not be available till late in January.

Our difficulties have not been so acute as those from which many other countries are successfully emerging, and they have only to be fairly faced to be capable of solution.

Before this depression descended upon us prosperity and buoyant Government revenue had accustomed Kenya to a somewhat high Government expenditure and a rising standard of living. The basis of these policies has been rudely swept away, partly by outside events causing export prices to fall, partly by the locust invasion, and partly by the cumulative burden of internal costs which we can no longer afford. We are not out of the wood yet and continued effort must be put forth in the direction of increased production and reduced expenditure upon unproductive work. The effective practice of these remedies is the solution, and evasion or procrastination will only tend to postpone the desired improvement which undoubtedly can be achieved from the utilization of the great potentialities of this country.

This is essentially not a time to indulge in prophecies or pious hopes regarding the general world depression. There are, however, at present some local facts which are definitely reassuring.

As regards agriculture, my friend Mr. Holm is of opinion that the outlook is rather brighter. There has been a slight advance in value and the forecast of the exportable surplus of agricultural production is distinctly encouraging. It is estimated that the total quantity of exports for 1933 will exceed that of 1932 by about 65,000 tons. Notable increases are to be found in coffee, maize, potatoes and wattle bark, while relatively smaller increases are expected in pulse, cotton, simsim, ground nuts and dairy produce. The marketing of sisal is largely dependent upon the marketing price. With a slight advance an increase in quantity to be exported may be expected, as there are arrears of cuttings to be made up in some of the plantations. It is fortunate for the Colony that the coffee industry, in which so much capital has been invested, and which contributes so largely to Government revenue, both directly and indirectly, should not be affected so greatly as other industries by the depressed markets. The output of Kenya coffee of high quality should steadily increase and for some time past prices have been steady and satisfactory.

It will be noted that this range of exports covers both European and native production.

It may therefore be safely predicted that even if present values remain constant for 1933, the value of agricultural exports for that year will exceed that of the present year. On a conservative basis this increase is at present estimated at approximately £600,000.

Costs of production do not affect native growers to the same degree as other farmers in the absence of capital investment, overhead charges, etc., and there is evidence throughout the Colony of a substantial increase in the area of land under cultivation in the Native Reserves and of an increase in the output of animal products, notably ghee.

Earnest consideration is being given to the improvement of marketing of native products, a matter of the first importance in the advancement of native agriculture. The cereal industries, which have been so severely hit, not only by the heavy fall in prices but by the destruction and menace of locusts, are the cause of much anxiety to the Government. The case of the wheat industry has been represented by the Wheat Advisory Board and Government is giving immediate attention to the question of permitting the importation of wheat to make up the shortfall, due chiefly to locust damage, on somewhat the same conditions as have been adopted this year.

Relief to the maize industry, in this period of its distress, is not an easy matter. Its case has been examined by a sub-committee of the Board of Agriculture and sympathetic

...institutions as recommended in the recommendations made. ...the Government has decided to ...the ... ..

... ..

... ..

Then there is Kakamets, about which I can at present tell you no more than you have gathered from Sir Albert Kitchin's report. Although a considerable amount of prospecting will have to be done before signals of any magnitude will be ascertained, still this appropriate and valuable discovery has already had the effect of stimulating trade and relieving unemployment.

The improvements in the Customs returns during the past few months is another reassuring fact. I am informed that the value of Kenya exports for the period August to November has almost doubled that of the same period last year. The actual figures are: 1931, £215,000; 1932, £1,000,000. November past Customs collections indicate some improvement in trade, being approximately £10,000 in excess of the amount collected in November, 1931, and, if duty on bulk importations of wheat is eliminated, £12,000 in excess of collections during

October, 1932. Indeed it appears not improbable that the collections during the last month of this year may reach £100,000.

Hon. Members, we are at the parting of the ways, endeavouring to leave the path of unbalanced budgets which we have been treading for the past few years and to return to the path which I believe will, within a measurable time, lead not only to budgetary equilibrium but to the gradual restoration of our surplus balances. This desirable prospect will not be reached in 1933, for the full effect of the economies decided upon cannot be felt within so short a period.

It often happens that reductions in establishments actually cause increased expenditure in the year in which they are made owing to payment of gratuities, passages, etc.

The problems which we as a Government have to meet are twofold, firstly, reduction in expenditure to the lowest working level, and secondly, the raising of revenue to meet this essential expenditure. I will deal with the latter first.

The Budget as presented estimates for a deficit of £214,000 on the year's working. I am satisfied that the Revenue Estimates are conservative, but on the facts, as we know them at present, you will, I have no doubt, agree that it is wise to estimate our revenue with caution. However, this estimate can be reviewed when the Budget is again laid before you, I hope, in February. By that time we shall have fuller information both regarding this year's position and regarding the revenue prospects for next year.

I now turn to the expenditure side of the Estimates, and in this connexion I should like on behalf of the Government to express our gratitude to the Expenditure Advisory Committee. I have had visible evidence of the intensive manner in which they have applied and are applying themselves to their difficult investigation, for they have been in session day in and day out in Government House. I have, moreover, had to consider many interim recommendations submitted by them for economies, including some which it would scarcely have been thought necessary or possible to entertain a year ago. There has been a laborious task requiring much extra work on the part of the official members, and an almost complete sacrifice of other interests on the part of the unofficial members—Lord Francis Scott, Major Cavendish-Bentick and Mr. Lewis, all busy men who have accepted this additional burden solely from a sense of public duty.

I feel that these unofficial members with the knowledge they have gained of the complicated Government machine during the past few months will have realized that the popular

cry for economy is easy to proclaim but not so easy to carry into practice. The machine of Government must not be so dismantled as to impair its future efficiency, and officials must not be singled out for sacrifice to an extent that would give them grounds for legitimate grievance and discontent. Nothing could do more harm to this Colony than a disgruntled public service. We require the very best—which I state without fear of contradiction we have at present—and we should undoubtedly have to be satisfied with the second best if the Service attractions Kenya offered fell far short of those offered by the other Colonies in the Empire.

The expenditure estimates laid before you reflect such interim recommendations of the Expenditure Advisory Committee as could immediately be accepted by the Government. The most important of these is explained in a paper which will be laid on the Table containing correspondence with the Secretary of State regarding terms of service. From this you will see that tours have been extended to forty-eight and thirty-six months according to whether the official has under or over nine years' continuous service. Furthermore that the conditions will apply to existing tours in the case of officers with less than twenty months service on the 31st December this year. Officers on agreement will be required to accept the new terms on the renewal of such agreement.

Considerable economies should also result from the approval given to the recommendations of the Fitzgerald Committee on the subject of passage privileges and to the possibility of future entrants having to accept a pension constant of 1-600th instead of 1-480th as at present.

The Secretary of State has consented to these drastic alterations in the conditions under which officers are now serving solely on account of this world-wide financial depression which has so seriously affected the Colony. I hope and trust therefore that for this reason officials will loyally accept them; it is better and fairer thus to deal with the situation than to have recourse to further retrenchments which would result in a loss of departmental efficiency and to grave hardship on individuals thrown out of employment.

Although in February, in the light of more information as to the Revenue position and as to the effect of economies resulting from the Expenditure Advisory Committee's report, the large prospective deficit may be reduced, I feel that additional revenue in the shape of Income Tax will inevitably be required, since even with the aid of such additions there seems to be little prospect of making the Budget for 1933 balance. In order therefore to give this Council and the public

the opportunity for studying the measure proposed, a Draft Bill will be published in the Government Gazette on an early date.

The Estimates laid before you are what I might term "Estimates subject to adjustment," and if they are accepted on this understanding I can give you the assurance that from the 1st January up to the time when the Estimates are further reviewed in the light of the Expenditure Advisory Committee's report I will only authorize, under General Warrant, such expenditure as is necessary to carry on essential services.

The deficit of £214,000 shown in this provisional Budget is disappointing, and we must make strenuous efforts before the next sitting to get it reduced to manageable proportions. Although we may not be able to balance our Budget during 1932, I personally have every hope that Equilibrium will be restored in 1934, and that by then our expenditure will have been reduced to a figure more in keeping with our resources.

One of the complexities we have had to face this year is the inauguration of the Native Betterment Fund. As you are aware the principle is that a proportion of native direct taxation should be set aside for certain native services, and that the control of the money so set aside should be exercised by the Betterment Fund Committee. But in practice Lord Moyne's recommendations were not so easy to adopt in their entirety.

It was found, for example, that many of the officials devoted part of their time to work in the Reserves and part to more general work, and that it was almost impossible to find a formula which would provide a satisfactory sub-division. We are therefore, as an experiment, this year charging directly against the Fund only the emoluments of those officials and the expenditure on those activities which are without doubt devoted solely to Native Services. An adjustment is accordingly made to ensure a reimbursement from the Fund which has been put at the total figure recommended by Lord Moyne: a reimbursement to General Revenue in order to cover those joint items to which I have just referred.

Hon. Members, I have confined this address to salient facts affecting the Estimates now before you and I have purposely refrained from any detailed examination of the figures involved: these will be explained to you in the Memorandum presented to you, and in the customary statement which will be made by the Colonial Secretary. I hope, however, that you will approve of the course of action which

we have been compelled to adopt. We must all pull together during these difficult times, and I can assure you that the Government is doing and will do its very best to put the Colony's finances on a sound basis. Probably never in our history was there such a need for calm non-partisan consideration of our problems.

Honourable Members, it has been brought to my notice that Major Grogan has advocated currency manipulation in the course of interviews he had with the Secretary of State in London and although I am aware that in doing so he had no mandate from the unofficial community of this Colony and was speaking purely on his own behalf, I think it right and proper to inform you and the public that the Secretary of State is quite unprepared to entertain any such proposal.

I desire now to say a few words on the financial position of the Railways and Harbours Administration, whose Estimates for 1933 you have already received for consideration. These Estimates will be introduced and explained in detail by the General Manager later during this present Session.

The general depression has had its effects on the finances of the Railways and Harbours no less than on those of the Colony; the total deficit on the year's working budgeted for in this year's Estimates was £162,263, which deficit, on a reconsideration of the financial situation in September last, was expected to be £307,250, but, as a result of slightly better working figures these last few months, it is hoped that the eventual figure will be well under £300,000. Full provision has, of course, been made for all interest and Sinking Fund charges, which total the very large sum of £834,553, and the deficit will be financed temporarily from balances mainly provided by the Renewals Fund.

As you are aware, extensive retrenchments in personnel and large reductions in maintenance and other charges have been effected during the past two years, and it is hoped that with the reduced expenditure contemplated in 1933, the promise of good crops both in Kenya and Uganda, and a continuation of the slight improvement in imports which has recently been manifested, the deficit of £224,199 which is being budgeted for in 1933 will not be exceeded. I also trust that during the coming year there may be a general improvement in conditions sufficient to enable the Railways and Harbours Administration to present a balanced budget for 1934, although I am afraid some considerable period will elapse before the finances of the Administration can be considered to be in a really satisfactory position with the deficit account cleared and an adequate reserve fund built up.

The small reserve of the Railways and Harbours has been extinguished during these last two years and balances provided by the Renewals Fund are being used to finance the deficits; the total deficit account, after full provision for renewals has been made, is expected at the end of this coming year to total £892,844, so that it is clear there is much leeway to make up, although we still have a working balance. I feel that it is necessary to draw attention particularly to the financial condition of the Reserve Funds of the Railway so that the position may be fully realized, since, in the event of the Administration failing to pay its way, the Governments of Kenya and Uganda would be called upon to meet their guarantees.

The total revenue estimate of the Railway for 1933 is £1,750,000, and for the Port £307,485, these being decreases respectively on the Revenue Estimates of the current year of £180,642 and £48,160. The total expenditure estimate for 1933, eliminating the debt and depreciation charges over which the Administration has no control, is £994,137 for the Railway, and £124,094 for the Port, a decrease over the corresponding estimates for the present year of £149,685 and £34,115 respectively. The combined Railway and Harbour expenditure estimates during the last two years have been decreased by no less a sum than £735,265, and personnel and maintenance charges are now reduced to a minimum if the Administration is to be kept in a safe working condition. All avenues of possible major savings, such as closing certain portions of the line, have been examined, but in present circumstances it has been considered that the savings which would be effected by closing portions of the line would not be commensurate with the loss and disturbance to business which would be caused.

I will not detain hon. Members at present with any details regarding the organization and finances of the Administration, as the General Manager will at a later date give a full explanation, but I should like to take this opportunity of congratulating the General Manager and his staff on the work they have accomplished in this very difficult period, and also to thank the Members of the Railway Council and the Port Board for the assistance they have rendered in the many problems which have come before them, but particularly for their valuable services in connexion with the preparation of the Estimates for the coming year.

Hon. Members, in addition to financial matters, you will be asked during this sitting to consider many Bills, most of

which are non-controversial. Those which are perhaps of the greatest local importance are:—

The Rabies Bill;

The Carriage of Goods by Motor (Prohibition) Bill;

The Mining (Amendment) Bill;

The Native Lands Trust (Amendment) Bill.

The Sisal Bag Industry Bill;

The Coffee Industry Bill; and

The King's African Rifles Bill.

As regards the Rabies Bill the matter is urgent and I will ask you to consent to the suspension of Standing Orders. Although the position is well in hand it is necessary to take drastic action in certain areas which might be regarded the nursery of this really dangerous disease.

We can now proceed with the items on the Agenda.

#### CONFIRMATION OF MINUTES.

The Minutes of the meeting of the 29th July, 1932, were confirmed.

#### PRESENTATION OF PETITIONS AND MEMORIALS. MINING CONCESSIONS.

CAJIT. THE HON. H. E. SCHWARTZ: Your Excellency, in accordance with Standing Rules and Orders, I beg to present a petition against the exercise of the discretionary powers given to the Governor of Kenya Colony under section 18 (4) of the Mining Ordinance, 1930, in the matter of prospecting for precious minerals, signed by 2,172 members of the European public of the Colony; and I beg to move, in accordance with Standing Rules and Orders, that this petition be ordered to lie on the Table; and I further have to state that in my opinion the petition is respectfully and properly worded.

Your Excellency, I also beg to present a petition in respect of the exercise of the discretionary powers given to the Governor of Kenya Colony under section 18 (4) of the Mining Ordinance, 1930, in the matter of prospecting for precious minerals, signed by 1,096 members of the Indian public of Kenya Colony; further, I have to state that in my opinion this petition is respectfully and properly worded, and I beg to move that this petition be ordered to lie on the Table.

#### PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

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

Draft Estimates of Revenue and Expenditure for the year 1933.

Memorandum on the Draft Estimates.

Sessional Paper No. 1.—Copies of correspondence with the Secretary of State concerning Terms of Service, and of Secretariat Circular No. 48 of the 10th December, 1932.

Schedules of Additional Provision, Nos. 2 and 3 of 1932.

Audit Department Annual Report, 1931.

Game Department Annual Report, 1931.

Report on the Non-Native Census Enumeration made in the Colony and Protectorate of Kenya on the night of the 6th March, 1931.

Annual Reports on the British East African Meteorological Service, working in conjunction with the Conference of East African Governors, for the years 1930 and 1931.

Annual Reports on the Statistical Department of the Conference of East African Governors, for the years 1930 and 1931.

Report on the Audit of Accounts of the Kenya and Uganda Railways and Harbours Administration, 1931.

Estimates of the Revenue and Expenditure of the Kenya and Uganda Railways and Harbours Administration, 1933.

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

Report of Select Committee on the Widows' and Orphans' Pensions (Amendment) Bill.

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

Financial Report and Statement for the year 1931.

By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE):

Crime Committee Report, May, 1932.

Native Affairs Department Annual Report, 1931.

By THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT LANDS AND SETTLEMENT (MR. W. M. LOGAN):

Returns of Land Grants, etc., 1st April, 1932, to 30th June, 1932, and 1st July, 1932, to 30th September, 1932.

By THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. J. L. GILKS):

Medical Department Annual Report, 1931.

By THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM):

Department of Agriculture Annual Report, 1931.

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

Education Department Annual Report, 1931.

By THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. J. SIKES):

Public Works Department Annual Report, 1931.

#### NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move the following motion:—

“Be it resolved that the Levy on Official Salaries Ordinance, 1931, and the Levy on Salaries (Transport Services) Ordinance, 1931, shall remain in force until the 31st day of December, 1933.”

#### ORAL ANSWERS TO QUESTIONS.

##### SOMALIS ON MBAGATHI PLAINS.

LT.-COL. THE HON. C. G. DUBHAM asked:

“1. Is Government aware of the continual encroachment by Somalis in the Game Reserve area on the Mbagathi Plains?”

2. That the stock now there can be numbered by the hundred?

3. That buildings are being erected; in effect a small village exists?

4. Is Government satisfied that the milk supplied to Nairobi from the Plain is fit for human consumption?

5. Will Government take action in the matter?”

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

1. The reference is presumably to a part of the Nairobi Commonage. The Government is aware that the Somalis temporarily resident in this area are grazing their cattle over a wider area of the Commonage than was formerly the case, on account of the present scarcity of grazing.

2. The replies to the second and third parts of the question are in the affirmative.

3. The Government is informed that the local public health authority has no reason to consider that the milk supplied to Nairobi from the Plains is unfit for human consumption.

4. Subject to any recommendations of the Land Inquiry Commission to which the whole question of Somali grazing privileges is being referred, Government proposes to take steps as soon as the grazing improves, to limit the area where these Somalis may reside and graze their stock and to regularize their position by the issue of permits and the collection of grazing fees.

##### COMPULSORY MOTOR INSURANCE.

THE HON. CONWAY HURVY asked:

“Will Government be pleased to state what legislation, if any, it proposes to introduce to render the insurance of motor vehicles compulsory in respect of third party liability in order to bring the Colony into line as far as possible with home and other Colonial practices?”

THE HON. THE ATTORNEY GENERAL: A Bill providing for compulsory third party insurance has been published for information with a view to ascertaining the attitude of the public towards this question.

##### NATIVE CHILD WELFARE.

THE HON. P. A. BEMISTER asked:

“1. Has the Medical Department recently authorized the production of a book on Native Child Welfare?”

2. What is the estimated cost of writing, editing and printing this book?

3. Which official was responsible for the work, and was the book written in his own or Government time?

4. Was the book written in the English language? If so, who is to translate it and into how many dialects?

5. What is the estimated value of the book to-day?”

**THE HON. THE CHIEF NATIVE COMMISSIONER:** The answer is in the negative. The remaining questions therefore do not arise.

**CREDIT TRADE WITH NATIVES ORDINANCE.**

**THE HON. F. A. BEMISTER** asked:

"What steps have been taken to amend the Credit Trading with Natives Ordinance by adding clauses to include money lent and deposited by natives? If the reply is in the negative will Government state its intentions with regard to this important matter?"

**THE HON. THE CHIEF NATIVE COMMISSIONER:** This matter was discussed by Provincial Commissioners at their meeting in March, 1932, when they came to the conclusion that no appropriate action could be taken under the Credit Trade with Natives Ordinance or under any amendment thereto. The problem, however, has not been lost sight of and will receive further consideration should it become apparent that conditions are such as to demand legislation.

**RABIES.**

**THE HON. CONWAY HARVEY** asked:

"Will Government be pleased to arrange for an open inquiry to be held to consider the methods employed to prevent the spread of rabies from South Kavirondo in November, 1931, and subsequently?"

**THE HON. THE DIRECTOR OF AGRICULTURE:** Government is of opinion that no useful purpose will be served by conducting the inquiry proposed, and that the expense so incurred would not be justified. Active and successful measures have been taken to combat and prevent the spread of the disease.

**THE HON. CONWAY HARVEY:** Arising out of that answer, Your Excellency, may I ask whether Government is satisfied that all reasonable steps were taken at the beginning of the outbreak to prevent its spread?

**THE HON. THE DIRECTOR OF AGRICULTURE:** The reply to my friend the hon. Member is, that all reasonable and active measures were taken in accordance with such a necessity as the situation demanded.

**THE HON. CONWAY HARVEY:** What steps in effect were actually taken?

**HIS EXCELLENCY:** A question can only elucidate a matter of fact. You wish to know what steps actually were taken?

**THE HON. CONWAY HARVEY:** That is what I asked for, Your Excellency.

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, I think it would be fair and reasonable to give Government due notice of such a detailed question of that kind.

**THE HON. CONWAY HARVEY:** On a point of order, may that question be taken as notice? It is a little difficult to understand how the second question could have been answered properly without the information asked for in my third.

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, that might be rather a matter of opinion and judgment.

**CHATELLE TRANSFER ORDINANCE.**

**CAPT. THE HON. H. E. SCHWARTZ** asked:

"If Government will be pleased to appoint a Select Committee of Legislative Council to consider in detail the provisions of the Chatelle Transfer Ordinance, the working of the said Ordinance and to report thereon with suggestions for any amendments that may in its opinion be found necessary."

**THE HON. ATTORNEY GENERAL:** Government is prepared to take the action suggested by the hon. Member.

**GOVERNMENT INDIAN SCHOOL, MOMBASA.**

**THE HON. F. A. BEMISTER** asked:

"What is the monthly expenditure on the Government Indian Girls' School, Mombasa, for July, August, September and October, 1932?"

How many pupils are attending the school?"

**THE HON. THE DIRECTOR OF EDUCATION:** (1) In round figures the monthly expenditure on the Government Indian Girls' School, Mombasa, has been as follows:

July	...	...	...	...	£173
August	...	...	...	...	173
September	...	...	...	...	173
October	...	...	...	...	176

(2) The number of pupils attending the school, according to the latest advice, is, seventy.

**SUSPENSION OF STANDING ORDERS.**

**THE HON. THE ATTORNEY GENERAL:** With your leave, Sir, I beg to move that Standing Rules and Orders be suspended in order to enable two Bills—the Suppression of Rabies Bill and the Levy on Official Salaries (Amendment) Bill—to be read a first time to-day without due publication and due notice.

I need not, I think, Sir, remind hon. Members, particularly in the light of the question which has just been asked, that the rabies situation is one which calls for early legislative provision. Equally I would remind hon. Members that the Levy on Official Salaries Ordinance is expressed to inure for one year only and that it is therefore advisable to make any amendments which are necessary before the end of this year.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended for the purpose named.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as you are aware, hon. Members on this side of the House are very jealous of the suspension of Standing Orders without due need. In this particular case, I can say on behalf of the Elected Members on this side for whom I can speak that they will not oppose this motion as they realize that this Bill to deal with rabies is of urgency and if this action is not taken it could not be dealt with at this present session; they also realize that the Levy on Official Salaries (Amendment) Bill does not raise any question of principle and must be dealt with, as the hon. mover said, before the end of this year. We will therefore not oppose this motion.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended in order to enable the Suppression of Rabies Bill and the Levy on Official Salaries (Amendment) Bill to be read a first time without due notice.

The question was put and carried.

## BILLS.

### FIRST READING.

#### THE SUPPRESSION OF RABIES BILL.

On motion of the hon. the Attorney General the Suppression of Rabies Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

#### THE LEVY ON OFFICIAL SALARIES (AMENDMENT) BILL.

On motion of the hon. the Attorney General the Levy on Official Salaries (Amendment) Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

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

Mining (Amendment) (No. 2) Bill.

Trading in Unwrought Precious Metals Bill.

Local Government (Municipalities) (Amendment) Bill.

Local Government (District Councils) (Amendment) (No. 2) Bill.

King's African Rifles Bill.

Sisal Bag Industry Bill.

Excise Duties (Amendment) Bill.

Customs Tariff (Amendment) Bill.

Prisons (Amendment) Bill.

Native Tribunals (Amendment) Bill.

Chattels Transfer (Amendment) Bill.

Carriage of Goods by Motor (Prohibition) Bill.

Compulsory Labour (Regulation) Bill.

Dangerous Drugs Bill.

Game (Amendment) Bill.

Estate Duty (Consolidation) (Amendment) Bill.

Trout Protection (Amendment) Bill.

Ancient Monuments Preservation (Amendment) Bill.

Contracts in Restraint of Trade (No. 2) Bill.

Branding of Stock (Amendment) Bill.

State Railway Provident Fund (Amendment) Bill.

Notice was given to move the second readings of each of the above Bills at a later stage of the session.

Council adjourned till 10 a.m. on Thursday,  
the 15th December, 1932.

THURSDAY, 15th DECEMBER, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 15th December, 1932, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 14th December, 1932, were confirmed.

ORAL ANSWERS TO QUESTIONS.

LAW COURTS.

CAPT. THE HON. H. E. SCHWARTZE asked :

"What progress, if any, has been made in the construction of the new Law Courts since the completion of the foundations; to what causes is the delay due, and when is it anticipated that some apparent progress will be evidenced?"

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES) : Contracts have been let for artificial stone, bricks, joinery, steelwork, steel windows, etc., all of which are in hand.

There was no avoidable delay in placing the contracts before mentioned after orders to proceed with the construction were received on 18th March, 1932.

Progress on the contracts before mentioned is already apparent, and it is anticipated that tenders will be called for the superstructure early in 1933.

INCOME TAX OFFICER.

CAPT. THE HON. H. E. SCHWARTZE asked :

"(1) What are the terms of the agreement on which the Income Tax Officer has been seconded to this Colony as to :—

- (a) Salary.
- (b) Passages.
- (c) House allowance.
- (d) Other privileges?

(2) What is the term of the agreement?

(3) What salary was drawn by the officer in question in England?"

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

(1) The appointment of the Income Tax Adviser to the Governments of Kenya, Uganda and Tanganyika Territory is temporary and non-pensionable and no pension contributions are payable to the Home Government in respect of this officer.

For administrative purposes he will be attached to the Secretariat of the Governors' Conference and salary and all expenses, including housing costs, will be shared equally between the Governments of the three Dependencies concerned.

- (a) £1,850 per annum.
- (b) Free first class passage for himself, wife and family not exceeding four persons.
- (c) Free quarters or allowance up to £150 per annum in lieu, at the discretion of Government.
- (d) Outfit allowance of £50.

Exemption from Widows' and Orphans' Pension Scheme on condition that the officer takes out an additional insurance policy on his life for not less than £1,000 to cover the period of his East African service.

Exemption from Levy on Salary.

Sick leave on invalidity of six months on full pay followed by six months on half pay.

(2) The appointment will be for a period of not less than thirty nor more than thirty-six months' continuous residential service.

Government may terminate the appointment by giving three months' notice in writing in which event the officer would be paid one month's salary for each two months or fraction of two months by which his residential service falls short of thirty months, as compensation for losses incurred, provided that the additional compensation would not exceed an amount equivalent to six months' salary.

(3) No particulars have been received by Government.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that answer, Your Excellency, is Government seriously suggesting, it is unable to answer what the official salary was in England?

THE HON. THE COLONIAL SECRETARY: This Government has no official information on the subject, and in accordance with the Rules of this House questions should be confined to subjects which are within the official cognizance of this Government.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that, Your Excellency, would the hon. the Colonial Secretary draw the attention of the House to where it is laid down that you cannot ask a question which is not within the cognizance of Government?

THE HON. THE COLONIAL SECRETARY: On a point of order, I did not say you cannot ask a question, but the question should be confined to the subjects which are within the knowledge of Government. Under Standing Rule and Order No. 22 the object of a question shall be to obtain information on a matter of fact within the special cognizance of the Government.

THE HON. T. J. O'SHEA: Arising out of that answer, may I ask what information Government have as to the qualifications of this gentleman to entitle him to the generous salary and allowances that are proposed?

THE HON. THE COLONIAL SECRETARY: This officer was appointed after consultation between the Inland Revenue Department and the Colonial Office, and I have no doubt that in making that selection they chose the officer who, in their opinion, was most qualified for the purpose.

THE HON. T. J. O'SHEA: Arising out of that answer, may I ask whether the Inland Revenue Authorities to this Government did not enquire as to the salary-earning capacity of the man whom they were about to occupy with this important work?

THE HON. THE COLONIAL SECRETARY: The answer is in the negative.

THE HON. T. J. O'SHEA: May I express my astonishment, Sir?

Arising out of the original answer, may I ask why Government anticipates that it will be necessary to retain the services of this officer for thirty months at least?

THE HON. THE COLONIAL SECRETARY: As far as I am aware there is nothing in my answer to suggest that. He has been put on the ordinary form of agreement which can be terminated in the ordinary way.

LT.-COL. THE HON. C. G. DURHAM: Do we understand that this gentleman is drawing two salaries—one from this Colony and one from home as well—during the period?

THE HON. THE COLONIAL SECRETARY: The answer is in the negative.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that answer, may I ask how the hon. the Colonial Secretary has official cognizance that this gentleman is not drawing a salary at home? (Laughter.)

THE HON. T. J. O'SHEA: Arising out of the answer given to the last question by the hon. the Colonial Secretary, may I ask if Government can say how long it anticipates this gentleman will be on our salary list on such expensive terms?

THE HON. THE COLONIAL SECRETARY: It is impossible for me, Sir, to give that answer at the moment; furthermore, this gentleman is adviser to all three Territories. It is a question which will have to be considered in collaboration with neighbouring Governments.

THE HON. T. J. O'SHEA: Arising out of the original answer, may I ask whether it is the practice of Government, when importing officers on temporary duty, to pay the passages of a family not exceeding four in number?

THE HON. THE COLONIAL SECRETARY: This is an engagement of a special character and is not governed by the ordinary temporary agreement.

THE HON. T. J. O'SHEA: Arising out of that answer, may I ask what are the special circumstances that justified a departure from the common practice in this case?

THE HON. THE COLONIAL SECRETARY: In the opinion of Government the reasons justifying such departure are that it is essential from the Government's view to obtain a fully qualified man in order to advise the Governments on the initiation of this Ordinance. Such a man could not be obtained on the ordinary terms of agreement under which ordinary technical officers are recruited to the Colony.

THE HON. T. J. O'SHEA: Arising out of that answer, may I now give notice of motion that I shall ask this House to protest against the extraordinary procedure of Government in connexion with this gentleman's appointment.

#### MOYNE REPORT.

LT.-COL. THE HON. J. G. KIRKWOOD asked:

"1. (a) Has the attention of Government been drawn to a serious discrepancy between the evidence of the Medical Department (page 93) and that of the Commissioner for Turkana as reported by Lord Moyne (page 41)?

(b) By whom and on what date was Government's attention drawn to this discrepancy?

(c) Is it a fact that this discrepancy was overlooked until that date?

(d) What steps have been taken to correct the error and on what date?

(e) What further steps are proposed?

2. (a) What evidence was produced before Lord Moyne to support his conclusion that there was "insufficient provision in 1931" for backward areas?

(b) By whom was this evidence produced, and where can it be found in his report?

3. (a) What evidence was produced before Lord Moyne to justify his recommendation for the establishment of a Native Betterment Fund?

(b) By whom was it produced and where can it be found in his report?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE): I will take the first part of the hon. Member's question as a whole. The discrepancy to which he refers was officially brought to my notice by the Provincial Commissioner, Turkana, on the 3rd September. It is clear that the discrepancy has arisen through Lord Moyne having overlooked the fact that the communication from the Provincial Commissioner on which the figures in paragraph 77 of his Report are based referred only to administrative and not also to departmental services. As the whole question of the allocation of departmental services on the lines recommended by Lord Moyne is still under review, it is not considered that any action is necessary at the moment beyond that already taken by the hon. Member in directing public attention to the facts.

The Government is not in possession of such information as would enable a reply to be given to the second and third parts of the hon. Member's question.

#### MINING ACTIVITIES BY CIVIL SERVANTS.

THE HON. CONWAY HARVEY asked:

"Are members of the Kenya Government Service allowed to acquire interests in local mining ventures?"

THE HON. THE COLONIAL SECRETARY: The reply is in the negative.

**THE HON. CONWAY HARVEY:** Arising out of that answer, Your Excellency, will Government consider the desirability of introducing amending regulations or legislation in order to provide that members of the Service can be identified financially with mining ventures?

**THE HON. THE COLONIAL SECRETARY:** The answer is in the negative. In the opinion of Government such an instruction would not be in the interests of the public service.

**LT.-COL. THE HON. C. G. DURHAM:** Arising out of that answer, Your Excellency, is there any objection to an officer buying any other gold shares, say in the Transvaal or anywhere in the world, and why the difference?

**THE HON. THE COLONIAL SECRETARY:** As far as I am aware, Sir, there is no regulation prohibiting investments in other territories.

**THE HON. CONWAY HARVEY:** Will the hon. gentleman kindly quote the authority for the present practice—I am not sure whether it is in the amending Ordinance or whether it is in the Code of Regulations?

**THE HON. THE COLONIAL SECRETARY:** The present practice is based on a ruling of the Secretary of State which dates back a long period and has also been reaffirmed.

**LT.-COL. THE HON. C. G. DURHAM:** Arising out of that, Sir, do you not think this country has grown up sufficiently to get away from that old established practice?

**HIS EXCELLENCY:** The hon. Member is rather exceeding the limits of a supplementary question.

**THE HON. T. J. O'SHEA:** Arising out of the last answer of the hon. the Colonial Secretary, may I ask whether it is usually the practice to impose additional regulations to the Code of Regulations?

**THE HON. THE COLONIAL SECRETARY:** I am afraid, Sir, I really do not take the hon. Member's point. The Code of Regulations are regulations set down for the guidance of Government officers in this Colony. They are constantly being varied from time to time in accordance either with local considerations or possibly instructions received from the Secretary of State which, for convenience, are incorporated in these regulations.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, in view of the fact that any investments made by Government servants in this country in concerns in the country have to be approved by the Governor in Council, is that not sufficient security against any danger which might arise if Government did allow their servants to invest money in reputable companies?

**THE HON. THE COLONIAL SECRETARY:** In answer to that question, Sir, I can only repeat that this special proviso in respect of mining ventures is based on old and established practice, has the sanction of the Secretary of State, and also has been reaffirmed in the recent mining legislation on the subject which received the approval both of this House and of the Secretary of State.

### MOTIONS.

#### SECOND SUPPLEMENTARY ESTIMATES, 1932.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, in rising to move the motion standing in my name I would, with the indulgence of the House, ask that the words "be approved" be amended to "be referred to a Select Committee." It was always my intention that these Supplementary Estimates should, in the usual way, be referred to a Select Committee, and I apologize that the motion should have stood in any other form. That being so, Sir, I do not think I will waste the time of the House by talking in detail as to the nature of the supplementary expenditure involved. It is all stated in the memorandum which has been laid before the House. I beg, Sir, formally to move.

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

**HIS EXCELLENCY:** The question is:

"Do it resolved that Supplementary Expenditure for the year 1932 of a sum of twenty thousand five hundred and twenty-two pounds, as shown in column 6 of the Schedules of Additional Provision Nos. 2 and 3 of 1932, be referred to a Select Committee?"

**THE HON. T. J. O'SHEA:** Your Excellency, I find it necessary to oppose the passing of this motion because the Schedules to which the House is asked to give its sanction include items of expenditure incurred by two Commissions, the appointment of which was not approved by this House. I appreciate, Sir, that it is quite within the spirit of our constitution for Government to encourage expenditure without the prior approval of this House but only in case of necessity

when it is necessary to incur expenditure before the approval of this House is sought, but I think I am right in saying that it is entirely against the letter and the spirit of our constitution that Government should, without the prior approval of this House, incur expenditure that can be deferred until the approval of the House has been received. The two Commissions to which I refer are the Moyne Commission and the Carter Land Commission. The approval of this House to the appointment of these two Commissions was not sought. Government, without the approval of Legislative Council, entered into agreements with the Secretary of State for the appointment of those Commissions. The sanction of this House was never sought, therefore it was never given. That being the case, I cannot agree to the passing of a motion which would give approval to expenditure on Commissions which were not authorized by this House.

**THE HON. THE COLONIAL SECRETARY:** In reply to the remarks of the hon. Member, I would in the first place suggest that in so far as he has taken this, shall I say, technical or constitutional objection in the matter of the Moyne Commission, it might have been better had he done so at the last Session instead of on the present occasion. This House has already passed supplementary

**THE HON. T. J. O'SHEA:** On a point of order, I think I am right in saying that I did follow the procedure suggested by the hon. the Colonial Secretary.

**THE HON. THE COLONIAL SECRETARY:** In that case the hon. Member is only wasting the time of the House by flogging a dead horse. As regards

**THE HON. T. J. O'SHEA:** I appeal to the Chair as to whether that is a proper manner in which Government should reply to a perfectly sound objection from this side of the House to unconstitutional procedure?

**HIS EXCELLENCY:** I do not think the Colonial Secretary's remark is in any way contrary to the practice of this House.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** On a point of explanation, I think I should like to remind the Colonial Secretary that the whole of this side of the House did protest last time on this very point, and the question was brought up in the House of Commons at home I believe.

**THE HON. THE COLONIAL SECRETARY:** I readily admit that hon. Members on the opposite side of the House expressed, in passing the last Estimates, their objection to

the Government of this Colony being debited with the cost of the Moyne Commission, but if my memory serves me right, both in the course of the debate which ensued at the time and on the subject of Lord Moyne's enquiry, there was a general tribute from all sides of the House as to the admirable manner in which that enquiry had been conducted and as to its great utility to this Colony. The exception taken, as I remember it, was the more technical one which, had it also been raised by my hon. friend the Member for Plateau South, I could have endeavoured to deal with, namely, that as both of these Commissions had primarily arisen as a result of the Joint Committee's Report at home and had been imposed upon us by the Imperial Government, it was in my view proper that the expenses of such Commissions should be met by Imperial funds and not by this Government.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** That was so.

**THE HON. THE COLONIAL SECRETARY:** That view was, as I undertook, properly represented to the Secretary of State, but his reply—and the reply which was also made in the House of Commons—was to the effect that any such general rule was in his view inappropriate and could not be agreed to; but the cost must in each case be decided on the merits of the case, and that in his view in the present instance the cost of these Commissions should properly be borne by this Government.

**HIS EXCELLENCY:** The question is:

"Be it resolved that Supplementary Expenditure for the year 1932 of a sum of twenty thousand five hundred and twenty-two pounds, as shown in column 6 of the Schedules of Additional Provision Nos. 2 and 3 of 1932, be referred to a Select Committee."

The question was put and carried.

#### PENSIONS AND GRATUITIES.

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** Your Excellency, I beg to move the motion standing in my name:—

"Be it resolved that this Council approves the payment of reduced pensions and gratuities, in lieu of unreduced pensions, to the undermentioned officers as follows:—

	Reduced Pension	Gratuity	Date of Retirement	Unreduced Pension
	£ s. d.	£ s. d.		£ s. d.
Lydekker, C. J. W. . . .	354 13 2	1,162 4 2	22-9-32	472 17 7
O'Farrell, J. F. . . .	262 5 1	940 16 8	30-11-32	376 6 9
Webb, A. E. W. . . .	135 17 0	452 16 8	0-4-33	181 2 8

and of unreduced pensions in lieu of reduced pensions and gratuities in respect of the following officers:—

	Unreduced Pension	Reduced Pension	Gratuity	Date of Retrenchment
Gauld, H. W.	£ s. d. £0 16 3	£ s. d. £0 12 2	£ s. d. £202 0 10	18-12-32
Wilks, S. S.	93 11 7	70 3 8	233 19 2	15-10-31

The object of this motion, Sir, is to ease the passage of certain officers from the active list to the pensionable list in doubtless unhappy circumstances for them. Under the Pensions Regulations officers are allowed to exercise an option as to whether, on retirement, they will accept the pension which is normally due to them, or a reduced pension, plus gratuity. These officers have exercised that option within the limits of the time set out in the Ordinance. The Ordinance and the Regulations, however, do not permit of any sort of revocation of the options once they have been exercised, but in these cases Government was asked whether it would not consider the position to see if some help could be given to retrenched officers by way of allowing them to reconsider the exercise of that option. Government felt this was not unreasonable and it therefore submits this motion to Council. This particular procedure was adopted at the suggestion of the Secretary of State, following on a precedent in Uganda where, under similar circumstances, a motion in Council was passed to allow officers to reconsider their position. That, it was felt, was a proper course to adopt, and a better course than amending the Ordinance or the Regulations.

The financial effect, as you will see from the motion, is to throw a burden on public funds of £2,575/17/6 and to remove a burden of £136, leaving a net burden of £2,139/17/6 for the year. This, Government realizes, is very unfortunate, but it is felt that some consideration is due to officers who, through no fault of their own, but due to the economic difficulties of the Colony, have to retire on pension before they will have served the length of time which they normally would have expected to have served in order to earn the pension they could expect to have earned when they exercised their option, and have to go out into the world with a smaller pension and face probably very difficult conditions. It is hoped, Sir, that in the special circumstances of the case, hon. Members of Council will support the Government's motion in this connexion.

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

HIS EXCELLENCY: The question is:

"Be it resolved that this Council approves the payment of reduced pensions and gratuities, in lieu of unreduced pensions, to the undermentioned officers as follows:—

	Reduced Pension	Gratuity	Date of Retrenchment	Unreduced Pension
Lydekker, C. J. W.	£ s. d. £54 13 2	£ s. d. £152 4 2	22-9-32	£ s. d. £72 17 7
O'Farrell, J. F.	22 5 1	740 16 8	30-11-32	376 6 9
Webb, A. E. W.	135 17 0	452 16 8	30-4-33	181 2 8

and of unreduced pensions in lieu of reduced pensions and gratuities in respect of the following officers:—

	Unreduced Pension	Reduced Pension	Gratuity	Date of Retrenchment
Gauld, H. W.	£ s. d. £0 16 3	£ s. d. £0 12 2	£ s. d. £202 0 10	18-12-32
Wilks, S. S.	93 11 7	70 3 8	233 19 2	15-10-31

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, could we have this made a little bit clearer as to how far this is likely to extend and what officers will be able to take advantage of these proposals in the future, and what financial commitments it is likely to cost the country?

THE HON. THE COLONIAL SECRETARY: Your Excellency, in reply to the Noble Lord the Member for Rift Valley, the proposal is that, in the case of all officers compulsorily retrenched, they should be given the chance of re-registering their options. It is impossible financially to gauge the effect of that for two reasons: one, the circumstances of individual officers may be different; and two, we cannot be sure, where they have opted for gratuity and reduced pension, that they will, in every case, wish to stand by it or take the advantage of a larger pension.

The last part of the Noble Lord's question, Sir, I would suggest, he is in a better position to reply to than myself. It will largely depend on the nature of the retrenchments he recommends to Government as a member of the Expenditure Advisory Committee.

LT.-COL. THE HON. C. G. DURHAM: I understood the hon. Treasurer to remark that this would cost the Government £2,000 because you pay out £2,000, but you are making a saving of £100 every year. Sir, is that so?

THE HON. THE TREASURER: Quite.

LT.-COL. THE HON. C. G. DURHAM: Well, then, where is the burden?

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the mover to reply.

THE HON. THE TREASURER: I think, Sir, there is nothing to reply to.

HIS EXCELLENCY: Then I will put the question.

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee on the Widows' and Orphans' Pensions (Amendment) Bill be adopted.

The Report, Sir, is a unanimous one because, although the signature of the hon. Member for Kikuyu does not appear on the face of the Report, I have his authority for stating that its absence, Sir, is due entirely to inadvertence and that he does, in fact, endorse all the recommendations of the Select Committee.

Of the recommendations, Sir, which are nine in number, there are, I think, only three to which I need draw attention, most of the others being entirely consequential. Those, Sir, are recommendations 3, 7 and 9.

Recommendation No. 3, Sir, is due to the recent discovery that there was a loophole in the legislation whereby a married officer who elected to make an additional contribution just before the date of his birthday and who withdrew that option before the date of his next birthday, and before the date of his wife's birthday, could, by making a payment for only a few months, considerably increase his pension. Well, Sir, that was obviously never intended and as soon as that ruse was detected this amendment had to be made. If this recommendation is accepted by this House, that particular trick will have been played for the first time.

Recommendation No. 7 deals with the position of retrenched bachelors who have attained pensionable status. At the present moment, as the law stands, these officers are entitled to nothing beyond a refund of half the contributions which they have made during their service. They have represented—and, I think, very properly and justly represented—that that provision puts them in a very unfortunate position. They have been compulsory contributors. A great majority of them have confidently hoped to marry later in their service. Because they have made compulsory contributions they have been debarred, for financial reasons, from making adequate provision by way of life assurance, and they now find themselves with nothing but a refund of half the contributions they have made, insurance premia in the meantime going up rapidly against them. The object of the amendment is to enable them, being in receipt of pension, as they are, and being in a position in which the Crown Agents, as administrators of the Fund, can deduct the contributions from them, to continue to contribute, if they so elect.

The third recommendation, Sir, is that this Bill be given retrospective effect from the 1st October last. That is necessitated by the fact that it was necessary for the Crown Agents, in dealing with officers who had been retrenched as a result of the economies made in 1931, to have some date on which to work. The Crown Agents have informed this Government that the 1st October is a satisfactory date in that it will enable them to give an effective option to every officer who has been retrenched prior to that date and to every officer who may subsequently to that date have been retrenched.

Those are the only recommendations to which I need draw attention, but there is a rider to the Report. Your Excellency will recollect that when this Bill was read a second time the hon. Member for Nairobi North reminded the House that an opportunity of considering the principles underlying the legislation had been promised to this Council and it was then agreed, Sir, that this Select Committee might go a little beyond its ordinary province of consideration of the details of the Bill and consider some of the principles. That, Sir, has been done, and it is the feeling of the Select Committee, the strong feeling, Sir, that there is an inequity in that part of the legislation which deals with compulsory contributors in that the only exemption is to officers who are appointed for a definite term of not more than twenty months, or those who, being appointed for an indefinite term, are subject to one month's notice. There is a considerable number of officers in the Service, Sir, particularly on loan works, who are appointed on ordinary agreement terms and subject to three months' notice. They are compulsory contributors under

the legislation, but so long as they are bachelors, Sir—and it is on behalf of bachelors only the Select Committee desires to make representations—so long as they are bachelors, they are faced with the certainty that their tenure of office is temporary, that they are forced to contribute, that they are getting no benefit from those contributions, that all they will get is half the contributions back and that there is, in fact, no real likelihood that they will be absorbed into the pensionable establishment. Those are the facts that led the Select Committee to add this rider. It is the hope of the Select Committee, Sir, that they have made out a sufficient case to justify this Government taking the matter up with the Secretary of State, and we venture, Sir, to express the hope that that will be done and that some solution will be found to alleviate the position of those temporary officers. I beg, Sir, to move that the Report be adopted.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL) : I beg to second the motion.

HIS EXCELLENCY : The question is :

“That the Report of the Select Committee on the Widows' and Orphans' Pensions (Amendment) Bill be adopted.”

The question was put and carried.

## BILLS.

### THIRD READING.

THE WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : I beg to move that the Widows' and Orphans' Pensions (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.

### SECOND READINGS.

THE MINING (AMENDMENT) (No. 2) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN) : Your Excellency, I beg to move that the Mining (Amendment) (No. 2) Bill be read a second time.

The Objects and Reasons, Sir, contain in the first paragraph the purposes of this Ordinance, which are “to adapt the Principal Ordinance in view of experience, to clarify certain points, and to provide generally for mining by means of registered locations and leases rather than by claims and exclusive prospecting licences and leases.” It is your intention, Sir, to refer this Bill to a Select Committee and I may therefore perhaps be excused from going through all the clauses of the Bill in explanation, and may confine my remarks to the three principal points with which the Bill deals, namely, mining by means of registered locations and leases, amendments that are introduced into the Bill in dealing with exclusive prospecting licences, and the amendment to section 74 of the Bill dealing with trading in gold.

One of the principal features of the previous mining provisions in this Colony, Sir, was the absence of any necessity on the part of a prospector actually to find gold in reef or in place prior to registering a claim. The consequence of that was that at Kakamega very large areas of land were pegged into claims without the evidence on the spot of the existence of any gold. The disadvantages of that system early became obvious to the prospectors themselves, and on the arrival in the Colony of Sir Albert Kitson and Mr. Murray-Hughes consultations were held on that point and regulations were introduced in August, 1922, to provide for the necessity of discovering reef in place before a claim was registered. In those regulations provision was also made for dealing with claims by way of mining locations and in order to bring the nomenclature in the regulations and in the Ordinance into conformity various alterations are being suggested now in this Bill. The definition of “claim” is slightly amended; a new definition of “mining location” is introduced in clause 2, and in clauses 12, 13, 14 and 21 amendments, generally of a consequential nature, are proposed.

In connexion with exclusive prospecting licences, the first clause dealing with that point, clause 5, proposes two amendments. The first amendment is of an obviously necessary nature. The existing provision provides that whenever application is made for an area to be closed, to be the subject of consideration of an application for an exclusive prospecting licence, that area is automatically debarred from prospecting. I think, Sir, for quite obvious reasons, we wish to alter the word “made” and substitute for it “accepted for consideration” to obviate applications that are quite unreasonable in their nature. In the same clause provision is proposed for appointing any Provincial Commissioner to be the delegate of the Native Lands Trust Board in his Province for the purpose of giving the consent in writing required by the paragraph of

the original Ordinance. It has been a somewhat tedious procedure to follow the provisions of the Principal Ordinance in detail up to the present time where the Native Lands Trust Board itself must give the consent in writing, and that Board has approved the amendment proposed.

In clause 7, in dealing with exclusive prospecting licences generally, we are proposing that definite programmes of development should be put in with applications in the first place for exclusive prospecting licences so that Your Excellency yourself in considering an application may have before you evidence of the capital resources of the applicants and also detailed evidence as to the manner in which they propose to proceed in the area which might be granted to them. Similarly, when the original period expires and an applicant applies for renewal a programme of further development has also to be submitted.

In clause 9 the provisions are tightened up to some extent to enable the Commissioner to ensure that the holder of the exclusive prospecting licence actually carries out the programme he has promised to perform, and if he does not do so power is given to cancel the licence.

At present, Sir—reverting for the moment to clause 6—the provisions of the Ordinance provide that the holder of an exclusive prospecting licence can move directly to the position of a leaseholder, that is, he may skip the intervening period of a location or claim holder. There seems to be no reason why a person to whom consideration has already been given in the granting of an exclusive prospecting licence should receive special consideration in being allowed to avoid the necessity of registering locations and claims and also avoid the payment to Government of certain dues.

Under the provisions of the Ordinance as they stand it is not possible for the holder of an exclusive prospecting licence to undertake any actual mining, and in clause 8 we are proposing that such persons may, with the consent of the Commissioner, engage in alluvial mining, subject to payment of the fees which are calculated on the basis of a fee charged per claim. There appears to be little reason, Sir, why an applicant who has received permission to prospect over an area of land for reef should not be allowed to undertake any alluvial mining that may be feasible in that area, subject to the registration of his location in the ordinary way, and in clause 11 there is an amendment to provide that "mining shall be lawful for the holder of a location or mining lease or for the holder of an exclusive prospecting licence."

Later on this morning, Sir, I shall be proposing the second reading of a measure dealing with trading in unwrought precious metals, and at this juncture I may perhaps call attention to clause 19 of this Bill which amends section 74 of the Principal Ordinance. Up to the present time we have been operating under section 74 in regard to the issue of gold dealers' licences but it is felt that, especially in connexion with precious metals, it is more desirable to have separate legislation, and consequently this amendment has the effect of leaving the actual provisions of the Principal Ordinance to apply to non-precious metals only.

The other points in the Bill I suggest may be more effectively dealt with in Select Committee and I beg to move the second reading.

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

HIS EXCELLENCY: The question is that the Mining (No. 2) (Amendment) Bill be read a second time.

THE HON. COSWAY HARVEY: Your Excellency, I should like to take this opportunity of congratulating Government on the most excellent atmosphere which has prevailed in the Kakamega goldfields since the rush first started nearly a year ago. The absence of friction, which is usually such a prominent feature of gold rushes, is almost entirely due to the tactful handling of the situations which have arisen from time to time by the administrative and all other officers concerned. It is very refreshing—I will not say surprising—to find administrative officers dealing promptly and efficiently with problems which lack the inspiration of precedent. The Inspector of Mines, Sir, and his Assistant have also worked like Trojans, very very often for from eighteen to twenty hours a day; they are still working hard and they deserve and have secured the encomiums of all with whom they have been brought into contact. The miners themselves, Sir, would wish me to thank Government for the attention that has recently been given to the very important matter of roads in the mining area.

Now, Sir, there have been so many enactments in connexion with mining and such a mass of rules and regulations that it is almost impossible for any ordinary human being fully to appreciate their significance, and I would ask the hon. the Commissioner, Sir, if he could possibly make it convenient to issue an easily understandable revised version of the legislation as it stands to-day at the earliest possible moment. There is no doubt, whatever, Sir, that the legislation should

be designed to promote the exploitation of these important fields in the most business-like and economic manner possible in the best interests of the Colony, but, Sir, above all things what should be aimed at is security. For the proper development of these fields we must attract experienced mining authorities and capital. As Your Excellency knows full well, capital is a shy bird, and it demands and I suggest must have security. I do not suggest that point has been overlooked, Your Excellency, but from many remarks which I have heard from people who are prepared to invest very large capital in this undertaking I would ask Government very seriously to consider giving capital the maximum of security in connexion with the Kakamega field. Frequent changes, Sir, are most unsettling.

Now, Sir, it seems to me that the measure presently under discussion has been designed to fit the new regulations, which in most respects, Sir, are most admirable. I suggest the most important feature of those new regulations rests in the fact that they do eliminate that awful vice of mining fields known as blind pegging, but, Sir, a good deal of alarm has been created and much misapprehension exists in the minds of those who bore the heat and burden of the day a year ago and pegged out claims, arranged programmes of development and secured big capital in many cases with the object of developing their holdings which were pegged out under the old regulations, and I do suggest, Your Excellency, that it would be a very grave breach of faith if any new conditions were imposed which very seriously affected the rights honestly and properly acquired of people who are genuinely developing their holdings. I have no sympathy whatever, Sir, with blind peggers who just wait for someone to come along and buy those claims and who do nothing with them, but I do suggest that those who acquired vested interests under the old regulations are entitled to a good deal of consideration. I understand, Your Excellency—perhaps I am wrong—that under the new regulations, which presumably are now law, all these people must re-peg at a given date. Under the new regulations that involves to my mind a very large amount of wasteful development work instead of development being done in one corner or one promising part of the claim holding; under the new regulations it will be necessary to dig a series of holes or shafts all over the property. To my mind that is not economical development and it creates an unnecessary amount of disturbance to those who have surface rights on the property concerned.

Another objection, Sir, to my mind, is that, under the proposed new regulations, all those who have pegged under the old ones do not know where they are, and they have no

title whatever to go to the big companies I mentioned a moment ago who are willing and prepared to acquire those holdings and work them.

Now, Sir, I should like to ask whether the Government, at the conclusion of this session, will be good enough to appoint a very small committee of people who know the subject, and who are definitely and closely identified with mining, just to go into this vexed question very carefully, listen to objections, examine any grievances which may be presented, and make recommendations to Government for the cases to be met in a fair, just and reasonable manner of those people who at the present moment imagine they have grievances.

I have just one more suggestion to make, Your Excellency, for the consideration of my hon. friend the Commissioner. As a result of several visits to the fields and long discussions with all and sundry, I have been asked to suggest to Government the desirability, at the earliest possible moment, of transferring the registration office, which is now in Kakamega Township, twelve miles from the centre of the goldfields, to a place in close proximity, if not in the same building as the present Inspector of Mines. That, Sir, would be a very great convenience, and I suggest it might be greatly to the advantage of Government to do that at the very earliest possible moment.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I do not intend to detain the House for more than a few moments in view of the fact that the Bill is being sent to a Select Committee, which I appreciate. I would, however, ask that Committee, in studying the Bill, to consider first and foremost but not wholly and solely the question of security. Since Kakamega started, whatever security there was originally, a great deal has been taken away by an alteration of the Ordinance. There was a second occasion, when the mining laws had been altered again, when the security was interfered with again. The effect of continual alteration of the mining laws has been to interfere with the security and peace of the goldfields. At the moment many of the miners are running round like wild cats trying to catch their own tails due to these alterations in the regulations—I refer to the necessity of discovery before you can peg. In New Zealand, Australia, South Africa, or anywhere else, I have never heard of that condition being imposed. I think it is absolutely unnecessary and a simple law that, where an area is proclaimed, the individual or individuals have the right then to peg is sufficient, and they should be able to renew their claims licences from time to time provided they are developing without the necessity of finding on one claim or every claim.

That has caused a great deal of disturbance in Kakamega and I know several people who have claims there and at the moment they are shifting almost every week, frantically digging holes all over the country, trying to apply the new regulations. I also know one case where ten claims were pegged under the old Ordinance, or they were pegged just before the last alteration was made. The effect of the alteration is that where they had ten claims, they have now to claim five times that amount and repeg. That gentleman to my own certain knowledge packed up his traps and went back to his farm. They have lost the possibility of that area being developed, and so the game is going on.

To come back to my original point, I should like to ask the Select Committee to consider in every possible way how they can best give security to those who are now developing and are likely to develop Kakamega. I believe myself—I have had a great deal of experience and having that experience I have now got to the age of wisdom. I have no interest in Kakamega whatever. The biggest puzzle to me that I have ever seen is that you can get gold dust off your car wheels. You can almost get out and pan and get colour almost anywhere. One claim I was at took five hundred ounces of alluvial gold in ten days. I believe it will be a very big thing for the Colony and will definitely turn out to be a permanent gold-mining field, and probably one of the best in the world, but I do advise caution and, if the request which was put in by the hon. Member for the Lake for the publication at the very earliest date of concise and precise terms showing what the regulations are to-day, we shall be very grateful. I hope my few remarks will be noted by the Select Committee.

THE HON. T. J. O'SHEA: Your Excellency, I have pleasure in supporting the second reading of this Bill and I appreciate the action of Government in deciding to refer it to a Select Committee. It is obvious that Government is actuated by the desire to improve the present existing faulty regulations, and we have all good reason to know that the Commissioner of Mines is anxious to give the greatest possible security to those engaged in this new industry. But, Sir, I would urge that we should not go from one extreme to the other. Were there not something to be said for the system of blind pegging it would never have been introduced into the Colony. When it was agreed to in principle, the arguments were strong in its favour. I listened to the debate on the first Mining Bill passed in the Colony—I believe it was nearly ten years ago—and on that occasion opinion was almost unanimously in favour of the principle advocated by my hon. colleague on my right (the hon. Member for Plateau North)—the principle of blind

pegging. In principle we have seen at Kakamega that it is evil, and so Government has now, wisely, I think, decided that it should cease; but I do urge, Sir, that the Government should not go to the other extreme and, in endeavouring to eliminate the evils of blind pegging, deprive people who are genuinely developing from the benefits of their discoveries, as they might very well do if they pass the present amendment Bill as suggested.

I would also urge upon Government, Sir, that it should not think of this question of pegging claims, registering locations and looking for leases in terms of the extra amount of money to be received by Government for the privilege of doing these things. I would ask Government to take a broader outlook and recognize that these things are trifling in comparison if the mining industry is started on sound lines and that, in the matter of tenure of property, it is giving the security it must have if it is to make progress. That being so, Sir, I am very sorry indeed to have heard from the Commissioner of Mines that he sees no reason why, in the opening up of the property, all the steps laid down in the Ordinance should be gone through, merely because, if that were not done, Government would lose a few pickings in the shape of registering locations. I would ask them to reconsider that attitude. There is no advantage whatever in insisting on a number of formalities being complied with.

I have much pleasure in supporting the second reading.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, with a due sense of the privilege I enjoy in addressing this Council for the first time, I should like, if I may, to add a few remarks to what has been said by hon. Members on this side of the House who have already spoken in this connexion. I do not wish to add anything to what they have said in describing the conditions in the goldfields themselves, and such recommendations as they have suggested for improving the regulations which Government have tried to bring in, as experience has shown, to deal with the new situation. But I would like, if I might, strongly to support the suggestion made by the hon. Member for the Lake that Government should consider the appointment of a Select Committee to go into the existing laws, amendments and regulations made under the Ordinance, in order to try and get the matter finally right. The point of view that I would like to bring to Your Excellency's notice in this connexion is, curiously enough, not that of the present gold-diggers, if I may so call them, but that of the agricultural community of the country.

I think probably all hon. Members will agree with me that nothing could be of greater benefit to this country than that the farmers—and many of the people now at Kakamega are farmers—should derive some benefit in the near future for the work they are doing there which will enable them to get back to their farms and discharge some of the commitments which these hard times have imposed upon them. I feel sure, Sir, one would not be appealing in vain to ask Government to give every consideration to that point of view and in that way assist the genuine workers in the gold-fields, some of whom are almost within sight of modest success, but who, as a result of these new regulations, find themselves compelled to fresh expenditure of money when they are at the end of their resources and can only hope to achieve success by actual production in the development work which they have already done and undertaken in perfectly good faith under the original Ordinance. I do feel sure Government will be very well advised to give every assistance possible to those genuine workers in the field who are mostly Kenya farmers.

THE REV. CANON THE HON. G. BEIRNS : Your Excellency, in supporting the second reading of this Bill, I am very pleased that there has been appointed—or is going to be appointed—a Select Committee to go into the whole matter; and I will, if I may, permit myself to suggest to the House and to members of that Select Committee that, in giving consideration to the rules under which the miners are to carry on their work—which I am sure they will—they will not forget that in the country where the mines are being operated at the present time there are the original natives, whose rights I am sure the Select Committee will take into full consideration. I have heard about miners running about all over the place digging holes here, there and everywhere, and these holes would naturally be dug in places where the natives heretofore have had their gardens and have procured for themselves the necessary food for their daily lives. I am sure that when the Select Committee is considering the question of tenure—and I have no objection at all to the miners who are giving their time and money, expending capital there, being given security in the work they are doing so that their capital will not be lost—but at the same time it must not be forgotten that the natives have also to be considered in regard to that and the land they are alienating and taking away from the natives for the time being. How long that will be no one knows, but the natives should be given full consideration in regard to recompense with other land, where they can develop their gardens, and also a money compensation for the loss they have sustained from the miners in the goldfields.

CAPT. THE HON. J. L. COTTER : Your Excellency, I had no intention of speaking on this Bill at all until the hon. Member who represents native interests here spoke. The real point I think that he has not realized quite is that every disturbance up there is of actual benefit to the natives disturbed. Every holding is paid for to a very much greater extent than its actual intrinsic worth. It may be thought by some people here that there is considerable ill feeling on the part of the natives against the miners up there. I have been twice in Kakamega and I lived there a fortnight each time. I happened to go round the place looking at some locations myself and I have never met a native yet where there is any camp in the place who does not invite you to go there. It is invariably the same and the reason is obvious because they get double the price for their food; they get labour close at hand instead of having to walk miles, and the price of their food is more than double. Then again I should like to inform the hon. Member that in my opinion—and I think most people will realize it—as a result of a big mining industry being built up as at Kakamega the main interests of the natives there will not be agricultural. If it is the intention of this House that invariably for the remainder of history the natives of East Africa should entirely remain an agricultural population, then I cannot see any point in trying to help them in any way, by education or otherwise. I presume eventually that the hon. Member will also agree we shall have natives who are miners, agriculturalists, shopkeepers, in fact in any other trade in life.

LT.-COL. THE HON. LORD FRANCIS SCOTT : Your Excellency, mining legislation is a very technical subject which anyone who has not had practical experience of mining should be very chary of discussing, and I do not therefore mean to make any comments on the Bill before us in detail. I should, however, Sir, like to emphasize one or two points that have been made. The hon. Member for Plateau South urged Government, in safeguarding against one possible abuse, not to go to too great an extreme in the other life. I should like to support that appeal, Sir. I should also like to support his appeal to Government not to think too much about getting a few extra pounds from licences and so on, which may be of detriment to the larger question. This mining enterprise may be of the very greatest value to this country. It has been started with the very best co-operation between Government, the miners and the natives in the area, and I think we all want to see the enterprise there developed on the very best possible lines for the good of the country. I do not think there

is any division of opinion. To do that it is essential that security should be given in two directions: you want security for the small man who has gone in to prospect, and you want security for the capitalists who are going to invest capital in the enterprises there, without which it is impossible for this mining to develop into the great industry which we hope it will be. I do suggest, Sir, in the consideration of this legislation those two points should be kept in mind, and for that reason; as we all hear complaints about the regulations which have been introduced, I do hope, Sir, that Government will accede to the request put up by the hon. Member for the Lake that a small committee should be appointed which should go into the whole question and should sift such complaints so that we may, by mutual co-operation, produce as model mining laws for this country applicable to the local conditions as it is possible to do.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** Your Excellency, I should like, if I may, to acknowledge with very much appreciation the general tenor of the debate that has just taken place. In dealing with the points that have been raised, may I first of all deal with this question of security. I think that Government, as well as the prospectors, and those persons intending to put capital into prospecting, are equally desirous of securing the reasonable and legitimate interests of the persons who have borne the heat and burden of the day in this particular area. Security has perhaps to be looked at from two points of view: the security of the man who has a claim, and the security of the person who wishes to invest money. From the latter point of view the regulations, as they at present stand, are an immeasurable gain to the investor and to the general investing public. At present, if a person is asked to invest in anything which has been registered as a location, he has the definite and direct knowledge that on that location there is gold. Prior to these regulations, when asked if he would invest, he knew nothing whatever, he had no security and he might have been going in for a wild goose chase or not—from his point of view his security is immeasurably improved. From the point of view of those who took claims under the old regulations, the step that has been taken and that has not been mentioned in the debate is that a circular has been issued advising such persons that in cases of genuine hardship an extension of six months will be given at the conclusion of the first period for which their claims were granted. That step, I think I am right in saying, has the full approval of the miners' executive, who agree that it should meet all reasonable cases. It has

certainly had the full concurrence of one or two large interests with whom it has been discussed. Should there be other cases where that extension is proved to be insufficient, I think I can say that such cases, if they are supported by genuine reasons, will be sympathetically considered.

From the point of view of the revenue arising, perhaps I did not make it altogether clear, in moving the second reading of the Bill, what the actual purpose of this section, to which objection has been taken, was. There are cases where alluvial mining is not possible under the actual geographical limits of the alluvial claims as defined for normal purposes. An alluvial claim normally is one hundred feet by one hundred feet; that clearly does not provide for alluvial prospecting of a large river, which could only be done by dredging, and consequently where rivers of that sort are to be prospected by companies who are able to go in for dredging we are proposing that they should pay—I think perfectly rightly—on the same basis as the small person who actually can physically mark out his claim one hundred feet by one hundred feet. That is all there is to that.

On the last occasion that we had a Mining Bill I was asked to produce a brochure on the subject of the mining law. We have that in train but I was awaiting the conclusion of the proceedings on this Ordinance so that when we did so we could issue an up-to-date brochure, and I hope that will be possible in the early months of next year.

That, I think, Sir, is all that I have to say on the subject.

**HIS EXCELLENCY:** The question is that the Mining (Amendment) (No. 2) Bill be read a second time.

\*The question was put and carried.

**THE HON. CONWAY HARVEY:** On a point of order, Your Excellency, is Government prepared to appoint the small committee which has been asked for?

**HIS EXCELLENCY:** I could not give you an undertaking. I shall have to consult about that and let you know after the adjournment. I propose to adjourn now and consult about this.

*The Council adjourned for the usual interval.*

## On Resuming.

**HIS EXCELLENCY:** As it has been agreed that this Mining Bill should be referred to a Select-Committee, the following is the composition of the Committee:—

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

The Hon. the Solicitor General.

The Hon. the Provincial Commissioner, Nyanza Province.

The Hon. Member for the Lake.

The Hon. Member for Plateau South.

As regards the other committee referred to in the debate, I now understand that its terms of reference are not to be quite so wide as I first thought. It will not, I gather, go into the whole question of legislation and regulations, but will examine the adjustment of the regulations in their relationship to existing claimholders. If that is the idea, we would certainly consider it favourably after the Select Committee have reported; we could then get definite terms of reference drawn up.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** I thought the idea was to adjust the regulations so as to get them into conformity with what is authentic.

**HIS EXCELLENCY:** In the meantime, we may perhaps get some concrete terms of reference which could be considered.

## THE SUPPRESSION OF RABIES BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Provide for the Suppression of Rabies be read a second time.

Unfortunately, as hon. Members are aware, rabies exists in the Colony and in the one district, that of South Kavirondo, it exists in what may be an endemic form, and I am sure, Sir, that all hon. Members will agree that so long as that unfortunate condition of affairs continues it is essential that it should be competent to the authorities to deal with the outbreak and to take adequate and proper measures for its suppression. The existing law on the subject is contained in the Diseases of Animals Ordinance, an Ordinance which, although it does mention rabies in the definition of disease, is quite inadequate to deal with a situation such as that which exists at the moment. That, Sir, is the justification for this additional legislation which, as hon. Members will see, deals specifically with the one disease of rabies and with dogs.

term which is defined as including any member of the canine tribe. The form which the legislation takes is a simple one, Sir. The first five clauses of the Bill deal with the action which may be taken in proclaimed areas, and while I am on the subject of proclaimed areas, I would point out that the Bill makes provision for ante-dating the proclamation of an area to the 25th November last, the date on which full measures for suppression were taken in that district which I have mentioned. Within that area it will be possible under this projected legislation to destroy stray dogs, that is, any dog wandering at large and not under control, to call upon owners to take proper measures for keeping their dogs under control and for the full authorization of the shooting or destruction by other means of stray dogs.

The remaining provisions of the Bill deal generally with rabies, not necessarily in a proclaimed area. Clause 6 makes it obligatory on the owner to destroy a diseased dog, that is, a dog which actually is infected with rabies, to keep under strict confinement any dog which is suspected of being infected with rabies; and clause 7 gives corresponding powers in respect of dogs in those two classes—either diseased or suspected—to various authorities.

Clause 8 gives very wide powers to the Chief Veterinary Officer by order to take such measures as he considers necessary for the control of the disease in any area of the Colony. The existing provisions, Sir, whereby Rules have to be made by the Governor in Council and formally published in the Gazette necessarily involve delay, and delay in a matter such as this obviously may be harmful, and so the simpler and much more expeditious method of dealing with the subject by means of orders issued by the Chief Veterinary Officer is embodied in this legislation.

Clause 9 is an obvious one indemnifying officers who act in good faith in the carrying out of their duties and obligations under the legislation, and that clause further provides that no compensation is to be payable to the owner of any dog which is destroyed as a necessary step in the prevention and spread of the disease.

Those, Sir, are the provisions. I need say no more either on the details of the Bill, Sir, or on the urgent necessity which has led to its introduction, and I commend it to the attention and approval of hon. Members and move that it be read a second time.

**THE HON. T. D. H. BURTON:** Your Excellency, I beg to second.

**HIS EXCELLENCY:** The question is that the Suppression of Rabies Bill be read a second time.

**THE HON. CONWAY HARVEY:** Your Excellency, whatever odium attaches to Government for its lethargy and ineffective action when rabies first broke out, which has, Sir, undoubtedly involved the Colony in a great deal of unnecessary expense, I do now quite definitely applaud the energy and activity which has been displayed, especially by the Veterinary Department, in its recent attempts to limit the incidence of this disease. They have met, Sir, with a very conspicuous degree of success, and in supporting this measure I should like to assure Government of the loyal and active support of the people I have the honour to represent who are more particularly affected by this dreadful menace.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** There is only one point, Your Excellency, I would like to make. In dealing with such a question as this outbreak of rabies it is necessary to have very wide powers and I do trust that the Chief Veterinary Officer in the execution of his powers will see that due discretion is used in regard to the application of them.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will put the question.

The question was put and carried.

#### THE TRADING IN UNWROUGHT PRECIOUS METALS BILL.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** Your Excellency, I beg to move that the Trading in Unwrought Precious Metals Bill be read a second time.

This Bill, Sir, is proposed in order to deal with trade in gold and other precious metals and it is limited to trade in precious metals. Trading in other minerals is left to be dealt with under the provisions of the Mining Ordinance, but it is felt more suitable that trading in gold, silver and other precious metals should be dealt with in separate enactments.

The actual provisions of the Bill repeat substantially a number of the provisions in the Mining Ordinance and the general structure of the Bill is based on similar provisions in Tanganyika Territory and in the Transvaal. The possession and sale and general dealing in precious metals is to be limited to licence holders and for that purpose banks are automatically regarded as licence holders without the necessity of taking up a licence fee. That is common practice elsewhere. A

licence fee of £5 per annum is imposed and the issue or revocation of a licence to a licenced dealer is placed in the hands of the Commissioner of Mines, who may revoke a licence if just cause is given.

The usual provisions, Sir, in a matter of this sort are contained in the Bill, the keeping of the necessary records, books of accounts and of transactions, and also for dealing with the export of gold out of the Colony. In addition, there are one or two special provisions to which I might call attention. The prohibition contained in clause 10 against the payment of any debts or any wages in unwrought precious metals, is, I think, a desirable piece of legislation in a country of this kind; and there is provision also in clause 11 against the malicious placing of unwrought precious metal in the possession of or on the premises of another person.

The general structure of the Bill, Sir, is fairly simple. Its purposes are wholly desirable and I commend it to the favourable consideration of the House. It is Your Excellency's intention to refer this Bill also to a Select Committee to consider the actual details.

**THE HON. THE ATTORNEY GENERAL:** I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Trading in Unwrought Precious Metals Bill be read a second time.

**THE HON. HAKIM SINGH:** Will a man who is holding £500 pay the same tax as a man who is holding £5,000. Will he pay the same in tax (£5)?

**HIS EXCELLENCY:** That point will be answered when the hon. the Commissioner replies. In his reply the hon. Member will deal with that point.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** With regard to clause 10, does that mean people cannot, in a mining area, hand over gold-dust to a bar-tender? It is the custom all over the world to do that.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will call upon the hon. mover to reply.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** The Bill deals with licensing for the buying and selling of gold and necessarily with the lawful possession of gold. Any person who is in lawful possession has to show he is in lawful possession and he is not disturbed.

As regards payment in gold-dust, it is a definite provision in the Bill that payment of wages and debts should not be in unwrought precious metal. Unless some provision of that sort is made, it would be quite impossible to deal with the unlawful possession of gold and I think hon. Members will agree that the dangers which might arise in the matter of stealing gold would be very largely enhanced if employers were allowed to make payments of wages in gold-dust.

THE HON. HAKIM SINGH : I am not clear on that point yet.

HIS EXCELLENCY : I am afraid the hon. Member is not permitted to speak after the mover has replied, but the point he mentions will be taken in Select Committee.

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ : Might I suggest that the same Select Committee deal with this as with the other Bill? It is part and parcel of the same thing.

HIS EXCELLENCY : The same Committee might deal with this Bill, and, if the Hon. Hakim Singh would sit on that Committee, it will be the same Select Committee with the addition of the hon. Indian Member.

#### THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, for some years past the desirability of having a public bus service in Nairobi has been advocated in various quarters and recently in the Report of the Commission on the Cost of Living. The Nairobi Municipal Council is under the Ordinance empowered to establish a public bus service on its own account, but it is not empowered, as the law now stands, to deal with private undertakings wishing to establish services of that sort on the basis of exclusive licences. There have recently, during the last few months, been negotiations between the Council and a private company for the establishment of a bus service and it became clear early in those negotiations that the possession of an exclusive licence or some other form of protection against competition was an essential pre-requisite in those negotiations. Therefore, Sir, without prejudice to those negotiations at all, it has been thought desirable to amend the Ordinance in such a way as to empower the Nairobi Municipal Council, or any other Council, to grant exclusive licences for the purpose of bus undertakings. This Bill does not, of course,

deal in any way with any negotiations in any particular town; it is a general power granted to all municipalities and it is purely an empowering measure, and if hon. Members will glance through the various sub-clauses of the Bill, they will see that the actual proposals for the granting of exclusive licences by a municipal council require the consent of the Governor and before that consent is given the advice of the Standing Committee for Municipalities is required.

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

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

CAPT. THE HON. H. E. SCHWARTZ : Your Excellency, I merely wish to say that I suggest when this Bill goes into a Committee of the whole House the same procedure be adopted as is adopted in other matters—that it should come up for approval of the Governor-in-Council and not of the Governor.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : I think, Your Excellency, that perhaps that point may be taken when the Bill is in Committee of the whole House.

The question was put and carried.

#### THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) (NO. 2) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, this is a measure, the majority of which deals with election procedure of District Councils and matters of a routine nature.

The provisions of the Ordinance as they at present stand involve a certain amount of inconvenience, the principal inconvenience being the different dates on which various members of district councils come up to be elected, and so it was thought advisable to have one day on which general elections could be held.

The provisions of the Bill in detail have already been submitted to all district councils and have been considered by the Standing Committee for Rural Areas and have been generally approved by them, and I think, that being so, I may perhaps be excused from going into greater detail. They are all purely of a routine nature.

In the last clause of the Bill, clause 9, Sir, the powers proposed to be given to district councils will enable them to close the roads for which they are responsible to traffic. At present under the Roads Protection Ordinance they have to apply to the Director of Public Works for certain purposes and to Your Excellency for other purposes before the roads can be closed for temporary repair. That often results in loss of time in issuing the notice with regard to the road it is desired to close, so that the damage that it is desired to avoid has often been done before the notice is published.

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

The question was put and carried.

#### THE KING'S AFRICAN RIFLES BILL.

THE HON. T. D. H. BENCE: Your Excellency, I beg to move that a Bill to Provide for the Establishment and Government of a Force Styled the King's African Rifles and for Matters Incidental thereto be read a second time.

The object of this Bill, Sir, is to amend the law governing the King's African Rifles in the light of the experience gained since the passing of the present Ordinance. Hon. Members will recollect that an Ordinance to Provide for the Establishment and Government of the King's African Rifles and for Matters Incidental thereto was passed in the year 1930, and has been operated, Sir, since. Since then the necessity for a considerable number of amendments to the Principal Ordinance has come to light and it is proposed to enact legislation making those amendments. As regards the form, Sir, of the present Bill, it was found that so many amendments were required to the present Ordinance that it was thought more convenient to embody the present law, together with the amendments required, in a completely new Bill and to repeal the old Ordinance. In this way, Sir, the officers who deal with this law will be able to see what the law is at a glance instead of having to refer first of all to the Principal Ordinance as it now stands and subsequently to a long amending Ordinance. I would say that apart from amendments which are specifically dealt with, and also to a considerable number of drafting amendments, the Bill before this House now is mainly a re-enactment of the existing law. If I may claim the indulgence of the House for a short time, Sir, I will explain briefly what are the chief amendments now being made in the existing law.

The definition of "Officer Commanding the Troops" which appears in the present Ordinance has been deleted and in lieu thereof the term "Brigade Commander" has been

substituted. This is essential, Sir, as a result of the recent reorganization of the King's African Rifles. Also the term "native officer," which appears now in the definitions of the present law, has been deleted as there are no such officers in the King's African Rifles at present.

Another amendment is that provision has been made for the local enlistment of European personnel who will be subject to military law for service as warrant officers and non-commissioned officers in the Supply and Transport Corps of the King's African Rifles.

Section 4 (2) of the present Ordinance reads: "Where two or more battalions are established and maintained in the Colony they shall form a Brigade." This does not appear to be entirely accurate, Sir, since the two battalions of the King's African Rifles normally stationed in Kenya do not in point of fact form a Brigade; a Brigade is composed of three battalions, one of which is normally stationed in Uganda and two here. It is considered necessary, therefore, Sir, to amend this sub-section in the way set out in clause 4 (2) of the Bill.

Another important amendment, Sir, is as follows: Following the Act of the Imperial Parliament which was enacted in 1930 the death penalty in respect of certain offences is proposed to be abolished. Sections 7, 9, 10 and 13 of the Principal Ordinance have been amended so that the practice in Kenya should be now assimilated to the practice in force in England. Among the offences for which the death penalty has been abolished and imprisonment substituted are the following:—

misbehaving or inducing others to misbehave before the enemy in such a manner as to show cowardice;

without orders from his superior officer, leaving his guard, picket, patrol or post;

discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasioning false alarms in action, on the march, in the field or elsewhere;

sleeping, or being drunk at his post;

being a sentinel, leaving his post before he is regularly relieved;

deserting or attempting to desert His Majesty's Service; and finally

persuading or endeavouring to persuade any person subject to the Ordinance to desert from His Majesty's Service.

With regard to clause 84, Sir, I would say that the subject of the exemption from the payment of Hut and Poll Tax at present enjoyed by time-expired members of the King's African Rifles was discussed at the Conference of East African Governors held at Dar-es-Salaam in April last, and the following decisions were arrived at:—

(a) That the exemption from tax as a reward for time-expired members of the King's African Rifles should be retained for all personnel now serving with the colours;

(b) That in the case of all new personnel, no exemption from hut or poll tax should be granted to time-expired men, but in lieu thereof should be instituted a system of gratuities to take the place of the tax exemption, and this gratuity should be additional to any other gratuity to which personnel of the King's African Rifles might be entitled; the gratuity should be a lump sum calculated to represent the value of the tax remission now granted; and assessing the tax at an average of Sh. 10 a year, the actual gratuity recommended should be £7-10-0 after nine years' colour service and £10 after twelve years' colour service;

(c) That no alteration should be made in the existing laws whereby soldiers of the King's African Rifles in possession of the Victoria Cross, the Medal for Distinguished Conduct in the Field, or the Military Medal were exempted from paying hut tax;

(d) Provision should also be made for similar payment of gratuities to men already serving on the 1st January, 1923, who opt to forgo the exemption from hut or poll tax."

I may say that clause 84 has been framed so as to give effect to the above decisions.

Apart from the slight increase in gratuities recommended in lieu of Hut and Poll Tax, which it is not possible to estimate, Sir, no expenditure of public moneys will be involved if the provisions of this Bill become law.

Finally, Sir, I should like to mention that since the publication of this Bill a number of other amendments, none of them very important but there are a considerable number, have been suggested, some by the Officer Commanding the Northern Brigade and some by the Government of Uganda, which is also concerned in this matter. The Government, I may say, Sir, has agreed further to amend this Bill and to embody the suggestions made by the Officer Commanding the Northern Brigade and the Government of Uganda, and this

being so, it is thought that it will be more convenient if a Select Committee is appointed to consider, and if they agree, to make these further amendments. I would further say, if I may, that a Bill I think was passed in Uganda last Monday with these further amendments embodied therein, and I hope the Members of the Select Committee who may be appointed to consider this Bill will agree to embody these further amendments in our Bill. As I say, they involve no matter of principle and are in many instances verbal.

I beg, Sir, to move the second reading.

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

HIS EXCELLENCY: The question is that the King's African Rifles Bill be read a second time.

THE HON. HAKIM SINGH: Your Excellency, I would request the House to make provision for Indians to be enlisted in the King's African Rifles as and when circumstances allow. As the King's African Rifles are maintained out of the general revenues of the Colony and the Indians also contribute to the general revenues they should have the right to take part in the defence of the Colony. Also, as most of the Indians are permanently resident in this country, not temporarily, certainly there should be some outlet for Indians to join such regiments.

CAPT. THE HON. H. E. SCHWARTZ: I merely wish to say this, Your Excellency, as I shall not be on this Select Committee, I do hope the Select Committee will delete the provision whereby the death penalty is done away with for desertion on active service. I think it is entirely wrong, seeing what the result of such desertion may be, that no soldier of His Majesty who wilfully deserts on active service can in any event be liable to the death penalty.

HIS EXCELLENCY: The question is that the King's African Rifles Bill be read a second time.

The question was put and carried.

HIS EXCELLENCY: I understand it is agreed that this Bill shall be referred to a Select Committee with the following personnel:—

The Hon. the Solicitor General (Chairman).

The Hon. the Officer Commanding Northern Brigade.

The Hon. Member for Kikuyu.

The Hon. Member for Nairobi North.

## THE SISAL BAG INDUSTRY BILL.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLST) : Your Excellency, I beg to move the second reading of a Bill Relating to the Protection of the Sisal Bag Industry.

Sir, before proceeding to discuss the Bill as it stands, I would like to draw the attention of the House to two or three important and interesting features connected with the introduction of a measure of this kind. I feel sure that the House will agree that it is a pleasant duty to be associated with a measure of this kind, particularly in these difficult times, a measure which is calculated to facilitate the establishment of a new industry in the Colony and to promote and entrench the position of an industry that is to-day in a struggling position. The second interesting feature, Sir, is this: if Members who have served in this House for a considerable time will recall the work that has passed through this House they will, I think, agree with me that it is remarkable that the sisal industry has not during this past decade claimed the attention of this House. It is quite true that inquiries have been conducted departmentally and in association with the Sisal Growers' Association, inquiries of a constructive character, but actually over a period of about ten years nothing has come before this House specifically referring to the sisal industry. I refer to the period about ten years ago when I think on a motion of my own the House agreed to a reduction in the railway freight on sisal during the period when there had been a heavy fall in its price. A third interesting feature is that as far as I have been able to ascertain there has been no manufacture of sisal bags on any considerable scale in any part of the world, certainly not in the British Empire, and the stage which we have reached is, I believe, largely due to the enterprise of British manufacturers, manufacturers who have at great expense introduced and manufactured spinning machinery whereby a fabric can be made which is satisfactory for bag purposes. It is gratifying that such an industry should be established in the Empire and through the efforts and enterprise of British manufacturers. The experimental stage has been passed and all the tests that have been made indicate that bags satisfactory to all kinds of trades can be manufactured. They have also stood all the tests that can be applied to them.

A proposal was made, Sir, in the original stages of the discussions with Government that the first step necessary was to impose a protective duty for the benefit of this sisal bag industry. I believe hon. Members will probably agree that

such a policy would have had repercussions on certain other industries in the Colony itself. I am glad, however, to be able to inform the House that on further investigation and in the light of further experience it was demonstrated by those promoting this industry that sisal bags could be manufactured and supplied in fair competition with jute bags or any other kind of bags made for a like purpose.

I now come to a consideration of the provisions of the Bill itself. There are only two main provisions and they are detailed in clauses 3 and 4 of the Bill. Clause 3 expresses in reality a short cut in anti-dumping legislation and it is believed that as applied to this particular case it will be completely effective and will achieve its purpose. I have had the advantage of closely examining the position with my hon. friend the Commissioner of Customs and he is of the belief that this will work and work quite satisfactorily. I have also been in correspondence with the Director of Commercial Intelligence in India and such details as are referred to in this clause, where there is a reference to the Bengal Chamber of Commerce, and the kinds of bag referred to in the Schedule itself, are based on information largely obtained from the Director of Commercial Intelligence in India.

With regard to the latter part of clause 3 (2), I think it is very unlikely that it will be necessary to issue any such order in practice.

Now I come, Sir, to the point of clause 4, where reference is made to the fact that no person can manufacture sisal bags until he is in possession of a licence issued to him by the Governor in Council. Here I would like to take the opportunity of saying that the original request to Government was that the promoting pioneer company should have a monopoly of this industry. On examination, and a sympathetic examination, of the whole question it became clear that it would not be in the interests of the industry, that it might retard the progress of the industry, if such a monopoly were granted, but I may inform the House that the assurance has been given to the promoters that Your Excellency in Council will give full and sympathetic consideration to the claims of the pioneer company if and when any application is made for a licence by any other company. That assurance has been accepted by the promoters. I would like to inform the House, too, that the Tanganyika Government has been informed of the position and of the proposal to introduce this legislation and that it is in sympathy with the project. The Government of Tanganyika has further informed the Secretary of State that it would be willing to take the same steps as are found to be necessary in Kenya, subject to the qualifications imposed by

the Mandate. It is believed that capital is forthcoming to start this industry and that the promoters are satisfied with the safeguards afforded in the Bill.

Finally, Sir, I would inform the House that I have had an opportunity of discussing the Bill with the East African Sisal Growers' Association, who have given their support to the measure as it stands. I feel sure, therefore, that with this explanation of the Bill I can confidently rely upon the House giving this measure its full support.

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

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

LT. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, before speaking in support of this Bill, I would like, with your permission, Sir, to make one or two remarks on behalf of hon. Members on this side—to express our great regret at the notice we recently read in the newspapers of the impending departure from this country of the hon. mover of this motion. I think we would like to express how much we appreciate the way he has at all times fought on behalf of the farming community and I think we can truly say that no man in this country has had such a strong belief in the development of this country on the right lines, whether in native areas or in settled areas, and that the Director of Agriculture has been one of the most stalwart champions for the principles which we on this side of the House have always believed in. We read with great regret of his impending departure and especially so for the reasons which have caused it.

Sir, I should like strongly to support the Bill before the House because I think at this time, when the sisal industry has gone through such bad times, it is incumbent on us to support any measure which may help that industry. Also, I think it is of the greatest importance to the welfare of this country that we should have as many industries instituted here as is possible. I should like to support the measure.

THE HON. F. A. DEMISTER: With the greatest diffidence Sir, I would like this explained to me. In clause 3 it says no person shall sell within the Colony under a certain price and that it would be an offence if he did. How are you going to get over a case where the goods are imported and the importer cannot pay for them? They are sold by auction at any price on a suit instituted against the importer. Is it not possible, Sir, to alter the words to "import into the Colony"? Then the Commissioner for Customs has control.

CAPT. THE HON. H. P. WARD: I also wish to support this Bill very strongly indeed, but I think it is necessary to ask what is the procedure in regard to the Bill. Is it a Bill that can receive the Royal Assent and be kept on the stocks of the Legislature of this Colony, and applied when the manufacture of sisal bags commences; or is it a Bill that definitely becomes law in this country and applies whether the manufacture of sisal bags takes place or not? It is an important point, I think.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. mover to reply.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, before I reply to the two points raised in the Bill, may I very humbly and very sincerely thank the Noble Lord for the words he has used in connexion with my retirement from the Service of this Colony and to the hon. Members of the House for the way in which it has been received. I can assure the House, Sir, that it is with great regret that I am leaving the Colony at this stage. I had hoped to have stayed long enough to see the Colony restored to prosperity. I, nevertheless, hope that, although I am not in the Service itself, I shall be allowed to retain an interest in the public affairs of this Colony.

I am glad to have the suggestions made by two hon. Members with regard to the provisions of the Bill and I would suggest for the consideration of the House that they might agree to take up those two particular points when the Bill is in its Committee stage. Meanwhile I shall be glad, in consultation with my colleagues—particularly the Attorney General and the Commissioner of Customs—to consider those particular points.

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

The question was put and carried.

#### THE EXCISE DUTIES (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH: Your Excellency, I beg to move the second reading of a Bill to Amend the Excise Duties Ordinance, 1931.

Section 2 of the Principal Ordinance, Sir, defines the manufacture of tobacco other than cigarettes as tobacco made up for smoking in tobacco pipes, but it was never the intention, nor is it practicable, to charge excise duty on tobacco made by natives, dried and roughly prepared by them for smoking. The experience of the working of the Excise Duties

Ordinance—which, in the main, I may say, has been satisfactory—has shown that certain European manufacturers make use of the low-grade leaf which is left over from the principal manufacture by treating it in the native fashion and selling it to the natives at a very low price in the neighbourhood of the factory. It is obviously inequitable that these manufactories should be charged with duty when the natives for a precisely similar article escape. It is for this reason that the amending Bill is now before the House. Similar legislation is being enacted in Uganda and Tanganyika Territory and it has the approbation of the tobacco interests. Your Excellency, 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.

The question was put and carried.

#### THE CUSTOMS TARIFF (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move the second reading of a Bill to Amend the Customs Tariff Ordinance, 1930.

As stated in the Objects and Reasons, clause 2 of the Bill amends the duty chargeable on currants from 20 per cent *ad valorem* to Sh. 1/75 per 100 lb. in order to permit of accession to the Anglo-Greek Commercial Treaty, 1926, which secures most favoured nation treatment to goods imported into Greece from territories—originating in territories which accede to the treaty. Importations of currants into the Colony are very inconsiderable and it is not likely that they will be increased to any great extent in the future. On the other hand, the potential market in Greece for East African products—more particularly coffee—is not unimportant, and it is felt by Government that accession to the treaty will be in connexion also has been enacted by the Governments of Uganda and Tanganyika Territory, and the coffee interests have notified that they are anxious that legislation of this sort should be enacted.

As regards clause 3 of the Bill, the Customs Tariff Ordinance of East Africa provides that the basis of charge on goods liable to *ad valorem* duty shall be the landed value. The Objects and Reasons explain how this basis of assessment operates harshly in the case of goods conveyed by air as compared with other methods of transport, but as sea freights and air freights, ordinary passage and air passage rates, are all liable to variation from time to time, the incorporation in the Bill of an arbitrary percentage reduction would prove unsatisfactory and inequitable in practice. While allowing discretionary power

within certain limits to the Commissioner of Customs, it will be possible to provide for such variations as may be necessary from time to time to balance the differences which may occur between these various forms of transport. In this case also, the Bill being of an enabling character, similar legislation has been agreed to and has been enacted in Uganda and Tanganyika Territory.

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

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, may I ask for an explanation—it is probably a very simple one? Clause 2 states that it is proposed to amend item 12 (b). Now in item 12 (b) the (b) comes in the first column under "Item", whereas it comes in the second column under "Article" in the clause which it is proposed to amend. Is there another 12 (b) which does not appear on the left-hand side of this page, or is it proposed to cut out "Bottled, tinned, or otherwise preserved—Fruits and Vegetables" and have no duty on them at all in the future? It is a little muddling; perhaps the Attorney General can elucidate the matter.

HIS EXCELLENCY: Perhaps we could deal with that in the committee stage.

THE HON. THE COMMISSIONER OF CUSTOMS: I can reply out of hand, Your Excellency, to the question raised by the hon. Member. Item 174 of the tariff provides that "all goods, wares and merchandise, not provided for under any other heading in the tariff or under any special law relating to the Customs . . . *ad valorem* 20 per cent." By the deletion of item 12 (b) as it stands at present—"Bottled, tinned, or otherwise preserved . . . *ad valorem* 20 per cent." no difference in that duty is made because it then comes under item 174 as being unenumerated. Then 12 (b) would take its place, currants being then an enumerated article.

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

The question was put and carried.

#### THE PRISONS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Prisons (Amendment) Bill be read a second time.

This short Bill, Sir, of 12 clauses, as so often happens, is inspired really by the need for one or two major amendments and the opportunity is taken to embody also a certain number of very minor ones. It is with the major ones only that I propose to take up the time of the House, Sir. The more important are those in clauses 5, 6, 7 and 9, and possibly 11, of the Bill.

Clause 5, Sir, is a really important amendment because, as the law now stands it is impossible for the prison authorities to transfer a remand prisoner from the prison to which he is remanded to any other prison. There is full liberty of transfer in respect of prisoners who have been sentenced for an offence, but the prisoner who is awaiting trial has to remain in the prison to which he is remanded, however unsatisfactory the accommodation, or possibly even however non-existent the accommodation in that prison may be. Recent experience has unfortunately shown that the need for this amendment is urgent and I hope that hon. Members will share my views and approve of it.

Clause 6 in the same way makes a very small amendment but a rather important one. At present a superintendent can report a prisoner to a medical officer on the grounds of insanity only if that prisoner becomes or is found to be insane. That obviously is not a matter for a Superintendent to pronounce on and so we have a vicious circle. The object clearly is that a superintendent who has reason to believe that a prisoner is showing signs of insanity ought to report that man and those symptoms to the medical officer. That will be thought about by the amendment proposed in clause 6 of the Bill.

When we come to clause 7, which amends section 40, I think, Sir, say nothing more than this, that torture, and flogging, has never been part of the prison routine of the British Colony, and I suggest that it is torture to provide a prisoner who is serving a sentence of six months with a remission when that remission exceeds a definite proportion to the amount by which his sentence exceeds six months. Quite clearly the clause as finally drafted only puts false hopes into the minds of prisoners who have been sentenced to terms of six months and it is right we should come out into the open and say the same thing. The remission is only earned in respect of sentences exceeding six months.

Clause 9, Sir, is designed to enable the Commissioner of Prisons to make regulations permitting prisoners of good behaviour to smoke. These are regulations which are in force practically throughout the world, but unless the Bill is amended in the sense in which it is done by

clause 9 it will be impossible to make any such regulations for the reason that the introduction of tobacco into a prison is at the moment an offence.

The only other minor matter to which I desire to draw attention, Sir, is that in clause 11, which introduces a new principle that no sentence of corporal punishment on a prisoner under the age of sixteen years shall exceed twelve strokes with a light cane; the present maximum is twenty-four strokes irrespective of age. I am sure hon. Members will agree that twelve strokes with a light cane is quite adequate for a child.

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 Prisons (Amendment) Bill be read a second time.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, may I draw the hon. the Attorney General's attention to the Objects and Reasons. In the last three lines under clause 7 it says: "The proposed amendment is designed to give the same benefit of earning a remission to a prisoner serving a sentence of six months." In other words, the Objects and Reasons are exactly opposite to what the objects and reasons really are.

THE HON. THE ATTORNEY GENERAL: I am afraid I must plead guilty, Sir. The hon. Member has the best reasons for knowing that this point has previously been taken by himself. On that occasion my defence was a plea of guilty and I undertook to amend the Objects and Reasons accordingly. I did so, but by an unfortunate error, for which my office must take full responsibility, an unamended copy was sent down to the Government Printer and I did not think it was sufficiently important to justify the withdrawal of the whole issue in order to amend one small paragraph.

CAPT. THE HON. H. E. SCHWARTZ: And also in the hope that I would not notice it.

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

The question was put and carried.

#### THE NATIVE TRIBUNALS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Native Tribunals Ordinance, 1930, be read a second time.

This is a measure of elementary justice, and I can perhaps explain its necessity most simply by taking an imaginary case. A sues B before a Native Tribunal for a sum of £100, and when the case comes to the Provincial Commissioner—the only stage in the chain of appeals which we need consider at the moment—A is successful and obtains judgment for £100. B, the unsuccessful defendant, has always had a right to take that case further by way of stated case to the Supreme Court. If, on the other hand, the judgment of the Provincial Commissioner goes against A and it is adjudged that B owes A less than £100 there is no right of appeal whatsoever in that A, the unsuccessful plaintiff, is not a person who has been ordered to pay a sum of £50 or more. Quite manifestly there is an omission there which ought to be remedied as early as possible.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second.

The question was put and carried.

#### 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 second time.

When this legislation was passed two years ago, Sir, it was expressly provided in the definition of "Instrument" in clause 2 of the Bill that mortgages or charges granted or created by a company incorporated or registered under the Companies Ordinance should not be instruments. The reason for that was that the Companies Ordinance itself provides machinery for making and registering mortgages and charges by a company. That provision, I repeat, Sir, was hidden away as one of a number of sub-paragraphs in the definition of the word "Instrument" and apparently had escaped notice. I say that, Sir, because in fact a large number of chattels mortgages given by companies have been registered, and in the faith of the validity of those chattels mortgages money has been advanced in all good faith to companies. It is possible that any unscrupulous or ill-advised company might repledge those transactions on the ground that they were not that provision, thereby making mortgages and charges by companies chattels mortgages just as they would be if they were made by individuals, and further to give retrospective effect to this legislation to the date on which the Principal Ordinance was passed so as to do away with any possible risk of a company desiring to repledge any such transactions.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to second.

The question was put and carried.

#### THE ANCIENT MONUMENTS PRESERVATION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Ancient Monuments Preservation Ordinance, 1927, be read a second time.

It is common knowledge, Sir, that a certain amount of excavation and archaeological activity has been going on in the Colony in recent years. One of the unfortunate outcomes of that activity has been to show that the existing legislation is deficient in that there is nothing at all to prevent any person from removing from the Colony any of the remains which may be found in the course of those excavations and which may be of very great local archaeological and scientific interest. It is manifestly improper that it should be competent for any haphazard excavator who comes across such objects to remove them from the Colony without let or hindrance and this Bill is designed, just by varying the definition of "Monument" and "Antiquity", to prevent the removing of any such articles without the consent of this Government.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

The question was put and carried.

#### THE ESTATE DUTY (CONSOLIDATION) (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Estate Duty (Consolidation) Ordinance, 1926, be read a second time.

The necessity for this legislation, Sir, the justification for it, is unfortunate, for the reason that recently the Estate Duty Commissioners discovered that there had taken place a bona fide sale of land for proper consideration although the estate duty due on that property had not in fact been paid. Clearly, Sir, so long as every opportunity is given to the person from whom estate duty is due to pay over a number of years by instalments, it is not only very important that that concession should continue, but it is, I submit, equally important that the revenue should be adequately safeguarded for the period of those instalments and that it should not be possible for any

designing and unscrupulous person to defeat the whole object of the estate duty legislation and to jeopardise the continuance of the very excellent provision whereby a person liable for estate duty may spread his payments over a number of years. It is now proposed, in this amending legislation, that when approving payment by instalments, the Commissioners shall be empowered to impose such terms and conditions as will in their opinion ensure payment. The type of thing one has in mind is the entering of a caveat on a title or the register against that title of the person accountable of the fact that the estate duty has not been paid. There is no intention of going further than that and that will be sufficient to warn every person that there is an embargo on the title.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Estate Duty (Consolidation) (Amendment) Bill be read a second time.

The question was put and carried.

#### THE TROUT PROTECTION (AMENDMENT) BILL.

**THE HON. THE ATTORNEY GENERAL:** The object of this legislation, Sir, can be very shortly expressed indeed. At present there is a differentiation between the fishing licence payable by a resident and that payable by a visitor to the Colony. Visitors' licences are relatively heavy: Sh. 100 for a year, Sh. 40 for a fortnight, and Sh. 10 for twenty-four hours. In the view of the Game Warden and of the Fish Warden the effect of these high licences has been definitely inimical both to fishing, to the attractiveness of the Colony which possesses this wonderful trout fishing, and to revenue. People think twice before expending Sh. 10 on a day's fishing, which may or may not, in fact, be worth having, so that it is now proposed, Sir, to bring the two licences into line—to make no distinction between a resident's licence and a visitor's licence, the licences being Sh. 25 for a year, Sh. 10 for a fortnight and Sh. 3 for a twenty-four hours' licence. It is confidently hoped that the result will be, not the loss of any revenue, but if anything an increase in revenue by reason of the fact that more visitors will be inclined to take out licences.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to second the motion.

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

The question was put and carried.

#### THE CONTRACTS IN RESTRAINT OF TRADE (NO. 2) BILL.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to move the second reading of a Bill to Render Lawful Certain Contracts in Restraint of Trade.

As my hon. friends will recollect, a Bill to Render Lawful Certain Contracts in Restraint of Trade was passed in April of this year. That Ordinance, which was introduced into this Council as a result of representations made by the Law Society of Kenya, sought to embody the principles of the well-known case of the Maxim Gun Company *vs.* Nordenfeld, which principles are the law in England to-day. Quite shortly, Sir, the Ordinance passed last April provided that any agreement or contract which contains any provision or covenant whereby any party thereto is restrained from exercising any lawful profession, trade, business or occupation shall not be void only on the ground that such provision or covenant is therein contained. This Ordinance, Sir, was in due course sent home to the Secretary of State for approval, and he has replied that, in his opinion, he is doubtful whether the wording quite adequately gives effect to the principle of the case just mentioned. The Secretary of State seems to think that, so far as possible, the actual wording of the judgment of Lord McNaughten should be followed, and a new Bill has therefore been prepared and is now before this House. In this new Bill the proviso reads:—

“Provided that the Supreme Court shall have power to declare such provision or covenant to be void where the court is satisfied that, having regard to the nature of the profession, trade, business, or occupation concerned, and the period of time and the area within which it is expressed to apply, and to all the circumstances of the case, such provision or covenant is not reasonable either in the interests of the parties, inasmuch as it affords more than adequate protection to the party in whose favour it is imposed against something against which he is entitled to be protected, or in the interests of the public, inasmuch as such provision or covenant is injurious to the public interest.”

— Those, Sir, are virtually the words of Lord McNaughten in his judgment in the case.

Section 3 of the Ordinance which was passed last April provided:—

“Notwithstanding and in addition to anything contained in the last preceding section any such provision or covenant shall be void in any case where an employer terminates the services of an employee on grounds other than grounds of misconduct.”

The Secretary of State thinks that that provision is rather too wide and, in compliance with his wishes, clause 3 of the new Bill reads as follows:—

“Notwithstanding and in addition to anything contained in the last preceding section any such provision or covenant shall be void in any case where an employer terminates the services of an employee in contravention of the terms of the contract of service.”

That will narrow the section, Sir, as the Secretary of State desires.

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

**HIS EXCELLENCY:** The question is that the Contracts in Restraint of Trade (No. 2) Bill be read a second time.

**THE HON. T. J. O'SHEA:** Your Excellency, there are a good many issues on which I should give the greatest respect to the Secretary of State in offering advice to this House, but I am rather reluctant to agree with a Bill which is possibly based entirely on his views in this matter. I am not aware that he is a more competent person to amend legislation than the law officers of the Kenya Government and I should like an assurance from Government that the views expressed by the Secretary of State have their approval and that we are not being asked to pass this Bill simply because, in his opinion, it is the best form in which it should be passed.

**THE HON. THE ATTORNEY GENERAL:** Perhaps, Your Excellency, I may be allowed to give the hon. Member for Plateau South the very definite assurance that this Bill has the approval of this Government. The fault, if fault there was in the last legislation, was that it sought to paraphrase the decision of Lord McNaughten in the House of Lords in the Maxim Gun Company *vs.* Nordenfeld case. Manifestly, it is better to follow the wording of that judgment as closely as possible and so have the full benefit of the volume of case law which has followed upon that judgment; and that is the sole object of this legislation.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will put the question.

The question was put and carried.

**THE STATE RAILWAY PROVIDENT FUND (AMENDMENT) BILL.**

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Amend the State Railway Provident Fund Ordinance be read a second time.

The Principal Ordinance, Sir, provides that no compulsory deposit in the Railways and Harbours Provident Fund shall be liable to attachment. That has always been the law, Sir. Recently, by amending rules, the hon. the General Manager has been given power analogous to that contained in the 1927 European Officers' Pensions Ordinance of giving a lump sum gratuity—an additional bonus—but, as the law now stands, such additional bonus is not protected against attachment. Manifestly, it is a capitalization of part of the profits which have accrued to the officer from his compulsory deposit and ought to be treated in the same manner as those compulsory deposits and not be liable to attachment. That is the object of the first clause of the Bill—rather, the second clause, Sir.

The third clause is designed to give real effect to the true purport of the legislation, which was to safeguard the interests of the dependants of a contributor. A contributor is empowered to nominate a person to be his beneficiary under the fund. Clearly, the intention was that that person should be a dependant—that the contributor was making provision for his dependants in the event of his death. Recently, unfortunately, cases have occurred in which strangers have been nominated, the inference being that the nominee was in fact a creditor of the depositor and that he was getting the benefit of the deposits in the Provident Fund to the detriment of the dependants for whom the legislation was framed. That, Sir, is the justification for clause 3.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the State Railway Provident Fund (Amendment) Bill be read a second time.

The question was put and carried.

*The Council adjourned till 10 a.m. on  
Friday, 16th December, 1932.*

FRIDAY, 16th DECEMBER, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, the 16th December, 1932, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 15th December, 1932, were confirmed.

#### NOTICE OF MOTION.

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

"That the terms of appointment of the Income Tax Advisory Officer are extravagant and unwarranted, and that his engagement be terminated at the earliest possible opportunity."

#### BILL.

##### FIRST READING.

##### THE MONEY-LENDERS BILL.

On motion of the hon. the Attorney General (Mr. A. D. A. MacGregor, K.C.) the Money-lenders Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

#### MOTION.

##### RAILWAY ESTIMATES, 1933.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES): Your Excellency, I beg to move the following motion:—

"That the Estimates of Revenue and Expenditure of the Kenya and Uganda-Railways and Harbours Administration for the year 1933 be approved."

The Budget I now have the honour to introduce to this House is rather more than a mere estimate of expenditure and revenue for the coming year. It represents more properly the results that have been achieved after two years of strenuous effort to adapt our organization to the reduced amount of work to be carried out. It, in fact, portrays a reorganization in full working order.

It is hardly necessary for me again to give particulars of the large number of retrenchments and heavy reductions in expenditure that have taken place during these two years, as full details have already been published from time to time, while such additional information as is necessary is printed with the Estimates now before hon. Members. But, in order that the House may appreciate generally the changes that have been made in these two years, the following comparisons with the Estimates for 1931 will be of interest.

So far as the Railway is concerned, the estimated revenue in 1931 in round figures was £2,589,000. Comparing this with the figure taken for 1933—£1,750,000—it will be seen that there is a decrease of not less than £839,000, or 32 per cent of the total anticipated in 1931. Working Expenditure, inclusive of Depreciation, was estimated at £1,845,000 in 1931, as compared with £1,328,000 for 1933, a total decrease of £517,000. As the Depreciation contribution increased by £87,000 in this period, the actual decrease in Working Expenditure is £604,000, or 37 per cent of the Ordinary Working Expenditure estimated for 1931. It will be noticed that, exclusive of Depreciation, the Working Expenditure estimated for 1933 is below the £1,000,000 mark for the first time since 1924. The ratio of Working Expenditure, inclusive of Depreciation, to Revenue in 1931 was 71.2 per cent, as compared with 76 per cent for 1933. Exclusive of Depreciation, the figures are 61.7 per cent in 1931 and 56.8 per cent in 1933. Similarly, the expenditure per open mile has dropped from £743 to £611, a decrease of no less than £132 per mile on these two years.

Hon. Members will notice that figures are given inclusive of Depreciation and also exclusive of Depreciation. Contributions to a Renewals Fund on account of depreciation are quite properly part of the annual Working Expenditure, but so many railways, particularly during the present period of acute depression pay nothing into a Renewal Fund that a proper comparison cannot be made, unless the contribution on this account is shown separately. In my Annual Report and in my Budget comparisons, therefore, I give both figures, so that proper comparisons can be made.

It will be noted that after paying a full contribution to the Renewal Fund on account of depreciation, amounting to £334,651, and after meeting all Loan Charges, amounting to £528,664, we are budgetting for a deficit on the Railway in 1933 of £168,651.

It will be seen that the Railway figures of comparison for these two years can only be described as remarkable; they are equally remarkable for the Port, as the following details will show.

The estimated Revenue of the Port in 1931 was in round figures £132,000; for 1933 the figure has been taken at £107,000, a decrease of £25,000, or 28 per cent. Working Expenditure, inclusive of Depreciation, was £270,000 in 1931 and £154,000 in 1933. Exclusive of Depreciation, the figures are £255,000, as against £124,000, a decrease of £131,000, or 51 per cent. The ratio of Working Expenditure to Revenue, inclusive of Depreciation was 61 per cent in 1931, as against 50 per cent in 1933, and, exclusive of Depreciation was 59 per cent in 1931, as against 40 per cent in 1933. After meeting full contributions to the Renewal Fund on account of depreciation, totalling £30,187, and after making full provision for Loan Charges, amounting to £209,740, we are budgetting for a deficit in the Harbours Estimates of £55,545.

While referring to the Harbours section of the Estimates, I may perhaps be allowed to mention the early departure on transfer of the Port Manager, Mr. G. V. O. Bulkeley, C.B.E., who came to us in May, 1925, to take charge of the new Port organization. The splendid way in which he has carried out his duties is well known to hon. Members and is reflected in the Harbour figures I have just quoted. His work of organization is now completed and he hands over to us for safe keeping a magnificent port, second to none in efficiency on the coasts of Africa.

While I am very sorry indeed to lose Mr. Bulkeley's most valuable services, I am sure I shall have the support of this House in wishing him every success in taking up his new post as General Manager of the Nigerian Railways.

Taking the Railway and Harbour figures together, the total reduction in Working Expenditure, as compared with the 1931 Estimates, is no less than £735,000. This total refers entirely to recurrent expenditure and does not include savings in Capital and Betterment expenditure of a non-recurrent nature, which, in effect, has been completely eliminated.

I suggest that the figures I have given are of exceptional interest. It will be noticed too that, heavy as has been the drop in the Estimates of Revenue, both in the Railways and Harbours Estimates, the decrease in Working Expenditure, exclusive of Depreciation, has been at an even greater rate. These figures should, I think, prove to the satisfaction of this House that everything possible has been done to reduce working costs.

In checking our expenditure against past years we have taken 1924 as a basis. The Estimates for that year showed the reductions in expenditure introduced by the late General Manager before he was forced to increase expenditure again

owing to expansion in traffic demands. Allowing for increased open mileage, increased number of stations, etc., I may state that we are now below the standard of expenditure of that year; in fact, I think I may claim that, after allowing for increased mileage and extension of the railway system, our costs are now below anything they have ever been since the war. The Estimates now before the House will, therefore, serve as a new basis upon which to build future estimates.

As I have already explained, while they may prove to be completely inaccurate as estimates of what may happen next year (no one knows what may happen in the next twelve months), they do, in fact, represent an actual organization which is now in being and is capable of handling the amount of work being done at the present time.

As estimates, I believe both the Railways and the Harbours Estimates of Revenue to be conservative. The Railway figures are perhaps slightly more conservative than the corresponding Harbour figures. We shall be disappointed if the actual Revenue next year does not prove to be greater than the amount we have shown. Transportation estimates of revenue should, however, always be of a conservative nature and I am particularly anxious that next year we should be reasonably sure of realizing our estimate. It is easy to justify Supplementary Estimates when revenue and the work involved exceed our expectations, but it is difficult to adjust expenditure at short notice when revenue fails to materialize. I confidently believe that the Estimates now before you are sufficiently conservative to be reasonably safe.

The continued need for great caution will be realized when we remember that after meeting Loan and Depreciation Charges in full in 1931, we showed a deficit of £378,184. During the present year, it is probable that our deficit—again after meeting Loan and Depreciation Charges in full—will be in the neighbourhood of £300,000. In the estimates before hon. Members, the total shown in the Deficit Account at the end of 1932 is £668,645. With a further deficit in 1933 of £224,199—again after meeting Loan and Depreciation Charges in full—the total is brought to £892,844. Now this position is sufficiently serious and fully justifies the severe steps that have been taken to cut down expenditure. We are just able to finance this deficit and to carry on the work of the Railway cannot long be continued, as this Renewal Fund will be required for its legitimate purpose.

As this House is aware, our Loans are guaranteed by the two Governments of Kenya and Uganda. I doubt whether the two Governments themselves realize how near they have been to being called upon to implement their guarantee. By

the action we have taken, we have, for the moment, staved off that danger, but we are by no means clear yet and every effort must be energetically continued to safeguard revenue and to cut down expenditure.

The importance from the Railway point of view, as well as from the Government point of view, of avoiding any loss of revenue due to wasteful, as distinct from useful, road competition, is clearly evident. In fact, so important is this question that unless the Government can by legislation definitely stop this leakage, the Railway must proceed to deal with the problem without further delay by an alteration in its rates policy.

There is, in fact, evidence that this change is already overdue, but I am anxious to avoid making any drastic changes during a period of depression such as exists at present, when the burden on trade and commerce is already heavy enough. We hope that Mr. Gibb's report, when it arrives, will be of great assistance to us in considering this matter.

That the Railway is suffering from various ills cannot be denied. The review of the financial position that I have just given will make this evident. That position is, of course, particularly due to the world-wide depression through which we are passing and which is outside our direct control, but those who have studied my Annual Reports during the past three years will have noticed that I have drawn attention to other troubles that are partially within our control.

If I may use a medical analogy, two of these may be likened to a high blood pressure and to a high fever. The high blood pressure refers to cost of working. In my Reports I have shown that, while unit costs of actual work done have in most cases come down in a very satisfactory manner, the total cost per freight ton mile has, since 1929, gone up. This is due in the main to—

- (1) the heavy increase in Loan Charges due to transportation development far in advance of trade and agricultural development; and
- (2) reduced traffic due to trade depression.

Loan Charges we cannot now avoid; heavy expenditure has been incurred on development and it now only remains for the Colonies to push trade and agricultural development to a corresponding degree.

I have already explained the action taken with regard to our working costs during the past two years.

So much for our high blood pressure.

The fever from which we are suffering is a highly dangerous one, requiring most drastic action—the Dr. Burkitt type. The thermometer that we use to diagnose and measure this fever is called "Average Receipts per Ton Mile", and, contrary to the clinical thermometer, the lower the reading, the more serious the disease. I will not repeat the figures that I have given in detail in the Annual Reports, but I will explain that this serious drop in average receipts is due to two or three main causes—

- (1) reductions in rates in past years;
- (2) serious decrease in tonnage of high-rated imports; and
- (3) heavy increase in tonnage of low-rated exports.

The first is within our control. There is reason to believe that rate reductions in the past have been heavier than we anticipated or intended. I may remark, however, in passing, that appreciation of these reductions has been chiefly noticeable in its absence. When we come to revise our tariff policy, which, as I have said, must be done shortly, we may have to reconsider some of these reductions.

The second cause arises partly from great reductions in new capital and development expenditure, not only by the general public, but also by both Governments and by the Railway itself. We have passed through a boom period which is not likely to be repeated on such a scale for a long time. It is also partly due to the return to more normal (and even below normal) values of primary products.

The third cause, however, was anticipated and is the direct result of the agricultural policy of the past ten years. The Railway difficulty is that the revenue derived from such traffic during recent years has not been sufficient to pay even the direct out-of-pocket cost of the services provided, let alone anything towards salaries, overheads, Depreciation and Loan Charges. When such traffic amounts, as it has done, to 32 per cent of the total traffic, the chief cause of our fever is clear.

The whole question, which concerns mainly cotton seed and maize for export, has been ventilated freely in Annual Reports, bulletins and speeches during the past four years, culminating in a special inquiry eighteen months ago. As a result of this inquiry, it was found necessary slightly to increase charges on maize, in order to keep the cost of the service within the rate quoted and to impose conditions to ensure non-peak movement, which must, in practice, act as a considerable restraint on both industries. These restrictions are, however, inevitable, unless someone—the Governments or the industries themselves or other users of the

Railway—offers to place further sums of money at my disposal to finance a more elaborate service. The cotton seed interests have accepted these restrictions loyally, and maize interests, however, feel—I must say this frankly—that the Railway is out to kill the industry.

This is a very serious charge and one that cannot be ignored, particularly as the rates and conditions now in force have been completely endorsed by the Railway Council after the fullest possible inquiry, and, on their advice, have also received your approval, Sir, as High Commissioner.

No railwayman ever wishes to restrict any movement of traffic if it can possibly be avoided, and, if I may say this on behalf of myself particularly, no one likes to see his friends—and I have many friends among the maize farmers—badly hit at a time like the present.

I have explained the maize position over and over again—apparently without much success—but at the great risk of wasting the time of the House, I feel I must make one last attempt to make the position clear.

The facts are as follows:—

In July, 1922, following on the recommendations of the Bowring Committee, it was decided to quote a flat rate, based on direct operating costs. With Nakuru as the centre of production, giving an average haul of 450 miles, this was calculated to be Sh. 13/50 per ton; with Kijabe as the centre, giving an average haul of 375 miles, the rate was calculated to be Sh. 11/20, or 8s. 1 per bag. As the Railway demonstrated that the centre of production at that time was Nakuru, while the industry wished to obtain the Sh. 1 flat rate, Government agreed to make good the difference between the two rates.

In June, 1924, Government withdrew the subsidy to the industry. The Railway Administration agreed to maintain the existing rate without a subsidy, owing to heavy imports resulting in many wagons going to the coast empty and to the comparatively small tonnage involved, which automatically brought about non-peak conditions, but, as advised by the Railway Council at their meeting on the 8th August, 1924, subject to reconsideration if and when desirable. Railway Council undoubtedly had in their minds when laying down this condition the possibility of the circumstances under which the traffic was being handled altering considerably.

Since that date what has happened? No change has taken place with regard to railway policy; our charges are still based on direct operating costs as before, but the conditions under which the industry operates have altered considerably. The centre has moved farther up country to an

average distance of over 550 miles from the coast, instead of 375 miles, upon which the original Sh. 1 flat rate was calculated. This important factor cannot be ignored, as anyone who is interested in transport of any kind will appreciate. A longer haul has been brought about which has substantially altered the position.

In addition to this change, however, the tonnages involved are now considerable. Formerly it was possible to deal with all export tonnage of maize in trucks running empty to the coast to bring back imports. Under present conditions, if the tonnage for export exceeds 40,000 to 50,000 tons, trucks must be brought up empty from the coast to carry back maize. This again is a most important factor. Instead of using trucks, engines and staff required and paid for by other traffic, as formerly, if the full service desired is now given, additional rolling stock and staff must be specially provided, but the industry is not in a position to bear the cost.

In other words, owing entirely to the longer haul and the larger tonnage resulting from the development of the industry, the cost of the service required and given was in excess of the revenue obtained from the rate then in force.

It will be clear, therefore, that in these changed circumstances, some alteration in the flat rate and conditions of haulage was overdue. It has been stated that the late General Manager would have made no change. I have reason to believe from records on the files that, instead of waiting three years to bring about a change, as I have done, the change service would never have been given. However that may be, there is no doubt that, as I have explained, a change was the most favourable terms the Railway can afford to quote and with such favourable treatment the industry must stand on its own legs or again obtain a subsidy. Members will agree, from the figures that I have given them this morning, that the Railway Administration cannot provide that subsidy. Those, like my hon. friend the Director of Agriculture and the Noble Lord, the gallant Leader of the Opposition, who, I know, feel otherwise, have not been able to suggest to me how any better service than the one now offered can be financed.

The cold facts must be faced. There are now no funds available for the Railway Administration to finance a better service than the industry can pay for. In these circumstances, I have called for the complete and hearty co-operation of the industry to help us to provide a reasonable non-peak service, equivalent to the rate which the industry have indicated is

the utmost they can afford to pay. I must make it quite clear that any failure to make this scheme work—and it is bound to fail without real co-operation—must have one result, and one result only: that is, the quotation of a higher rate, free of all restrictions, which, I feel, will be more burdensome to the industry at the moment than the present one with its non-peak conditions. As soon as possible, however, this question should be put upon a proper basis and a rate should be accepted that will cover the cost of an unrestricted service.

I repeat: the maize industry has always got, and is still getting, the most favourable treatment the Railway can afford to give it. This treatment compares very favourably with that found in other countries.

South Africa, I agree, apparently gives slightly better terms, but the average length of haul there is less than here. When this is taken into account, our terms are not unfavourable. When the size of our system is compared with the size of the South African system, and when it is remembered that South Africa has many other rich traffics, such as gold, coal, and many other industries and that the export maize traffic forms only a small percentage of the total, it will be agreed that we are doing as much as we can. Incidentally, I may say that the estimated accumulated loss on the South African railways by the end of this year will be, I believe, about £4,000,000.

Rhodesia definitely offers cheaper rates at the moment, while, at the same time, the average length of haul is about equal to ours, but this concession is recognized to be of the nature of a subsidy. Also, this railway system has benefited in the past and will no doubt do so again, from a heavy import traffic to the copper mines and therefore still has empty trucks available in the downward direction. This Railway too is in difficulty, and, I understand has applied for a moratorium for three years in their payments due on the debenture capital. If I could get that I could probably do a lot too. In neither South Africa nor Rhodesia has the maize traffic grown out of all proportion to other traffic as it has done with us.

In Canada, what are recognized to be definitely uneconomic rates, are quoted for the wheat traffic. This rate is almost exactly equal to our rate for maize. The Canadian Pacific Railway is specially subsidized to give this rate by large grants of land and a bonus of £2,000 a mile for their main line extension. The American rates are, in many cases, double the Canadian rate and our rate on maize.

It is evident that an infant cannot bear what a giant has difficulty in carrying.

In the Argentine, the maize rate for a 100 mile haul over easy, flat country is equivalent to what we are attempting to do for a 550 mile haul up and down two escarpments and over two summits, involving heavy grades and curvature and resulting in costly train movements.

In Western Australia, where the wheat traffic corresponds to our maize traffic, the rate per ton mile is nearly four times our rate.

These few figures will, I think, demonstrate that the maize industry is receiving every possible consideration.

I hope the issue is quite clear. A better service requires more money from somewhere. If the money is forthcoming, a better service can be provided, given due notice, but not otherwise.

With the best will in the world, I can suggest no other alternative and I trust the position will now be recognized and accepted.

As I have stated, considered as an estimate of next year's revenue, the Railway figure, corresponding as it does closely to this year's actuals, is, in my belief, conservative. The Port Estimate of Revenue, though perhaps not quite so conservative as the Railway figure, is also, I hope, on the low side.

Crops in Kenya are good, while it is hoped that Kakamega will have some beneficial effect on Railway revenue in 1933. Too much reliance, in my view, should not be placed on this possibility. Goldfields are notoriously uncertain and a great deal of prospecting still remains to be carried out before development on any large scale can take place.

In Uganda, crop prospects are excellent and we may quite easily get a record export of cotton. The development of other crops in Uganda, including coffee, is very promising.

Prices, while still fluctuating, have hardened somewhat, but this remains perhaps the most uncertain factor in attempting to look into the future. It is a very important one, however, governing as it does the quantity of imports upon which we depend so largely for our revenue.

Taking all these factors into consideration, I think I am safe in saying that, unless there is some unforeseen catastrophe, our prospects for 1933 are perhaps somewhat better than they have proved to be this year.

So many uncertain factors exist, however, particularly in the political atmosphere of Europe, that our policy must continue to be governed by extreme caution.

The presentation of this Budget marks, I think, the close of a definite period and the end of a chapter in our history. The past decade commenced with severe depression, necessitating the strictest economy, then followed an intensive boom period with great development; now, again, we are passing through a severe period of depression. As a result of this depression, to use a well-worn phrase, we have now got down to bed-rock as regards expenditure. We have cut out all wasteful or redundant services; we are carrying on with a minimum staff, with hardly any reserve. We have reduced maintenance even below the economic level in many cases. This has been done with great hardship to many individuals and could only have been carried out through the loyalty and with the co-operation of every member of the staff. Thanks to this loyal co-operation, I am able to report that the work of retrenchment and reduction has been completed and I believe it has been well and thoroughly done. This is confirmed by the fact that three-quarters of a million pounds of recurrent expenditure have been cut out of the Budget in two years. The process has been a painful and unpleasant one and I trust will never have to be repeated and the greatest sympathy is due to those who have suffered from this process, through no fault of their own.

Users of the Railway too have suffered inconvenience, in that they have had to make shift with much reduced services and facilities, though no essential services have been cut out. It is believed that the efficiency of the services as a whole is being well maintained and the keenness and zeal of the staff and their anxiety to meet the wishes of the general public in the service of the Railway and State have never been greater. The Railway provides transport at an average charge to the public of less than eleven cents per ton per mile. This can truthfully be described as cheap transport. I leave it to hon. Members acquainted with the cost of road transport to say how this average compares with such services.

Based on a solid foundation, we no longer look back, we now look forward to a steady growth in the near future.

The first problem that must be tackled is the revision of our tariffs, better to distribute the cost of transport and so more fairly to equalize the burden. This revision is overdue, in view of the great changes in circumstances and conditions that have taken place during recent years, following from the natural development of our agricultural and trade policies. We hope to avoid making drastic changes—if such are found to be necessary—during this period of financial difficulty, but we shall make use of this period to study the problem in all its aspects.

From this point of view, a period of financial stringency may prove in this case, as in so many others, a blessing in disguise, as it shows up clearly where economic mistakes have been made. As already stated, it is confidently expected that Mr. Gibb's report on rates will help us greatly in dealing with this problem.

I should appreciate very much indeed constructive criticism of these Estimates now before the House and I will do my best to answer any question hon. Member may ask. I should also state that these Estimates, following the usual custom, have been put before the Railway Council and the Harbour Advisory Board and examined by them in great detail. The thanks of this House are due to those two bodies for the work they have put in in that connexion before recommending these Estimates to the House for approval. I should also say the Estimates have passed the Legislative Council of Uganda. I beg to move the motion, Sir, standing in my name.

**THE HON. THE ATTORNEY GENERAL:** I beg to second the motion.

**HIS EXCELLENCY:** The question is:—

“That the Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours Administration for the year 1933 be approved.”

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, I should like to make an appeal to you that you will allow this debate to be somewhat more real than is sometimes the case in this House by allowing the two Official Members who are intimately connected with these Railway matters to speak out freely in their positions as representatives of this country; one, the hon. the Director of Agriculture, on the Railway Council, and the other, the hon. the Commissioner of Customs, as Chairman of the Port Advisory Board. After all, they are in those positions as representing the country and not merely as Government puppets and I think that on this occasion—which may perhaps be the last time we shall have the pleasure of hearing the hon. the Director of Agriculture on the Railway Estimates, in view of the fact that he has been on the Railway Council ever since it was first instituted, I think it is only right and proper that this House should have an opportunity of hearing him state his views frankly, without being restricted by official shackles. In the same way, I think we ought to hear from the hon. the Commissioner of Customs his views on the Port.

I should like, first of all, to associate myself with the remarks of the hon. and gallant General Manager in his regret at Mr. Bulkeley's departure and his good wishes for Mr. Bulkeley's future as General Manager of the Nigerian Railways. I should also like to associate myself and the Members on this side of the House with the expression of regret and sympathy with all the officers of the Railway who have had to be retired through no fault of their own. It is one of the most regrettable things which occur at these times of stress, that good men who have done their work loyally have to be sacrificed purely because there is no money to keep them on.

Now, Sir, as a member of the Railway Council, I examined these Estimates and approved them in Railway Council. There are one or two minor suggestions which I brought up which were not agreed to. One was, I thought possibly an economy might be made if the legal work of the Railway was done in the Attorney General's office, instead of the Railway employing its own legal officer. That, however, did not meet with the approval of the majority of the Railway Council. I also thought that the Estimates of Revenue were on a conservative basis. I think, as the General Manager also said, that the Railway Council work on a somewhat more conservative basis than the Port Advisory Council felt was necessary.

Now, Sir, since we approved these Estimates, a question has come up which has filled me with a certain amount of nervousness, as to whether we have not gone too far in these reductions. As I understand—I was not present the other day, Sir, when you had a delegation from representatives of the maize industry, but I understand—the hon. the General Manager will correct me if I am incorrect—that the General Manager stated that, whatever price was paid for the movement of an extra amount of maize during the next three months, he would be unable to do so for lack of staff. Now, Sir, if that is so, I think we have gone below the safety mark. If the Railway is not able to carry out its proper and normal functions of carrying any traffic which may be offered, it is possible, as the General Manager himself said, that maintenance has now gone below the economic limit.

We now turn to this vexed question of the Railway *versus* the maize industry. The hon. and gallant General Manager said that the maize industry believed the Railway was out to destroy the industry. There is no question in my mind that, if these present restrictions on the movement of maize are continued, or if the price for the unfettered movement of maize is put up to a much higher figure, it does mean the maize industry as we know it in this country is destroyed. Maize is a crop of low value which cannot possibly stand

high transport charges, and when the hon. and gallant Member quotes these other countries and their rates and says that by so doing they are losing heavily on the Railway, surely there must be some reason why they think it is worth while to lose money on their railways in order to preserve this industry. If this industry is of such value to South Africa, Rhodesia or the Argentine and other places that they believe it pays them—and I presume they are not all fools—to keep the industry going, surely, Sir, it must mean something to this country also to keep that industry going. Is it realized what the repercussions will be if this industry goes out of existence? When I say "goes out of existence" I mean as far as the export of maize is concerned. Already this restriction of trade has had a very bad effect on native grown maize, which would have been purchased if there had been a possibility of moving as much as was wanted to fulfil contracts. The policy of the Railway, which was built up ten years ago, was based to a great extent on the encouragement of bulk traffic. It was with the view of moving this bulk traffic to a great extent that so much money was spent on the Port in order to be able to deal with it. And if, Sir, we get to the stage when the Railway can only carry high valued and high paying traffic, we shall have to consider seriously whether we are going really on the right lines in the view of modern transport. The line we are following at present is to give protection to the Railway against road transport. If, however, the Railway is not able to move this low-priced bulk traffic, then I submit, Sir, it is very questionable whether it is justifiable to spend large sums in keeping a Railway in existence if only the high valued traffic is to be moved.

What is very noticeable in the hon. and gallant Member's speech on this subject is that he makes no reference whatsoever to the resultant benefits to the Railway from this industry. While it may not make much money for the Railway in the actual carriage of this maize to the Coast for export, there is no question at all that the resultant money from those exports comes back into the country in the form of imports. I think that is an economic fact that will not be denied and a fact that the General Manager himself stated in the early part of his speech, that one of the reasons for the falling off in revenue was the reduction in imports owing to the low price of exports.

Now, Sir, I should like to refer to the Railway Ordinance, 1927, paragraph 13, which says this:—

"The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport . . ."

Are we complying with that?

The General Manager himself, Sir, supports that view. If I may, I will quote from the Annual Report of 1931, which has recently been issued, where he says:—

"In the meantime nothing should be done that might hinder or delay development and production. It would be wiser temporarily to finance deficits, if they arise, by loans or grants-in-aid, if necessary, rather than to shut down completely all services which at the moment may not be paying their way but which, if abandoned, will definitely reduce the productive powers of a district, while involving heavy losses due to depreciation of assets which are not fully maintained."

He further says, Sir:—

"While therefore the working of existing branch lines results in some loss to the Administration, they are, in fact, performing a very valuable development service, and no doubt in time will have a beneficial effect on the finances of the Railway."

Sir, I believe that the hon. the General Manager is absolutely sincere in his belief that the restriction of this industry is for the benefit of the Railway. Where I disagree with him is that I think he is wrong in his policy. I believe that the destruction of this big maize industry, the export part of it, will have far worse effects on the Railway than any small sum which it may lose on the direct carriage of the maize.

When you go into the actual figures, Sir, comparing maize and maize-meal with cotton and cotton seed, the figures are rather interesting. During the last six years, the total tonnage of maize and maize-meal has amounted to 888,661 tons, or 18.21 per cent of the total amount moved by the Railway, excluding coal. Of this 888,000 odd tons of maize and maize-meal transported by the Railway, a little less than half, 444,139 tons were moved at the export rate, and the majority, 444,522 tons were carried at the internal rate. The internal rate is based on 13.1 cents per ton mile up to 171 miles, and thereafter at a maximum rate of Sh. 1 per 100 lb. The hauling costs of the Railway, including interest and sinking fund, works out at 10.63 cents per ton mile. You will thus see, Sir, that the internal movement of maize pays the Railway very well and that in fact it represents just over half the total tonnage of maize moved. Now, Sir, if you take cotton, ginned and unginned, moved by the Railway during the last six years, 206,000 tons, this valuable product is hauled much greater distances than maize, and the basis of the rate is 10.6 cents per ton mile, which just covers the cost which I

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have quoted. Cotton seed is moved at a rate which works out just about the same as the export rate on maize, but in fact the percentage of cotton seed moved at this low rate compared with cotton lint on the higher rate shows 57.9 per cent at the low rate while 42.05 per cent is moved at the higher rate. So whilst I do not wish to make any attack on the cotton industry, because I do feel that cotton lint and cotton seed should be carried and should be helped to be exported just in the same way as maize, I have quoted these figures to show that the idea which is prevalent amongst some of our friends across the border in Uganda that cotton carries maize is not altogether correct. I should also like to point out that cotton seed is really a by-product of the industry and not the main industry, whilst maize is the industry itself, so a comparison of the effects on the two industries is not fair or correct. The hon. the General Manager said that the cotton interests in Uganda had accepted loyally these proposals. It would be very curious if they had not as they are getting a better service now than they have ever had before. I do not know quite to whom they are loyal, whether it is to the General Manager or to whom. The maize industry realizes that this restriction on trade—I am not referring to the Sh. 15 rate: I think we agree that that is probably justified—but this restriction on trade is going so seriously to damage the industry that it must inevitably result in an enormously large decrease in the production of maize here. He must make it easier for the Railway to transport maize. I do submit it is going to be not only a very great loss to a very large number of individual farmers but a very great loss to the country at large, and I do believe this question has not yet come to its final settlement. It has got to be gone into much more thoroughly. I understand, Sir, that in reply to the deputation representing the maize industry recently the General Manager said he could not transport any of the surplus maize over and above the 50,000 tons agreed upon at a lower cost than what worked out at over Sh. 4 a bag. Now, Sir, if that is really so and those were the figures—I understand that it was even more: £1,500 to move 500 tons of maize from Kitale to the coast, I was told—it works out between Sh. 4 and Sh. 5 a bag. Of course, those figures are obviously ludicrous when you think that the price of maize to-day is something between Sh. 3 and Sh. 4 a bag, and to offer to carry it to the Coast for something between Sh. 4 and Sh. 5 is *reductio ad absurdum*. Why not say straight out that the Railway will not carry any more definitely at any price or in any way whatsoever? Obviously, Sir, the suggestion that the Government should be asked to give a very large subsidy to make up the difference in this cost is out of the question also because it would pay the country better, it would pay the maize grower better, if the country bought the crop and destroyed it. Even

at this late hour, Sir, I do hope the General Manager will make every effort he possibly can to export at the low rate a larger quantity than he is prepared to do at the moment. It is a matter of vital importance, Sir, and it is a matter which has to be dealt with in the very, very near future. I am afraid we will never agree perhaps on this question of policy, but just as the General Manager sincerely believes that he is right, so I also believe I am right: there are two different schools of thought and at that I am afraid we must leave it.

There is one other small matter on which I should like to ask for information, and that is I have been told recently that the Railway are proposing to pay their labour in consolidated wages instead of giving them their wages plus *posho*. If this is so, Sir, I should like to know how much extra they are allowing for *posho* and whether they think it is a sound method, because I think it is generally accepted in this country that if this is done the natives do not buy their food properly, and further if this is done it is, of course, another nail in the coffin of the maize growers of the country.

One last thing, Sir. The hon. and gallant General Manager referred to the road competition. I should like to point out, Sir, that if this Bill which is coming before the House at this session is passed it does mean that this Government of Kenya is giving a direct subsidy to the Railway inasmuch as by prohibiting this traffic on these roads we shall lose the Customs duty on the lorries which would have been imported, on the spare parts for those lorries and on the petrol and oil which those lorries would have used. I submit, Sir, that if we give this monopoly to the Railway and protect them against this road competition, we can justifiably ask that the Railway shall in its turn do its very best to help to export these low-priced commodities which are of such great value to the welfare of this country.

The Council adjourned for the usual interval.

On resuming.

THE HON. T. J. O'SHEA: Your Excellency, as I shall have occasion in the course of my remarks to advance some criticism of the ability of the hon. the General Manager in one of the important functions of his office, I think it only right I should start by paying a well-deserved tribute to his ability in other directions as evidenced by these Estimates. I pay that tribute ungrudgingly because I think he thoroughly deserves it. The Estimates placed before us do show that in at least one direction the hon. gentleman has discharged his obligations to the country in very difficult conditions in the most admirable manner. The way in which working expenditure has been reduced during the last three years without

seriously impairing the efficiency of the Railway in most respects is, I think, concrete and conclusive evidence of the ability of the director of that concern and of those associated with him. I heard him say with great pleasure that he regarded these new figures of working costs as the new basis upon which to estimate future working costs. I take that as a long overdue acknowledgment of the claims made on this side of the House during the past years that the working costs of our boom period were on the extravagant side, and I regard it as a belated acknowledgment of what I think must now be acknowledged as a fact that we are to-day paying the penalty of extravagance during our prosperous periods. That thought continued to run through my mind while I listened to the case put up by the hon. Member and by the hon. Member on this side (the hon. Member for the Rift Valley) regarding the cost of carrying maize. I asked myself whether it were not possible to prove that maize could be carried at an economic cost if the extravagance of the Railway in the past had not deprived us of the sum of money that is now not available to cover the deficit. I should like to ask the hon. mover of this motion whether his figures of working costs for the new year are based upon the revised and more reasonable terms of service that have recently been announced for the Civil Service of the Colony or whether they are based upon the extravagant terms that have been so long in operation and so unnecessarily long. I should also like to ask what saving he anticipates from the adoption of those revised terms and whether that saving would not go some way towards paying the extra amount required to carry maize at an economic transport figure.

Turning to the very important question of the tonnage of the country's maize crop next year, I think to any unprejudiced listener to the debate it must have been apparent that if you accept the premises of the contestants their answers are entirely logical. As I listened to the hon. the General Manager I felt that everybody must be impressed by the logic of his case: in turn, as I listened to the Noble Lord, I felt that his logic also was unanswerable, and I was reminded of those theological disputes that have figured in history from time to time and of some present day international political disputes in which, if you start off from the point of view of the respective antagonists, there can be no answer but that which they themselves give. And so, Sir, I suggest that in each case there are factors in the case that have been omitted and that we cannot arrive at a satisfactory answer to the problem by starting from either point of view. For the hon. the General Manager as a railway administrator I have the greatest respect, but for his economic sense I have no respect whatever. Indeed, I may say that I regard him in this crisis as a

grave menace to the country because he completely lacks the economic sense. He sees these issues entirely from the Railway point of view. I admit that as a railwayman there is much to be said for his looking at it entirely from the Railway point of view, but I do urge upon Government that it has a more important point of view to look at it from and that it cannot and must not accept the advice of the railway administrator in this important matter. No attempt has been made by the mover of this motion to inform the House as to what loss would be suffered by the acceptance of maize at the price that the industry is prepared to pay for its transportation. I think it most important that that figure be given because it may be one, and I think it should be one, that the Colony might and I think should be prepared to pay to maintain the industry. Statements have been made from which it would appear that we are being foolish in this Colony in endeavouring to maintain the maize industry. I suggest that that cannot be so because we have so much proof from other countries that they regard it as of the utmost importance to their national well-being that their maize industries should be maintained, and unless it can be shown that our production costs are out of proportion to the production costs in other countries, then I say there must be some sound reasons why we should maintain the maize industry in this country through its present difficult period. Surely it is a question of working costs and not of price. Were the industry to-day based upon the working costs of a few years ago I would say there is much in favour of reconsidering our attitude towards our maize industry, but in view of the fact that costs have been reduced in this country to an extent that makes them compare favourably with the costs of production in other countries, that one factor in deciding us to maintain it has been decided.

Again, on the question of price in relation to the costs of production, if to-day's prices were anything like normal, if it were a price on which we might reckon maize to be sold in future years, then I would agree that there was reason to doubt as to whether we should continue to maintain this industry; but knowing as we do that agricultural prices throughout the world are at an uneconomical level—knowing that, I suggest it is unwise to consider the question of the industry's future at to-day's market prices and I would urge upon Government that the question must be reviewed in the light of numerous factors that did not enter into the consideration of the hon. mover of this motion. I urge upon Government that if, for the sake of the comparatively small amount of money necessary to assist the Railway in carrying these products, we were to allow the industry to be destroyed, that we should be faced in the near future with a graver economic crisis than we have been faced with in Kenya

in the past. To allow the maize industry to go out would ruin all the farmers in the Trans Nzoia district and the Nakuru district and it would have very serious repercussions on the development of the industry. I therefore do hope that Government will reconsider this question in the light of the wise advice that has been placed before it by the hon. the General Manager.

I am sure, Sir, the country will pay particular attention to a statement made by the hon. mover this morning—that to the question of the revision of tariffs, long overdue, is likely to be dealt with in the near future. I can quite understand that the question of revision must be faced, but I do sincerely hope that in their revision something more than a Railway point of view will be taken into consideration. Frankly, I have no confidence in the hon. the General Manager's economic sense. I should not like to think that the revision of these tariffs was dependent upon him and I hope, in making whatever revisions are necessary, every effort will be made by Government to see that the points of view of other sections of public opinion are taken into account.

It was obvious from the latter part of the hon. gentleman's statement that he is placing some reliance on the monopoly that is now to be given to our Railway transportation system in a Bill shortly to come before this House. I regard from the outset opposed the granting of a monopoly. I regard it as a grave error of judgment on the part of Government and of Members on this side of the House to grant that monopoly, and I am more than ever confident that within a very short period of time it will be more widely recognized as a mistake. To-day an effort is being made to eliminate the competition of one more modern form of transport than the form for which the hon. the General Manager is responsible, a form which already, it is obvious, is becoming obsolete. Am I suggesting something unreasonable in asking you to consider that in the very near future you may be called upon to give a monopoly against an even more modern form of transport and that, in depriving this Colony of the possible advantages of these two more modern forms of transport, you are asking it to develop under restrictive conditions and preventing it competing with other parts of the world? In an effort to elucidate my point of view, I will ask the hon. the General Manager to say whether there is not some justification for my belief that already the Railway, as a transport system for passengers, is becoming obsolete. Is it not the case that in this Colony the Railway is used to an ever-decreasing extent for the transport of passengers? Is it not the case that it is only fallen back upon when other means are not available; and am I not right in believing that it is already suffering a very serious loss because of its inability to

maintain itself as a passenger carrying system? Is it unreasonable of me to ask him to give his views to the House as to whether it would not be possible to carry maize at an economic rate by cutting out his passenger services to a very great extent and so saving the loss thereon, and whether it would not be a greater advantage to the Colony if he did that than attempting to support the Railway as a passenger carrying organization?

The address of the hon. the General Manager left on my mind the impression that he is hoping that, with a return to prosperity in the Colony, the Railway's difficulties will be solved. I very much question that. I am every day coming more strongly to the belief that the era of Railway prosperity is past, that its problems are going to be very much greater in the future than they have been in the immediate past and that, unless the Administration of the Railway takes notice and makes preparations for the changes which will take place from the introduction of modern forms of transport, we shall be faced with a much graver crisis in the very near future. When, about two years ago, I suggested that air transport might be a factor in the life of this Colony within a period of ten years my statement was received with a considerable amount of scepticism. I should think there is much more support for my point of view to-day than there was two years ago and to-day I seriously suggest that, within even the next three or four years, you will have air transport as a competing factor with this railway system of ours.

In conclusion, Your Excellency, I should like to repeat that I do regard these Estimates as evidence of considerable ability on the part of the hon. the General Manager and his staff. It is a very conscientious effort and a very successful effort to meet the needs of a difficult situation, but I regard as a great blot on them the arrangements—the most unsatisfactory arrangements—that have been made for the carriage of one of Kenya's principal export crops during the current year.

**THE HON. CONWAY HARVEY:** Your Excellency, I have always regarded the Kenya and Uganda Railways and Harbours Services as part and parcel of the East African economic structure, but I am sorry to say, Sir, after listening to the hon. the General Manager, that I see signs of most serious degeneration in that structure, of which the Railway service might well be regarded as a corner stone. I do feel very strongly, Sir—and I agree with every word said by the Noble Lord—that it is very high time that corner stone received drastic attention.

The General Manager stated, Your Excellency, that the unfortunate state of Railway finances was largely due to the very large proportion that low-priced commodities bore to the total traffic carried by the Railway. Perhaps he will tell us, in replying to the debate, Your Excellency, how he reconciles that with the fact that during the current year practically no maize or wheat has been transported by the Railway for export. I suggest for his consideration, Your Excellency, that the cause may more probably be attributed to the general financial stringency which has led to enormous curtailment of imported commodities.

Now, Sir, there is one point which has not so far been made in this debate, which, I suggest, is worth very serious consideration—and I sincerely trust Your Excellency will accede to the suggestion, or the request of the Noble Lord and that the hon. gentleman more particularly concerned with the Port Administration will confirm some figures I propose to give you in regard to the Port—and there are very serious Port repercussions in any change in Railway policy, especially in regard to maize production.

Now, Sir, I have worked this out very carefully and I find that maize is far and away the heaviest commodity moved through the Port. During the last six years, Sir, maize represents no less than 14 per cent of the total import and export traffic handled at the Port, while, Sir, it represents no less than 26.18 per cent of the total export traffic—which figure also includes Tanganyika and Uganda traffic as well as that of Kenya. During the last four years, Your Excellency, no less than 19.62 per cent was paid by maize out of the total revenue derived by the Port from exports. Now, Sir, maize, at the very high wharfage charge of Sh. 5/25 per ton, pays something in the region of Sh. 3/60 towards administration, depreciation and interest charges at the Port—and, as Your Excellency knows, the Port represents an enormous capital outlay, and provision has to be made for this interest and other charges. Now, Sir, if the maize traffic is lost, revenue must be made up somehow, and if it means greater charges on other commodities, there is a very grave danger, Your Excellency, that other commodities will find themselves in the same parlous state in which maize finds itself to-day. With all due respect to something Your Excellency said about coffee and coffee growers and the present position of coffee in your opening speech, there is no shadow of doubt, Your Excellency—I speak as a coffee planter, representing hundreds and coffee planters—that the coffee market is very low indeed and coffee planters are just hanging on by the skin of their teeth, and there is no margin whatever for any additional burden to be imposed on the coffee planters.

Now, Sir, out of 2,100 farmers in Kenya no less than 800 depend for their livelihood on the production of maize, and I suggest, Your Excellency, that Government should give most serious consideration to the very, very serious effect on the Colony as a whole of any interference with the main activities of those maize farmers who, Sir, incidentally created wealth to the Colony in many years of a sum of not less than three-quarters of a million pounds. It has been said to me by responsible gentlemen who take the trouble to think before they speak that if the European maize farmers closed down altogether the Colony's requirements could quite adequately be met by native maize growers. Such is not the case, Your Excellency. I have gone very carefully into these figures too and I can produce detailed figures to prove most conclusively that the native maize production falls short of the Colony's requirements by no less than 300,000 bags a year.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, as usual I find in surveying the course I have to travel that there are very few fences left for me to jump. I must congratulate my hon. colleagues on the many points they have made and the excellent way in which they have made them. I join issue with the hon. General Manager when he stated that the cotton people were co-operating and accepted loyally the new conditions, for he could not say that of the maize industry. I would point out, Your Excellency, that the 50,000 tons taken by the Railway to be moved during the peak period was fixed approximately some eighteen months ago, long before the present crop was ever grown or planted and it was impossible to know what would be required in the way of tonnage to move the 1932-33 maize crop either in the peak period or otherwise. The maize industry themselves, as far as producers are concerned in my area, have not been consulted, and when I was told by the hon. the General Manager at Kitale that the amount was fixed at 50,000 tons I immediately told him that in my opinion that would be 25,000 tons short. I agree with my hon. colleague, the Member for Plateau South, when he paid a tribute to the hon. the General Manager; he did not consider him an economist or a political economist and I quite agree with him, and I am very much afraid that when the hon. the General Manager views the Railway his view does not go beyond the gauge of that Railway. The Railway, to my mind, should be solely and wholly for the development of the country, which it serves and not to destroy any particular industry. I am right when I say that the maize industry has been I am right when I say that the maize industry has been built up by this Government, deliberately built up, on the considered judgment that it was a sound policy to follow. To considered judgment that it was a sound policy to follow. To go back—without going back to the Bowring Commission and what we have done during Sir Christian Felling's time—but

you did invite soldier settlers out here; you offered inducement to others to come to this Colony and I say without fear of contradiction that in my own area the economic survey was principally based on maize production and it was on maize production that the branch line to Kitale was sanctioned and built. I think it is a disastrous policy after many years, these settlers having put their all into maize production, that they should now have to face the closing down of the growing of maize. It means ruin to many hundreds. There are over 800 producers of maize in the Colony. I believe that when the hon. the General Manager comes to the conclusion that you have got to do this it is probably an honest conclusion. He does not consider he can carry maize or that it can be grown as an economic proposition in this Colony. With that I do not agree but I credit him with honesty and sincerity of purpose in believing he is right, but everybody else is perfectly convinced the hon. the General Manager is wrong. Taking the normal crop in the normal year, I will give appropriate figures of the repercussion shown on Customs as £250,000 due to the maize industry only. In 1928 the maize crop of Kenya saved the famine in Uganda; in 1929 with the famine in Kenya the maize crop was the means of saving the lives of hundreds of thousands of natives. The General Manager, in criticizing the maize industry and the maize producers, said nothing about cotton producers beyond that they were loyal and were co-operating with him. This was denied by the hon. Member for the Rift Valley. I would remind the hon. the General Manager that in 1930 his figures with reference to cotton showed a gross loss on cotton and cotton seed of £66,506. Since that year, Your Excellency, the hon. the General Manager has not published those figures. You may look in vain for them if you study the Annual Report of the Kenya and Uganda Railways. There were many other figures published previously that are not now published; evidently it is considered not advisable to allow producers like myself to have access to those figures. But my point in mentioning that is not to criticize Uganda or Uganda cotton producers and the people who deal in it but to show there are two sides to the question—that it is not only maize that can be claimed by the Kenya and Uganda Railway as being carried at a loss. I would also remind the hon. the General Manager that the taper rate into Uganda is largely financed at the expense of the people who patronize the Railway in Kenya. Per ton mile they pay less than we pay in Kenya and I consider, without going into detail, that the taper rate tapers much too quickly. That is also a point that I hope will be carefully considered. There was nothing, as far as I can remember, came from the hon. the General Manager as to how the position of the maize growers might be assisted. I

think my remarks apply also to the High Commissioner for Transport and to His Excellency the Governor of Kenya. You, Sir, have been reported as having said that you accepted the memorandum presented by the deputation of the maize producers some time ago, but what it meant by accepting that Report, which was a very valuable Report indeed and has been quoted largely from this morning, I do not know. I do not know what that acceptance means, but I suggest in all sincerity to Your Excellency that there is still a way out to help the maize producer without any injustice to anybody and with justice to them, and that is to stabilize immediately the internal price of maize in this Colony. In 1929, when the famine existed in the native areas of Kenya, the maize price was stabilised but it was stabilised against the producer. When conditions were in his favour the Government thought it advisable, and I think very wrongly, to stabilise the price against the maize producers in this Colony. After three years of fighting against the world's conditions and drop in cereal prices, I should say during that three years, the export parity of maize has been somewhere round about Sh. 4; it is less than that at the moment and there is no sign of the moment of an increase, but as it is below the cost of production it is quite obvious to any thinking man that that price cannot remain there for ever, and I do suggest, and I appeal to Your Excellency, to consider most seriously taking the necessary measures to stabilise the internal price of maize at a reasonable figure. If you try to co-operate with the industry in that way the industry will co-operate with the Railway and help them over their difficulties.

There is another point that would help and which is a bone of contention. It is this: with regard to the arbitrary figure of 50,000 tons which the Railway has undertaken to move during the peak period, if you could increase that, if you could use your influence, Sir, to increase that amount by another 25,000 tons, a great deal of the criticism that has been offered here this morning would not be offered.

I should also like the General Manager to say in reply whether it is true that he is not only contemplating but has already put into force consolidated pay to the native employees of the Kenya and Uganda Railway in Mombasa and Nairobi. If that is so, Sir, I think that again is another blow, and a direct and deliberate blow, at the European maize producers in Kenya. It is quite obvious if the natives are put on consolidated pay they will not buy European maize; they will solidated pay they will not buy European maize; they will buy a cheaper maize, weevily maize, etc., at a less price. It is a question of the welfare of these natives themselves—as we know, they are entitled to 2 lb. of maize meal per day,

If they are paid in cash I very much doubt, from my experience of the native, whether he will buy 2 lb. of maize meal a day. I am inclined to think that he will be in the future an under-fed and inefficient worker.

The Railway has not considered the many points that have been continually put up to the General Manager in respect of branch lines, and I doubt if this House realizes that whereas maize has risen from Sh. 11/20 to Sh. 13/50 per ton on the main line that the branch line pays Sh. 16/95 and they are prohibited by the branch line rates from competing in the maize meal market in Kenya Colony.

I have given this morning very serious consideration, Your Excellency—and during the past two years I am quite certain everybody on this side of the House has been very worried about what has been happening in Kenya, and what has happened to-day, and I have come to the conclusion, especially with this case in front of me this morning, that the Government of Kenya is no longer a government—it is a clearing house for the Secretary of State. Past experience, and present experience also, convinces me that we are governed by the Secretary of State and the latest commission that he chooses to appoint. On a previous occasion I took the initiative over the repeal of a Bill which had been passed by this House and whose support—no, I am putting that wrongly. He was against the repeal of the Daylight Saving Ordinance.

HIS EXCELLENCY: What has this got to do with the Railway Estimates?

LT.-COL. THE HON. J. G. KIRKWOOD: I think it has, Sir, in this way. Whilst that Ordinance existed it cost the Railway many thousands of pounds per annum, and we are paying for that to-day.

The other point, Sir, is that where waters have once run they are likely to run again, and if I remain in this Council next year, which is doubtful, but if I do, I shall propose to repeal the Railway Ordinance and do away with the Inter-Colonial Railway Council.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I do not propose to take up very much more of the time of this House on this subject, since an exposition of the disastrous results produced by the present *impasse* between the Railway and the maize industry has already been given by my hon. colleagues. What I will try to do is to endeavour to emphasize the question, which has already been argued by the hon. Member for Plateau South. It was the one point in the long and extraordinarily able address given by the hon.

member of this motion that he did not tell us what would be the loss incurred by the Railway by moving the maize in dispute.—I rise to repeat the question because there are some figures as regards that particular point which I think should be before this House. I understand the amount of maize in dispute is approximately 25,000 tons. That is the amount the Railway Administration refuses to move at the "Z" rates of approximately Sh. 15 per ton. The present market-rate value of that maize is approximately £120,000; that is, £120,000 worth of exportable wealth in the Colony at this period of financial crisis. Now, Sir, under the "Z" rate, the revenue which the Railway will obtain for moving that 25,000 tons of maize is approximately £18,750. What is the difference between that £18,750 and the actual cost of moving that 25,000 tons of maize by the Railway? I suggest that sum would be so small in comparison with the £120,000 worth of maize at stake that it would be a figure which it would be folly to fiddle at. In addition, I would like to remind this House of the fact that we have before us a Bill to curtail motor transport, and I understand from the figures given by the hon. the General Manager that the savings to the Railway if that Bill is passed will be somewhere in the neighbourhood of £50,000. I suggest that £50,000 will more than cover the loss he expects to incur by the movement of this maize.

As well as that, there are a few other facts, Sir, which are worthy of consideration. These maize farmers, who will be put out of business to a large extent if this disastrous suggestion is allowed to go through, are now responsible for approximately £100,000 of Government money which has been advanced to them, and presumably that £100,000 will have to be written off as a bad debt. At the present time their industry and their maize *shambas* are ample security for that debt and no one can deny that the efforts made to meet the subsidy received at that time have been magnificent. I do think, Sir, if these facts are taken into consideration, and a due sense of proportion is used in considering them, that the very small—comparatively very small—loss to the Railway which will be incurred in getting this maize out is something this Colony is not going to hesitate to meet.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, may I repeat my request that the hon. the Director of Agriculture should be allowed to speak in this debate.

HIS EXCELLENCY: I am not calling on the Director of Agriculture, but I will ask the Commissioner of Customs to reply.

THE HON. T. J. O'SHEA: I do suggest, Your Excellency, that the Council is entitled to hear the Director of Agriculture.

HIS EXCELLENCY: The Government can put up the speakers it desires to represent its case.

THE HON. T. J. O'SHEA: Are we to understand that the Government refuses to allow the Government officials concerned in this question to speak?

HIS EXCELLENCY: In so far as the Director of Agriculture is concerned, the only point that he can stress is that he is very anxious to help the maize industry. He has stated that time and time again and he can say no more in this debate on the Railway Estimates.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, the Director of Agriculture is on the Railway Council as representing the country and not the Government.

LT.-COL. THE HON. C. G. DUMHAM: Your Excellency, owing to the very able manner in which the Noble Lord put up this case I have quite a clear field, but there are one or two points. It came as a shock to me to hear the hon. the General Manager suggest to-day that in the future he may have to look to the country to pay the money they have lost on the Railway. If the country was running the Railway, I would say "well and good." But to-day the Railway is not under the control of the country and I think it is high time the Government of this country reconsidered its position and took charge of that Railway again. For many years past the Railway has gone building mad. They have put up colossal offices, big enough to run the whole of the South African Railways and probably the Australian Railways as well. They have put up garden cities, and houses for second class Railway officials better than those provided for first class Government officials. Now, Sir, if the Railway is allowed as a Railway, without any control by the country at all, to build these colossal offices and houses—that I definitely state should not have been built—and waste the country's money on these places, then I say, Sir, the Railway has no right to come to us and ask us to foot the bill.

If you go down the railway line to Mombasa you will find that although they had nice little houses they have rebuilt them because they say their employees could not live in the houses they had—that these houses of wood and iron were not fit for anybody to live in at all. But, Sir, they have sold these houses to settlers as quite fit for settlers to live in. I say the Railway has gone building mad. If you take the colossal

goods sheds they have now, they will never have enough commodities—not in the next ten years—to fill those goods sheds. And now they tell us their Budget is on the wrong side. Of course it is—it must be.

With regard to the maize industry, up to now I have supported the Bill to cut out the road transport but I am going to reconsider my position. One of the principal reasons I wanted to vote for that Bill was that the Railway did carry maize at low rates while the road transport picked out the plums. Now, if the Railway is going to sit down and pick all the plums and leave the low-priced commodities, and try and sting the farmer so that he is going to be put out of business, then I shall have to reconsider the position and vote against the Bill.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH): Your Excellency, a point has arisen in connexion with the Harbour charges and I have been asked to explain the position as Chairman of the Harbour Board. In the first place I should like to remind the House of the constitution of that Board. It consists of representatives of ship-owning interests, shipowners, importers, exporters and representatives of Chambers of Commerce. I am the only Government servant on that Board and I presume I was made Chairman of that Board because it so happens that I am the senior Government officer stationed in Mombasa and am responsible jointly to the two Governments served by the Railway. I do not look upon myself as a puppet on that Board, nor do I look upon myself as a puppet in this Council.

The Board, representing as it does such diverse interests, obviously is not inimical to the maize industry and it is obviously ridiculous to say that ship-owning interests, shipowners, importers and exporters would not do everything possible to assist the maize industry if it possibly could do so. The Board looks upon itself as a business committee, discussing business matters in, I hope, a businesslike way. The Board, Sir, acts in an advisory capacity to the High Commissioner of Transport and it is therefore a little difficult for me to know how far I can go in this Council in divulging what happens in the Board, which is an advisory board, but I think I may say that the case for the maize industry was recently presented to the Harbour Board very ably by the accredited representatives of the maize industry and the position in regard to harbour charges was examined very carefully by the Harbour Board. These charges fall under three heads. Firstly, there are certain haulage charges; secondly, there are storage charges in respect of maize conditioning; and thirdly, there are the handling charges. So far as the first two items are concerned, it was found that the Board considered they

could well advise the High Commissioner to make certain reductions.—So far as the third item is concerned, the hon. Member for the Lake has stated that these charges are very high, representing Sh. 5 a ton. That, I may say, Sir, is the minimum charge on any export commodity—the same charge operates in respect of cotton seed, wattle bark and similar low-rated commodities. The Board, having, as I say, every intention of assisting the maize industry if it was at all possible to do so as a business proposition, came to the conclusion that it could not reasonably advise the High Commissioner of Transport to make a reduction in that charge; and I would like again to remind hon. Members that that decision was arrived at unanimously by ship-owning interests, shipowners, importers and exporters and representatives of Chambers of Commerce, and, I must say, also, with the advice of myself.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, though I have considerable interests in this country I am not a maize grower, but I am satisfied that the destruction of the maize industry would be most disastrous for this country and I wish fully to endorse the remarks that have been so ably made by my colleagues on this side. Further, Sir, should this maize industry be done away with, we have so far made very small attempts to further the production of anything else that has been taken up very largely in other countries.

In the Estimates there are only two questions I should like to ask. The first is with regard to motor transport services: from Masindi to Butiaba, a distance of 75 miles, seems to be the only one. On page 53 we find the staff for this motor service consists of a Motor Transport Officer at a salary of £720 a year, five clerks and an office boy, which come to another £628. Surely that seems to be a very large expense. I do not know if there is any revenue being derived from this service—I presume there is.

The other question, Sir, I should like to ask is about the overhead charges on the administration and management of the Port. The Railway Council, Sir, I believe, do not deal with the Port. The cost and expenses of administration and management is £2,704. I do not quite see where the expenditure comes in but I should like to be assured that there is at present no overlapping or duplication of work being made by the Port Authorities with the Lighterage Companies.

One more, Sir—on the question of *posho* to natives: I do not think that the natives themselves will agree or will like it if their *posho* is done away with and they are given money in its place. Only two nights ago my boys, who are Tanganyika boys, came up and asked that I should give them *posho* instead of the money they were getting.

THE HON. HAKIM SINGH: Your Excellency, I agree that all industries should be encouraged as much as possible. The maize industry was helped since last depression and in several years since they have enjoyed this privilege. Now I find that the Railway does not benefit from this traffic and I would agree with the General Manager that the industry should at least pay outgoing expenses, which means the cost of the working of the Railway. I would say, Sir, that this industry has been helped for many years, and it was perhaps thought at that time that in coming years the industry would be able to stand on its own legs, so I do not agree that the Railway should suffer the loss which will be borne by all people, even those who are not getting any direct benefit. Also the Railway Manager has suggested that the Bill should be provided for the prohibition of the carriage for reward of goods by motor vehicles, with which I do not agree because these people are paying all sorts of taxes, even heavy taxes since last year, and it would be a loss to the general revenue and also a loss to those people who depend upon those services.

CAPT. THE HON. H. F. WAIN: Your Excellency, may I join with my colleagues on this side of the House in their appreciation of the Budget as presented by the hon. the General Manager, and with the Noble Lord in his sympathy with those who suffered in the depression. Sir, I do not want to deal with any detail at all but I do want to deal with this question of the maize because I do not think the hon. the General Manager yet realizes sufficiently that this is not a question affecting the maize growers exclusively but it is a question affecting every possible industry in this country, and I suggest even must have its repercussions in Uganda. Sir, the point I wish to make is this: that I think you can say of every argument that the hon. the General Manager put forward, if you agreed with it—I do not say that I do—but if you agreed with it, you could not concede the wisdom of making these sudden changes in the depths of the present depression. You could give the hon. the General Manager the whole of his case but you cannot justify the introduction of the changes that have been suggested under the conditions of depression that we are trying to live through. The hon. the General Manager said that maize was an industry of ten years ago. In that I think he will on reflection find he is incorrect. A good deal of publicity started this maize growing in Kenya by public speech and by addresses and so on and so forth by the late Sir Percy Girouard when he was Governor of this Colony in 1907, assisted by the late Mr. MacDonald, who was then Director of Agriculture, and it was a clear slogan of the time of Sir Percy Girouard and his Government that the future of British East Africa lay in maize, and I submit to-day that the future of Kenya to a great extent is

dependent on maize. Of course, Sir, the industry had a certain setback during the war, but directly after the war by every form of administrative effort, many of which have been outlined by hon. Members who have spoken on this side of the House, maize was again made the most prominent feature of our former settlement, and that brings us up to the time of the crisis. There is the point, I suggest, that when this depression burst over the world that was the dividing of the ways and that was the point, and the only point, at which you could make up your mind on the policy you were going to follow through that depression, and having made up your mind and having come to a close determination, it is nothing but suicidal to attempt to alter it under these conditions until we reach more normal times. What exactly happened then was this: I cannot remember the exact figures, but the Railway did themselves early in the depression offer a very considerable concession to maize. The conditioning charges at the coast were lowered to assist the industry and, as an hon. Member on this side of the House has pointed out, over £100,000 was advanced to that industry by this Government. But that is not the full implication of the thing. The whole working of the finance and commerce of the Colony naturally at that time followed the lead of Government and the Railway and they naturally took the decisions made then as permanent decisions and decisions that were intended to see this industry through the times with which it was faced, and you may remember, Sir, that all those people who finance industry, who loan money on mortgage, or banks and so on and so forth, those who give seasonal advances against crops, all took their cue from the Government action at the time and the Railway action at the time, and they are all heavily and deeply committed. I think I can go so far as to say that due to the lead given by the Railway and the Government a good deal of production has been maintained at the expense of largely increasing the commitments to the growers of maize. Is it definitely proposed by the hon. the General Manager that the whole of these people are to be let down, as well as the Government of the Colony to lose £110,000 out of our surplus balances, just because he thinks that he is going to help matters in this time of crisis by drastic reorganization of the conditions under which he shifts maize? I suggest that any policy of that sort is nothing short of suicidal. The effect of that action would be that a very large sum of money, many tens of thousands of pounds, well over £300,000, annually circulated by the maize growers must be withdrawn from circulation. What effect is that going to have on the general revenues of the Colony and on the revenue of the Railway? How difficult will it be for Government to retain the present rate of Hut and Poll Tax if the labour now paid by the maize grower is not paid in the

future? Again, Sir, as other Members have pointed out, the low price of maize is the very basis of the power of almost all our industries to carry through this depression. If that price is raised by the action of the hon. the General Manager it again throws up the working cost and puts other industries into jeopardy. Again, Sir, one hon. Member suggested that he should take into consideration the imports that are the result of shipping maize from this country. I suggest it is fair to go even further than that and suggest that he should take into consideration the imports from all our other industries as a result of the volume of production by the maize grower, and that if that production is withdrawn the imports must be curtailed by other sections of industry right through the country. An hon. Member has pointed out that the figures on which this drastic change are based are now something like eighteen months old, and he has also pointed out how difficult it would be for the hon. the General Manager eighteen months ago accurately to forecast conditions as they rule to-day. As he has asked for no more from the maize industry I think it is fair to suggest that he has got something in hand and I do urge reconsideration by him before he brings it to the point of crisis, a point of difference between his Administration and that of the Government of Kenya, that he should carefully revise those figures and see whether a margin does not exist. It seems apparent that it does.

There is one further point, Sir: as is known to the hon. the General Manager, the shipping companies, have definitely agreed further to assist this industry by a reduction of charges provided that they will get some co-operation, some relaxation of the present attitude of the hon. and gallant Member who manages the Railway. I do urge, Sir, that reconsideration must take place because the repercussions of any drastic change such as he suggests will just be that added burden which makes it so difficult to carry on after over two years of the conditions which we have lived through. I would remind the hon. the General Manager of his address to the Chamber of Commerce yesterday when he deprecated any sudden changes under present-day conditions, and I would suggest to him that the changes that he now suggests are extremely drastic and should come under the category of measures to be abandoned until times are more normal.

HIS EXCELLENCY: If no other hon. Member wishes to speak I will call upon the hon. mover to reply.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, practically the whole of the criticisms I have received in regard to these

Estimates have been centred round the maize controversy, and of course it is very difficult for me here in this House to argue every point which has been made, because the whole of this question has been very thoroughly gone into from time to time during the past four years. This is not—as has been suggested by one of the last speakers—a sudden suggestion. This question has been coming forward since 1928. It has been raised by me time and time again through the regular and proper channels, because I and my accounting officers could see that if something were not done sooner or later we should be landed on the rocks of bankruptcy. This question has therefore followed the usual procedure. It has been examined over and over again by the Railway Council and by our own technical, accounting and transportation officers. I have also submitted this question to various friends of mine, and others have done the same, to see if there is any flaw in our arguments and any way in which we can avoid the alteration now contemplated. Finally this question came to a head 18 months ago, when a full memorandum for submission to Railway Council was prepared and submitted to that body in November, 1931, over a year ago. A final decision was then come to in regard to this matter; so that it has followed all the regular procedure laid down for the consideration of these questions. I put up the question, I recommended it, and it has been accepted, and therefore I can only assume that every possible consideration and weight has been given to all those points which have been raised to-day. There is not a single new point I have listened to this morning that we have not considered at one time or another. The actual fact, as I stated in my opening speech, is that we cannot give the service demanded unless we receive more money for it. It is no use saying I have no economic sense. I have, fortunately, a very watchful accountant and a Government auditor, who are watching my accounts closely, and the economic advice I get is that if I go on doing the things I have been doing for the past four years without getting adequate reimbursement the Railway will be in financial difficulty, and that means the Governments concerned will also be in financial difficulty. Listening this morning to the whole of the debate, I have not heard a single suggestion as to how further money is to be forthcoming. Much, I would like to add, as we should all like to give a better service—most of us have friends among the maize farmers—we cannot do it without the money. I see no way in which, at a time like this, we can get the money, and we should at once be thrown back on the Governments concerned to implement their guarantees—and that is a thing neither Government can face at the present time. The value of the industry to the country, I grant you, is great. How great in cash it is not possible to find out. I published figures in my Report two years ago to show what, on a generous basis,

the Railway expects to get, and what the extra money might mean to the country. When asked to give an estimate of what it would cost to carry that extra 25,000 tons of maize during the months of March and April over and above the quantity we said we could carry under non-peak conditions, I obtained figures which showed that the cost of moving that 25,000 ton-worked out at a figure amounting to £12,000, and that, too, Sir, is after making only small provision, if any at all, for interest and sinking fund charges. We were able to give relief as regards loan charges because the rolling stock actually was in the country, although set aside and not being used. Those figures seem astounding to people who are not accustomed to working out the costs that are involved, but if I may just point to one or two things it may help the House to understand the position. To carry 25,000 tons of maize means two trains a day each way, 500 wagons, 24 locomotives, additional to what we now use. These have to be maintained, repaired and so on. We have to engage extra staff—guards and drivers. These people will not be employed except during those two months of March and April. It is those sorts of costs which make these facilities so expensive. It is because we have eliminated every one of those peak costs, Sir, that I have got the Estimates down to the figure they are to-day. I am congratulated on the one hand on having got them down, and I am charged on the other hand with having no economic sense. I realize exactly what it means to the farmers of this country, but there is nothing more to be done unless further money can be provided.

There is a small point in connexion with the maize question, Sir. I do not know whether I ought to go into this question again, but cotton has been mentioned, and the average tonnages of export maize and local maize also have been mentioned. Commodities for export are entirely different from commodities which are moved locally for local use. The export price of a commodity depends on the overseas markets, and the rate we are able to charge in carrying that commodity to the coast depends also on that factor. Cotton for export, although it is an export commodity, and has to find its way out to the markets overseas, commands a very good price. Cotton pays for itself, and helps to pay for other commodities which cannot pay a good price. Maize for local consumption helps too. Cotton brings back imports; maize brings back very few imports.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Question.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: I have already quoted figures to show that maize is not a high valued crop, and it cannot therefore bring back much in the way of imports.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Half a million is a large amount.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: It brings back what it can bring back up to the value of the commodity; that is all. That value is low compared with the value of other commodities, and therefore imports must be low compared with some other crops.

One or two other points have been mentioned, Sir. One was in regard to certain labour, based on consolidated pay without rations. That follows the policy we have been working to for the past ten years of gradually eliminating the feeding of staff. We pay the staff and they feed themselves. We have in the past carried food for our staff all over the railway, including many of our white European employees and Asian employees. Now the only section of the staff for whom we carry rations is the native. In many centres, such as Nairobi and Mombasa, that is no longer necessary, so that where we are employing temporary staff on local works we are following the practice which has been recommended to us by contractors and others who say we are competing unfairly by not paying our staff in the same way as they do. I understand the Director of Public Works follows the same policy in regard to his locally employed staff. In the case of those employed on the open lines, we have made no change at all. They cannot get food-stuffs readily. The change we have made affects a very small section only of our staff employed in centres like Mombasa and Nairobi.

I was asked, Sir, whether my Estimates made allowance for revised terms of service. They do not, Sir, because those terms of service, as far as I was concerned, came out two days ago. Whatever we adopt in that connexion will be reflected in the final results of the year.

One other point has been made with regard to maize, if I may revert to that question. It has been suggested that other countries find it possible to do this and advisable to do that to see that their maize gets out at a low rate, and therefore why should we not also assist the industry? I suggested the reason, and that was because in the other countries where this is done the country makes itself responsible for the loss in working their railways. That does not apply to Rhodesia, where a private company is concerned, but in that case, as I have said, the company has asked for a moratorium on their debenture capital, whereas we are prevented from doing that.

Another point was raised with regard to road competition, particularly with reference to our passenger services. This Railway can never be a successful passenger railway. It is fundamentally impossible for it to be that because of the

heavy grades and sharp curves we are forced to adopt in getting over a country such as ours. As you know, we rise to over 9,000 feet—8,000 feet in one case and 9,000 feet in another case—and this cannot be done in a way to provide the rapid services that would be required for passengers. It is inevitable that passenger services must be diverted to the roads and into the air. I think if the hon. Member for Plateau South will read my Reports he will find that I have at all times been sympathetic to useful road services and useful air services—all useful services are complementary to the Railway. Where I have been against him is where the services are wasteful and do not serve any useful purpose at all. Railways base their case for being allowed to remain in existence on the fact that they are the cheapest form of transport. Eleven cents in our own case—less than that on the bigger Railways—cannot yet be touched by any road service. The only thing we complain about in regard to road services is when they are allowed to pick the eyes from our traffic and so hamper us heavily in other directions.

A point was raised by the hon. Member for Plateau North with regard to the maize quota. The final quota was fixed after many meetings of the sub-committee of the Railway Council representing Kenya and Uganda, and represents a compromise between the maize industry and the cotton-seed industry. It was obviously a very difficult problem to face, and the final decision was come to at the end of May this year, when, at that time, the crop estimate for maize was, I think, 60,000 tons—speaking from memory—whereas our quota shows 50,000 tons allotted to the end of July, any additional tonnage having to be carried in the unallocated space available in the months after July.

It has been suggested, too, that the taper rates are unduly favourable to Uganda. I would only say at this stage with regard to that, Sir, that the taper rates are designed to be of benefit to all the users of the Railway. We want as much traffic as we can get to go to Uganda; if we put up our rates to mileage rates we should reduce our traffic to Uganda to such an extent that Kenya itself would suffer. That is the principle at the back of their design.

A point has been raised, Sir, in connexion with our motor transport services. I would suggest that the hon. Member for the Coast would satisfy himself if he looks on page 29 in the Annual Report for 1931, wherein he will see a comparison between the revenue and expenditure on that service and the unit cost of working. I think he will find that this figure, compared with other road services, is reasonably satisfactory. The clerks that are shown are in some cases timekeepers and

also those who keep up the pay-sheets and that sort of thing and look after stores, as well as various other forms of accounting and clerical work that have to be carried out.

The question raised with regard to the overlapping of staff with the lighterage companies has been very carefully examined in the past year, and I am safe in saying that every possible overlap has been eliminated. There are one or two directions in which there is some overlap, but necessarily so, because we have to check the figures that are submitted to us. Some of that work could be eliminated if a simpler form of tariff could be devised, such as if we had a flat rate for all import traffic, for example, instead of having one based on the *ad valorem* values of different commodities, but on balance it has been agreed the present system is by far the most satisfactory, in spite of some slight extra clerical staff that may be necessary.

On another point: it had been my intention to deal with the statement that the shipping companies have offered to reduce their rates if the Railway could help. My reply to that, Sir, is this: we have helped in minor ways; we have reduced storage charges and certain transit charges between the storage sheds and the maize conditioning plant, as my hon. friend the Commissioner of Customs has explained, but beyond that, Sir, with regret we cannot go. We have got to the bottom of our rate—we have been there for many years, and I am afraid I cannot hold out any hope of going any lower.

There are no further points, Sir, with which I have not dealt.

**HIS EXCELLENCY:** The question is:—

“That the Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours Administration for the year 1933 be approved.”

The question was put and carried.

*The Council adjourned till 10 a.m. on Saturday,  
the 17th December, 1932.*

SATURDAY, 17th DECEMBER, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Saturday, the 17th December, 1932, His Excellency the Governor (BURGADIER-GENERAL SIR JOSEPH ALOISIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 16th December, 1932, were confirmed.

#### PAPERS LAID ON THE TABLE.

The following paper was laid on the table:—

BY THE HON. T. D. H. BRUCE (SOLICITOR GENERAL):

Report of Select Committee on the King's African Rifles Bill.

#### NOTICE OF MOTION.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to give notice that at a later stage of this session I shall move the adoption of the Report of the Select Committee on the King's African Rifles Bill.

#### BILL.

#### SECOND READING.

THE LEVY ON OFFICIAL SALARIES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move that the Levy on Official Salaries (Amendment) Bill be read a second time.

A levy on official salaries has been in force in this Colony and in Tanganyika Territory since the first day of this year, and, as hon. Members are no doubt aware, Sir, it is the intention of the Government in the Uganda Protectorate to impose a similar levy as from the beginning of 1933. The experience of the practical workings of the measure has, I think, been on the whole quite satisfactory, but one difficulty has become quite obvious: that is a difficulty inherent in our constitutional position here in that there are certain services common to two or more of the East African Territories. Those common services, Sir, fall into two categories. There is, firstly, that group of services common to this Colony and to the Uganda Protectorate—the Customs, Post Office and Coast

Agency, for instance—one of which we hope shortly will be common also to Tanganyika Territory; and there is the second group of services which are common not only to these three Territories but to other parts of Africa—those are the Agricultural Station at Amam, the East African Governors' Conference, and the East African Joint Meteorological Service. If I may take the first group, Sir, hon. Members are aware that the personnel of the indivisible part of those services is borne on the Estimates of this Colony, but the cost of those officers is in part contributed to by reimbursements from the Uganda Protectorate, and the Government of Uganda has represented that inasmuch as they pay part of the salaries it is but right that they should be credited with part of the levy imposed on those salaries. That, Sir, is the object of the first sub-section of clause 4 of the Bill, which provides for a refund from the amount of the levy on the salaries of those officers of that group of common services which are contributed to by other Governments, the grant of a proportional refund to the Governments so contributing.

Then when we come to the other group, the position is slightly different, in that, for instance, the Government of Egypt and the Government of the Sudan contribute to the Joint Meteorological Service; so it has been agreed, Sir, subject to confirmation by this House, that in the case of those three services the levy on the salaries of officers employed in those services shall be paid to and form part of those funds, the effect of that, of course, being not any increase in the activities or the operations of those departments, but the carrying on of their existing activities at a slightly lesser cost.

Those, Sir, are the main provisions of the Bill, and I beg to move that it be read a second time.

THE HON. T. D. H. BURCE: Your Excellency, I beg to second.

The question was put and carried.

#### MOTION.

##### THE LEVY ON OFFICIAL SALARIES.

THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOORE): Your Excellency, the motion standing in my name is more or less of a formal character and complementary to the passage of the Bill the second reading of which has just been passed. Under clause 9 of the Principal Ordinance, it is laid down that the Ordinance shall continue in force until the 31st day of December, 1932, and shall then expire; provided that the Governor may by proclamation, with the approval of the Legislative Council and of the Secretary of

State, declare that this Ordinance shall remain in force until a date to be fixed in such proclamation." The object of the motion which I propose to-day is to obtain the approval of the Legislative Council to the prolongation of the life of this Ordinance for another year. The approval of the Secretary of State has already been obtained to that course, and as soon as this motion has passed the House it will then be competent to Your Excellency to sign the necessary proclamation. I beg, Sir, formally to move.

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

HIS EXCELLENCY: The question is:—

"Be it resolved that the Levy on Official Salaries Ordinance, 1931, and the Levy on Salaries (Transport Services) Ordinance, 1931, shall remain in force until the 31st day of December, 1933."

The question was put and carried.

#### BILLS.

##### SECOND READINGS.

##### THE CARRIAGE OF GOODS BY MOTOR (PROHIBITION) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Provide for the Prohibition of the Carriage for Reward of Goods by Motor Vehicles over Certain Roads of the Colony be read a second time.

It is only a little more than a year ago, Sir, that the first measure imposing restriction and control on the carriage of goods by motor for reward was passed by this Council. That Ordinance has been in operation, as I say, for slightly more than a year, and I say, Sir, emphatically, without fear of contradiction, that that Ordinance has to a remarkable degree achieved its object; but its object, Sir, was that of control and regulation and in no sense of prohibition. The menace to Railway revenues which was so emphatically stated in the course of the debate on that Bill last year has been reduced undoubtedly, but it has not been done away with, and hon. Members will recollect that in the course of the debate yesterday my hon. and gallant friend the General Manager assessed the loss to the Railway at the present moment, in spite of the operation of that Ordinance and the degree of control which it has introduced, at from £50,000 to £60,000 a year. We have tried control, Sir, but the Railway is still losing that very large sum, and in the opinion of Government the time has come when it is unsafe, not only from the point of view of the Railways and Harbours Administration, but equally

from the point of view of this Colony, which may be called upon to meet its guarantee in respect of the Transport Loans, that that menace to the Railway should be entirely eliminated. And so, Sir, it is my task this morning to propose for the favourable consideration of this House a measure for the entire prohibition of motor transport for reward over certain roads in the Colony. On the 10th May last, Sir, the Noble Lord, the Chairman of the Elected Members, moved in this Council: "That this Council is of the opinion that the continuation of competition by road transport *versus* the Kenya and Uganda Railways between Mombasa and Uganda and between Mombasa and Kisumu is wasteful and against the public interests of the Colony, and therefore urges Government to amend the Carriage of Goods by Motor (Control) Ordinance so as to eliminate this wasteful competition." In the course of that debate, Sir, the hon. and gallant Member for Nairobi North intimated that the motion had the approval not only of the Nairobi Chamber of Commerce but of the Association of Chambers of Commerce of Eastern Africa. There was a debate at some considerable length, Sir, but it was not pressed to a division because Government then stated that, though reference would, of course, have to be made to the Secretary of State in such a matter, they did sympathetically view the subject-matter of that motion. Since then, Sir, the question has been fully discussed in the Railway Council, who, at their session on the 31st May to 2nd June, passed a resolution in the following terms: "That, in the light of experience gained in the administration of the Motor (Control) Ordinance, 1931, this Council has now reached the conclusion, and definitely recommends accordingly, that legislative action such as will in effect be prohibitive of wasteful competition should be introduced." The Bill was drafted, Sir, and was submitted to Mr. Gibb during his visit to the Colony, and its provisions received his approval. It has also been approved by the Secretary of State, Sir, with the proviso that it is to be regarded as a temporary measure, a measure justified by the present state of Railway finances, but none the less a temporary measure designed primarily to give the Railway Administration that breathing space before they can so adjust their rates as to reduce the rates on the two most highly rated classes. I do wish to stress that this is a prohibitory measure. It is the type of measure that perhaps no one likes, but I do suggest that it is a type of measure that in our present circumstances is amply justified, but it must be clearly understood that it is a temporary measure.

The actual provisions of the Bill, Sir, call for little, if any, comment. The definitions are those to which we have become accustomed in the course of the administration of the existing legislation during the past year. The scope of the

measure is from Mombasa to Nakuru, but provision is made in clause 4 for adding further roads to the schedule or removing any part of a road from the schedule as circumstances from time to time may warrant. The special proviso for tourist *sajaris* and things of that sort, which was introduced last year, is perpetuated in this Bill in clause 5, as also is the provision in clause 6 regarding the vehicles which are licensed—as provided in the Traffic Ordinance, 1928—by the neighbouring territories of Uganda and Tanganyika.

The main clause, Sir, I think, is clause 9, which saves short runs, involving in all not more than 25 miles of any scheduled road. That figure has been arrived at, Sir, not casually, but as a result of very close examination of the road system, for which my very grateful thanks are due to my hon. friend the Commissioner for Local Government. The Government is satisfied, subject to any representations which may be made here to-day, that will in effect provide for the free and unrestricted traffic to all farms from their railway station and will not unnecessarily interfere with industry or commerce. It cannot interfere with agriculture, primarily because there is a special proviso in clause 3 saving from the whole ambit of the legislation the hauling of agricultural products to the nearest municipality or township, or the nearest railway station or siding.

The other provisions, Sir, are necessary, and call for no specific reference by me, but in the proviso to clause 11 there is an unfortunate printing error. Certain words in the last lines have crept in which ought not to be there, the words "vehicles under the authority of such licences and", and later on, in the Committee stage, I propose to move a further amendment to that proviso by adding, in the fifth line, after the word "issued", the words "the period shall in no case exceed one year." The need for that is that under section 9 of the existing legislation, although licences are expressed to be of one year's duration, there is a provision which keeps the licence alive during the time from the end of its year of currency to the date of consideration by the Board on application for its renewal. It is possibly arguable, Sir, that under that provision a licensee can continue carrying goods for reward indefinitely. He makes an application for renewal, and he may claim the right to continue until it is dealt with—and it never can be dealt with. That is the reason for the suggested amendment declaring that the currency of the licence is for one year only.

THE HON. T. D. H. BUCCER: Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is that the Carriage of Goods by Motor (Prohibition) Bill be read a second time.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, hon. Members on this side of the House—with the exception of one Member, I believe, who is not here to-day, and who represents a constituency which invariably disagrees with the expressed views of the rest of the Colony—propose to support this Bill.

**LT.-COL. THE HON. LORD FRANCIS SCOTT** (*sotto voce*): The hon. Member for Plateau South is here.

**CAPT. THE HON. H. E. SCHWARTZ:** Unless there should be any mistake, I was referring to the hon. Member for Mombasa.

I propose to support this Bill. There are certain details, Your Excellency, which I will deal with very briefly in a moment, but I should like to say why I—and, I believe, other Members on this side of the House—and the various Chambers of Commerce which have been referred to by the hon. the Attorney General support this measure. Let me make it clear that we do not support this measure because we are enamoured of monopolies. I think that, taken as a general rule, any student of English history will agree that monopolies in the main are thoroughly bad things, and were this not a State railway the position would be a very different one. Nor do we support it because we think that there should be a gesture of goodwill towards the Kenya and Uganda Railway and Harbours. I do not wish to refer further to the very straight speaking that took place during the debate yesterday. We support it because we and the people we represent are of this Bill is intended to remove. The hon. the General Manager reminded us yesterday that this Colony might, in the future—but he hoped that would not be the case—be called upon to honour its guarantee if and when the Railway is unable to meet its loan charges and commitments.

Although, Your Excellency, we no longer have control of the Railway—due to the action taken, with the full consent of Members on this side of the House at the time, action which, in my opinion (though I supported it at the time), has turned out to be ill-founded and disastrous—nevertheless, though we have lost control of the Railway, still, in effect, we can call ourselves shareholders of the Railway because, if the finances of the Railway reach such a pitch that it cannot meet its obligations, the people of this country will be called upon to

meet those obligations. And that is the reason why I, and, I believe, others on this side of the House, support this Bill—because, in supporting it, we are, in fact, supporting ourselves.

There is another very important point—which was anticipated, or at all events it was argued by those who favoured no prohibition and no restrictions—that the result of high-priced goods being brought up from Mombasa by motor transport, as opposed to railway transport, would result in a very considerable decrease in the retail prices of those articles to the consumer. Such has not turned out to be the case, and I think one can say, taking it by and large, that none of the goods that are brought up by these motor vehicles are retailed any cheaper than if they were brought up solely by the Railway.

There are one or two points which—although, of course, they will be matters for actual discussion in wording in the Select Committee, which I understand this Bill is going to—are none the less important in principle. The first one is that it is felt very strongly by the people of this country that this Bill should only provide for its operation for a period of one year, not meaning that necessarily at the end of a year it will cease to operate but, like the Bill which has just been read, that it must be re-introduced by resolution each year; and I presume Government will have no objection to that course being adopted, more especially in view of what the hon. the Attorney General has just said and stressed: that the Secretary of State insists that this should be a temporary measure. The Government can rest assured that if they agree to that alteration there will be no opposition on this side of the House to the re-enacting, so to speak, of this Bill from year to year so long as the necessity exists.

There is another point. In clause 4 of this Bill it provides that the schedule can be subtracted from or added to by His Excellency the Governor in Council, and we feel, I think unanimously, that that should not be the case, but that any alteration in the schedule should require the sanction of the Legislature.

Now, in regard to these two points, I am informed, Your Excellency, that the hon. the General Manager attended a meeting of the Nairobi Chamber of Commerce on Thursday last, when these two points were put up to him, and I understand his attitude was that, whilst this was a Government measure and he could not lipid Government, he himself would have no objection to these alterations being made in the Bill; and I therefore feel certain that, if the person chiefly concerned has no objection, Your Excellency's Government will have no objection either.

I may say that a very lengthy debate, lasting over two days, took place in the Nairobi Chamber of Commerce, and while they supported the principle of the Bill eventually by a vote of just about two to one, they were unanimous that these two alterations which I have just detailed should be included in the Bill.

There are two other points, Your Excellency. One is, that it is felt that it would be better if the distance that a vehicle is allowed to travel along a scheduled road without infringing the law should be altered from 25 to 30 miles. It is a very small distance, and the reason for that suggestion will be elaborated by the Noble Lord when he speaks.

The only other point is that, as far as we can understand this Bill, any farmer who has a small *duka* on his farm and who goes to Nairobi on his lawful occasions and wishes to take back £20 or £30 worth of goods to his *duka* cannot do so because he is transporting them for sale. How this is to be got over I do not know. I have not had time to consult the Attorney General or anyone else in the matter, but I would ask the Attorney General, or whoever happens to be Chairman of the Select Committee which deals with this Bill, to bear that in mind, because I think it is inflicting a real hardship on certain individuals which I am sure it is not the intention of this Government or of the General Manager to inflict.

With these few suggestions, I, personally, and, I think, other Members on this side of the House, propose to support the Bill.

**THE HON. T. J. O'SHEA:** Your Excellency, recognizing that Government has a very wide measure of support for the passage of this Bill, I shall not occupy much of the time of the House in a vain effort to oppose its passage. Up to a few months ago, Sir, my obstinate opposition to the passage of any such Bill might have been regarded as nothing more than a very high conceit of myself, but in view of the statements which have been made within the last few minutes there is much to be said for the deep conviction I hold in regard to this measure. It has now been recognized that in principle it is thoroughly unsound. I have contended that all along, and I must register my contention by voting against the passage of the second reading. The feeling I have about it is this: that in a young developing country it is indeed a grave error of judgment to pass a law giving a monopoly to a form of transport which is already becoming obsolete in many of its functions, and it is thoroughly unsound to make it unlawful for the people endeavouring to develop a young country to make use of the most modern forms of transport. It seems to me that no arguments can get over the unsoundness of any

such action, hence my determined opposition to this Bill and my inflicting upon the House the necessity of calling a division.—I regard it as recognition of the soundness of the point of view I have taken up on this measure, Sir, that the Secretary of State should have recognized the force of it and have only given his consent to the passage of this Bill by insisting that it be a temporary measure, and I am agreeably surprised that it be a temporary measure, and I am agreeably surprised to find that Members on the other side of the House have already accepted it as an annual and not as a permanent measure. If Government is prepared to agree to its re-passage annually, then it has gone a long way towards meeting my objections to it. I recognize that something has got to be done to safeguard the position of the capital we have invested in the Railway and to safeguard us against the possible consequences of allowing our finances to be upset by this competition, but I have contended all along and I still contend that the passage of a monopolistic measure like this is not the way to relieve the situation. I recognize, Sir, that the last-mentioned changes contemplated by Government lessen the evils of this measure considerably, but I make no apologies to the House for challenging a division so as to have my protest against this measure placed on permanent record.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, I have always been in favour of legislation along these lines for the reasons put forward by my hon. and learned friend on my left (the hon. Member for Nairobi South). I must say, Sir, that the course of the debate yesterday has made me realize that we have to be very careful in placing such a monopoly in the hands of the General Manager of the Railway, and for that reason I do sincerely trust that Government will accept the first two amendments moved by my hon. friend on my left (the hon. Member for Nairobi South). Should these not be accepted, I shall with regret, as I have always supported the principles underlying this measure, have to vote against the Bill. My reason for that, Sir, is this: The course of the controversy with the Railway over recent times has had the effect that the people of this country have not got complete confidence in the management of the Railway, and I think their fears were justified by the explanation given by the hon. the General Manager yesterday of what he considered an economic sense. He was challenged by certain of my colleagues yesterday with having no economic sense, and his reply was that he had frequently consulted an accountant and an auditor. If that is his definition of an economic sense, I think it proves our worst fears. The other reason, Sir, is this: that the General Manager has held out threats against the community that if he does not get this Bill as he likes he will then alter the rates with the effect that the rates

on the lower classes of goods carried by the Railway will have to be materially increased, and so, having destroyed the maize industry, he presumably intends to destroy most of the other industries as well. For those reasons, Sir, I do think it is essential that the people of this country should have some control over such a Bill as this.

The other point, Sir—increasing the mileage from 25 to 30 miles—has been brought up actually by myself for, you might say, a parochial reason. I hope this will be accepted, as I have gone very carefully into the geographical effect, and I do not think it will have any ill effects on the Railway at all. It is so that Gilgil, which is 28 miles from Nakuru, may not be debarred from doing their business with Nakuru by road. It will not entail any great amount of traffic, nor will it do any material damage to the Railway, but there are such things as garages having to get spare parts, and if they bring out these spare parts (which are for sale) by road, they are committing an offence under this Bill. I do not think there is any part of the country where this extension to 30 miles would have any ill effects, and I trust the Government will accept that amendment.

THE HON. CONWAY HARVEY: Your Excellency, subject to the modifications enumerated by the two hon. gentlemen on my right (the hon. Members for the Rift Valley and Nairobi South), I too intend to support this measure, but I am not quite satisfied, Sir, that it goes quite far enough in some respects. This is about the sixth or seventh occasion on which this subject has been discussed in this House, and on numerous occasions I have expressed the view that I thought the measures taken would prove to be inadequate. They have proved to be inadequate, Your Excellency, and I do strongly favour, subject to the modifications mentioned, complete prohibition from the competition; I should like the Select Committee, Your Excellency, to consider the extension of the provisions of this Bill to Kisumu from Nakuru.

THE HON. HAKIM SINGH: Your Excellency, I beg to oppose this Bill on the ground that in principle it is wrong to give a monopoly to any private firm or Government concern. Primarily there are several people, mostly Indians, who are engaged in this business. Most of them have sunk their last penny in this business. They never knew from the start that this business would stop, so these people will be ruined if this Bill is made law. I will say that there are several clauses which are safeguarding other communities because they can employ their mechanical transport in other ways to bring their products and to take their stuff to dukas; as the Indians by law are debarred from buying land they will not be able

to engage in this transport or any other business. They will all have to scrap it. Like most other departments, we are getting very little out of the revenue we raise, just like the Land Department, Agricultural, Veterinary, Medical. I would certainly oppose this Bill.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, on previous occasions I have always supported the ideas contained in the Bill before the House this morning, and I have always argued that as the State Railway is a State monopoly, and we are directly or indirectly concerned in the success of that Railway, we should support it in every possible way; but for many months my mind has been exercised considerably on the management of the Kenya and Uganda Railway, and after the debate yesterday I made up my mind to vote against this measure as a protest against the determination of the hon. the General Manager in what is undoubtedly a policy of smashing the maize industry in this Colony. That cannot be emphasized too strongly. I gave my reasons for it yesterday. I am voting against this measure, and I would ask a question with regard to one point—probably my mind is unduly exercised—the point I have in my mind is the road between Kitale, Turbo and Lazari—whether in the event of this Bill being passed would it arbitrarily compel a motor lorry to go to the nearest station, or would they be privileged to go to either of the three, seeing they are all within the distance: two are on the main line and one is on a branch line?

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, it would be an unnecessary waste of the time of this House were I to make any attempt in the direction of the conversion of my friend the hon. Member for Plateau South or the hon. Indian Member. I do not propose to attempt anything of the sort. It is one of those cases, Sir, in which there are two schools of thought, and we happen, Sir, on this occasion, to be in opposite camps.

So far as the detailed criticism of the Bill is concerned, Sir, I have your authority for stating that Government will accept the suggestion that the Bill be expressed to be for one year, to be kept alive, as in the case of the Levy on Official Salaries Ordinance, by resolution of this Council. Further, Government, I am authorized to state, is prepared to accept the distance of 30 miles in place of the 25 miles stated in clause 9. I hope that my hon. and learned friend the Member for Nairobi South will not press the question of the hardship on the farmer who has a duka on his farm. There must be

hardship necessarily involved to someone in any measure of this kind, but I do suggest to my hon. friend that if we open the door to any *daka*-keeper at all, then the legislation is of no practical worth whatsoever. If one person can carry cheap goods over a scheduled road, then necessarily anyone can, and the whole object that the legislation has in mind is rendered completely abortive.

I did not, Sir, when I expressed my intention of refraining from any attempt at conversion, deal with the rather Laodicean argument of my hon. friend the Member for Plateau North. I do not intend to now, Sir, but I should like to give him the assurance that the particular road which he mentioned—the Kitale-Turbo-Lugari road—is in no way affected by the provisions of this legislation. The scheduled road is the road from Mombasa to Nakuru and nothing more.

The hon. Member for the Lake has made the suggestion that possibly the scope of the Ordinance might be extended from Nakuru to Kisumu. That is a matter which has been very carefully considered by my hon. and gallant friend the General Manager, and in his opinion, Sir, it is not necessary, in the interests of the Railway to go further than Nakuru, at least at the moment. This is prohibitory legislation; it is legislation which, as I have already stated, in my opinion is justified by circumstances; but that does not mean, Sir, I submit, that we are justified in going further in that direction than is really necessary, and I would ask the hon. Member to be content at the moment with provision for covering the road from Mombasa to Nakuru.

**CHIEF THE HON. H. E. SCHWARTZ:** On a point of order, Your Excellency, might I ask the Attorney General to express the views of Government on the far and away most important suggestion I made with regard to clause 4?

**THE HON. THE ATTORNEY GENERAL:** I am extremely sorry, Sir, that I inadvertently forgot that point. There again, Sir, I am authorized to state that Government will be prepared to accept an amendment to clause 4 in these terms:—“The schedule hereto may from time to time be added to, varied or revoked by resolution of the Legislative Council.”

**HIS EXCELLENCY:** The question is that the Carriage of Goods by Motor (Prohibition) Bill be read a second time.

The question was put and carried by 25 votes to 5:—

**Yeas:** Mr. Bruce, Canon Burns, Messrs. Deck, Brassley-Edwards, Dr. Gilks, Messrs. Conway Harvey, Holm, Horne, Logan, MacGregor, Montgomery, Moore, General Rhodes,

Major Robertson-Eustace, Mr. Rushton, Capt. Schwartz, Mr. Scott, Lord Francis Scott, Major Sir Robert Shaw, Messrs. Sikes, Walsh, Wade, Capt. Ward, Col. Watkins, Col. Wilkinson.

**Noes:** Col. Durham, Mr. Hakim Singh, Col. Kirkwood, Mr. O'Shea, Mr. Abdul Wahid.

#### THE COMPULSORY LABOUR (REGULATION) BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to Regulate and Control the Use of Compulsory Labour be read a second time.

This Bill, Sir, is directly the outcome of the deliberations of the International Labour Conference during the years 1929 and 1930, deliberations which resulted in the adoption by that body in the year 1930 of a draft Convention on compulsory labour. That Convention, Sir, has been adopted and ratified by 22 States, members of the League of Nations. It has been adopted and ratified by, among others, South Africa, France, Belgium, Italy and Portugal, as well as by the Government of Great Britain, and it is therefore, one may say, of general application throughout the whole of Africa.

The action which the Imperial Government took, Sir, on the Convention was that it was duly ratified and brought into force by Order in Council in 1931. That Order in Council recited that it was the intention of His Majesty's Government to apply the provisions of the Convention without modification to all the Colonies, Protectorates and Mandated Territories which are not fully self-governing. It is because of the terms of that Order of His Majesty's Council, Sir, that this Government is seeking to implement that expression of opinion of His Majesty by introducing this Bill.

The Bill, in form, closely follows, without modification except in one very minor matter which I shall mention presently, the terms of the Convention itself, and I am happy to say, Sir, that it introduces no change in the existing law of this Colony. In so far as use has been made of compulsory labour, in so far as use still on rare occasions has to be made of compulsory labour, such use will still be legal and proper under this legislation. There is no change in the present position of things in so far as this Colony, at least, is concerned.

I mentioned just now that there was a slight modification, and possibly this will be a convenient moment in which to mention it. In the light of recent unfortunate happenings in the Colony, particularly the locust invasion, Sir, Government has thought fit slightly to modify, first of all the definition of

"compulsory labour", clause 2 (c), by adding "invasion by animal or insect pests or plant diseases or pests," and in so providing, Sir, the Government is going further than the Convention goes. Equally, and entirely consequentially, Sir, in clause 17 there is a provision that it will be lawful under the Native Authority Ordinance to issue orders to be obeyed by all natives for the suppression or control of animal or insect pests or plant pests or diseases. That is the only modification.

Hon. Members will see that the definition of "compulsory labour" is such that the existing forms of compulsory labour, such as military service, prison labour, work of emergency in the interests of the people themselves, and minor communal services of the type which natives have always regarded as proper matter for free communal service, will still be permissible. Compulsory labour for private individuals is prohibited entirely. It does not exist. There is no reason why this Government should not come into the open and declare it does not exist. Compulsory labour for permitted purposes may be called out by the Government under clause 4, and the Governor may delegate these powers to a Provincial Commissioner, a District Commissioner, a District Officer or Headman. Subject to the safeguards which hon. Members will find in clause 5, compulsory labour can be exacted from able-bodied males between the ages of 18 and 45, and there is an exemption from compulsory labour granted to teachers, the local authority or of any private person—any person who, at the time when he is called out, is subject to an agreement under the Employment of Natives Ordinance. The maximum period permissible for compulsory labour is sixty days in any one period of twelve months, and clause 8 provides that the hours shall be those prevailing in the free labour market in the area where the work is to be done.

The provision in clause 10 is one which has no real meaning at the present moment in this Colony, but it is, I submit, a very natural provision, that if, at any time, legislation has to be introduced into the Colony providing for compensation to workers, the provisions of that legislation should apply equally to compulsory labour.

Clause 11 governs the transfer of compulsory labour over considerable distances, where climatic conditions and dietetic conditions in places where the workers are transported to are materially different from those to which they are accustomed; and, similarly, clause 12 makes provision for the use of compulsory labour on major construction and maintenance works, provided that there must be adequate housing accommodation,

medical attention, etc., provisions very similar—in fact, almost indistinguishable from those which now are of universal application throughout the Colony in the case of paid voluntary labour under the Employment of Natives Ordinance.

Clause 13 saves one type of compulsory labour which, I am informed, the Colony is not yet able to do without—that is, compulsory labour for portage on *safaris*. The amount of such labour is, I am glad to say, decreasing year by year, but it is not yet possible to do without it entirely.

Clause 14, which I commend to the notice of hon. Members, does provide for the use of compulsory labour on cultivation, either to avoid a famine or an anticipated deficiency in food supplies, but there is a proviso—which I think is a natural and proper one—that the food or produce so produced shall remain the property of the individual or the community so producing it.

These are the only provisions to which I need draw attention except possibly clause 17. I have already pointed out that we are going along what I am sure hon. Members will agree is a proper line in making provision for the suppression of plant pests and diseases, and in countries such as this I submit that is a very proper provision to make. Paragraphs (m), (n) and (o) of the Native Authority Ordinance have been repealed by this legislation. The reason for that is that (n) provides for paid labour by able-bodied adult males for urgent repairs in case of sudden or unforeseen damage to roads or railways, or to Government buildings or to works, or for the purpose of preventing loss of life or damage to property from fire, flood, or other unforeseen causes. That is already provided for and is an integral part of the Bill now before this House; as is (o), the providing of paid porters for (Government servants on tour; and also (m), Sir, which is a major constructional and maintenance works provision which, at the present moment, requires the prior sanction of the Secretary of State. Those are now provided for, Sir, under clause 12, and, provided that the safeguards introduced in that clause are observed, there is no need now under this legislation to refer such matters to the Secretary of State.

THE HON. T. D. H. BROWN: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Compulsory Labour (Regulation) Bill be read a second time.

MR. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I wish to support this Bill, especially as it is complete justification of the policy in regard to compulsory labour which

has obtained in this Colony for many years past. There have often been attacks and insinuations made against us, completely without foundation, and, as the hon. and learned member pointed out, to say there is no compulsory labour for private persons is merely stating a fact which has been the practice in this Colony for many years past.

LT.-COL. THE HON. C. G. DUNHAM: Your Excellency, I should like to see the age altered: 18 to 45 I think is wrong. I suggest it should be 16 to 45. We get any number of lads coming out at 16. They are entitled to get their *kipandis* then, and the moment they get their *kipandis* they demand an adult's wage. I should like to see the age reduced to 16.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I am sorry that I have to oppose this Bill in its present form. First of all, I would criticize the interpretation of the Bill as being too wide. "animal" does not understand exactly what "animal" means in the explanation or interpretation of "insect pests." Insect pests, of course, I quite understand, such as we have been having for the last two years or so in the Colony; but "animal" pests—I do not understand exactly what that means.

Secondly, I think that to employ compulsory labour for plant diseases—again, I think that that is too wide. And then, with regard to the authority given to a headman: it is here, Your Excellency, that most of the abuses have occurred in regard to compulsory labour. To my own knowledge, from other places where they have come back from Nairobi or elsewhere, six or twelve months, as the case may be, have been compelled, if they are not willing, to obey the order of the headman and go to a certain place for labour. Their goats and sheep have been seized and sold at not only half but sometimes a quarter of their price to provide the fine imposed upon them by the headman for refusing to work.

Therefore, I should like very much to see the headmen have no authority to recruit compulsory labour—I should like to see that taken out of the Bill.

Then again, Your Excellency, we have here in section 5, paragraph (b), "such compulsory labour, unless it is imposed solely for the purpose of facilitating the movement of officials of Government when on duty or for the transport of Government stores, shall not involve the removal of the workers from their place of habitual residence." We turn to section 11 and we there read of the workers being transported to unhealthy districts. At the same time, we read in section 9 (3), "for the purpose of calculating wages due, the days spent in

travelling to and from the place of work shall be counted as working days." How these two statements can be reconciled I do not just exactly know.

Then, Sir, the gravest criticism I would offer is the employment of compulsory labour on construction. To my mind, compulsory labour should not be used except on very, very special occasions. If there was a dam that was of real use to the whole community and the water was escaping and there was the chance of the whole thing being destroyed, then I can understand it, but for ordinary construction—I do not know exactly what it means. If it is on railways or roads or anything like that outside the reserves, then I do not think that compulsory labour should be used for such purposes.

Then with regard to the age: it says from 20 to 45 . . .

THE HON. THE ATTORNEY GENERAL: 18.

THE REV. CANON THE HON. G. BURNS: 18 to 45. I think the age of 18 is right—though I should like to see 20 myself—but 45 is, in my opinion, carrying the thing too far. In the reserves men, when they reach a certain age, are initiated into their tribe, and there devolve upon them certain responsibilities with regard to the internal workings of their tribal institutions and laws, and certainly that initiation takes place before the age of 45. Long before that, they have families, their homes, and to take these men for any length of time away from those families—I say their conjugal and family ties should be respected. I do not see how they can be respected if the men are taken away to a long distance where it is necessary for camps to be examined by medical officers and that sort of thing. I should very much like to see the age reduced from 45 to 35—10 years taken off.

With regard to compulsory labour for cultivation, I presume it is understood that that cultivation will take place in the reserves in case of famine, which I entirely agree with, where there might be a shortage of food in any given reserve that the natives in that reserve—they could not be put to a better purpose than cultivating land in the reserve for food of a communal nature, so that the whole community would be helped by them. I presume that "in the reserve" will be put in there, Sir, unless Government were to place some land at the disposal of the authorities for such cultivation.

Apart from these, the criticisms which I very humbly offer are: the interpretation being too wide; that a headman should not have authority to recruit compulsory labour because of the possibility of abusing it; that the natives should not

be transported to where it takes days to transport them in a compulsory way; and that the age limit should be reduced from 45 to 35.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will call upon the Attorney General to reply.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, at the outset of my reply, I would like to reiterate and emphasize what I said a few moments ago, that in part at least the necessity for this legislation is the action of His Majesty's Government, which has declared that this Government will accept this Convention without modification. I stress that particularly, Sir, in view of the suggestion made, firstly by the hon. Member for Kikuyu and a moment ago by the hon. Rev. Member representing native interests, that the age of 18 to 45 is wrong. I would say, Sir—I do not think there is any secret about it—that this Government has very considerable sympathy with the arguments advanced by the hon. Member for Kikuyu. The age which is generally recognized statutorily in this Colony for the attaining of adult status is 16, and this Government did, when this Convention was under consideration, make representations to His Majesty's Government in that regard, suggesting the age of 16. Those representations, unfortunately, though corresponding representations were made by the Governments of many other African colonies, were unsuccessful. We have tried, Sir, and we have been told to take the ages of 18 to 45, and I am sure that every Member will loyally accept that. We did our best to get 16, but unsuccessfully.

I should like to say a word about one or two of the arguments of my reverend friend who has just spoken. I was surprised to hear him begin by opposing this measure. I should have thought it was a measure very dear to his heart. Indeed, I was still more surprised when I heard the grounds of his opposition. If I understood him correctly, one of those grounds was that teachers and pupils from Nairobi went into the reserves at the present moment, and were called upon for compulsory labour. I am very sorry to hear that, Sir; that may be so, but it cannot be so under this legislation.

**THE REV. CANON BURNS:** On a point of order, I did not say teachers and pupils; I said boys who were working in Nairobi.

**THE HON. THE ATTORNEY GENERAL:** I beg the hon. Member's pardon. Let me say boys who are at present working in Nairobi—under this legislation which we are considering, that is impossible, Sir. If the hon. Member will look at

clause 6 (2) (ii), he will see that no teacher in a school, no person employed under the Employment of Natives Ordinance shall be liable to be called upon. We have made the very provision that the hon. reverend Member wants, and he is cavilling at it. I may have misunderstood him, but that is the way it appears to me.

Then I am asked to reconcile certain provisions of this legislation. Well, I have had the challenge, Sir, and I am going to take it up, because it is a very easy thing to do. The hon. Member suggested that clause 5 (i) was quite irreconcilable with clauses 9 (3) and 11. That is not really so, Sir. Clause 5 deals with the modified powers which a Provincial Commissioner, a District Officer or a headman has, and they cannot, except for the transport of Government officials and urgent Government stores, call out labour which is going to work away from its normal place of residence. That is what clause 5 says, and says quite clearly, I suggest, but, Sir, under clause 4, Your Excellency has powers to call out compulsory labour under the four safeguards set out in that clause, and it is under Your Excellency's power that compulsory labour may be moved away from its normal place of residence either under clause 9 or clause 11. Surely, Sir, there is no conflict. I should have thought it was very obvious indeed.

Similarly, Sir, when the hon. reverend Member holds up his hands in horror at the possibility of using forced labour on construction, I would again remind him that it is always better in constructing any statutory enactment to read it as a whole, and not to take one clause out of its context. Everything has to be subject to the safeguards embodied in clause 4, and it is only when the work is of immediate benefit to the natives concerned, when it is a matter of imminent and urgent necessity, and when voluntary labour cannot be obtained, that such labour can be used. Surely those safeguards are adequate. They go a good deal farther than the existing legislation does, and the hon. Member has expressed no sense of gratitude for making things so much better from the point of view of the natives.

Those, I think, Sir, are the only points which I have deemed it my duty to deal with.

**HIS EXCELLENCY:** The question is that the Compulsory Labour (Regulation) Bill be read a second time.

The question was put and carried.

*The Council adjourned for the usual interval.*

On resuming.

THE DANGEROUS DRUGS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Regulate the Importation, Exportation, Manufacture, Sale and Use of Opium and other Dangerous Drugs be read a second time.

I do not propose, Sir, to go through the twenty-four clauses of this Bill in detail. I think it will be sufficient for me to give hon. Members an assurance that no change in existing legislation is made except in two important regards. The first of these matters, Sir, is that of penalties. Unfortunately, it appears that there are few, if any, more thoroughly lucrative occupations than that of illicit dealing in dangerous drugs, and experience has tended to show that nothing but thoroughly deterrent sentences are of any avail whatsoever in dealing with this dreadful trade. And so, Sir, this Bill brings the penalties in this Colony—hon. Members will find them in clause 17 (2), at the top of page 10—into line with those in force in Great Britain. If this provision is accepted, a drug trafficker will be liable on conviction by the Supreme Court to a fine of £1,000 or imprisonment for a period of ten years, or to both fine and imprisonment; and on summary conviction by a magistrate in a subordinate court to a fine of £250 or one year's imprisonment, or both.

The other matter is one which arises from the very constant and watchful care of the Dangerous Drugs Committee of the League of Nations, and the very unscrupulous but thorough care which the vendors of dangerous drugs have given in the past to the task of getting over legislation. It now transpires, Sir, that there are a number of drugs which, though in themselves they are not actively harmful, are easily susceptible of being made harmful. I do not propose to recite what they are. They reside in names like "dihydrohydroxy-cocaine", but in fact are none the less as I have stated—though in themselves unwholesome, they are capable of being rendered harmful, and it is manifestly desirable that they should be made subject to a law like this.

Those are the only changes which this Bill introduces. The opportunity has been taken to consolidate existing legislation, which at the present moment occurs in three separate Ordinances.

THE HON. T. D. H. BURROUGHS: Your Excellency, I beg to second the motion.

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

The question was put and carried.

THE GAME (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Game Ordinance be read a second time.

The important provision in this Bill, Sir, is that embodied in clause 5. Before I turn to that, Sir, I would claim the indulgence of the House to deal very shortly with the other provisions. They are, Sir, shortly, that the privilege of a serving officer's licence is now to be extended to members of the Service of His Majesty in India. Hon. Members are aware that every effort is being made to encourage officers from India to come to this Colony with a view to settlement. It is not a very great attraction to such officers to come here with the knowledge that if they want to get any big game shooting they have to pay a full licence and, although at first sight it would appear that the Colony is running the risk of losing a certain amount of revenue, I think that fear is quite illusory. No licences are being taken out at the present moment because the amount is so great, and it is hoped that by giving a serving officer's licence to members of the public service from India a certain number of licences will be taken out and the revenues increased accordingly.

Similarly, Sir, the present privilege of taking out a resident's licence, which is given to members of the public service in Uganda and Tanganyika, but not to anyone else in these territories, is now sought to be extended to residents, not only in Uganda and Tanganyika, but in the Sudan also. I do suggest with all confidence, Sir, that there is no reason at all why a civil servant in adjacent territories should stand in that privileged position. If a concession is made at all, it ought to be made to the residents of those territories, and, in so far as it is hoped to attract residents from those territories, the concession should not be restricted to public officers.

Now, Sir, I come to clause 5, which purports to prohibit the sale and use of any kind of metal trap for the hunting and killing of any scheduled animal. The justification for that, Sir, of which I am sure all hon. Members are aware, is the recent revelation of the abominable cruelties which have been caused by the use of such traps and the revelation that the indiscriminate use of these traps is in certain parts of the country upsetting the balance of nature and leading to very grave depredations indeed from pig and baboon. But I understand there is a certain amount of opposition to the provision in its present rather categorical and summary state in that the use of metal traps, metal game traps, is regarded as almost a necessity against leopard and other vermin in certain parts of the country. I understand hon. Members opposite would like to see some slight relaxation of the provision in the

direction of probably licensing traps in appropriate cases, and it has further been represented to me in the course of the last few days that at the present moment it would be quite impossible at the Port of Mombasa to handle a consignment of such traps which are in fact consigned to Uganda. That, Sir, was never intended, and I would suggest that possibly this Bill might properly be referred to a Select Committee for an examination principally of the provisions of this clause.

**THE HON. T. D. H. BUCCER:** Your Excellency, I beg to second the motion.

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

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, whilst supporting the first part of the Bill extending the privilege of cheaper licences—because I believe it may help on the object which many of us are so keen on, that is, of increasing settlement in this country—I am very glad to hear what the hon. and learned mover has said about clause 5. Now, Sir, Members on this side of the House are very anxious to help and co-operate with the administration of the Game Department in the suppression of what has been described as "indiscriminate slaughter of animals," which chiefly, I believe, applies to the Tana River area and parts of the Northern Frontier Province. At the same time, Sir, it has been pointed out very strongly that in parts of the country where stock is raised, whether in the settled areas or in some of the native reserves, this very arbitrary and extreme measure will inflict great harm, and it is not justifiable to inflict such hardship on the whole community for the sake of dealing with only a certain part of the country. I agree with the hon. and learned mover that the best way is that a small Select Committee should find a solution which will be agreeable to all parties. It has been pointed out to me that it might be dealt with in a different way under the existing Ordinance. That I have not had time to look up, and so I trust that the Government will appoint this Select Committee and that the question will then be solved on some satisfactory lines.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will put the question.

The question was put and carried.

#### THE BRANDING OF STOCK (AMENDMENT) BILL.

**THE HON. T. D. H. BUCCER:** Your Excellency, I beg to move the second reading of a Bill to Amend the Branding of Stock Ordinance.

The object of this Bill, Sir, is to make the provisions of the Principal Ordinance apply to all races equally and not only, as now, to non-natives. As hon. Members of this Council are aware, the Principal Ordinance, which was passed as long ago as 1927, provides for the allotment and registration by non-natives of brands for branding stock. Under the Principal Ordinance, Sir, natives are allowed to put their own distinctive marks on stock but they are not allowed to register a brand. The present trend of policy, Sir, in this Colony, and I think I am right in saying in other Colonies also, is to get rid as far as ever possible of racial legislation, and it is considered, Sir, that the time has now arrived when this Ordinance should be made non-racial in character. I understand, Sir, that it is expected that in fact very few natives will take advantage of this amendment, but it is considered it is only right that they should have the chance to do so if they desire to. I am informed by my hon. friend the Chief Veterinary Officer that so far as he is concerned the non-brands that are registered the better he is pleased from the stock point of view. The provisions of this amending Bill are designed, with two exceptions, to make, as I say, the Principal Ordinance non-racial in character. Those two exceptions, Sir, are that clauses 18 and 19 of the Principal Ordinance are repealed. That is because clause 18 has been found to be impracticable in actual working and has not been carried into practice, and clause 19 provides the penalty for the infringement of section 18, which, as I say, has not been put into practice. Section 18 I might just read for the information of hon. Members:—

"It shall be the duty of a broker or auctioneer immediately to cause to be branded with his registered brand all cattle the property of a native or a non-native which he may sell to a native. A broker or auctioneer may deduct from the purchase price the sum of fifty cents in respect of each head of cattle so branded."

As I say, that has been found impracticable in practice, and has not been carried into effect, and therefore it is proposed to repeal section 18 and consequentially section 19. I trust, Sir, that this Bill will have the support of hon. Members.

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

The question was put and carried.

#### THE MONEY-LENDERS BILL.

**THE HON. THE ATTORNEY GENERAL:** Your Excellency, I beg to move that a Bill to make Provision with respect to Persons carrying on Business as Money-lenders be read a second time.

To me, at least, it has always been a matter of great surprise to find that there is no money-lending legislation in this Colony. I find it difficult to imagine that the evils which necessarily follow in the train of indiscriminate usury do not exist equally in this Colony as elsewhere. In fact, Sir, recent investigation has gone far at least to convince me personally that the evils in Kenya are extremely great and extremely real, and that the time has certainly come when usury should be controlled and regulated, and brought into the light of day, instead of going on slyly and subterfugeously as it does at the moment. The provisions of the Bill, Sir, are taken very closely from the 1927 legislation in England. That measure of the Imperial Parliament was much more than a consolidating measure of pre-existing money-lending legislation, because it did go very far indeed towards controlling those persons who were considered to be fit and proper persons to engage in the business of lending money. These measures, Sir, I suggest with all confidence, are every whit as necessary in this Colony as they were proved to be in the home country.

Shortly, Sir, the provisions, if this measure is adopted, will be these: Before any person can engage in business as a money-lender he must first go to a magistrate and satisfy the magistrate that he is a fit and proper person to be licensed. His character comes in issue, and, inasmuch as that process is an annual one, his continuing good character will be a condition precedent to the granting of any licence. The magistrate, if satisfied, grants a certificate, and armed with that certificate the money-lender then obtains a revenue licence at a cost which is suggested at £15 for a year or £10 for a half year, and that licence has got to be obtained before he can lend money. Having got a licence, Sir, it must be in his true name or in a registered business name. The licence must state the place of business at which he is going to carry on his money-lending, and any loan made in a name other than his true name or his licensed name or any loan made at any place other than his registered place of business will be illegal and void. Similarly, Sir, when we come to clause 16, which, I think, is an important one, hon. Members will find that the pernicious system of fines and premia and bonuses, deductions for expenses, is not only rendered illegal and declared to be illegal, but the legislation goes further than that: if, having agreed to make a loan of £100, the money-lender advances £80 and says he has taken the other £20, that £20 will be a debt recoverable from the money-lender, and can be set off against the £80, so that £60 only will fall to be paid. The path of the money-lender, Sir, generally is not rendered any easier by any of the provisions of this legislation. It will behoove him to walk very warily in a number of ways before he can hope ever to recover any money lent. For instance,

he is bound at the time of any transaction to give a memorandum within seven days of all the details of that transaction to the borrower. The borrower is entitled at any time, on payment of the sum of one shilling, to a copy of his account with the money-lender. There is a period limitation for the recovery of money-lending debts imposed, and that period is the very short one of twelve months. One of the most important provisions is that which debars the assignment of a money-lending debt without the knowledge and consent of the borrower. At the present moment—I say this without fear of contradiction—in this Colony every money-lending debt, with very few exceptions, is assigned. Every nominal plaintiff who comes to the court to recover on a money-lending transaction is a man of straw, and a mere assignee. It is impossible at this moment to find out how grave the danger is, how real the damage which is being done is, because of this pernicious system of assigning to assignees who are men of straw. That will now be impossible. A money-lender must lend in his own name, only at his registered place of business, and will have to sue a client to recover under his own name. When he comes to seek recovery, Sir, there is the very salutary provision that a court is in fact bound to reopen every money-lending transaction, to declare that any rate of interest, having regard to the circumstances in which the money was advanced and having regard to the security offered, is harsh and unconscionable. A court may reopen, may declare that in its opinion a rate very much lower than the rate agreed to be paid is a proper rate, and a balance is then struck at that further rate, and that is all that the money-lender can recover. There is the further provision that any interest charged at a rate exceeding 48 per cent, or a corresponding rate for shorter periods, is to be deemed to be harsh and unconscionable. This, Sir—I can see hon. Members smile when I mention 48 per cent, but I can assure them that I have seen transactions within the last few weeks at rates very much in excess of that—48 per cent in itself is by no means an unusual rate in this Colony, I am sorry to say.

—Those, Sir, are the main provisions to which I desire to draw attention, and I do hope, Sir, that this Bill will have the very real and unanimous support of hon. Members of this House.

THE HON. T. D. H. BUTCH: Your Excellency, I beg to second.

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

**CHIEF. THE HON. H. F. WARD:** Your Excellency, may I offer the sincerest thanks to the hon. mover for meeting the representations made from this side of the House for the introduction of some such legislation, and for the very complete and effective manner in which he has dealt with that request. There are two points that I should like to bring up. One is with regard to the rate of 48 per cent. I understand that that is a lower rate even than rules in Great Britain; at any rate, it is not in excess.

I am going to risk the fate of the hon. reverend gentleman who represents native affairs by pressing one point on the hon. mover under the definitions. Clause 2 (1) (b) excludes banking, insurance and those firms who have not for their primary object the lending of money, and in spite of a conversation I have had with him, I cannot yet understand why a mortgage company should not also be specifically excluded. Its sole business would be the lending of money, and I presume I am right in saying that it would come under the operations of this Ordinance. I press that point for two reasons: First of all, is it fair that a firm which does lend money on mortgage, but which does not do so as its primary object, should escape the provisions of this Ordinance, whereas a registered company whose sole object is the lending of money on mortgage has to come under the provisions of this Ordinance? The second point I should like to put to him is this: it would have a very big bearing on land bank transactions and the Land Bank Ordinance. It is known that in another country a rate as low as 9 per cent was accepted by the authorities administering the land bank as being—whatever the right expression is—harsh, and relief was granted by the land bank by the lending of funds at a lesser rate. No doubt a mortgage company lending money, if brought under this Ordinance, at 9 per cent, as I see it, could resist any such suggestion that its terms were harsh, and therefore the borrower be precluded from the relief which the land bank is intended to give.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will call upon the mover to reply.

**THE HON. THE ATTORNEY GENERAL:** I do not know, Your Excellency, that there is anything really for me to reply to, because the points which have been made by my hon. friend the Member for Nairobi North are so essentially, I suggest, committee points. I would, however, like to say one thing: the rate of 46 per cent which hon. Members will find in clause 14 is, in fact, the rate in force in England. The sole difference between that clause and the corresponding provision of the English legislation is that under clause 14 a court

"shall" deem any transaction involving a rate of 48 per cent harsh and unconscionable; under the English legislation there is a discretion vested in the court. In England, the suggestion of 48 per cent is merely thrown out to the court; here, it is mandatory on the court. So to that extent we are better off than under the English legislation.

The position of a mortgage company is one which it is a little difficult to deal with, because obviously under the definition in clause 2 of the Bill the question of whether any particular individual, company, firm or partnership is or is not a money-lender is essentially one of fact. It is difficult to lay down any broad lines, but if there are, Sir, in the Colony companies solely engaged in the lending of money on mortgage then, Sir, personally—I wish to make it clear that I am in no sense committing Government because I have not had an opportunity of ascertaining the views of Government—but I do not personally see why they should not be given the same preferential treatment as an insurance company which is lending money on its policies is given. The object of the legislation obviously is to make the money-lender come out into the open, and where you have reputable companies of that kind, Sir, they are there in the open—their transactions are reduced into the form of mortgage deeds, and they are there for the whole world to see.

I do not, if I may say so, Sir, with all deference, entirely agree with the construction placed by my hon. friend on land bank transactions if this Bill goes through, but I do not think it is necessary, Sir, to pursue that.

**HIS EXCELLENCY:** The question is that the Money-lenders Bill be read a second time.

The question was put and carried.

**THE HON. THE ATTORNEY GENERAL:** I beg to move that Council resolve itself into a Committee of the whole Council for the consideration clause by clause of the fourteen Bills which hon. Members will see on the Order Paper under the caption "For Committee Stage," and also, Sir, of—

- The Levy on Official Salaries (Amendment) Bill.
- The Carriage of Goods by Motor (Prohibition) Bill.
- The Compulsory Labour (Regulation) Bill.
- The Dangerous Drugs Bill.
- The Branding of Stock (Amendment) Bill.
- The Money-lenders 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 SUPPRESSION OF RABIES BILL.

The Bill was considered clause by clause.  
 Clause 7.—Power of district officers, veterinary officers and police officers in respect of diseased or suspected dogs.

LT.-COL. THE HON. LORD FRANCIS SCOTT: With reference to clause 7, Sir, the last line but one, it says—

"may cause any dog examined and any diseased or suspected dog to be destroyed."

I do not opposing that, Sir, but I should like to hear from the hon. the Director of Animal Husbandry whether there will be control. One stray dog has heard of complaints of dogs accepted being unnecessarily destroyed.

MAJOR THE HON. H. H. BRANSEY-EDWARDS (CHIEF VETERINARY OFFICER): I think the particular clause refers to districts and not to observation. If it is only a question of keeping a dog under cases where a case of rabies will be taken in these areas. In those animals are destroyed.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Might I ask if the hon. Member will give an assurance that instructions will be given to veterinary officers or others dealing with this matter to use discretion and not to be unreasonable in the application of regulations.

MAJOR THE HON. H. H. BRANSEY-EDWARDS: I can give that assurance.

#### THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL.

The Bill was considered clause by clause.  
 (Clause 2.—Omnibus Services.)

CAPT. THE HON. H. F. WARD: I have been asked to represent that in section (c) of the approval of the Governor in Council be substituted for the approval of the Governor, as these matters are more usually referred to His Excellency the Governor in Council.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Sections (c) and (d).

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOUIS): The general principle of reference to the Governor or the Governor in Council, which was adopted in the Principal Ordinance, was that, chiefly for the Governor in Council from a great many references which had hitherto been made to him, only matters of financial control should be referable to the Governor in Council and that other matters requiring the Government's prior approval should be referred to the Governor. The Standing Committee advise either the Governor or the Governor in Council. We have therefore, in making this exercise of power ever-main Ordinance, and, with reference, I suggest that that principle is a sound one and need not be upset in this particular case.

#### THE LOCAL GOVERNMENT (DISTRICT COUNCILS) (AMENDMENT) (No. 2) BILL.

The Bill was considered clause by clause.

#### THE SIAL BAO INDUSTRY BILL.

The Bill was considered clause by clause.

Clause 3.—Minimum price for certain bags.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in the course of the debate on the second reading of this Bill, two points were taken, one by the hon. Member for Mombasa, and the second by the hon. Member for Nairobi North. Those points have been very carefully considered, Sir, and, if I may say so, I think they were both points of real substance, and I beg, Sir, to move that this clause be amended by adding as sub-clause (3) the following:—

"Nothing in this section contained shall apply to a sale by order of a court or to a sale of the property of a bankrupt under the Bankruptcy Ordinance, 1931."

And that there be added as sub-clause (4) the following:—

"This section shall come into operation three months after the issue of a licence under section 4 of this Ordinance and shall remain in force so long only as a licence under the said section is in force."

I hope, Sir, that hon. Members will accept that as meeting their points.

CAPT. THE HON. H. F. WARD: On behalf of the hon. Member who is not here, Your Excellency, and myself, I am extremely grateful for the manner in which those points have been met, and I hope nothing I have said in the debate—or the other hon. Member—will give the impression that we are not extremely anxious to assist capital.

The question was put and carried.

#### Schedule.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, after the words "light Coss" there should be an addition in brackets—a capital "C" in inverted commas, followed by "bags light". It appears that two terms are used for bags of this particular description, and it is desired to avoid any confusion being made.

The question was put and carried.

#### THE EXCISE DUTIES (AMENDMENT) BILL.

The Bill was considered clause by clause.

#### THE CRYPTICUS TARIFF (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Amendment of Class I of Schedule to the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: In this clause I beg to move that the letter in brackets—"b"—under the head "Item" be deleted, and that the same letter in brackets be put in under the head "Article". That agrees with the classification. It comes in just before the word "occurrences"; it simply goes on the other side of the black line.

The question was put and carried.

## THE PRISONS (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE NATIVE TRIBUNALS (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE CHATELAIN TRANSFER (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE ESTATE DUTY (CONSOLIDATION) (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE TRACT PROTECTION (AMENDMENT) BILL.

The Bill was considered clause by clause.

## Clause 3.—Fees payable for licences.

CAPT. THE HON. H. P. WARD: In clause 3 there is a very small point, but it is a point of economy, and it might have more far-reaching implications than application to this Ordinance. Is it really necessary to issue a licence in triplicate for each person for each day they take out a 24-hourly licence? In other words, if three people apply for three 24-hour licences, they have to have nine pieces of that takes exactly twenty-five minutes of the time of that office which might well be spent in another direction.

THE HON. THE COLONIAL SECRETARY: I take it the hon. Member is only pointing out this as an administration point. I do not think much will be issued in triplicate.

CAPT. THE HON. H. P. WARD: I simply took the opportunity of mentioning the point.

THE HON. THE COLONIAL SECRETARY: Yes; that point will be noted.

## THE ANCIENT MONUMENTS PRESERVATION (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE CONTRACTS IN RESTRAINT OF TRADE (No. 2) BILL.

The Bill was considered clause by clause.

## THE STATE RAILWAY PROVIDENT FUND (AMENDMENT) BILL.

The Bill was considered clause by clause.

## LEVY ON OFFICIAL HALLIBERS (AMENDMENT) BILL.

The Bill was considered clause by clause.

## THE CARRIAGE OF GOODS BY MOTOR (PROHIBITION) BILL.

Clauses 1 to 3 were considered.

## Clause 3.—Prohibition of motor carriage of goods over certain roads.

CAPT. THE HON. H. P. WARD: May I take up the time of the hon. Member for one second? I apologise for not raising this point before clause 3 (3). With all due deference to the hon. the Commissioner for Land, I am convinced in my own mind that you can find the necessity one of these farm produce a greater distance than 30 miles along roads to the nearest railway station or siding or to the nearest municipality or township, but it may quite easily happen that there

is a factory or creamery or co-operative selling centre to which the produce has to be sent, and by so doing the vehicle will travel more than 30 miles along one of these scheduled roads. If I am correct in that assumption, I do suggest that in order to protect the farmer without doing any harm to the Bill the words "nearest municipal selling centre" should also be included after the words "nearest municipality or township", and if the hon. member is not satisfied with that, I suggest the words "or such other point as the Governor in Council may determine". I think it is very important that we should get farm produce moving to the only point at which it can be dealt with.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I should like to support that proposal, Sir, as in fact the nearest railway station may not necessarily be the most convenient. One gets a station, for instance, which does not have a train stopping even.

HIS EXCELLENCY: I wonder—one does not like to rush these things—

THE HON. T. J. O'SHEA: Might I suggest, Your Excellency, that the Bill be deferred for a day or two to give the hon. member an opportunity of framing this amendment.

HIS EXCELLENCY: I rather agree with the hon. Member. We will keep this in Committee and report progress.

## THE COMPULSORY LABOUR (REGULATION) BILL.

The Bill was considered clause by clause.

Clause 5.—Governor may delegate powers to impose compulsory labour.

THE REV. CANON THE HON. G. HICKS: Your Excellency, I humbly ask that the word "headman" be deleted from line 2.

THE HON. THE ATTORNEY GENERAL: Matters such as that are, of course, left to the discretion of the various local governments. The word "headman" does not occur in the Convention; it talks of the "supreme municipal authority" and the "subordinate municipal authority"; but I do suggest that, as head porters are a necessary part of such labour, there can be no question of that. Apart from that, there is no compulsory labour—there has not been for years. I suggest we leave headman in there for administrative purposes.

THE REV. CANON THE HON. G. HICKS: We are giving him powers...

HIS EXCELLENCY: Do you wish to press the amendment?

THE REV. CANON THE HON. G. HICKS: Yes, Sir.

The question was put and lost.

Clause 6.—Who are liable for compulsory labour.

THE REV. CANON THE HON. G. HICKS: Your Excellency, I urge that the age limit of 45 years be reduced either to 35 or 40.

THE HON. THE ATTORNEY GENERAL: I did try to make that clear a few moments ago. In that regard we are not free agents. We have tried our utmost to get that altered, but we have been told to take those ages.

THE REV. CANON THE HON. G. HICKS: I am referring to the maximum ages.

**HIS EXCELLENCY:** That was all dealt with by the Convention. Do you wish to press the amendment?

**THE HON. CHAS. THE HON. G. BRUNS:** It is only taking up the time of the House. Your Excellency, I am afraid.

**THE DANGEROUS DRUGS BILL.**

The Bill was considered clause by clause.  
*Clause 16.*—Power of inspection and seizure.

**THE HON. THE ATTORNEY GENERAL:** In accordance with the notice which I gave in the Order Paper yesterday, I beg to move that sub-clause (2) of clause 16 be amended by adding at the end thereof the following proviso:—

“Provided always that, if it appears to him that any delay occasioned by obtaining such search warrant will defeat the objects of this section, any police officer may exercise the powers by warrant, but he shall as soon as possible report what he has done to a magistrate.”

That provision, Sir, is in the existing Abuse of Opium legislation, and manifestly, when dealing with such an illicit trade as this, delay may defeat the whole object of the legislation. It is, I think, a natural and a proper proviso to give. There is no novelty about it as it is in our existing legislation.

The question was put and carried.

*Clause 22.*—Power to make rules.

**THE HON. THE ATTORNEY GENERAL:** Again I have given notice of a slight amendment to this clause—that in paragraph (c), after the word “ships” there be added the words “or aircraft”.

The question was put and carried.

**THE BRANDING OF STOCK (AMENDMENT) BILL.**

The Bill was considered clause by clause.

**THE MONEY-LENDERS BILL.**

The Bill was considered clause by clause.  
*Clause 2.*—Interpretation.

**LT.-COL. THE HON. J. G. KIRKWOOD:** Reference clause 2: I should like to draw the attention of the hon. the Attorney General to paragraph (2), second line, “who advertise”, and clause 9 (2). I am not sure that they do not conflict, and clause 9 (2). I am not sure clause 2 referring to advertisements. No. 9 (2) and that paragraph in advertisements. Clause 2 rather seems to permit them.

**THE HON. THE ATTORNEY GENERAL:** I am afraid I have not completely followed my hon. friend. Clause 9 (2) begins “Subject as hereinafter provided”, but there is a definite provision for advertisements, provided the form of the advertisement is a proper one.

I beg to move that this clause be amended by inserting in the second line of paragraph (b) of sub-clause (1), after the word “insurement” the words “or lending money on mortgage”. I hope that will be North) during the second reading.

The question was put and carried.

**THE HON. THE ATTORNEY GENERAL:** I beg to move that with the exception of the Carriage of Goods by Motor (Prohibition) Bill, on which progress has been reported, the other Bills be recommended to

Council, Sir; the Sisal Bag Industry Bill, the Customs Tariff (Amendment) Bill, the Dangerous Drugs Bill, and the Money-lenders Bill with amendment, and the others without amendment.

**HIS EXCELLENCY:** The question is that the following Bills be reported to Council with amendment—

The Sisal Bag Industry Bill,  
The Customs Tariff (Amendment) Bill,  
The Dangerous Drugs Bill,  
The Money-lenders Bill;

and that the following Bills be reported to Council without amendment—

The Suppression of Rabies Bill,  
The Local Government (Municipalities) (Amendment) Bill,  
The Local Government (District Councils) (Amendment) (No. 2) Bill,

The Excise Duties (Amendment) Bill,  
The Prisons (Amendment) Bill,  
The Native Tribunals (Amendment) Bill,  
The Chattels Transfer (Amendment) Bill,  
The Estate Duty (Consolidation) (Amendment) Bill,  
The Trout Protection (Amendment) Bill,  
The Ancient Monuments Preservation (Amendment) Bill,  
The Contracts in Restraint of Trade (No. 2) Bill,  
The State Railway Provident Fund (Amendment) Bill,  
The Levy on Official Salaries (Amendment) Bill,  
The Compulsory Labour (Regulation) Bill,  
The Branding of Stock (Amendment) Bill.

The question was put and carried.

The Council resumed its sitting.

*On resuming.*

**HIS EXCELLENCY:** I have to report that the following Bills have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment—

The Sisal Bag Industry Bill,  
The Customs Tariff (Amendment) Bill,  
The Dangerous Drugs Bill,  
The Money-lenders Bill;

and that the following Bills have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment—

The Suppression of Rabies Bill,  
The Local Government (Municipalities) (Amendment) Bill,  
The Local Government (District Councils) (Amendment) (No. 2) Bill,  
The Excise Duties (Amendment) Bill,  
The Prisons (Amendment) Bill,

The Native Tribunals (Amendment) Bill,  
 The Chattels Transfer (Amendment) Bill,  
 The Estate Duty (Consolidation) (Amendment) Bill,  
 The Trout Protection (Amendment) Bill,  
 The Ancient Monuments Preservation (Amendment)  
 Bill,  
 The Contracts in Restraint of Trade (No. 2) Bill,  
 The State Railway Provident Fund (Amendment)  
 Bill,  
 The Levy on Official Salaries (Amendment) Bill,  
 The Compulsory Labour (Regulation) Bill,  
 The Branding of Stock (Amendment) Bill.

### THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I hope I may claim the indulgence of hon. Members if I move the third reading and passing stage of these Bills *en bloc*. If there is any hon. Member who would like me to take them separately, I shall of course do so.

Your Excellency, I beg to move that the following Bills be read a third time and passed:—

The Suppression of Rabies Bill,  
 The Local Government (Municipalities) (Amendment) Bill,  
 The Local Government (District Councils) (Amendment) (No. 2) Bill,  
 The Sisal Bag Industry Bill,  
 The Excise Duties (Amendment) Bill,  
 The Customs Tariff (Amendment) Bill,  
 The Prisons (Amendment) Bill,  
 The Native Tribunals (Amendment) Bill,  
 The Chattels Transfer (Amendment) Bill,  
 The Estate Duty (Consolidation) (Amendment) Bill,  
 The Trout Protection (Amendment) Bill,  
 The Ancient Monuments Preservation (Amendment) Bill,  
 The Contracts in Restraint of Trade (No. 2) Bill,  
 The State Railway Provident Fund (Amendment) Bill,  
 The Levy on Official Salaries (Amendment) Bill,  
 The Compulsory Labour (Regulation) Bill,  
 The Dangerous Drugs Bill,  
 The Branding of Stock (Amendment) Bill,  
 The Money-lenders Bill.

THE HON. T. D. H. BURCK: Your Excellency, I beg to second.

The question was put and carried.  
 The Bills were read a third time and passed.

The Council adjourned till 10 a.m. on Monday,  
 the 19th December, 1932.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE) : (1) A suggestion has been made that it would be feasible to construct a road connecting Tambach with Kabarnet, and such a road would have considerable administrative advantages.

(2) No accurate estimate of cost has been made, but as a tentative figure for the preliminary consideration of the proposal £3,000 has been quoted.

(3) There is no intention to expend public money at the present time on such a proposal.

THE HON. CONWAY HARVEY : Arising out of that answer, Your Excellency, will this matter be referred to the Central Roads and Traffic Board before anything more definite is done about it?

THE HON. THE CHIEF NATIVE COMMISSIONER : At present no definite decision has been reached of any kind. It is merely a tentative idea that at some future period such a road might be desirable. In the event of certain administrative proposals being put into effect such a road would have an enhanced advantage.

THE HON. CONWAY HARVEY : My question was whether such a proposal would be put before the Central Roads and Traffic Board before any definite decision was reached.

THE HON. THE CHIEF NATIVE COMMISSIONER : Your Excellency, I am afraid I could not give an answer to that question at the present moment.

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE) : Speaking on behalf of Government, I can see no reason at all why, if it ever materializes, such a proposal should not go before the Central Roads and Traffic Board.

LT.-COL. THE HON. C. G. DURHAM : Your Excellency, is it not usual to submit these proposals to the Board before Government takes action. I should have thought that it was.

THE HON. THE COLONIAL SECRETARY : I am perfectly willing to give the hon. Member that assurance if that is what he requires.

#### ARMITAGE-SMITH REPORT.

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

" (1) Whether Government is alive to the implications of the Armitage-Smith Report in so far as it affects the Customs Agreement?

(2) If so, whether Government is actively engaged in examining the effect of such recommendations, if adopted, on this country; and

(3) What steps they are taking to deal with this question?

(4) Whether Government has considered asking the Rt. Hon. the Secretary of State for an assurance that no arbitrary or premature steps will be taken to disturb the existing Customs Agreement until Elected Members as well as unofficial representative bodies have been given full opportunity and time to investigate the effect and repercussion of such disturbance?"

THE HON. THE COLONIAL SECRETARY : (1) The answer is in the affirmative.

(2) and (3) I will take the 2nd and 3rd parts of the question together. The Commissioner of Customs has already submitted a memorandum drawing attention to the implications of the Report, and has been asked to prepare a more comprehensive memorandum on the whole policy underlying the Customs Agreement. The Government would, in addition, welcome any memoranda on this subject from interests concerned.

(4) It is understood that this question is likely to come up for consideration at the next Governors' Conference. In these circumstances it is not considered that there is any danger of arbitrary or premature steps being taken to disturb the existing Customs Agreement, which is subject to six months' notice of termination on either side.

THE HON. T. J. O'SHEA : Arising out of that answer, Sir, may I ask whether an opportunity will be taken to consult this House before any six months' notice is given of our desire to terminate the agreement?

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. WALSH) : Notice of termination can be given by either party to the agreement.

THE HON. T. J. O'SHEA : That being the case, Your Excellency, might I ask that this House will be consulted before any notice is given by this Government, and that this House will be advised in the event of notice being given by any of the other Governments to terminate the agreement?

THE HON. THE COLONIAL SECRETARY : I think, Sir, I can, on your behalf, give that assurance to the House.



the decrease in the numbers of the Asiatic population which has occurred since the early months of the year. The proceeds of the petrol tax have also not come up to expectations, while the estimated revenue under land sales shows a considerable drop.

On the expenditure side there has been considerable calls upon our resources which it was not possible accurately to forecast at the time the original Estimates were passed. £21,500 has had to be expended on the campaign for locust destruction; £7,000 on famine relief due to locusts; and £17,000 on pensions and gratuities due to the very heavy retrenchments that have taken place. This expenditure on locusts and famine relief has proved a very serious and continuous drain on our resources, and I doubt whether it is generally realized outside the confines of this Colony how serious the results of this visitation have been. During the years 1928 to 1932 inclusive, no less a sum than £230,460 has been voted from the revenues of this Colony to meet the cost of locust destruction and famine relief. This, of course, is not the full measure of the financial loss which the Colony has suffered through locusts. Quite apart from the ascertainable expenditure to which I have just alluded, the very severe losses sustained both by the European farmer and the native in the Reserves have seriously depleted the general purchasing power of the community. It is clearly reflected again this year in our two main heads of revenue—Customs and hut and poll tax receipts—and it is difficult, if not impossible, accurately to assess in terms of cash the total loss the Colony has incurred from this cause during the five years to which I have referred. It is indeed a calamity that this visitation should have synchronized with the collapse of sterling prices on the markets of the world. I emphasize these points not in any spirit of despair, for nothing could be more admirable than the manner in which the agricultural community has faced the situation and remained unshaken in its belief in the ultimate recuperative capacities of the country. I do suggest, however, that all these factors must be given due consideration if we are to review our present financial position in its proper perspective.

The latest Customs receipts are more promising, and Heads of Departments are continuing to exercise every possible economy. Only in the last few days, the Director of Public Works has promised me an unexpected Christmas present of another £8,000 worth of savings. On the other hand, I have just received news that the hut and poll tax in the Nyanza Province is coming in slower than the Provincial Commissioner expected, and that, though he has little doubt that it will be paid eventually, there may be considerable arrears to be carried forward into revenue next year. I should like to

take this opportunity of expressing the thanks of Government for the manner in which Administrative Officers as a whole have devoted themselves to the exacting and often distasteful task of tax collection during the present period of depression. It has called for the exercise of determination tempered by judgment, which, so far as I am able to judge, has been admirably displayed.

I will now turn to the Estimates for 1933. The revenue estimates are also based on the advice tendered to Government by the standing Finance Committee. They were most carefully examined by that Committee in November last, and I think I am voicing the general feeling of the Committee if I say that I believe the revenue estimate as a whole to be conservative and one that should be realized. The total estimated net revenue for next year has been put at £1,959,790. This is less than the revised estimate for 1932 by £12,823; this is less than the revised estimate for 1932 by £12,823; this is some £170,561 less than the actual net revenue received in 1931; and again some £416,214 less than the actual net revenue received in 1930. Broadly speaking, we have estimated that Customs and hut and poll tax—our two main sources of revenue—will bring us in approximately the same amount as that given in the revised Estimates for the current year. In that given in the revised Estimates for the current year. In tendering that advice to Government, the Committee did not overlook the fact that, as stated by Your Excellency in your communication from the chair on Wednesday last, the Director of Agriculture predicts that the value of the present year by an amount next year will exceed that of the present year by an amount possibly of some £600,000. It was, however, considered prudent largely to discount this factor at the moment in view of the fact that, owing to the general impoverishment of the farming community and the present impecuniosity of the Native Reserves, the resultant cash put into circulation was not likely to be utilized as in normal times to anything like its full extent in the purchase of imported goods. Further, while it is hoped that the foundation of a new and permanent industry, too little is known about the prospects, particularly in their repercussions on the coming year, to permit us to take this new factor into consideration when dealing with prospective revenue.

I hope I have said enough to convince hon. Members that the revenue under these two heads of Estimates is definitely conservative.

The preparation of the Expenditure Estimates this year has presented special difficulties by reason of the fact that departmental expenditure, which had already been drawn up on the most conservative basis, has been subjected to continuous and rigorous scrutiny by the Expenditure Advisory

Committee, lasting in some cases to within a few days of the Estimates going to press. Until the Committee's final report has been received and an opportunity afforded for its consideration, it is clearly impracticable to present a final Budget. It will, however, be observed that in certain departments very considerable economies, involving in some cases retrenchments, have already been effected. Such economies, though effected in advance of the Expenditure Advisory Committee's final report, have been made on the advice or with the concurrence of the Committee as expressed in interim recommendations which they have forwarded to Government from time to time.

The draft Estimates of Expenditure for 1933 show an estimated gross expenditure of £3,267,747, which, after the deduction of reimbursements to the value of £1,093,790, leaves an estimated net expenditure of £2,173,957. The actual net expenditure on the same basis in 1929, the year immediately before the economy campaign started, was £2,734,229. The draft Estimates for 1933 therefore show, in comparison with actual expenditure in 1929, a decrease of £560,272. In order to arrive at a closer comparison of departmental expenditure in the two years, it is necessary to deduct expenditure on items such as Public Debt Funded, Interest, Pensions and Gratuities, and Railway Branch Line Guarantees—expenditure which has to be provided by law and is not susceptible of diminution. On this basis, the decrease of departmental expenditure next year as compared with the actual departmental expenditure in 1929 is increased from £560,272 to £689,527. In addition, during 1933, the levy on salaries, the proceeds of which, although credited to revenue as a tax, is in fact equivalent to a reduction in expenditure, is estimated to bring in £53,000; if this figure be added to the decrease in expenditure already referred to, we obtain a total figure of £689,527. That is to say, we shall have decreased our departmental expenditure by nearly £700,000 as compared with 1929.

From the general review that I have just given, it will be appreciated that the Estimates as a whole have been drawn up on the most conservative basis possible. The only new services which are being presented to this Council for the first time are as follows: Under the head Administration Extra-stimulating the fishing industry on Lake Victoria and the institution of a conservancy scheme at Thika. The former expenditure it is hoped is more than justified by the general stimulus to production which it is anticipated it will foster; while the latter is estimated to be self-supporting. The other item is the creation of a Mining and Geological Department at an estimated cost of £6,445. The necessity for such expenditure will, I believe, be challenged by no one. The actual

manner in which this service can administratively best be organized is still receiving the attention of the Expenditure Advisory Committee, and the Estimates in their present form are accordingly only of a tentative character.

Under Public Works Extraordinary, £3,000 has been included for improving road communications in the gold-mining area.

Almost without exception, every head of departmental expenditure shows considerable decreases, of which the more outstanding are:—

Public Works Department	£21,821
Public Works Recurrent	£14,350
Administration	£17,000
Police	£16,368
Post Office and Telegraphs	£11,618
Miscellaneous Services	£9,238
Printing and Stationery	£7,337
Military	£7,170
Education Department	£6,186
Agricultural Department	£6,449

The final result is that there is a decrease in net total expenditure of £66,803, as shown on page 7 of the draft Estimates, to which, if the Native Betterment Fund balance of £12,021 be added (to which I will refer later), the total reduction in total net expenditure, as compared with the sanctioned Estimates for 1932, amounts to £78,324. The equivalent figure of decrease in purely departmental expenditure is £91,214. When it is borne in mind that under Pensions and Gratuities it has been necessary to estimate next year for an increase of £20,597, principally due to the retrenchment campaign—a larger sum than any of the departmental economies effected except in the Public Works Department—it will be realized that the immediate benefits of retrenchment will not be fully felt for some time, and that temporarily at least they have added to the expenditure of the ensuing year.

The same consideration applies to the revised terms of service recently approved by the Secretary of State. Broadly, the revised terms of service extend the existing tour of twenty to thirty months to one of thirty to forty-eight months, officers with less than nine years' service being normally required to serve for four years and officers with more than nine years' service being required to serve for three years. The scale of passage accommodation has been reduced in accordance with the recommendations of the Fitzgerald Report. The application of these terms to officers in the course of their



will agree that the present procedure is justified in view of the abnormal circumstances of the present case. Further I would suggest that the subsequent passage of the Appropriation Bill should be formal in character and that any remarks which hon. Members would like to make on the broad principles of the Budget should be made now on the motion at present before the House.

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

**THE HON. THE TREASURER:** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is—

“Be it resolved that the draft Estimates of Revenue and Expenditure for the year 1933, as presented to this Council, be approved.”

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, may I offer my hearty congratulations to the hon. mover on the very clear and explicit way in which he has put these draft Estimates before us. May I also say, Sir, that I thank you and your Government for the way in which you have met the representations from this side of the House that the final Estimates for 1933 should be postponed until the Report of the Expenditure Advisory Committee has been laid and everyone has had an opportunity of studying their recommendations and the actions which Government takes with regard to them.

Sir, you have met our demands in that way, and for that reason I do not propose to-day to deal at any great length with these Estimates before us. While, Sir, I do not wish to go over any old ground again, I do think, Sir, I am justified in saying that, after listening to the hon. mover's speech, it is the greatest justification for the attitude which we have taken up on this side of the House during the last two years. We have pointed out the need for caution and the dangers which were ahead of us, and I am glad to see that the Government to-day realizes that point of view just as clearly as we do.

With regard to the actual procedure on these Estimates, hon. Members on this side of the House for whom I can speak find themselves naturally unable to vote for the approval of Estimates which show a deficit of over £200,000. On the other hand, Sir, in view of the attitude that Government have taken and that we shall have a full opportunity in probably about two months' time or so to deal in detail with these Estimates, we do not propose to embarrass Government by

voting against this motion; but we are going to leave the matter entirely on Government's shoulders until they produce the final picture in full perspective for consideration next February or March.

To come to one or two questions of detail with regard to the Revenue Estimates, I agree with the hon. mover that these Estimates are framed on a conservative basis. I have been working on what is commonly known as the “Watch Dog” Committee, Sir, and I think we have been careful not to be unduly optimistic in any way, and I do trust that, if what Your Excellency informed us the other day is correct, that the Customs revenue has increased materially during the last three months of this year, the Revenue Estimates may prove to be on the very cautious side.

With regard to the Expenditure side, I think Government are entitled to congratulate themselves that they have reduced expenditure during the last three years by almost £700,000. I think it does show, Sir, that we were unduly optimistic in the past—that when times were good we were unduly extravagant. In saying that, Sir, I must share the blame for those of us on this side of the House as well as of Government. But, Sir, we have not even yet got down to a satisfactory expenditure in regard to our income, and there is still, I am afraid, much work to be done. When you regard these actual figures, besides what the hon. mover pointed out in the way of increases in pensions and other factors which necessarily increase the annual Estimates of Expenditure, there are two other points which I think should be taken into consideration. One is that every year we have normal increments, which amount to a considerable sum. I think I am correct in saying that the average amount of these normal increments is somewhere in the neighbourhood of £20,000. It is a question which I still think has got to be considered, and we have to bear in mind that in the year 1926 the scale of increments was considerably increased.

Another point, Sir, is that, owing to the moratorium on leave last year, there is an increase in most departments under the heading of “Passages” for 1933. I am sure we all welcome the fact that at long last the vexed question of terms of service is getting settled. We have so far had the agreement of Government with regard to the tours and to the scale of passages. Some people may say that these tours do not go quite as far as was recommended in the Fitzgerald Report; that the intermediate scale of 3½ years' tours is not included. On the other hand, Sir, it must also be remembered that the Fitzgerald Report was actually dealing with new entrants, whereas what is being done now is dealing with all the servants

of Government. I trust, before many months are out, the other outstanding questions with regard to terms of service, such as pensions, housing and a local service, may be dealt with. But as Your Excellency said, these matters will not have any material effect in 1933, though they must have a great effect in future years.

The one big point which arises out of these Estimates is this innovation of the Native Betterment Fund, resulting from the recommendations of Lord Moyne's Report. I am very pleased, Sir, that Government have accepted the resolution of which I gave notice recently that a committee should be appointed to go into the practical application of this system. With regard to the principle of it, I should like to say, Sir, that from an economic point of view and from a constitutional point of view, there is very little to justify it. From an expediency point of view, it may be of benefit, but as I understand the principle of this has already been approved by both Houses of Parliament with acclamation—though I presume very few Members of either House had any practical experience of the matter or knew what it entailed—it would be a waste of time for those who feel that it is an unsound method to batter their heads against a wall by opposing it. If therefore, Sir, we have to accept this proposal, I do suggest that from every point of view every effort should be made to put it on some practicable basis which will really work in practice. I think everybody who has had anything to do with this Native Betterment Fund during these last few months on both sides of the House, Sir, will agree that at present it is in a very unsatisfactory state, and that it is very difficult to administer in practice. If I may I will just point out a few points which come to my mind under this heading. First of all, there is nothing in the Native Betterment Fund dealing with the Administration at all, and in my humble opinion the Administrative Service is probably the greatest benefit the natives have in this country, because without Administrative Officers all those other social services on which such large sums of money are at present being expended would largely be of no value.

Another point, Sir, is, if you take the Medical Service, which is shown, I think, as £115,000, I think in actual fact we can almost say that the whole Medical Department is a native service. At least, I believe my hon. friend the Director of Medical and Sanitary Services agrees that about 80 per cent of it is for native services. And may I just, in mentioning that Department, might I say, Sir, that the other day I had to refer to the coming departure of the hon. the Director of Agriculture, and I am afraid this may be the last occasion on which we shall see the face of our friend, the Director of

Medical and Sanitary Services, in this House, and I should like to say on behalf of Members on this side how much we regret his coming departure and how we wish him every good wish for a good time when he leaves this country. I am quite sure that, as the hon. the Director of Agriculture said on his own behalf, we can always rely on his help in affairs concerning this country after he has left the service of it.

Those are two points. Then there is another point: Under Lord Moyne's proposals, though the substantive salaries of officers employed under this Betterment Fund are included in it, their passages, housing and other things of that sort come under general revenue. It seems to me that is a completely unsound principle, because all these other emoluments are just as much a part of the cost of these officers as their substantive salaries, and you might easily get a sudden occasion arising that the Committee or Board dealing with this Fund would want to engage extra officers for some service or other, whereas the "Watch Dogs" of the Government expenditure on general revenue would say they were quite unable to find the money for their passages to bring them out, and so you very easily come to an impasse. I do not wish to go into this in any further detail; I wish to point out a few of these difficulties; and I do welcome Government's decision to appoint such a Committee.

There is one other point dealing very much with the same thing. In the Estimates there is shown an unallocated surplus balance under this Fund. I do suggest, Sir, that in the state of the country's finances to-day, that is not justified. Not only is revenue on the non-native side decreased, but it is also decreased on the native side also. The hut and poll tax has not come in up to expectations, and I think my hon. friend the Commissioner of Customs will support me in saying there has been a very large fall in the revenue received on such things as cotton piece-goods, which form such a large part of the revenue derived from the natives.

On the general principle of this Betterment Fund, I submit, Sir, that if these native services are to be put out of the purview of the Select Committee of this Council and cannot be touched and have got to be kept in their entirety, the natural corollary to that is that the non-native community the natural corollary to that is that the non-native community of this country should have further control over the finances as affecting the rest of the Colony's Budget. (Hear, hear.)

With those few remarks, as I have said before, I shall not vote for these Estimates, but I shall not oppose them.

THE HON. CONWAY HARVEY: Your Excellency, I have been asked by the majority of my elected colleagues to make an appeal, and I sincerely trust that all hon. Members of this

House will associate themselves with that appeal to the public which I make, with the very greatest possible respect, to refrain from premature criticism of the immediate economy measures Government decides to adopt on the advice of the Expenditure Advisory Committee before we have an opportunity of going into the 1933 Budget in detail early next year. The members of that Committee, Sir, have the confidence of the people of this country to a marked degree; they are all working with might and main to perform a service as necessary as it is distasteful, and it is not very encouraging, Sir, if their first recommendations which are implemented by Government should induce a tremendous flow of adverse criticism.

We are all agreed, Your Excellency, that the Colony's Budget must be balanced, and I suggest that that can only be done in one of two ways. We must either greatly reduce recurrent expenditure or resort to additional taxation. I suggest, Sir, that the Colony is already over-taxed and that the latter alternative is entirely out of the question under present conditions. In spite of that, Sir, the importance of increasing the flow of revenue by whatever means may be deemed expedient should not be overlooked. Naturally, Sir, we reserve the right to criticize to the fullest possible extent the final recommendations of the Expenditure Advisory Committee or any other Committee and the action which Government decides to take, but I do suggest, Sir, that it would be in the best interests of everyone concerned to withhold detailed comment and criticism until we have the whole picture before us early next year. I would at the same time ask Government to take the public into its confidence in this matter to the fullest possible extent, and give the public its reasons and justification for such immediate economies as it may decide to introduce.

There is only one other matter to which I should like briefly to refer. The hon. member of the motion mentioned a series of serious drains on the Colony's financial resources. I should like to allude very briefly to the enormous cost to the Colony of what is known as the Kenya Land Commission. On page 18 of the Memorandum on the draft Estimates of Expenditure for 1933 I notice, Your Excellency, a statement in these terms: "It is estimated that the expenses of the Kenya Land Commission will amount to £3,120 in 1932, and that not less than £3,000 will be required in 1933." Now, Your Excellency, those are very large figures to pay for a service which this country never asked for, and I suggest that the result of this inquiry is very, very unlikely to justify the enormous drain on the Colony's financial resources; and I would, Sir, urge Government to do anything that may be

possible and reasonable to accelerate the work of this Commission in order that the expenditure may stop and as much money as is available be devoted to more profitable channels at the earliest possible moment.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I endorse in toto the remarks by the Noble Lord the hon. Member for the Itit Valley. I would like to point out that in past years, especially last year, the anticipated revenue did not materialize. I also pointed out, as well as other Elected Members on this side of the House, when the increased petrol duty was imposed that that would not materialize; Government were warned that the country had reached the saturation point of taxation and the ability to pay further no longer existed. That has come to pass. I warned you also that that being so, petrol would be dented with paraffin; that has also been done to a very large extent. The point is, Sir, that through a Government officer, the Commissioner of Customs, leaving to put up a case for the Customs figure which had been decided upon—he is not in touch with realities—that is where mistakes are continually being made by Government. Your Excellency also referred in your opening speech to the increased revenue coming from Customs in the last few months. I would assert, Sir, that that is due to the replacement of bonded stocks that are already depleted, and it was inevitable some time or other. Stocks have got to be renewed and the time has arrived during the last few months when that had to be done. That would account for the apparent increase in Customs duties during the last few months.

With regard to the Betterment Fund, Sir, a very big question has been raised. To my mind, you have definitely raised a constitutional question. That also applies to the proposed income tax; that is definitely a constitutional question—direct taxation without general agreement. In Lord Moyne's Report, page 42, paragraph 81, he remarks:—

"Administrative separation of the communities would, in existing circumstances, be open to great objections on financial and political grounds."

I heartily endorse those remarks; nevertheless, in practice, Lord Moyne has done just the opposite: he is not practising what he is preaching. It is not possible to put the theoretical part of his idea of a Betterment Fund actually into practice, and I believe Government has already ascertained that. You have set aside £279,000 to be administered by a Betterment Fund Committee, and it is generally assumed that that is the whole amount to which the native is entitled. I would point out, Sir, that although we are contributing £279,000 direct to the Native Betterment Fund, that is probably only one-third

of what the country is contributing to native administration. I understand it includes, for instance, agricultural officers in the Native Reserves, but it does not include their passages, their leave and their pensions; and if the whole amount was worked out you would probably find the Native Betterment Fund really would be three-quarters of a million, if not more. I think it is all window-dressing and eyewash, if not more. It has been set aside for direct native betterment, whereas a very enormous sum in addition to that has been contributed by the non-native to the native services.

With those few remarks, Sir, I will leave the Budget where it is at the moment, as we have been assured that every opportunity will be given at the next Council when the Budget is finally put forward.

THE HON. T. J. O'SHEA: Your Excellency, were it not for one feature of these Estimates, I should probably agree with the hon. mover that the manner in which Government proposes to deal with revenue and expenditure next year is the least objectionable way of dealing with them; but while these Estimates include provision for the allocation of a large sum of the country's money to the Native Betterment Fund, without the principle of the establishment of such a Fund having been approved by this House, I cannot possibly vote for these Estimates. I must of necessity vote against their passing. In the lucid statement with which the hon. mover introduced this motion, he gave what in my opinion was the most complete vindication that has yet been given of the attitude adopted by Members on this side of the House on the Government's activities during the past two years. He has done it so well that I shall not attempt to improve upon it. He brought out in the most admirable manner the fifth of our contention that the economic collapse in this country was very much greater than Government understood, and in consequence a much greater curtailment of expenditure should be undertaken than Government was prepared to undertake. The figures for next year, backed up by the statement of the hon. mover of the motion, amply justify that attitude on our part.

Again we warned Government that, owing to the curtailment in the taxable capacity of the people of this country, native and otherwise, it was futile to look for increase in revenue as a result of additional measures of taxation. We urged—and it has now been made perfectly clear that we were right in our arguments—that to adopt new methods of taxation was futile, because the money was not there to be paid in taxation. To take money from the people in one direction would of necessity curtail the amount received in taxation

in another direction. People have paid the extra poll tax by consuming less petrol; they have managed to pay their education tax by not paying for the education of their children; and any extra money Government appears to have received as a result of these new measures of taxation is now obviously made from the withdrawal of amounts which would have been paid to Government under other headings. Government would have realized the same amount of revenue without passing these new taxation measures. We urged all that, and the justification has now been given by the mover of this motion.

It was a great pleasure to hear the hon. the Colonial Secretary inform the House that at long last Government had got the consent of the Secretary of State to a revision of the terms of service in this Colony. But, Sir, I hope it is as obvious to Government as it is to us that the measure of agreement now obtained is very partial; that it covers merely a few of the many issues, and I would like an assurance from the hon. the Colonial Secretary that the matter is not being allowed to rest there, and that during the course of the next year we shall have a definite and final decision on the question of completely revising those terms and the introduction of the principle of consolidated pay and contributory pensions. I should also like him to inform the House as to when we may expect some results from the recommendations of the Junior Civil Service Committee. There was no mention of it on the table the other morning, and there was no mention of it in that. I understand, however, that Government is still dealing with the matter, and I should like to know whether we may expect results during the course of the next few months.

To me, personally, Sir, there is a particular significance in the statement of the hon. mover that, if income tax is introduced next year, the levy on official salaries will automatically cease.

THE HON. THE COLONIAL SECRETARY: On a point of explanation, Your Excellency, I said only the additional levy would cease.

\*THE HON. T. J. O'SHEA: Well, I warned my colleagues when they accepted the principle of a levy on salaries that it would be regarded as in the nature of an income tax, and that it was bad tactics, perhaps from every point of view, to lay the issue of the greater purchasing value of money to-day to be shirked by accepting a levy on official salaries. It would appear now that the very grave question of revising the value of services in terms of money in the service is going to be definitely shirked, and I would like to warn Government, so far

as I am concerned at any rate, if this levy is incorporated in an income tax measure, then I shall insist, so far as is in my power to do so, on Government facing the question of whether the present scales of pay are proportionate to the value of services rendered in terms of the revised value of money.

I find it impossible even to refrain from voting against the passing of these Estimates, Sir, because they include provision for a Native Betterment Fund, the principle of which has not been agreed to by this House. The establishment of such a fund entails a very radical departure from the manner in which the revenue and expenditure of this Colony has been dealt with in the past. No such radical departure should be made without the prior approval of this House. Were I to agree to-day to the passing of these Estimates and to that principle, I should most certainly be told by the hon. the Colonial Secretary that by not having objected to the inclusion of the principle in these Estimates I was debarred in future from raising any objection to the principle. So I shall not make the mistake I have possibly made in the past of agreeing to accept this principle disguised in an apparently innocent form. The matter is not of very considerable importance, Sir, now, although it will be generally recognized in the near future. To-day I feel very strongly; and I am not in a fractious mood in raising this question of the constitutional issue. There is definitely a grave constitutional issue involved in this Native Betterment Fund. Government proposes removing from the full purview of this House control over a very large part of our revenue and expenditure. To say that we retain that control by the inclusion of figures in these Estimates is a farce. We do not. It is obviously the definite intention of Government that in future control over these funds will not be exerted by this House but by a committee yet to be set up.

These proposals were made on the recommendation of a gentleman who was not asked by this House to come to this country, who did not report to this House on the result of his visit to this country—a gentleman whose only connexion with this House is that we have been asked to pay for the expenditure incurred. Had Lord Moyne been invited by the Legislative Council of Kenya to come here and report on these "certain questions", had he reported to this House, and had this House accepted his report, then I say certainly Government would have been in the right in putting forward these proposals without further discussion. But, seeing that he was not asked by this House to come here, that he did not report to this House, and that we have never been given an opportunity of discussing his proposals for the future control of the revenue and expenditure of this country, I say, Your Excellency, that it is not right or proper that this House should agree to the

passing of these Estimates, containing as they do provision for a Native Betterment Fund, when the House has not previously agreed to the principle of a Native Betterment Fund. On that account I must express my surprise at any intention on the part of hon. Members on this side of the House not to vote against the passing of these Estimates.

I will anticipate a reply that may be made by the hon. the Colonial Secretary, that in fact the pretence that we have constitutional rights in this House has been maintained in the form in which the proposal has been put forward. I go so far as to agree, Sir, that in the letter of the constitution this House has really very few rights. In fact, the only right it appears to have is that it has the right to be consulted. That may be the letter of the law, but the spirit of the law as I have seen it demonstrated for the last ten years has been, until comparatively recently, that the letter of the law should be interpreted in a very liberal spirit; that in all important matters every effort should be made by Government to get the consent of the Council, and that at all possible costs the consent of the intelligent and understanding sections of the community should at least be obtained, and that there should be no elaborate departure from principle without at least the intelligent and understanding section of the community being consulted. As, during the last two years, there has been a deliberate attempt, a deliberate and persistent attempt to violate the constitution as we understand it in practice, I feel we must, from now onwards, on every conceivable occasion, oppose any and every attempt that is made to depart from the spirit of the constitution as we have understood it for the last ten years. I go further and warn Government, if it persists in its present policy, that it must inevitably occasion severer in its present constitution in this country and that they must do considerable discontent in this country and that they must do one of two things—either drop the farce of having constitutional government here and openly govern in an arbitrary manner, or else encourage people to take an understanding interest in the administration of the country and develop their sense of responsibility by consulting them and giving due consideration to their advice on all possible occasions.

I should not like my attitude on the principle involved in this issue, Your Excellency, to be interpreted in any way as meaning that I am opposed to the establishment of a Native Betterment Fund. I think advantages can be obtained by the establishment of such a Fund, but I suggest that it should be established after very much further consideration has been given to the question by those competent to deal with it, and I oppose the incorporation of any provision for it in next year's Estimates, not only as a matter of principle, but because I believe it has been started off without receiving

the consideration it should have received; and in such an important matter I suggest it is very dangerous indeed to start off in a wrong manner. The gentleman himself responsible for the proposal has acknowledged that it is beset with difficulties; the Memorandum attached to these draft Estimates makes the same acknowledgment; the hon. mover of the motion has made the same acknowledgment. That being so, I think there is every justification for my warning Government that there is no reason whatever for rushing the thing in these Estimates, and that they would have been much wiser in allowing the matter to have much fuller consideration and the consideration of hon. Members on this side of the House. We are just as anxious as Government is to help in any movement that will improve the condition of the native peoples of the territory, and I am astonished that Government should make such a grave tactical error as to introduce this new principle without having given us the consultation that might have secured our approval, and started it off without our antagonism.

Your Excellency, having expressed my intention of voting against the passing of these draft Estimates, I feel it is necessary that I should record my approval of the efforts that have been made by Government during the past twelve months to meet the present situation. Had the report of the Advisory Committee at present sitting, Your Excellency, been available, I should have been in a position to say more, but I do feel that, having been such a severe critic of Government in the past and having to maintain such a severely critical attitude now, I should give testimony to the manner in which they have paid attention to the matter during the last twelve months.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I am not proposing to intervene in this debate, but as I am lucky enough to have the privilege of retaining the right to be persuaded by argument, a privilege which is not accorded to hon. gentlemen on the other side of the House, I think it right to say that I have been completely persuaded by the hon. Member for Plateau South that any Member on this side of the House who feels that the principle of the Native Betterment Fund is constitutionally a wrong principle because it does in effect take away the right of the Legislature to deal in detail with every item of expenditure, the most important constitutional right in my opinion, one should—as this is the first occasion on which one has the opportunity of casting a vote in favour of or against the principle—one should therefore vote against these Estimates. I wish it to be clearly understood that I am only against them purely and solely for that reason, and because this is, as I say, the first opportunity in which one could, by one's vote, express one's opinion on the

question of the Betterment Fund. I do not quite agree with my hon. friend the Member for Plateau South that it is the duty of Government to introduce some kind of legislation into this House on the principle of a Betterment Fund. I think, personally, that their only course was to introduce it for discussion in the way they have, namely as part of the Estimates. As it is the first time and the only time one will have an opportunity of putting on record one's opposition to the principle, I therefore am not going to do what I had intended to do and what has been expressed by the Noble Lord, that is, to refrain from voting, but I propose to vote against the Estimates purely and solely for that reason.

REV. CANON THE HON. G. BURSS: Your Excellency, as a Member being very much interested in this question, representing native interests, and those who on the opposite side of the House responsible for their interests not being perhaps in a position to speak, I should be disloyal to the position I occupy if I did not express my pleasure at the establishment of the Native Betterment Fund. At the same time, Your Excellency, I am very glad that the Government has agreed to the proposal of the Noble Lord the hon. Member for the Rift Valley, that a Committee should be formed to go into the details of how that Fund is to be expended, and I presume that if this Council appoints such a Committee they will report back as to the methods of expenditure of that Fund to this Council later on. I am very glad indeed that Government has seen fit to accede to that request, and that a Committee will be appointed to deal with the matter.

THE HON. HAKIM SINGH: Your Excellency, I should like to support the views expressed by the previous speakers.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will call upon the hon. the Colonial Secretary to reply.

THE HON. THE COLONIAL SECRETARY: Your Excellency, after listening to the remarks that have been made by hon. Members on the other side of the House, it does not appear to me that there are very many points calling for me to answer. I should like to thank hon. Members for the kindly reception they have given to the Budget, and, with certain reservations made on the subject of the Betterment Fund, I take it from their attitude that they agree in this case that the Government have done wisely in putting forward a provisional Budget in the manner that we have done. I am also very grateful for the recognition of the fact that the Government has worked hard to retrench and reduce expenditure, and that the results achieved, though possibly not the full results—on that no one

wishes to prejudge the issue until we have seen the Report of the Advisory Committee—yet very substantial economies have been effected.

On the question of the Betterment Fund, Sir, I am free to admit that it does raise a constitutional principle. I am also free to admit that I think hon. Members opposite are perfectly consistent in their attitude; that being so, that they should take the earliest possible opportunity of drawing attention to that fact. I would, however, like to point out that though it does raise a constitutional question, the reservation of funds in this manner will not create a constitutional precedent provided the Legislature that controls the money agrees to such a course, and obviously that must be done, possibly by some form of enabling Bill, when once we have settled the form of the Betterment Fund; yet the principle of such reservation has constitutional precedent, both I believe in the consolidated fund at home and—my hon. friend the Director of Education will correct me if I am wrong—but I believe in certain of the provincial budgets of the Union of South Africa. So much for the constitutional issue.

The hon. Member for Plateau South has wished to make his position clear, and as I have already said, I appreciate his attitude in the matter. I would suggest, however, that his speech to some extent would have been more suitable in support of the motion, notice of which has been given by the Noble Lord, asking for the appointment of a Select Committee. As the Government have already notified their willingness to appoint such a Select Committee and all these points will be very fully gone into by that Select Committee, I feel that I shall be wasting the time of the House if I say more on this subject at the moment.

There is, however, one more point which was raised by the Noble Lord the Member for the Rift Valley, and that was the question of the unallocated surplus balance. I should like to refer him to the last paragraph of the Memorandum on the draft Estimates in which it is said that "in view of the present financial position it is not proposed that this surplus should be expended pending a general review of this surplus position in the early months of next year." That is to say, this surplus will fall for consideration at the same time as the whole question of the Betterment Fund comes under review.

Having dealt with that, Sir, I think there is practically nothing left for me to dispose of except the references made by the hon. Member for Plateau South to the question of terms of service. On that matter, Sir, I would tell him that as regards the Report on the proposed Local Service for Europeans, that Report has been very carefully considered by

the Governor in Executive Council; it has also been given the approval of the Expenditure Advisory Committee, and as a result the Civil Service Board, which was first recommended, I think, in the Fitzgerald Report, is being set up, and one of their first tasks will be to examine how members now in the service can reasonably be transferred to a local service, and also to go into the very complicated question of a contributory pension fund. On the Asiatic side, Sir, the similar Report has only just been received by Government, and is being examined; I can give him the assurance that we will hurry forward with that as much as possible.

I do not think there is anything further left for me to say, Sir.

HIS EXCELLENCY: The question is:—

"Be it resolved that the draft Estimates of Revenue and Expenditure for the year 1933, as presented to this Council, be approved."

The question was put and carried by 10 votes to 6:—

Ayes: Messrs. Abdul Wahid, Bruce, Canon Burns, Messrs. Deck, Brassy-Edwards, Dr. Gilks, Messrs. Hakim Singh, Holm, Horne, Logan, Montgomery, Moore, Rushton, Scott, Sikes, Wade, Walsh, Col. Watkins, Col. Wilkinson.

Noes: Capt. Carter, Col. Durham, Mr. Conway Harvey, Col. Kirkwood, Mr. O'Shea, Capt. Schwartz.

Declined to vote: Mr. Bemister, Major Robertson-Eustace, Lord Francis Scott, Major Sir Robert Shaw, Capt. Ward.

#### SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: Your Excellency, with your consent I move the suspension of Standing Rules and Orders in order that the Appropriation Bill for 1933 be introduced and passed through all its stages without due notice. As I explained, this is really a formal measure formally voting the heads of expenditure as provided in the Estimates which have been laid before the House.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second.

The question was put and carried.

#### BILLS.

##### FIRST READING.

##### THE 1933 APPROPRIATION BILL.

On motion of the hon. the Colonial Secretary, the 1933 Appropriation Bill was read a first time.

## SECOND READING.

## THE 1933 APPROPRIATION BILL.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that the 1933 Appropriation Bill be read a second time.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that the House resolve itself into a Committee of the whole House to consider the 1933 Appropriation Bill, and also to consider the Carriage of Goods by Motor (Prohibition) Bill, which is also in the Committee stage, clause by clause.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second.

The question was put and carried.

The Council went into Committee.

## In Committee:

## THE 1933 APPROPRIATION BILL.

The Bill was considered clause by clause.

Clause 2.—Public revenue charged.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to move that the word "with" be put in at the end of line 4, after "thirty-three"—"be charged with".

The question was put and carried.

## THE CARRIAGE OF GOODS BY MOTOR (PROHIBITION) BILL.

The remaining clauses of the Bill were considered.

Clause 3.—Prohibition of motor carriage of goods over certain roads.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that the following words be added to sub-clause (3) at the end of clause 3:—  
"or to such other point as the Governor in Council may determine."

Your Excellency will remember that on Saturday the point was raised by my hon. friend the Member for Nairobi North that this sub-clause was too narrow, and it has therefore been widened in the manner suggested.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I should like to know what the exact effect of this is. Does it mean that any farmer who wishes to move his products to some place other than the nearest

railway station or siding or to the nearest municipality or township will have to make application to the Governor in Council? Is that the effect?

THE HON. T. D. H. BRUCE: I think so.

THE HON. THE COLONIAL SECRETARY: I think in its practical application it will mean that where a particular case can be made out for a certain other point being treated in the same way as the other places mentioned in this section, an application will be made to the Governor in Council and on a proclamation being issued this would operate.

CAPT. THE HON. H. F. WARD: The question would arise at settled points in the selling or conveying of the produce of farms, such as to a creamery.

HIS EXCELLENCY: It would not be for the benefit of particular individuals; it would be in regard to a particular place.

The question was put and carried.

Clause 4.—Power to alter Schedule.

THE HON. T. D. H. BRUCE: I beg to move that clause 4 be deleted and the following substituted therefor:—

"The Schedule hereto may from time to time be added to, varied or revoked by resolution of the Legislative Council."

Your Excellency will remember that on Saturday the Noble Lord the Member for Rift Valley asked that this power, instead of being left in the hands of the Governor in Council—that this clause should be amended so that variation or revocation of the Schedule should have to come before this Council. If I may I will just read the clause again.

The question was put and carried.

Clause 9.—Saying for conveyance of goods not involving 25 miles of a scheduled road.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that in sub-clause (1) of clause 9 the words "twenty-five", which occur in the fifth and sixth lines thereof, be deleted, and the word "thirty" substituted therefor. Your Excellency will remember on Saturday the hon. Member for the Rift Valley asked to have this amendment made.

The question was put and carried.

Clause 11.—Repeal.

THE HON. T. D. H. BRUCE: Your Excellency, I have to move two amendments in this clause. The first is that, after the word "issued" in line 5 of the proviso, the following words be inserted:—  
"which period shall in no case exceed one year."

That is being added in compliance with the explanation given by the Attorney General on Saturday morning. The other amendment is that, in the eighth and ninth lines of the clause, after the word "of", the words "the vehicles under the authority of such licences and" be deleted. These words crop up in error.

The question was put and carried.

**New Clause.**

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to move the addition to this Bill of a new clause to be numbered "12", in compliance with the wish of the hon. Elected Members opposite, who desire that this Ordinance shall only last in the first instance for a year, and shall then be renewed from year to year. This new clause reads as follows:—

"This Ordinance shall continue in force until the 31st day of December, 1933, and shall then expire, provided that the Governor may by proclamation, with the approval of the Legislative Council, declare that this Ordinance shall remain in force until a date to be fixed in such proclamation."

The question was put and carried.

**THE HON. THE 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 reported to Council without amendment, and that a Bill to Provide for the Prohibition of the Carriage for Reward of Goods by Motor Vehicles over Certain Roads of the Colony be reported to Council with amendment.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** On a point of order, I think the first one was amended too.

**THE HON. THE COLONIAL SECRETARY:** I beg your pardon. Both Bills have been amended.

The question was put and carried.  
Council resumed its sitting.

**On resuming:**

**HIS EXCELLENCY:** I have to report that the Appropriation Bill and the Carriage of Goods by Motor (Prohibition) Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council, both with amendments.

**THIRD READINGS.**

**THE HON. THE COLONIAL SECRETARY:** I beg to move that the Appropriation Bill and the Carriage of Goods by Motor (Prohibition) Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second the motion.

The question was put and carried.

The Bills were read a third time and passed.

**FIRST READINGS.****THE COFFEE INDUSTRY BILL.**

**THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM):** Your Excellency, I beg to move that the Coffee Industry Bill be read a first time.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** On a point of order, Your Excellency, do not Standing Orders have to be suspended for this?

**SUSPENSION OF STANDING ORDERS.**

**THE HON. THE COLONIAL SECRETARY:** The Noble Lord is correct, Sir. I am sorry that I overlooked mentioning the fact that if these Bills are to be read a first time this morning they are one day before time, but in order to expedite business, with the consent of Council, I would recommend that Standing Orders be suspended in order to enable them to be read a first time. I beg to move, Sir.

**HIS EXCELLENCY:** I am very grateful to the Noble Lord for pointing that out.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to second.

The question was put and carried.

On motion of the hon. the Director of Agriculture, the Coffee Industry Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

**THE NATIVE LANDS TRUST (AMENDMENT) BILL.**

On motion of the hon. the Chief Native Commissioner, the Native Lands Trust (Amendment) Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

**THE BROKERS (AMENDMENT) BILL.**

On motion of the hon. T. D. H. Bruce, the Brokers (Amendment) Bill was read a first time.

Notice was given to move the second reading at a later stage of the session.

**THE HON. THE COLONIAL SECRETARY:** On a point of order, Your Excellency, I should like to obtain the opinion of the House as to what would make most for the expedition of business this morning. We have left one item on the agenda to deal with, which is the adoption of the Report of the Select Committee on the King's African Rifles Bill. On the other hand, we have to go into Select Committee on the Supplementary Estimates which I tabled earlier in the week. I am

in the hands of hon. Members opposite—if they would prefer we could adjourn now, and take up the Supplementary Estimates at once, or else we could proceed with the order of the day and take our chance of getting the Supplementary Estimates through later in the morning.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I think it would be for the convenience of Members if we adjourn now and take the Supplementary Estimates in Select Committee.

*The Council adjourned till 10 a.m. on Tuesday,  
the 20th December, 1932.*

TUESDAY, 20th DECEMBER, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday—the 20th December, 1932. His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.J. presiding.

His Excellency opened the Council with prayer.

#### MINUTES.

The minutes of the meeting of the 19th December, 1932, were confirmed.

#### PAPERS LAID ON THE TABLE.

The following paper was laid on the table:—

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

Report of Select Committee on Second Supplementary Estimates, 1932.

#### NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move the adoption of the Report of the Select Committee on Second Supplementary Estimates, 1932.

#### MOTIONS.

##### INCOME TAX ADVISER.

THE HON. T. J. O'SHEA: Your Excellency, the motion on which I ask the free judgment of the House reads as follows:—

“ That the terms of appointment of the Income Tax Advisory Officer are extravagant and unwarranted, and that his engagement be terminated at the earliest possible opportunity.”

In speaking in the House on a motion that the terms of this engagement are extravagant and unwarranted, it is, I think, necessary to remind the House of the circumstances in which this temporary officer has been engaged. His engagement is the result of an effort on the part of Government to meet exceptional financial circumstances, to meet a crisis in which disaster was threatened to the finances of the Government of the Colony. It was considered by some that the crisis could not be met by curtailing expenditure to the extent it was necessary and it might become necessary to embark

upon new taxation, and so persons outside this Colony thought fit to consider the imposition of income tax, and further thought fit to compel the Government of this country to engage an officer who had knowledge of the working of income tax in England, which knowledge might be useful to this Colony. So the engagement was made from outside, and not as the result of a decision of the Government of Kenya with the approval of this Legislative Council. I remind the House of that, Sir, because it may be a possible explanation of the terms on which this officer has been engaged. It was within the cognizance of this House, as the result of answers to questions asked the other day, as to the terms on which the officer has been engaged. Those terms are that he shall receive from the Governments of the three territories to whom he is to give advice a substantive salary at the rate of £1,850 per annum. In addition thereto, he is to be given free quarters to the value of not less than £150 a year, or to receive in lieu thereof an amount of £150 a year, leaving him free to make his own household arrangements. He is to be entitled to free first-class passages for himself, his wife and family, not exceeding four persons. He is to have an outfit allowance of £50. He is to be exempt from the Widows' and Orphans' Pensions Scheme on condition that he takes out an additional insurance policy on his life for not less than £1,000 to cover the period of his service in these territories. He is to be exempt from the prevailing levy on salaries to which all of our other officers in the Service of this Government are subject, and provision is made for him to have six months' sick leave on full pay and an additional six months on half pay should the circumstances arise. In fact, Sir, in describing these terms as extravagant it is, I think, only necessary to point out that these emoluments are in excess of those paid to the overwhelming majority of the responsible departmental heads of the Government of this territory; they are in excess of the emoluments paid to our Treasurer, to our Director of Agriculture, to our Attorney General, to all our Provincial Commissioners, and to a large number of other officers carrying responsible positions in the employment of the territory. In addition to that, certain exceptional terms have been allowed to this officer. He is exempt from the levy on salaries: I should like to ask why that is necessary. He has been granted a number of free passages on a scale that has never been allowed in this Colony before. I think I am right in saying, I have tried to fathom the reason for these exceptional terms of service. It has been suggested to me that, being an income tax officer, he is, of course, desirous of evading income tax in England. I regard that as hardly a satisfactory explanation, and I wondered whether it may not be the case that this officer belongs to a family that has solved the long-debated question

of inheritance and acquired characteristics, and whether the family does not enjoy an inherited understanding of income tax which is shared by his children, and the Government of Kenya hopes, in addition to having the exceptional services of this gentleman, to have the benefit of the knowledge of his children on income tax. What other explanation can there be of the inclusion of this extraordinary provision in his terms of service? Now, Sir, in answer to the questions asked the other day, the hon. the Colonial Secretary was unable to say what was the salary received by this officer before he came out here to advise the Governments of these three territories, and it must have appeared to everybody who listened to those answers that there was a most extraordinary reluctance on the part of the hon. Member to give such ordinary information, knowing full well, as he must, that it was the simplest thing possible to find out what salary this gentleman did enjoy before he came here. Now, Sir, it was not out of idle curiosity that the question was asked. It was asked because it was considered by people on this side of the House that a fair criterion of this man's worth to the Governments of these territories was what he was considered worth by those who employed him before he came here. It was also considered that a disclosure of the salary he received previously to coming here would show what measure of responsibility he carried elsewhere and what was likely to be the value of his advice to this Government, and on reference to a book of common knowledge we find that this gentleman before coming here occupied a position of Inspector in the Office of the Comptroller of Stamps in London on a scale of salary running from £350 to £700 per annum. That is the measure of his worth to the Government of Britain. I invite comparison between it and his valuation by the Governments of these territories. I acknowledge, Sir, that that rate of pay is subject to a bonus, and probably the fact that that bonus amounts to. He may also, and I think should, be in a position to say what would be the income tax levy to which he would be subject. Having supplied him with the basic data, I think he might inform the House as to what was the net value of this officer's salary in England. Now, Sir, I would agree that the Government might possibly be justified even in the present difficult times in paying such a very high rate of salary to a temporary officer to advise them on such an important matter as income tax were the officer engaged a man whom the Government had reason to believe had exceptional knowledge of his subject, and was a man of exceptional ability, but what evidence can Government advance to show that this gentleman is in a position to offer very sound advice, that he is a man of exceptional ability? I suggest they have

none, and that in fact we could have saved ourselves this expenditure by utilizing the experience and the knowledge and the ability of officers already in the service of Government.

I contend, Sir, that this appointment was entirely unnecessary, that the expenditure of money on this gentleman is entirely wasteful and extravagant, and, in view of the fact that we have already learned a bitter lesson in connexion with it. We have already in the service of the Government responsible officers in a position to tender advice on the subject, and we have in the territory outside Government service men who would freely have given of their knowledge and experience on the subject to Government without any thought of remuneration. In the light of these circumstances, I suggest that this appointment is entirely unnecessary, and that the expenditure of public money involved is a waste and an extravagance.

Your Excellency, with the greatest possible respect, I would like to draw your attention to one aspect of this issue. I know you feel that I rather go out of my way on occasions to emphasize one particular aspect of issues raised in this House, that I am rather prone to raise constitutional questions, that I am rather prone to criticize the Government for not complying with the requirements of this Legislative Council; but I ask you to give your serious consideration to this statement: that this appointment is a glaring example of the dangers of evading Government's responsibilities to the Legislative Council, that it is a glaring example of departing from what is obviously the intention of the constitution, that the appointment of officers involving the expenditure of public money should be first approved by the Legislative Council and that no public expenditure should be contracted for without the prior approval of the Legislative Council unless there is urgent necessity.

Now, Sir, had that been done in this case, I feel certain—and I feel equally certain the House will agree with me—that this appointment would never have been allowed on these terms at all. I further suggest, Your Excellency, that it is really necessary in the interests of the country, really necessary in the interests of Government, really necessary to enable you and your officers to carry out these responsibilities, to inform the Secretary of State that it is impossible to conduct the Government on sound lines here if he will insist on taking the initiative out of your hands in such matters.

Your Excellency, I am most anxious to say nothing improper in form or subversive in intention in this discussion, more particularly as my remarks are directed against a gentleman who apparently is very touchy on such points. I will

therefore restrain myself and be content with saying this: I have good reason to believe that this action on the part of the Secretary of State in imposing this appointment upon us on these extravagant terms has given rise to considerable ill-feeling in the country, that it is regarded as a most—I will be restrained about it and say—"regrettable" thing—by those unfortunate people who have been retrenched from Government service in order to save a few hundred pounds, who have been deprived of their livelihood by the Government in an effort to save a few hundred pounds—they regard it as a most regrettable thing that that having been done to them should now read in the Press of this appointment. I think I am equally right in saying, Sir, that this appointment on these terms has created a grave feeling of dissatisfaction in the Service—amongst those still left—knowing as they must do that they have had their emoluments pinched and scraped in an effort to save a few hundred pounds—leave, travelling allowances, house allowances—they have responded nobly to Your Excellency's appeal to take these things in good spirit, and now they find a man from overseas, a stranger to the country, who has no particular interests in the country—that he can come out here on these extravagant terms. The plain people of the country, Sir, the people who are endeavouring to earn a livelihood in commerce and on the farms—many of them regard this appointment on these terms as a display of the most callous indifference to the efforts they have had to make to meet their obligations to Government during the last two years. Against great difficulties, they have endeavoured to comply with the law of rendering unto Caesar what is Caesar's, and in view of their circumstances their reluctance to do that has not been very great. They have, I think, in a good spirit endeavoured to meet their obligations to that law, and they very bitterly resent that, in addition to having to render unto Caesar what is Caesar's, they should have to maintain Caesar's servants in the lap of luxury. I cannot help feeling that much of the goodwill that has been built up between Government and the people in recent months, as a result of the very fine efforts that have been made by Government to meet the situation, will be undone by this regrettable and most unfortunate appointment which has been forced upon us.

I realize, Sir—I think it is only fair I should acknowledge this—that the Government of Kenya is not responsible for the terms of this appointment, and I feel very sorry indeed to have to saddle Government with the responsibility. I feel sorry for it, because I do realize that in recent months Government has done much and their efforts have been appreciated by the people; and this unfortunate appointment is going to undo a lot of the good which has been done in recent months.

This is one more object lesson of the inadvisability of people who do not know the conditions of this country interfering so intimately in our affairs.

Finally, Sir, my motion asks that steps be taken to terminate this appointment at the earliest possible date. I appreciate that in this matter consultation will be needed between the Government of Kenya and the Governments of the other two territories involved, but I cannot imagine that the Governments of the other two territories can really be anxious to retain the services of this officer a day longer than is necessary, so I do hope that although Government may be unable to accept my motion in full, it will be in a position to give an assurance to the House that at least the second portion of my motion has their approval and that every effort will be made to dispense with the unnecessary services of this expensive officer at the earliest possible date.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second the motion. My hon. friend has covered the ground so fully that there is not much for me to say. There are only two points I would like to emphasize. First of all, Sir, this motion is not an attack against the individual officer personally. Naturally, he is quite entitled, as any other man is, to get the best remuneration he can for his services. But, Sir, what we feel, I think, is a very justifiable and genuine resentment against the callous indifference which these terms of remuneration show on the part of the authorities in Great Britain at a time like this when, as the hon. mover has pointed out, everybody has been cut in some way or other—allowances cut down for most deserving people and in every section all the officials in this country have had to make their sacrifices. And then an officer comes out on these terms, which cannot be termed anything else but grossly extravagant.

I cannot, Sir, understand why he should be put on a three years' agreement. It does seem, if I understand the position rightly, that he is coming out merely as an adviser on income tax, not as the man who is to administer the income tax if it is ever imposed—and he cannot very well do that if he is wanted to, as he has to be in three territories at the same time. If he is only an adviser, I cannot see any justification whatsoever for giving him a three years' agreement and all the emoluments thereby entailed.

HIS EXCELLENCY: The question is—

"That the terms of appointment of the Income Tax Advisory Officer are extravagant and unwarranted, and that his engagement be terminated at the earliest possible opportunity."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, there is very little which I or any other Member on this side of the House can add to the admirable case which has been made out by the hon. Member who moved the motion. There are, however, one or two small points. Perhaps I can suggest an answer to the Noble Lord as to why it was thought necessary to have a three years' agreement merely for an adviser. I would suggest that probably the reason is that it will take at least three years before this gentleman and the Government succeed in getting any measure of income tax which will have the slightest success in the country. Also, the same reason, I suggest, applies to the special provision for sick leave; if that gentleman is as sick as the Government will be when they see the result of this proposed income tax, he will well have earned six or even twelve months on full and half pay.

Sir, we have heard for a number of years now, and always with great interest and admiration, my hon. friend the Colonial Secretary—sometimes opposing a good case; very often trying to make the best, as only he knows how, of a thoroughly bad case; but I do not think that ever probably in his life, either in this Legislative Assembly or any other to which he has had the honour to belong, has he had a more difficult task than he will have in making out a case in opposition to this resolution, which I say I am quite convinced has not only the approval of Members on this side of the House but of every single Member on the other side, and perhaps even of the President of this Assembly—and certainly of every person in this Colony outside this House.

The hon. Member for Plateau South has restrained himself to a marked degree in saying that the feeling amongst the public of this country and especially amongst members of the Civil Service in this country is that they look upon this appointment as regrettable. They look upon it, Sir, as I look upon it, and as I believe we all look upon it, as a most outrageous scandal. I fully appreciate that this Government is entirely blameless in the matter, but leaving aside all questions of constitutional issues, the imposition of posts like this on a country against the wishes of the country—and, I dare say, Sir, against the wishes of Government—the imposition of a post with these ridiculous terms of salary and privileges at a time like this is, as I have said—and I think I am justified in saying it—the most outrageous scandal that this country has had to suffer for many years.

I know, Sir, in issuing this challenge, it will be impossible for Your Excellency to take it up, but I challenge Your Excellency to allow a free vote on this motion; and if that challenge is taken up, it will be interesting for the Secretary

of State to see how his views and how his actions are on this occasion considered by hon. Members in whom he places, quite rightly, so much trust.

In conclusion, Sir, I regret that the answer to my question, showing as it did—that this gentleman—whom I have not yet had the privilege of meeting—is drawing a salary in excess of the Attorney General, has had the disastrous effect of sending the Attorney General on sick leave to Mombasa.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, as has already been said, the ground has been very fully covered, but, Sir, I should like to say that this morning I counted up the number of official heads, and to my mind it is a definite disgrace that the Secretary of State should send out a man here to rank, as far as salary is concerned at any rate, fourth on the list of Kenya, over the heads of no less than thirty-two heads of departments that for years and years we have had the greatest respect for. Sir, I should like to know the position of the Treasurer in this matter. This man advises on income tax—does he belong to the Treasurer's staff; if so, is he over the head of the Treasurer, because . . .

LT.-COL. THE HON. LORD FRANCIS SCOTT: He is under the Governors' Conference.

LT.-COL. THE HON. C. G. DURHAM: Thank you. Your Excellency, this officer has come out to tell us just so much, that you will not be able to collect an income tax, if it is a reasonable one, sufficient to pay for his staff. That to my mind is the correct situation to-day. You will not get the money unless you tax your unfortunate officials. Sir, I am going to add to the appeal made by the hon. Member for Nairobi South, and that is this: that you will give a free vote. I think your officials to-day, Sir, are definitely entitled to a free vote on the mere fact that they will have to pay most of the income tax.

THE HON. F. A. DEMISTER: Your Excellency, I only ask permission to join in the support of this motion to attempt to persuade my colleagues that there are some questions in which Mombasa agrees with them. (Laughter.)

As far ago, Sir, as the 15th July, 1929, I put a question to the Government asking the number of experts who had visited the Colony for the previous three and a half years, and the reply was so staggering that there were no more experts invited for a matter of twenty-eight months. The only reason, Sir, that I support this is because it is an attempt at the reversal of the policy followed by the Government for the last

nearly two years. During that time, Sir, we have had a policy of peace, retrenchment and reform, recognized in my constituency as the one hope for the regeneration of the Colony; and now from outside, Sir, we are being visited with propositions, with appointments and policies which this country unanimously objects to and will in the end repudiate.

THE HON. HAKIM SINGH: Your Excellency, I support the views of all the Members who have spoken up till now, and also I suggest that the Official Members be allowed to give a free vote.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I intend to vote for the motion purely on the economic issue of the Colony at the present time.

HIS EXCELLENCY: If no other Member wishes to speak, I will call upon the Colonial Secretary.

THE HON. THE COLONIAL SECRETARY: Your Excellency, after listening to the course of this debate, it appears to me that a certain amount of confusion of thought exists in the minds of some of the hon. Members opposite. For that reason, if I am right, I hope perhaps that, despite the blandishments of the hon. Member for Nairobi South, my task will not be quite so difficult as it would otherwise appear to be. I must say, Sir, that I very much welcome the remarks of the Noble Lord, the Member for the Rift Valley, when he brought down the debate from the clouds of constitutional enigma to the practical considerations of everyday life, and further that he should have made it so very clear that the action taken by hon. Members opposite in this matter has no personal reflections upon the officer concerned. (Hear, hear.) I feel that I am voicing the views of all Members of this House and of the country as a whole when I say that I believe we are all sportsmen here, and we would like to give the fellow, whoever he is, when he comes, a fair run—(hear, hear)—and for that reason in some ways I am rather sorry that a suggestion was made that this officer, from what hon. Members know of him, has that special knowledge, has no special ability, and that there is no reason to suppose that he can do this job any better than any of us here at present. I have had the opportunity of having several conversations and discussions with that officer, and so have my hon. friends the Treasurer and the Attorney General, and I think they will all agree with me that we have in this officer a man not only of exceptional ability but of great practical experience; and I do believe that if and when his services have to be put in commission it may be found that not only has the Government been wise in obtaining the

services of this officer but that he will be only too willing to interpret whatever Ordinance is passed in the most sympathetic and helpful manner. But, Sir, as the question of the constitution has once more been raised by my hon. friend the Member for Plateau South, I would just like to remind him that in this matter we have not obtained the services of this officer without the prior approval of this Council. In July last a motion was moved by the Noble Lord, the Member for the Rift Valley, which raised the whole question of the imposition of income tax, and that motion was not accepted by Government. Immediately after, as a corollary of that motion, my hon. friend the Treasurer moved a money motion providing a sum of £1,500 for the purpose of defraying the salary, passage and other expenses incidental to the temporary secondment from Somerset House of an officer of the Inland Revenue Department to advise on the imposition of income tax in Kenya. I do not suggest for a moment that hon. Members voted for that resolution or were in favour of it, but the suggestion that the initial step of recruiting this officer was taken without a vote of this House is totally unfounded. Indeed, it gave me great surprise that this point was taken at all in the course of the debate; what I had anticipated was that criticism, and possibly legitimate criticism, might have been directed to the scale of remuneration which had subsequently been decided by the Secretary of State for the officer in question.

To come to the scale of remuneration, Sir, again I think there are one or two matters in which the House is perhaps suffering a little from confusion of thought. They have compared the emoluments of this officer with those of the senior Heads of Departments in this Colony. I would suggest that any such comparison is quite beside the point. In the first place, this officer is not the servant of one Government, but of all three Governments: he is adviser to Uganda, Tanganyika and Kenya; and even were he on a pensionable basis, which he is not, there would be nothing out of the way that his total salary should be in excess of the total salary of the heads of departments whose services are confined to an individual territory. Secondly, Sir, which is a much more important point, this officer is not a pensionable officer at all. He has come out here on a purely temporary appointment. He is, however, a pensionable officer in the service of the Crown at home, and during the period that he is out here he is losing his pensionable service. I think everyone will agree that in cases like that some special compensation by way of addition to temporary salary should be made to compensate an officer who in that way is jeopardizing his subsequent pension. Furthermore, he is still further jeopardizing it by the fact that should he die out here from our malarious climate—(laughter)—a

contingency which, I admit, we all know to be remote—he would die, and in doing so—(laughter)—and as a result would not receive a farthing from the Home Government. Those circumstances, I think, must be taken into consideration when considering the amount of the emoluments attached to the post. Furthermore, there is this consideration: we as a Government felt quite definitely that it would be of assistance to us to obtain the assistance of a man from Somerset House for the inauguration of income tax if it is imposed. I may be right or I may be wrong in forming that view, but in view again of the remarks of the hon. Member for Nairobi South and the difficulties which he foresees as an experienced man of the world in introducing this tax in Kenya, I feel that the Government would have been wrong had they not obtained the best advice possible in this matter.

I hope that I have covered most of the points made in the debate. There is one question as to the length of the agreement of this officer. He is on a temporary agreement, but as hon. Members realize I think from the answer I gave on a former occasion, it is competent for the person engaged to be given notice at any time—three months' notice in writing—and while I would not for one moment hazard how soon it may be possible for us to dispense with this officer's services, we have within the four corners of the agreement every opportunity to dispense with his services as soon as ever we realize that we can get on without him.

THE HON. T. J. O'SHEA: Your Excellency, I am very pleased indeed that my hon. colleague has thought fit to remind the House that of course there is nothing personal in this onslaught, and most of us regret that the unfortunate gentleman should have to be the victim of this feeling on our part; but it is entirely impersonal, and I would assure him that there is not the slightest need for the nervousness from which I understand he is suffering.

We have not yet arrived at a stage in this country when we mix up our politics with personalities, but if any more appointments like this were to be made I cannot assure Your Excellency that we should be able to maintain an impersonal attitude. It is perfectly true, as the hon. the Colonial Secretary has pointed out, that this House did pass a vote of £1,500 in July last in connexion with the income tax officer, as I was endeavouring to emphasize, but this growing practice of complying with mere formalities in consulting the House and not giving the House an opportunity of advising Government on things being done is responsible for these things happening that we raise so much objection to. The practice is that from

the 1st January next Government may not spend money without the prior approval of the House and the Select Committee is given an opportunity of considering and inquiring as to how the money is to be spent. That I consider is sound practice, and that is why the constitution of this country does provide for the Legislative Council to have effective control over public expenditure. I cannot see that there is any justification, as claimed by the hon. the Colonial Secretary, for a higher scale of remuneration for this gentleman because he is advising three Governments instead of one. We have had numerous temporary appointees in this way in the past who have advised two or three Governments, and this is the first occasion on which I have heard it claimed that he should be paid a higher rate of remuneration because he is advising three Governments. It just emphasizes the weakness of the case that the hon. the Colonial Secretary had to defend.

Again, Sir, I do not think it in the least justifies Government in agreeing to these terms, that the officer in question lost certain of his privileges by temporarily leaving the English service. If Government were in a position to say that no other officer of equal experience and ability could be obtained, then I do admit there might be something in the argument; but it must be common knowledge that there are numerous people in England who could have been obtained on very much less expensive terms. I contend, Sir, that the case argued in my motion has not been met by the hon. the Colonial Secretary, and I feel certain that if Government were in a position to allow an expression of free judgment to the House in this matter my motion would be passed unanimously.

**HIS EXCELLENCY:** The question is:—

“That the terms of appointment of the Income Tax Advisory Officer are extravagant and unwarranted, and that his engagement be terminated at the earliest possible opportunity.”

The question was put and lost by 12 votes to 18:—

**Ayes:** Mr. Bennister, Canon Burns, Capt. Cotter, Col. Durham, Messrs. Hakim Singh, Conway Harvey, O'Shea, Major Robertson-Eustace, Capt. Schwartz, Lord Francis Scott, Major Sir Robert Shaw, Capt. Ward.

**Noes:** Messrs. Abdul Wahid, Bruce, Deck, Brassey-Edwards, Dr. Gilks, Messrs. Holm, Horne, Logan, Montgomery, Moore, General Rhodes, Messrs. Rushton, Scott, Sikes, Wade, Walsh, Col. Watkins, Col. Wilkinson.

**REPORT OF THE SELECT COMMITTEE ON THE MINING (AMENDMENT) (No. 2) BILL.**

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN):** Your Excellency, I beg to move that the Report of the Select Committee on the Mining (Amendment) (No. 2) Bill be adopted.

The Report, Sir, contains a recommendation that the Bill should be adopted as presented to Council with the exception of two minor corrections—two minor printing errors. In the title and in the first clause of the Bill the alteration of the figures “1930” to “1931”, and in the fourth clause of the Bill the alteration of the word “authority” to the word “attorney”.

Those are corrections of printing errors, but I should like to take the opportunity of explaining that, in regard to the requirements in clause 4 of the Bill—“a prospecting right may be granted to an individual as agent for another individual if such agent is the lawfully constituted attorney of such individual”—does not contemplate the preparation of any expensive legal document, but an ordinary letter, if stamped, will be regarded as sufficient authorization for prospecting.

**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 Mining (Amendment) (No. 2) Bill be adopted.”

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, in the course of the debate on the amending Bill it was suggested that a committee should be appointed to be able to deal with the question of these regulations. Could we hear whether Your Excellency has come to a decision on that, and, if so, whether that committee is going to be appointed and who will be the personnel?

**THE HON. THE COLONIAL SECRETARY:** I think we can make an announcement in reply to the Noble Lord's request to-morrow morning.

The question was put and carried.

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

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to move the adoption of the Report of the Select Committee on the King's African Rifles Bill.

The Report, Sir, is a unanimous one, and although it is not signed by the hon. Member for Nairobi North—no, South—as he was unable to be present at the meeting, I have authority for saying that he concurs in the Report.

Hon. Members will see that a rider has been added by the hon. Member for Kikuyu, a rider in which I understand the hon. Member for Nairobi South joins, though he has not signed the rider, again owing to his absence from the Select Committee. The two Elected Members of the Committee, while signing the Report, Sir, deprecate the removal of the death penalty for desertion and the payment of gratuities to time-expired soldiers in the place of hut and poll tax exemptions. It was explained to them that the removal of the death penalty was merely falling into line with the alteration of the law made in England in 1930, and that the alteration in the hut and poll tax exemption system was the outcome of a unanimous decision of the Conference of East African Governors, and that the result of that decision will be embodied in the legislation of the territories of Uganda and Tanganyika. As a result of this explanation to them, the Report is a unanimous one, but with this rider added.

The amendments themselves are largely verbal, Sir, and none of them is of any great importance. There are only two alterations to which I need refer. The term "hospital dresser", which was used in the original Bill, has throughout the Bill been altered to the term "medical orderly", as being more suitable. That alteration is also being made in Uganda and Tanganyika, I understand.

The other amendment is in the provision in sub-clause (4) of clause 84 of the Bill whereby any soldier, whose terms of engagement and re-engagement combined shall amount to a continuous period exceeding twelve years, is dismissed for misconduct, he may receive a portion of the gratuity he would have received if he had not been dismissed. That twelve years has been altered to nine. That is a small point in favour of the soldier.

I beg to move the adoption of the Report.

COLONEL THE HON. R. WILKINSON (OFFICER COMMANDING THE NORTHERN BRIGADE): I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the King's African Rifles Bill be adopted.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, as I have signed this rider, I want to state my reasons for declining to accept the exclusion of the death penalty. Sir,

I do not think I ever went into a fight yet without the fear of death upon me, so therefore I have the greatest sympathy in the world for those who cannot face what they think is coming to them; but one realizes, Sir, that there is the danger—that when one man is liable to throw down his rifle and desert, it is not only affecting that one man; it may, in fact, affect the division. Very frequently it does affect platoons, companies, etc. When you come to think, Sir, that the European to-day has got brains to work out just what it means, death penalty or no death penalty, he would, if his nerves would stand it, fight. But you have to remember that in this country particularly, and of course throughout the British Empire, you have got a lot of native soldiers, coloured soldiers, who do not appreciate the point of view that the Englishman may have. I say, Sir, that to a lot of these people it is no disgrace to run away and come back again. But to the European it is a definite disgrace, and when he is taken back as a deserter to his regiment, the mere fact that he has got to look his comrades in the eyes as a deserter is often his greatest punishment. If you look at the war record, Sir, there were thousands of men who were charged with desertion, but as a matter of fact it was only a very few hundred who suffered the extreme penalty for desertion. For most of them the punishment was the stigma which they had to face from their comrades. The coloured troops, knowing there was a death penalty, stayed because of their fear of the death penalty, and therefore I am opposed to the exclusion of it now.

In clause 4, I note with deepest regret that the Governors' Conference agreed to cut out what one might call a pension in fact, which is a free hut for each man who has done continuous service for nine or twelve years, which he would get for life. The men of the King's African Rifles look on this as a very great privilege indeed, and I cannot understand the Governors at the Conference suggesting that a man should be given £7-10 as a gratuity, which is spent in two months' time, whereas in the case of your Civil Servants they get a pension whereas they cannot take a lump sum and spend it as fast as they like. Certainly not, they have got to keep their pension and live on it. It may be said that it is saving money, but is it in fact? I say definitely that within three years, two years even, your ex-King's African Rifles will come along and say, "Well, your ex-King's African Rifles will let me have the hut tax, but I have not got any money now, and what are you going to do about it?" And so he will have a free hut as well. Further than that, he looks upon it definitely with pride. He puts up his certificate on his hut door, and he is a man of the village; he looks upon it as something, anyhow, that he went through the mill on behalf of his Government and King, and he has a certain amount of standing, but what now? He becomes the

same as the rest of them. They do not know. If he has got that certificate there they do know, and that will affect your recruiting.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, I wish to support the hon. Member for Kikuyu with regard to this question of the death penalty. No reasons have been advanced by the Solicitor General except that it follows the alteration in the law which was made in England in 1930. That Bill was passed by a minority Socialist Government, supported by a pack of Radicals, none of whom care for the Empire to which they belong or for the Army. Their sole slogan has been, "No discipline; let everyone in England do as he likes." I speak strongly because I feel strongly. The greatest danger to our country to-day is this complete lack of discipline that is pervading all classes and the general idea that everyone can do what he likes without let or hindrance. That has got to be stopped. There was very strong opposition in the House of Commons to the alteration in this law, but it was carried, as I say, by a minority Government, and surely this Government, especially in this country, as the hon. Member has said, can say that they consider the retention of this death penalty on active service is necessary to the welfare of the troops with which this Bill deals. I do urge Your Excellency to report progress and reconsider whether this cannot be done.

**COLONEL THE HON. R. WILKINSON:** There is one point, Sir, in this Ordinance to which I should like to draw the attention of the House. The King's African Rifles are not a body of troops which are wholly in this Colony. They extend over the whole of East Africa. They are now also divided into two definite units, the Northern and Southern Brigades, and those King's African Rifles which we see in Nairobi and other parts of Kenya belong to the Northern Brigade, which also includes those troops in Uganda. It is quite obvious that you must have an Ordinance which covers the whole of that unit. It is essential, of course, to have an Ordinance that covers both the Northern and Southern Brigades. The Ordinance which we are considering to-day, Sir, has already been passed in Uganda, and will be taken as the model when they pass their new Ordinance in Tanganyika. I will admit that I have had a great deal to do with this Ordinance, but in constructing it it was necessary to fall in with the wishes of all the Colonies, so as to get one Ordinance, and it is also necessary to fall in with the views of those people who are our overlords at home, and whilst a great many soldiers will agree with my hon. and gallant friend the Member for Kikuyu, I think, Sir, it has still to be proved that the elimination of the

sentence of death for desertion is going to affect the discipline of that body of troops that I have the honour to command. I do not for one moment believe that, Sir.

As regards the other point raised by my hon. and gallant friend, the changing of the hut and poll tax to a gratuity, I must admit I think that most commanding officers prefer actually the giving of a sum of money by degrees rather than in a lump sum, and I think the general idea throughout the Brigade was that it would be preferable to give a pension rather than a gratuity. At the back of the idea of getting rid of the hut and poll tax exemption, which is very dear to the heart of all *askaris*, was that in a way it made them different from other citizens of this Colony, and that they should learn that they are citizens just the same as ordinary civilians. However, it was, after a great deal of debating, decided that a gratuity should be given, and it is quite impossible, as I said before, to stick to the hut and poll tax exemption in one Colony and give a gratuity in place of it in another Colony. I might also point out to hon. Members of this House that the troops in Uganda and the troops in Kenya are not definitely in those separate Colonies, and that frequently officers, non-commissioned officers and other ranks change from one Colony to another.

**THE HON. CONWAY HARVEY:** Your Excellency, I should like very briefly to expose the utter and complete fallacy of the first portion of the gallant gentleman's argument. I suggest, Sir, that this House is being treated with levity when it is seriously stated that matters of this very great importance rest with the date on which the Legislature of either of the three Territories sits. I cannot, Sir, for one moment accept the suggestion that this House must be bound by a decision reached in Uganda. It is extremely improbable, Sir, that war will break out to-morrow, and I think it is very important indeed that matters of such prime importance to the people of this Colony should be decided by this Legislature rather than by meekly following the decision of an ultimate country where conditions may be totally different.

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, I should like to support the rider put in by my hon. and gallant friend the Member for Kikuyu on both counts. First of all, Sir, I should like to join with my hon. colleagues in their protest that in this Legislative Council we should be tied down by what is passed in other Colonies. It always seems to me when anything difficult comes along we are told again to me when anything difficult comes along we are told you have got to have that—we do not agree with it—because either the Secretary of State said so in England or the Uganda Legislative Council wants it, or some other such reason. I

think it is quite time that we said what we want, and made other people come into line with us rather than always following the wants of other people.

With regard to the death penalty itself, I consider that the abolition of the death penalty for these various crimes was very misplaced sentiment. It was a sentiment which preferred the saving of the life of one coward at the expense of risking the lives of many of his comrades, and the reason that the death penalty is put in for these particular offences is a real deterrent—to make a man too frightened to run away and desert his post, and in so doing endanger the lives of many of his comrades. I think we have far too much of this sort of sickly sentiment just now with great detriment to the good of our nation.

With regard to the second part, I am quite sure that it is sounder to give these *ex-askaris* of the King's African Rifles exemption from hut and poll tax rather than to give them a lump sum which they are likely to spend straight away and thus be worse off afterwards in their lives.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak, I will adjourn for the usual adjournment, and afterwards call upon the hon. mover to reply.

*The Council adjourned for the usual interval.*

*On resuming.*

**THE HON. T. D. H. BRUCE:** Your Excellency, I only have a few words to say in reply to the two points raised. First of all, about the removal from this legislation of the death penalty, I fully agree in regard to what my hon. and learned friend the Member for Nairobi South said about its being a snap vote and passed by a Socialist Government, but on the other hand we have to face the fact that, for good or ill, that is the policy of the Imperial Government. If we have another war and it does not work, then, perhaps it will be altered, but it is at the present time the policy of the Government at home and I think it is our duty and our loyal duty to fall in with their views.

As regards the other point, Sir, clause 84, the change from the exemption of hut and poll tax system to the gratuity one, I would just like to amplify slightly what I said about its being a decision of the East African Governors' Conference by saying—I have your Excellency's authority for saying that the question at that Conference was carefully considered by all the Governments and all the Territories concerned were taken into account; and this change was thought to be the

best after very careful and long consideration in the interests of all the parties concerned. I would, therefore, ask hon. Members to vote for the adoption of this Report.

**HIS EXCELLENCY:** The question is that the Report of the Select Committee on the King's African Rifles Bill be adopted.

The question was put and carried.

## BILLS.

### THIRD READING.

#### THE KING'S AFRICAN RIFLES BILL.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to move the third reading and passing of the King's African Rifles Bill.

**THE HON. THE COLONIAL SECRETARY:** 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 COFFEE INDUSTRY BILL.

**THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLST):** Your Excellency, I beg to move the second reading of a Bill to make provision for the Advancement and Control of the Coffee Industry.

Sir, the principle of raising funds by means of levies for the benefit of specific industries and for supplementing departmental effort is one which is becoming increasingly applied in different countries. In Kenya we have had the subject under consideration now for some years past. In its application to the coffee industry it has been put forward during the last seven years and has been actively considered in the framework of legislation for no less than five years. It may interest the House if I say in passing, in regard to another industry—the sisal industry—the same principle has been approved by the organization representing the industry and a Sisal Industry Bill has actually been printed and has received the full approval of the sisal growers, but just at the time when it was about to come before this House there was a collapse in the sisal industry. I mention that just to show that more than the coffee industry has agreed to the principle of applying money for the benefit of the industry.

It is interesting to note that early proposals in connexion with this matter were of a much more ambitious character. It was proposed at one stage by the Coffee Planters' Union

that no less a sum than £75,000 should be obtained from Government and spent chiefly upon research and experimental work. At a slightly later stage it was proposed to raise the funds required by means of a high licence fee upon coffee planters. Some hon. Members may recall that in the Report of the Agricultural Commission of 1929 it was proposed that the minimum licence fee to coffee growers should be £10.

For various reasons, Sir, effect was not given to these different proposals and a Bill in somewhat different form and reducing somewhat the activities of the Coffee Board was published by Government for information and criticism in about April, 1931. That Bill was not favoured by the Council of the Coffee Planters' Union; in fact, it was turned down by them. The next stage was reached when, shortly after my return to the Colony, towards the end of 1931, I was invited by representative leading coffee planters to bring the whole question again under review. During this last year meetings almost too numerous to mention have been held between certain staff of the Department and the Council of the Coffee Planters' Union, with the Coffee Consulting Committee and with individual growers. Again, the Bill was very fully discussed at the last Coffee Conference and finally it has been closely examined on two or three occasions in consultation with the provisional Coffee Board. I can assure the House, Sir, that it has been no easy task to secure that measure of agreement which has now been obtained. There has unfortunately been in the country a considerable difference of opinion with regard to this whole movement, but I am glad to be able to inform the House that the Bill as it stands does, I believe, represent the practically unanimous report of the coffee growers of this Colony, excepting perhaps in regard to two particular provisions in it, and I would mention these now. One is the retention by Government of a Sh. 30 registration licence fee for a coffee planter under the Coffee Registration Ordinance. The other is the inclusion in the Bill of clause 9 (5) whereby anything affecting coffee-growing by natives in any native reserve is excluded from the Bill.

With regard to the first point, Sir, I would say on behalf of Government that Government is not prepared to surrender the revenue derived from the Sh. 30 registration fee. It amounts to £1,200 odd, and in consideration also of the fact that from public funds there is spent an estimated amount of £5,000 odd on what may be regarded as police protective measures and over £8,000 on research and experimental work services for the industry, it is considered not unreasonable that Government should retain this revenue derived from registration fees.

With regard to the other question, the exclusion of native coffee-growing from the Bill, I am ready to admit, Sir, that, having regard to the very controversial character of this subject, coffee growers and the delegates to the Coffee Conference were, not unaturally, somewhat apprehensive. But since the Coffee Conference was held, Sir, I have taken the opportunity of placing the whole question before the provisional Coffee Board and have explained to that Board the main principles underlying the control which Government proposes to exercise under special Native Coffee Growing Rules. I explained also, Sir, that having regard to particular circumstances and requirements the Bill before the House was entirely inappropriate as a measure to cover such a field and in fact that the necessary control could not be given within the scope of this Bill. Further, that there existed under another Ordinance, the Crop Production and Live Stock Ordinance, full opportunity for dealing by means of Rules with the whole question of native coffee-growing.

In order perhaps to dispose of this particular matter at this stage I would also inform the House that these Native Coffee Growing Rules have reached the stage whereby it is hoped that they will shortly be promulgated, and they make provision for a very substantial measure of control by the Director of Agriculture such as could not be embraced in the Bill now before the House. I do not wish to go into any details, Sir, but I should like to inform the House that what the present bar on natives growing coffee will be removed. It is the intention of Government that no native will be allowed to grow coffee excepting, to begin with, in areas declared by the Director of Agriculture as suitable for the purpose and by virtue of a permit granted by him. Furthermore, the Director has to be completely satisfied that the necessary staff provision is made and will be made for the exercise of that control over native coffee-growing, for the inspection necessary and so forth. Then again, all coffee plantations in native reserves will have to be cultivated to the satisfaction of the Director of Agriculture and factories can only be erected with his approval and must be maintained and managed in such a way as to satisfy him.

I come now, Sir, to the consideration of the clauses of the Bill, and without going into too much detail the House might perhaps expect me to explain and justify some of the provisions contained in certain of the clauses. Members will note the very representative character of the conference which appears under the head of definitions. That I think is a matter of first importance because this conference is responsible among other things for appointing the Coffee Board from time to time. With the permission of the House, Sir, I propose to move an amendment under the head of definitions

whereby there will be included after " Director " a definition of " export ". I might read it to Members now so that they may have an opportunity of thinking the matter over in case they wish to raise the question on the Committee stage. It would read :—

" export " means export from the Colony to a place outside the limits of the Uganda Protectorate or Tanganyika Territory or of the Colony."

That has been included in consultation with my hon. colleagues the Attorney General and the Commissioner of Customs, and the point is definitely related to clauses 10 (1) and 10 (3). Without the inclusion of that new definition the difficulties of administering the levy fund might be increased. It is not considered worth while to elaborate the organization for the collection of this levy through the Customs Department whereby special measures would have to be taken to collect small amounts on the small quantities of coffee passing into Tanganyika and Uganda.

Clause 3 refers to the constitution of the Board. I hope hon. Members will consider that it is very representative in character. It will consist of the Director, who will be the first chairman, two members to be appointed by yourself, Sir, one of them being a member of the Department of Agriculture, two licensed coffee dealers, three coffee planters from roughly the east of the Rift Valley and three from roughly the west of the Rift Valley. Now there is only one point I should like to make here, Sir, and that is rather to offer a personal opinion on the matter. My own feeling is that in the light of experience it will be found necessary and advisable to increase the number of coffee dealers by at least one, having regard in particular to the main functions of the Board itself, which are very largely concerned with advertising, marketing, exploitation of markets and so forth, and my personal opinion is that on that particular side, which is so important, the representation of coffee dealers who have more knowledge of this subject than coffee planters is on the light side and it would be an advantage to the Board if the number were increased. However, I would explain to the House that the subject was considered at the coffee conference; the coffee conference was not disposed to increase the number beyond two and I would suggest to the House that it may be left at that, but I am inclined to think that in the light of experience there may be some amendment necessary to the Ordinance at a later stage.

Under section 3 (2) there is a peculiar provision; it says " The first appointment of members of the Board under paragraphs (c), (d) and (e) of sub-section (1) of this section shall

be made by the Governor on the recommendation of the Director." The explanation is this, Sir, that the very representative coffee conference was held before this Bill was in a suitable shape to be passed through this House, and it was not considered necessary or advisable to hold another coffee conference in order to give effect to the provisions of the Bill. The Coffee Conference therefore proceeded to elect persons who could be nominated to the Board and I gave the Conference the assurance, Sir, with your approval at the time, that I would recommend to you the appointment of those persons to the Coffee Board who were nominated at the last Coffee Conference.

The first proviso under section 4 (1) is, I think, of some importance. Both the Councils, Committees and Boards with whom I have had to deal with this matter found great difficulty in framing this particular proviso, but I hope and believe that it will now work. The intention of that is not to impose any undue liabilities upon retail sellers of coffee who are genuinely carrying out the ordinary provision trade. I should like to explain, Sir, that under clause 4 (2) there is an alteration there as compared with the draft passed at the coffee conference but which has been since amended and included with the approval of the provisional Coffee Board. It was previously suggested that the District Commissioner should, before issuing a licence, take the opinion of the Coffee Board thereon. On closer examination it would seem that as this was an executive and administrative matter it would be better that the District Commissioner should consult the Director and the Director in turn in particularly difficult cases or uncertain cases would, I have no doubt, in his wisdom consult the Coffee Board as and when necessary. In any case, Members will appreciate that it gives more protection than is given under the existing legislation because under the existing legislation the District Commissioner has full power on his own authority to issue these licences.

With regard to clause 4 (5) hon. Members will note that the coffee dealer's licence has been increased from Sh. 10 to £10. That may seem a considerable jump, but from inquiries made in the matter we are informed by the coffee dealers that they have no objection to paying £10, and in this way they will make a fair contribution to the levy because there is no other way in which a contribution can be made by coffee dealers to the levy fund itself. But the main object behind this considerable increase, Sir, was to secure that those connected with coffee dealing would be persons of repute and would be able to satisfy Government and the Coffee Board that they were dealing in a legitimate trade—dealing, rather, in a trade carried out legitimately.

I will pass on now, Sir, to the important clause 10 which is one dealing with the levy itself. Members will note that the amount of the levy shall in no event exceed one shilling per hundredweight, provided also that no levy shall be imposed in respect of buni coffee. It was considered advisable, Sir, to state in the Bill that during the first year of its operation the levy should not exceed fifty cents per hundredweight. I do not think any difficulties will be created thereby because it will take the Coffee Board some considerable time to make the necessary preparations for expenditure on a considerable scale to be done wisely.

Section 10 (2) is the ordinary commercial point that reasonable notice shall be given before the levy is collected.

With regard to section 10 (3), to which I have referred when I was dealing with the question of the definition of "export", my friend the Commissioner of Customs has been good enough to undertake the collection of this money through his Department, and I have every reason to believe that collected in this way and administered in this way there will be for all practical purposes no extra money expended in the cost of collection and that the whole of the money obtained will go into the fund.

Hon. Members will notice in section 11 (1) that at the end it says "and of such sums as the Legislative Council may from time to time vote for the purpose." It was the hope of the Coffee Conference and the Provisional Coffee Board—I trust perhaps not an entirely pious hope—that this Council might be able in its generosity to vote every now and again a sum of money to supplement the fund.

I do not think I need repeat to the House the provisions of clause 11 (3). They are very clearly stated and they form the main functions of the Board. They are to deal with advertising and propaganda work, with better marketing and the exploitation of new markets, and any other service which in the opinion of the Governor in Council is a fit and proper one on which to spend the fund. Members will notice that, under clause 11 (3) (c) there is no intention to pay fees to the members of the Board; they will only get their travelling and out-of-pocket expenses.

Clause 13, I think, is an important section and it means this: that the coffee planters of the Colony who find this money will be assured that from time to time there will be presented to them through their representatives at the Coffee Conference an annual report dealing with the work of the Board itself, how it has spent its money, the progress of the industry, and so forth. I will not occupy the time of the House longer in dealing with the provisions of the Bill,

but I should like to make one or two more general comments before I close. This Coffee Board will have great opportunities for rendering valuable services to the coffee industry. There is great scope in the provisions of the Bill for the improvement of marketing, for the exploitation of new markets and the better preparation of coffee for market. But it will be the first duty of the Board to see that the present high reputation of Kenya coffee is maintained. Again, I would hope—though it is not entirely a matter for the Board to decide—that from time to time, too, there may be funds available for intensive research and experimental work, which might be conducted from time to time and which is outside the resources of the Department of Agriculture. The levy is in my opinion not such as would bear hardly on the individual, while it should contribute such a total sum that the Coffee Board will be possessed of the necessary ways and means to promote and foster this important industry.

Your Excellency referred in your opening speech to the importance of this industry to the State. It is also, if I may say so, of great importance to the Railway Administration. Fortunately it is not one of those industries which is likely at any time to create any peak traffic conditions.

Sir, I have been privileged during past years to have been responsible in this House for the introduction of many important measures and as this may be the last time that I shall deal with one of major importance, may I be allowed to say that I have been glad to have been so associated with a Bill in connexion with which there has been so much and so close collaboration with my Department and a Bill related to an industry which makes the greatest contribution to the production of wealth in this Colony. Hon. Members, I feel sure that I can confidently rely upon you for your unanimous support to the principles of this Bill, which really means, in short, helping the industry to help itself.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

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

THE HON. CONWAY HARVEY: Your Excellency, I rise to support the motion, as some form of centralized control is absolutely essential if the coffee industry is to survive the present period of over-production and keen competition. As the hon. mover so truly said, Your Excellency, I cannot remember any Bill which has ever been subjected to such intensive scrutiny as this measure. As a representative coffee planter I have been privileged to take part in most of those

preliminary discussions and I should like to express the gratitude of coffee planters to Government for the manner in which their representations have been met throughout. A very large number of coffee planters' suggestions have now been incorporated in this measure and the excellent result that has been achieved, Your Excellency, is due in no small measure to the spirit of reasonableness displayed by the hon. Director, who presided over most of those meetings. Although the measure affects coffee planters particularly, Your Excellency, everyone must be aware of the importance to the Colony of an industry which represents a capital investment of rather more than five million pounds, an industry which during the year 1930 exported no less than 310,000 cwt. of coffee valued at one and a half million pounds, and which incidentally contributed £20,000 to railway revenue. In Kenya, Sir, there are 925 coffee growers who have succeeded in planting up 97,000 acres and the value of the result of this planting, Sir, during 1930 represented no less than 47 per cent in value of the total agricultural exports from Kenya.

I do not intend, Sir, to traverse any of the detailed provisions of this measure, which have been so clearly and lucidly explained by the hon. mover, but, Sir, there is one thoroughly bad feature of Government policy reflected in this Bill. I allude, Sir, to the fact that, with certain safeguards, natives are for the first time to be encouraged to grow coffee. Now, Sir, this particular aspect of the problem, as Your Excellency is aware, was very very carefully considered by the Agricultural Commission which sat a few years ago under the distinguished chairmanship of so eminent and impartial an authority as Sir Daniel Hall. The signatories to that Report, Your Excellency, a short extract from which I propose to read in a moment, include the then Chief Native Commissioner and Mr. C. M. Dobbs, than whom no one was ever more solicitous for native welfare. The extract I should like to read, Your Excellency, is in these terms. On this vexed subject of coffee-growing by natives, on page 35 of the Report, Sir, it says:

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

That, Sir, was the considered conclusion of the Agricultural Commission, after taking voluminous evidence throughout the Colony from all the interests involved.

Now, Sir, much has been said about the substantial profit derived by natives from coffee-growing in Tanganyika and Dr. Drummond Shiels is reported in the *East African Standard* of the 7th August last year to have said in the House of Commons that the Kilimijaro Native Planters' Association of Tanganyika Territory has a membership of 19,231 owning about 6,000,000 trees. Now, Sir, a series of very simple calculations shows that this works out at an average gross income per year of Sh. 32, which compares very unfavourably indeed with the average wage of Sh. 150 derived by the same native in European employment. Why imperil an established industry, which means so much to the Colony, for the sake of conferring a very doubtful benefit on the native, who, in my humble opinion, is very much better employed in growing food-stuffs and dedicating his energies to crops he knows something about? I suggest, Sir, that this is being done to placate political agitators, who will very soon think of some other imaginary grievance with which to fan the flame of political agitation.

Now, Sir, on the subject of over-production, which everyone knows is a fact to-day, it may interest the House to know that a suggestion is now under consideration for the destruction of no less than 400,000,000 trees in that coffee-producing country known as São Paulo, whereas everyone knows that in Brazil, the greatest coffee-producing country in the world, thousands and thousands of tons of coffee are destroyed annually; and a recent decree in that country, Your Excellency, absolutely forbids the planting of any more coffee for a period of no less than three years. The danger to coffee, from theft and disease are so obvious, Sir, as to require no elaboration from me at this stage.

There is just one other point, Your Excellency. Apropos of natives growing coffee, I should like to say that we do repose very great confidence in the safeguards which I have every reason to believe will be introduced by the Agricultural Department of this Colony and its extremely competent staff of agricultural officers. Now, Sir, Government expenditure, in my humble opinion, has never been related to the importance of the industry and, as is indicated in this Bill, planters are desirous of helping themselves by imposing a voluntary cess, the proceeds of which are to be spent for the advertising and general advancement of the industry by a Board elected by general growers themselves, and I hope at no distant date, Sir, Government will find itself in a position to recognize its obligations to an industry which is doing so much to help itself.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I rise to support the motion before the House, and I only have one point to make, Sir, in support of what my hon. friend on the left (the hon. Member for the Lake) has just said in agreeing to this Bill the coffee planters of this country and we-Elected-Members-on-this-side-of-the-House do not in any way withdraw from the position we have taken before that it is inadvisable for the Government to encourage the growing of coffee by natives. We have agreed to this Bill as it is because we believe that if coffee-growing by natives is to be encouraged the proposals put forward by the hon. Director are the best way of controlling them. At the same time, Sir, coffee planters here do maintain that they have invested their large capital in the country on the understanding—I will not say any pledge or anything of that sort—that coffee-growing by natives would not be encouraged. I do not wish to go further into the details of the opposition, some of which have been put forward by my hon. friend, but I did just want to make that point quite clear, Sir.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I also will follow in the footsteps of my leader in opposing this growing of coffee by natives. If natives have their *shambas* adjacent to a present plantation just how long will Government refuse permission to those natives if they apply for it? You cannot, to my mind, possibly tell natives who own *shambas*, where the European *shambas* are surrounded by natives, that coffee will not grow there. Is it feasible that any native will apply for any land a long way away in the reserve when he can get it close at hand? Naturally he is going to grow it where he knows quite well it will grow and he may get a decent crop. I am very greatly afraid that if pressure is brought to bear from home, as is so frequently done, we shall have to admit this. You cannot dispossess them of the land. If you tell them definitely the land is suitable they will say what are you going to do about it? Are you going to buy it? No, it is in the native reserve where he will attempt to grow coffee, and they will support him at home. I am opposing it for that reason.

I wonder how greatly it is realized the European coffee crop will drop in price if natives are allowed to grow coffee adjacent to their *shambas*? Sir, from the native point of view the effect of the supervision definitely provided by Government of the native is that he has to pay for it. I want you to realize how little he will make out of his coffee crop because quite definitely where a European owner can and does look after his own *shamba* when the native establishes a *shamba* he will have to employ somebody to look after it or Government

will have to do it for him and what he will get out of it is nothing or very little. I think it the Government's duty to persuade the native not to grow coffee.

THE HON. HAKIM SINGH: Your Excellency, I beg to ask permission to delete the last paragraph of clause 11 (1) which reads "There shall be established a fund, to be known as 'the coffee levy fund' which shall consist of all moneys paid in respect of the levy and licences issued under section 4 of this Ordinance"—I wish that the following words should be deleted which it goes on to say, "and of such sums as the Legislative Council from time to time vote for the purpose". I am afraid, Sir, that if the authority is given in this clause eventually some money from the general revenue will be devoted to this levy fund which is derived from all communities and from those communities which have nothing to do with this coffee planting. Certainly all the industries should pay for themselves. There should be no subsidised business such as is done in the way of wheat, maize and also coffee. I am opposed to the views of the hon. Member for Kikuyu that the natives should not be allowed to grow coffee. Sir, there should be no monopoly in any kind of business and encouragement should be given or at least freedom should be given to every community to do any sort of business they like.

THE REV. CANON THE HON. G. BURN: Your Excellency, I do not intend to take up the time of the House but I should like to point out if I may, Sir, that it does not seem to me from the Bill that the Government encourages natives to grow coffee. It is one thing for the Government to encourage the natives to grow coffee and it is a totally different thing for the Government to prohibit. When the time comes and when a man of intelligence arise that are capable of looking after a plantation it is a totally different thing for the Government to prohibit them from such an enterprise if they feel inclined to do so; but that such planting should be under the strictest rules and regulations as imposed by the Department of Agriculture I am in entire agreement with. I do not think the culture I am in entire agreement with. I do not think of such industry of which we have heard to-day as being of such wonderful benefit to the whole Colony, which unquestionably it is, should be endangered for the lack of supervision and for it is, should be regulated any native coffee that should be the lack of rules regulating any native coffee that should be planted in the reserves; but that the natives should be allowed when the time comes and they are capable of doing it to plant such coffee is to my mind only justice, and in that I just want to say that it is my mind to encourage or to persuade the native to grow coffee but a different thing to prohibit him from growing when he is capable of doing so.

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

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I am grateful to the House for the response which they have given to this Bill, though I must say that I very deeply regret indeed that the discussion and the criticism should have centred around the question of native coffee-growing. That is a subject which has been discussed *ad infinitum* in this Colony for the last ten years and I do not think it helps very much in the circumstances and the difficulties of Government in this matter by repeating the sort of remarks and criticisms that have been made this morning. Sir, it is not the opinion of the Government that the European coffee industry of this Colony will be imperilled if natives grow coffee under proper control and supervision. If it were so, I for one should not have been doing an immense amount of work on this particular subject. The fact is that since the Hall Commission sat in 1929 a good deal of information has been obtained and experience derived. There is abundant evidence in the neighbouring territories that native coffee plantations under the sort of control and supervision which is exercised there at the present time are in just as fit a state of good cultivation as those under European ownership. I do believe that that will be found to be the case in this country provided always that Government provides the Department of Agriculture with the necessary staff to render this technical service and to exercise control and supervision. I hope and believe also, although the point was not raised, that the reputation of Kenya coffee will not suffer on the world's markets. We intend to set up an organization whereby coffee produced in the native reserves will be of a quality equally as good as that produced on European plantations and which can be sold safely under the Kenya mark.

I think there is only one other point, Sir, which arose in the course of the debate to which I need reply. I do not think that the hon. Hakim Singh should attempt to deal in the course of two or three sentences with the very difficult question of the organization of technical and scientific services. He seemed to propose that such services should be rendered by individual organizations representing the different industries. I suggest to him that if he goes into the matter a little more fully he will find that it is an entirely impracticable proposal. You would have the wheat industry employing chemists, entomologists and so forth; the maize industry would have the same; the coffee industry would have the same; the sugar industry would have the same; and so forth, and you would have such enormous overlapping and wasted effort and uneconomical expenditure that the whole thing would topple to the ground purely from the point of view that it is entirely impracticable. No, Sir, in every country

in the world in which any attempt has been made to organize these services with efficiency and economy they are done, excepting in rare cases, by properly organized departments of agriculture where you get team work among the scientific and technical officers and relationship between the State and industries where it is recognized that the State have a responsibility to bear in the matter.

I do not think there are any more points on which I need comment and, as I said before, I am glad that the Bill has received such a good reception and I hope that it will pass through its different stages at this sitting.

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

The question was put and carried.

#### THE NATIVE LANDS TRUST (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE): Your Excellency, I beg to move the second reading of a Bill to Amend the Native Lands Trust Ordinance, 1930.

As the working of the Native Lands Trust Ordinance is one of the terms of reference to the Land Commission at present sitting under the presidency of Sir Morris Carter it would, I think, in normal circumstances have been premature to ask for any amendment to that Ordinance pending the receipt of that Commission's Report and Government's consideration of that Commission's recommendations. I have to make it quite clear at the outset that this measure which I now have the honour to introduce is of a temporary nature and is without prejudice to whatever steps Government may think it right to take in the light of whatever recommendations may be made by that Commission.

The necessity for this temporary measure, Sir, derives from the demands for mining leases, particularly in the neighbourhood of Kakamega. It is only right that the miners should reap the reward of their enterprise in being granted leases which under the Mining Ordinance they have every right to expect. It would be just as unreasonable for Government to withhold from them the reward which, as I say, they have every reason to expect as it would be unreasonable and detrimental to the Colony's interests to put any obstacles in the way of the legitimate development of the Colony's mineral resources. It may be taken for granted, I think, that there is no one in this House who can dispute that these leases must be granted. Now, Sir, leases of land in the native reserves are conditioned by the provisions of sections 7 and 8 of the

Principal Ordinance, and one of those conditions is that no land in the native reserves may be leased which is under beneficial occupation by the native population.

It is obvious therefore that in a closely cultivated and thickly populated district such as North Kavirondo no leases can legally be permitted under those sections. It is therefore proposed in this Bill to have recourse to section 15 of the Ordinance under which the Governor is empowered to exclude areas for the development of mineral resources; but there is a proviso to that section, which says that in every case of such exclusion an area equal in extent and, so far as possible, equal in value must be added to the reserve from, if possible, contiguous and suitable country elsewhere. Now, Sir, it is obvious that that will be a very cumbersome and impracticable business to add a piece of suitable land, equal in extent and so far as possible equal in value in the case of every application for a mining lease, which may be, for all I know, for twenty, thirty, forty or fifty acres. Furthermore, a mining lease is not necessarily of a permanent character. Mining operations may cease at any moment and if we followed the principles of section 15 we should be left with the result that throughout the native reserve there would be small islands of country excluded from the reserve, which would be perfectly useless pieces of Crown land, and dotted about outside the reserve would be other areas, equal in extent and so far as possible equal in value, for which the natives would have not the slightest use. The procedure it is proposed to adopt is to regard these exclusions as temporary, that is to say, operative only during the continuance of mining operations. When these mining operations cease and the lessee no longer requires the land, the land will revert to the full status of the native reserve.

As there is no one in this House who would wish to curb the development of mining operations, so there is no one who will dispute the fact that the interests of the native population have to be adequately safeguarded. It would be to our lasting discredit if there were one single native who was one penny the worse for gold having been found in his own country. The alternative to adding pieces of land to their reserve is to pay them what we understand to be full value for the land that we propose to take from them by means of these temporary exclusions. It is therefore provided that in every case of exclusion full compensation shall be paid to the Local Native Fund, and that full compensation is to be calculated on the value that the land would have had had it been private land outside the native reserve. That provision is completely in accordance with the principles of the main Ordinance which, in dealing with the question of leases of land in native reserves, says that the rent to be obtained from such leases must be

the highest rent obtainable. It is also consistent with another section of the Ordinance, which says that all rents so obtained must be paid into the Local Native Fund.

It would be idle to pretend that this Bill, if it becomes law, is going to be popular with the native population. Leasing land to members of another race involves a conception of the use of land which is quite foreign to the ideas of most of the native tribes of Kenya. No amount of compensation will probably induce them to agree voluntarily to the leasing of any land. I am afraid that we have got to hurt their feelings, we have got to wound their susceptibilities and in some cases I am afraid we may even have to violate some of their most cherished and possibly even sacred traditions if we have to move natives from land on which according to their own customary law they have an inalienable right to live, and settle them on land from which the owner has under that same customary law an indisputable right to eject them. But we have to face these difficulties—I can think of no other alternative, unless we are prepared to allow to lie undeveloped and useless underground wealth which will bring prosperity to this country, in which every single community and every individual will share. But the natives who are thus going to be disturbed and inconvenienced will get all we can give them in the way of adequate compensation. It is therefore proposed to pay the full value of the land taken into the Local Native Fund.

I have heard it suggested that this money should be paid, not to the Local Native Fund, but to the individual natives who are going to be disturbed. In actual practice that is exactly what will happen. The money will go into the Local Native Fund and the Local Native Council will decide how that money is to be applied. In some cases it may go to compensate natives actually evicted. In other cases it may go to compensate the families who have rights over the land on which evicted natives may be settled. In other cases it may simply go into the native fund as compensation for a piece of commonage or a piece of grazing or something over which a large number of families had rights. The actual application of the money paid in compensation must be left to the local authorities who are possessed of the necessary local knowledge.

Now Sir, there is one important proviso to which I have to draw attention, and that is the last one of all:

"Notwithstanding anything to the contrary contained in sub-section (1) of this section where land is excluded from a native reserve under this sub-section it shall not be necessary for the Central Board to bring the proposed exclusion to the notice of the Local Native Council or of the natives concerned."



people—I am now speaking of the Jaluo—and should mining operations develop into Central Kavirondo where the Jaluo people live sometimes one is afraid of what might happen.

There is one other thing that I am sure the Government and I also believe that these miners who are at present engaged in mining in Kakamega realize and that is the men from Kenya Colony who heretofore have been farmers are anxious and are determined that the natives should get a fair deal; that I believe most emphatically, but on the other hand at such a time as this there will of necessity be an influx of men that do not know very much about the natives and of whose attitude towards the natives we are entirely ignorant. It is from these that one fears that trouble may arise, and of course the natives would have to suffer in the long run if any trouble did arise.

There is one other thing that I should like to be assured upon which the hon. mover has touched on, and that is the compensation paid for the disturbance of the natives in any given area is paid in to the Local Native Fund and that it will be the business of the personnel of that Local Native Fund—if I understand the hon. mover of the Bill aright—to investigate and to pay to individuals their rights, the money due to them for such disturbance and for such loss of their land that they have been cultivating in the past. My contention all along, Sir, where the native is disturbed on his land is that it is not just to pay money into a fund and leave the individual whose livelihood it is where that land is concerned for himself, for his wives, if he has more than one, for his children and for those dependent upon him high and dry. Such a native who is thus disturbed should get full compensation.

I am very very sorry, Your Excellency, that the provisions of the Native Lands Trust Ordinance cannot be fulfilled. I quite understand the difficulty connected with it to provide an adequate area of land where those who are being disturbed could go for the time being until their own land could be returned to them, a place where they could continue their work as cultivators of the soil. While there are thousands of able bodied men who will be swallowed up in the industry unquestionably and derive therefrom very great benefit indeed, monetary benefit, there are also thousands of people who cannot engage in that work and who will still be dependent upon what the soil can produce for them.

I am not going to oppose the Bill or any measure of it for I know that those who are responsible in that country are just as anxious as we are that the right thing should be

done and I am convinced that the hon. the Elected Members of Council also are just as anxious as I could possibly be that justice in every sense of the word should be done to the natives, and also that any conflict with the natives should as far as it is humanly possible be avoided in the carrying out of the work of mining in that thickly populated area of the Kavirondo country.

**THE HON. H. R. MONTGOMERY (PROVINCIAL COMMISSIONER, NYANZA PROVINCE):** Personally, Sir, I welcome this Bill. I am quite certain that the point of view of the indirect interest to natives has not been emphasized yet. We found in Kakamega that the most difficult period was the initial prospecting when large numbers of people came in and scattered all over the country and caused some disturbance and inconvenience to the natives. The fact that no trouble occurred is entirely due to the high character of those prospectors and I hope we can always experience the same sort of thing, but the native cannot understand anything of this sort. They kept on asking at every possible baraza "When are these people going away? When can we be certain our shambas will not be invaded?" We told them on every possible occasion, and Your Excellency in barazas in every district told them very fully that the mining must go on, that they must accept leases and that they would be adequately compensated. Since then they have continually asked me "When is this time coming; when shall we get rid of the prospectors?" They had to be told that until this Bill was brought into force we could not do anything. If we can now grant leases to certain people they will be properly satisfied. I am more satisfied, than they are now. For that reason, Sir, I think this is of direct interest to the natives and I welcome the Bill.

**HIS EXCELLENCY:** If no other hon. Member wishes to speak I will call upon the Chief Native Commissioner to reply.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** Your Excellency, there is one point raised by the hon. Member representing native interests and that was that he wished to be assured that the individual would get compensation for disturbance. I can assure him quite definitely that the individual will certainly get direct compensation for the loss of any huts and the loss or damage to any crops—that would be paid directly to the individual concerned. The value of the land will go into the Local Native Fund, and as I understand it what is likely to happen then is that there will be a sort of standing

committee of the Local Native Council to deal with every one of these questions as it comes up to decide exactly what ought to be done with the money that comes into it.

**HIS EXCELLENCY** : The question is that the Native Lands Trust (Amendment) Bill be read a second time.

The question was put and carried.

*The Council adjourned till 10 a.m. on Wednesday, the 21st December, 1932.*

WEDNESDAY, 21st DECEMBER, 1932

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 21st December, 1932. **HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYBIUS BYRNE, K.C.M.G., K.B.E., C.B.)**, presiding.

His Excellency opened the Council with prayer.

#### THE MINING INDUSTRY.

##### APPOINTMENT OF COMMITTEE.

**HIS EXCELLENCY** : With reference to the question of the Noble Lord in regard to a committee being appointed to inquire into certain matters connected with the mining industry, the Government has agreed to appoint a committee consisting of—

The Commissioner of Mines (Chairman),  
The Provincial Commissioner, Nyanza Province,  
The Hon. Conway Harvey,  
The Hon. T. J. O'Shea,

with the following terms of reference:—

"To make recommendations on general lines as to the steps which are required to secure the legitimate interests of persons who have pegged claims under the Mining Ordinance, 1931, prior to the introduction of the Revised Regulations, 1932."

**LT.-COL. THE HON. LORD FRANCIS SCOTT** : I thank you very much, Sir.

#### MINUTES.

The Minutes of the meeting of the 20th December, 1932, were confirmed.

#### PAPERS LAID ON THE TABLE.

The following paper was laid on the table:—

**By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE Y. WADE)** :  
Report of Select Committee on the Game (Amendment) Bill.

### THE BANKERS AND INSURANCE COMPANIES LICENCES BILL.

**CAPT. THE HON. H. E. SCHWARTZ:** On a point of information, might I ask what is the position in regard to a Bill relating to Bankers and Insurance Companies Licences which at the last session some months ago was, I believe, referred to a Select Committee. The Select Committee has not been called together, I understand. Is it proposed to drop it, or what is the position?

**THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE):** The Committee in question, I think, Sir, the Attorney General is chairman of, and, as far as I know—I am not sure whether it has met yet, but I think the intention was that the Committee should go slowly until the situation was clearer as to whether possibly or not an Income Tax Bill could be introduced and in that case the Bill might prove abortive.

### MOTIONS.

#### NATIVE BETTERMENT FUND.

**By LT.-COL. THE HON. LORD FRANCIS SCOTT:**

"That in view of the difficulties which are set out in the Memorandum on draft Estimates for 1933, a Select Committee be appointed to consider in detail and report on the most practical methods for applying the principles underlying the recommendation of Lord Moyne for the establishment of a Native Betterment Fund."

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** In view of the fact that Government have already announced that they have accepted the recommendation which I put forward in this motion, I beg to ask leave to withdraw it.

**THE HON. T. J. O'SHEA:** Your Excellency, I take it I am in order in raising objections to the motion being withdrawn. The moving of the motion gives an opportunity for discussion of a principle which it is important for the House to discuss.

**HIS EXCELLENCY:** The Noble Lord has asked to withdraw his motion by the leave of the House. If the House feel in that way, it will be withdrawn.

**THE HON. T. J. O'SHEA:** In that case, may I ask for a ruling as to whether I should be in order in moving the motion?

**HIS EXCELLENCY:** If you wish to move any motion, perhaps you will give notice of such motion.

Is it the feeling of the House that the Noble Lord's request to be allowed to withdraw his motion should be assented to?

The motion was by leave withdrawn.

#### THE ENTERTAINMENTS TAX ORDINANCE.

**THE HON. THE TREASURER (MR. H. H. RUSHTON):** Your Excellency, I move the motion standing in my name:

"Be it resolved that the Entertainments Tax Ordinance, 1931, shall remain in force until the 31st day of December, 1933."

The Entertainments Tax Ordinance imposed a tax for one year, Sir, but provision was made that it could be re-imposed in subsequent years by proclamation, subject to the approval of the Legislative Council. That approval is now sought, Sir. The tax organization has worked entirely smoothly. It has cost Government nothing to collect and, so far as I am aware, there have been no complaints about the administration of the Ordinance or of its provisions. The yield of about £4,300 a year is very useful and as the position of the Colony improves the yield from the tax will increase.

**THE HON. T. D. H. BRUCE (SOLICITOR GENERAL):** Your Excellency, I beg to second the motion.

**HIS EXCELLENCY:** The question is:

"Be it resolved that the Entertainments Tax Ordinance, 1931, shall remain in force until the 31st day of December, 1933."

**LT.-COL. THE HON. LORD FRANCIS SCOTT:** Your Excellency, I look on this motion as part and parcel of the Estimates, which we had before us two days ago, and in view of that I do not propose either to vote for or against this measure. I put the onus of this on Government in the way that the whole question of the Estimates for 1933 remains on the shoulders of Government until we have the whole picture before us. In the meantime, until we have that full picture, no one with a due sense of responsibility could very well ask Government to relinquish at this moment any revenue which is at present coming in. For that reason, though I will not support the motion, I do not propose to oppose it.

**CAPT. THE HON. H. E. SCHWARTZ:** Your Excellency, I find myself in much the same position, but I would ask Government, in view of what has been said by the Noble Lord—that this must be considered as part of the whole picture—if they would agree to amend this motion by altering the

words "31st day of December, 1933" to "30th day of June, 1933". This is entirely without prejudice, and if it is found as a result of the examination of the whole picture in March that it is necessary, as I think it probably will be, to carry it on to the end of the year, I do not think hon. Members on this side of the House will oppose it, but it is rather prejudging it if we leave it to the end of the year, because we cannot then within six months alter it.

This tax, though quite an easy tax to collect, is of course an unsatisfactory tax from the public point of view. It is a pin-pricking tax and is only justified by emergencies. This tax was put on at the time of the last financial crisis in 1921-22 and was taken off in 1923, the feeling of the House and Government being that it was only justified by emergencies of financial stringency and that, as soon as the financial position warranted it, it should be taken off. I have no doubt the Government will feel the same now as they did then and I therefore ask that this motion should re-enact the tax until the 30th June, on the definite understanding by Members on this side of the House that it is without prejudice to a further motion being moved to carry it on to the end of the year if it is found then to be feasible.

LT.-COL. THE HON. C. G. DURHAM: I concur with the remarks made by the two last speakers. Sir, I wonder if Government's attention has been drawn to the fact that in some cases where the charge for admission was one shilling the charge is now 99 cents, and therefore there is no tax for that entertainment.

THE HON. HAKIM SINGH: I am in favour of retaining this tax because it is not forced upon anybody; it is paid by those people who can afford it.

CAPT. THE HON. H. E. SCHWARTZ: I should have moved an amendment, I think, to be precisely in order. If your Excellency will, I should like my remarks to be taken as formally moving an amendment, that the motion be amended by the deletion of the words "31st day of December" and the substitution thereof of the words "30th day of June."

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to second that amendment, and I do hope Sir, that Government will see their way to accepting it as it makes the whole question much easier.

THE HON. THE COLONIAL SECRETARY: On behalf of Government, Sir, I am authorized to state that Government has no objection to accepting this amendment. In accepting this amendment the Government wish to make it clear, as

said by the hon. Members opposite, that we shall be at that time in a better position to visualize the whole financial picture and that the question as to whether this tax should be retained till the end of the year would then naturally not be prejudged. It will have to be taken into consideration along with some of the other emergency taxation which was enacted during the course of the present year.

HIS EXCELLENCY: The question is:

"Be it resolved that the Entertainments Tax Ordinance, 1931, shall remain in force until the 30th day of June, 1933."

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON SECOND SUPPLEMENTARY ESTIMATES, 1932.

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

"That the Report of the Select Committee on the Second Supplementary Estimates, 1932, be approved."

These Estimates were gone into in detail by the Committee and I do not think there are any points which I can take up beyond one matter on which I promised the Select Committee I would give them further information. That is on the subject of the provision of £1,200 that appears on both sides of the Budget as a Colonial Development Fund contribution towards improving a decorticating machine in sisal. The facts of that matter are as follows: the £1,200 is required to cover a free grant of £500 and a loan of £700 free of interest, repayable in five years made from the Colonial Development Fund to the Hydraulic Engineering Company, opposite Chester, for the construction and installation in Kenya of a new under-type of sisal decorticating machine which is now under-going tests on Mr. McCrae's estate at Longonot. This item is included in expenditure estimates in compliance with the terms upon which grants from the Colonial Development Fund are made, but it is balanced by an equal sum on the revenue side and no part of the cost falls on this Colony. When the present tests are successfully concluded the makers propose to place the machine on the market for use by sisal growers generally. It is claimed for this machine that it uses considerably less water and power and extracts a higher percentage of fibre than other machines in use at present.

THE HON. T. D. H. BRUCE: I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on Second Supplementary Estimates, 1932, be approved.



Referring to paragraph 1, Sir, I should like to ask for a slight amendment. With regard to various clauses in the Bill, in the Report we have recommended the deletion of the word "Official" before the word "Gazette", as the Gazette is defined in the Interpretation and General Clauses Ordinance, but unfortunately the same amendment was not made in connexion with clause 2 of the Bill, and I should like, therefore, with the permission of Council, to ask that in line 4 of paragraph 1 of the Report, after the word "deleting" there be inserted the words "the word 'Official' wherever it occurs in the clause, and". That merely brings the second clause into line with the others.

There was a point raised on the second reading of the Bill in regard to undertakings which had been given by the Government and the Committee was asked to look into that question. They did so, Sir, and a list of officers whom the Government considered were entitled to pensionable status and to whom they would in equity be bound to grant that status was submitted to the Committee. Unfortunately the Attorney General has locked up all the papers about this Committee with his other troubles in his safe and we have not been able to get at them or any copies, but I was asked in the Committee stage if Government would give an undertaking that as soon as they possibly could they would submit the list of those officers to Executive Council for consideration under the second proviso in regard to pensionable office in the clause under the Bill, that they would submit the list for approval in Executive Council, and in so far as it was approved to lay it upon the Table of this House so that hon. Members would know exactly what had been done in this connexion which has been rather troublesome for some years past. I may say this, if there is any doubt in the minds of hon. Members opposite, the Government has no more intention or desire to add to the pensionable list of the Colony than they have.

With those explanations I move the adoption of the Report.

THE HON. T. D. H. BUTCH: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is:

"That the Report of the Select Committee on the Non-European Officers' Pensions Bill be adopted, with the following addition, viz., the inclusion of the words "the word 'Official' wherever it occurs in the clause, and "after the word "deleting" in line 4 of paragraph 1 of the Report."

The question was put and carried.

#### SUSPENSION OF STANDING ORDERS.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, with your leave I beg to move the Suspension of Standing Rules and Orders in order to allow the House to consider the Report of the Select Committee on the Game (Amendment) Bill this morning.

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

The question was put and carried.

#### THE REPORT OF THE SELECT COMMITTEE ON THE GAME (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move:

"That the Report of the Select Committee on the Game (Amendment) Bill be adopted."

The Report has just been laid on the Table, Sir. It will be noted that that Report is unanimous but I have to say that although Members were agreed as to the recommendations contained in the Report, one Member, the hon. Member for Kenya, would have preferred that the Report should contain a recommendation for the deletion of clause 2 in the Bill. Clause 2 extends certain privileges to members of the Indian Civil Service. I understand that in the course of the debate he will make a verbal reservation to that effect.

The first recommendation of the Report is that clause 3 of the Bill be deleted. Clause 3 of the Bill extends certain privileges to residents in the Uganda Protectorate, Tanganyika Territory and the Sudan. The Committee, having heard the advice of the Game Warden, were persuaded to make this recommendation on his representing that one of the important shooting areas of the Colony might be spoilt by being too extensively shot over owing to its ready accessibility to Tanganyika, and in view of his advice the Committee unanimously agreed to recommend the deletion of that clause.

The next recommendation concerns clause 3 and the first part of this recommendation is that opportunity be taken to delete the words in the Principal Ordinance "or within five miles of any Railway". This recommendation, Sir, is also made on the advice of the Game Warden. It is believed that the permission to shoot lion within five miles of the Railway without a licence is a relic of the days of the man-eaters of the Tsavo and it was put in with the idea of protecting life. The Committee fully considered the omission of those words in relation to present day conditions and came to the conclusion

that it was no longer necessary to retain them. They were given to understand that man-eaters in this Colony are very rare indeed and the Game Warden has undertaken that his Department will take any measures that may be necessary in the very very unlikely event of man-eaters appearing within those five miles. It was also represented that lion were being too extensively shot up by persons without licences and the Committee was unanimous in considering that those words should now be deleted.

The second part of this recommendation as to clause 4 provides that "nothing in this section contained shall be deemed to permit the setting on land other than private land of traps, gins, or snares capable of catching any animal mentioned in any of the Schedules to the Principal Ordinance." At this point I would like to say that it is the intention of Government to add leopard to the third Schedule of the Ordinance. I also have to say that this proviso does nothing to interfere with the rights of natives to protect their own crops or their own herds or stock. They are protected first of all by section 24 of the main Ordinance and secondly, if this Report is adopted, they will be protected by the special provision which enables a District Officer to give permission in any cases of emergency.

The next recommendation, Sir, concerns old clause 5: "No person shall possess, sell or use any kind of metal trap." It was represented to the Committee that it is impracticable to adopt general wholesale prohibition of this kind. We were informed that in certain cases steel traps are necessary to protect the stock of farmers and that nothing else will do as well. It was suggested that some kind of gun trap, such as a shot gun, was equally efficacious. I believe it is true that it is efficacious but it is also true, I believe, that it is a very dangerous weapon in the case of native servants, and in view of these representations the Committee came to the conclusion that it could not reasonably adopt a measure of wholesale and unlimited prohibition. They therefore suggest that clause 5 be deleted and that substitution be made as suggested in the Report, which prohibits the sale or barter of traps except under permit, and it prohibits the possession of traps, gins or snares in such circumstances as make it appear that such person is about to sell or barter such trap. Also, by sub-clause (2), no person shall set elsewhere than on private land any trap, gin or snare; and it also provides that any person found in possession of such trap, gin or snare in such circumstances as make it appear that such trap, gin or snare is about to be set on land other than private land shall be guilty of an offence.

These provisions, Sir, appear to the Committee to be ample to secure the objects which the Administration had in view when the original Bill was proposed. That object was to prevent the indiscriminate destruction of leopard, particularly in such areas as the Northern Frontier Province and the Tana River. The destruction of leopards in those areas has assumed such proportions that it became necessary for some action to be taken. In one day 1,000 leopard skins were sent out from one area and in that day six gross of steel traps were passed through the Customs. It is contended by the Committee that by these provisions we shall have attained the objects of the Bill without the further drastic and impracticable method of absolute and unlimited prohibition.

The last recommendation, Sir, was put in at the last moment on the advice of the Game Warden and is merely consequential on an amendment made to the Ordinance in 1928 which was not noticed when the original Bill was drafted. Section 35 of the Principal Ordinance deals with the killing or catching of game during the hours of darkness, and there is a proviso that nothing shall be held to prevent the hunting, killing or catching of lion and cheetah; and it is necessary now to add "leopard" if this Report is adopted.

Your Excellency, I beg to move the adoption of the Report.

THE HON. T. J. H. BAKER: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Game (Amendment) Bill be adopted.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I rise to support the motion before the House. If I may, I will go through these sections in detail—they are not very great length, Sir. The first section, number 2, which is not dealt with actually in this Report but to which my honour and gallant colleague the Member for Kenya takes exception, is to extend certain privileges to officers of the public service of His Majesty in India in addition to officers of the Army and Navy. I think my hon. friend objects to that as making a special privilege for one branch to be extended right through if it is done in this case it should be because I think it will be the Empire. I have supported this because I think it will be a great help towards getting settlers to the country and because I believe the time has come when we will have to consider seriously the whole question of visitors' licences altogether and the changed circumstances which have now arisen in regard to the great falling off of *rafaris* coming here—more people want to photograph than to shoot. That is a matter which was

beyond the purview of the Select Committee and we did not feel competent to deal with it. But I, personally, hope that this will be retained in the Bill as perhaps a few crumbs towards the larger loaf.

With regard to section 3, we were convinced by the representations put before us by the Game Warden that serious damage might be done to the shooting properties of this country if that section 3 was retained in the Bill.

With regard to the main question, that is, section 5 as it was, as you know, Sir, there was serious objection to the Bill as it was originally introduced because, designed to deal with specific evils which were taking place, it was going to indict unnecessary hardship on very large portions of the community who were not directly implicated in the troubles necessarily to be dealt with; and I think, Sir, that the amended version as now before the House deals adequately with the evils in question and, at the same time, gives complete security to the people who want to use traps legitimately. It also has the advantage, Sir, that there will be no need for troubling the Commissioner of Customs with laying to prohibit the importation of traps; and so I do commend this Report to the consideration of the House and I trust it will be passed in its present form.

CAPT. THE HON. J. L. COTTER: Your Excellency, the only point in the amending Bill which I wish to refer to is section 2—sub-section (b) of section 17 of the Principal Ordinance—adding the words "or in the Public Service of His Majesty in India" after the word "Forces". It has been the practice in many Dominions, Colonies, Protectorates and Dependencies that the officers of the Army and Navy should have preferential treatment in the cost of game licences issued to them. Now, Sir, with this I am in entire agreement, and the reason is obvious. At any rate up till lately the officers of the Army and Navy were very much lower paid than other public servants and incidentally, in the practice of their profession, it is highly desirable that officers of the Army and Navy should be given the opportunity at the lowest possible rates of getting a knowledge of various parts of the Empire. It is obvious when you think of it, Sir. For instance, to an officer of the Army, the desirability in regard to the practice of shooting big game gives him knowledge of the three most desirable qualities required in a soldier—the taking of cover, accurate shooting and the judging of distances. This to a lesser extent applies to the officers in the Navy, but I cannot see any way in which it applies to the Indian Civil Service. With regard to them, they are highest paid of any Civil Servants in the Empire. Therefore, it cannot be on the score that they are unable to pay. That is the main thing. And

again, Sir, I cannot see why the cost of a licence should be reduced to the Civil Servants in India any more than it should be to tea and rubber planters, jute or coffee planters. In fact, I cannot see that any particular preference should be given to them over other members of the Empire, and if we allow this to go through we are adopting the principle of taking one section of the community in this matter and putting it over another for no adequate reason at all. I was under the impression that my colleagues on this side of the House were agreed with me in this matter as we had discussed it and passed a resolution. But the Noble Lord, the hon. Member for the Rift Valley, apparently reads it differently from what I do. I feel that we cannot differentiate between different members of the Empire.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I concur.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I need only refer to the reservation made by the hon. Member for Kenya. So far as this motion is concerned, his arguments were considered by the Select Committee and the Committee was inflexible.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Game (Amendment) Bill be adopted. The question was put and carried.

### BILLS.

#### THIRD READING.

##### THE GAME (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: I beg to move that a Bill to Amend the Game Ordinance 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 READING.

##### THE BROKERS' (AMENDMENT) BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill to Amend the Brokers' Ordinance, 1930.

Hon. Members of this House will recollect that the Brokers' Ordinance deals with the control and licensing of persons carrying on four trades or callings, namely, brokers,

goldsmiths, silversmiths and money-changers. This Bill now before Council makes no change at all as regards brokers but it does increase the fee payable by goldsmiths, silversmiths and money-changers. If I may I will deal first with the case of goldsmiths and silversmiths. As the law stands at present, Sir, the only licence fee payable by goldsmiths and silversmiths for carrying on their trade is Sh. 30. It has been represented to Government, Sir, that this fee is inadequate and that it is only fair and reasonable that the fee paid by goldsmiths and silversmiths should be the same fee as is payable by a trader, say a storekeeper, under the Traders' Licensing Ordinance. The fee the trader pays is £15 a year, subject to the proviso that where the value of goods on hand for the year preceding the taking out of such licence does not exceed £150 at any one time a fee of Sh. 30 only is payable. Therefore the fee imposed by that Ordinance is based upon the value of goods kept in stock and it is proposed that the fee payable by goldsmiths and silversmiths should be the same as that payable by traders and that if at any time the stock in hand is below £150 he shall only pay Sh. 30.

Government is informed, Sir, that in many cases the stocks kept by goldsmiths and silversmiths greatly exceed the sum of £150 and very often exceed the stocks kept by the ordinary trader; and therefore it is thought only reasonable, Sir, that these two classes of traders should be placed upon an equal footing. Now, with regard to this alteration, Sir, I would say that after the Bill was published for introduction into this Council a Petition was received by Government and signed by eighteen goldsmiths and silversmiths of Mombasa. This Petition, Sir, was addressed to Your Excellency in Legislative Council but the provisions of Standing Rules and Orders Nos. 16 to 18 inclusive have not been complied with and when this fact was pointed out to the advocates of the petitioners they asked on behalf of the petitioners that the Petition might be taken as if addressed to Your Excellency in person in this House. For the information of this House, Sir, I should like to bring to the notice of the House the points made by the petitioners; I think it is only fair and I think it might interest the House to know the points, and with this object in view I will ask for the indulgence of this House while I read the Petition—it is only a short one and will not take very long:—

"The humble Petition of the Indian Goldsmiths' and Silversmiths' Association of Mombasa in the Colony of Kenya sheweth as follows:

1. Under the Brokers' Regulations 1901 the fee payable by a goldsmith or silversmith for the necessary licence to carry on his profession as such was Rupees 5 per annum.

2. Under the Brokers' Regulations (Amendment) Ordinance 1919 the said fee was increased from Rupees 5 to Rupees 15 per annum since when the said fee has remained at Rupees 15 (now Shillings 30) per annum up to the present time.

3. Your Excellency in Council has now approved the introduction into Legislative Council of a Bill to provide for the further increase of the said fee from Shillings 30 to Shillings 300 per annum in cases where stock exceeds Shillings 3,000 in value.

4. The reason stated in the Official Gazette of the 6th day of December 1932 for the introduction of such Bill as aforesaid is that it is considered unfair to allow a goldsmith or silversmith to accumulate larger stocks of goods in his place of business than a tradesman in other lines of business who pays a higher licence fee.

5. Your Petitioners humbly submit that the fee made payable in respect of an ordinary trader's licence is intended as a charge variable according to the value of his trade or business and is only made variable by reference to the value of his stocks of goods because that is the only standard whereby the value of such trade or business can be conveniently estimated.

6. Your Petitioners humbly submit further that the business of a goldsmith or silversmith is that of a craftsman and not that of a retail trader and that his profit in proportion to the value of the subject matter of such business are consequently very much lower than those of a person retailing goods of a similar value. The charges made by a craftsman in respect of work done are independent of the value of the subject-matter of such work and where it is necessary for the craftsman to purchase such subject-matter himself there is sometimes no profit and sometimes only a very small profit made in respect of such purchase.

7. Up to the present time the legislation of the said Colony dealing with traders' licences has always been quite independent of that dealing with licences for goldsmiths and silversmiths.

8. The increase in fee proposed by such Bill as aforesaid being a multiplication by ten of the existing fee is a very great increase to be made at one step.

9. For the reasons above stated Your Petitioners humbly submit that there is no just occasion for any increase in the said fee; but further that if such fee is to be increased there is no justification for any increase

so great as that proposed or for the amount of such fee being related in any way to the value of stocks on hand and that the present fee or any increase authorized by law should remain at a flat rate.

Wherefore Your Petitioners humbly pray that Your Excellency in Legislative Council may be pleased as an Act of Grace to consider the circumstances of this case and the arguments above set forth and to move such withdrawal alteration or amendment of the said Bill as may seem just."

This is signed by eighteen goldsmiths and silversmiths of Mombasa.

Now, Sir, the only points in the Petition to which I think I need refer at all or which I need comment upon are the arguments put forward in clauses 5 and 6, which claim that goldsmiths and silversmiths are not on the same footing as tradesmen inasmuch as the former are craftsmen and their profits are much lower than those of tradesmen. This argument does not alter the fact that in very many instances stocks of greater value are kept by goldsmiths and silversmiths than by ordinary tradesmen and that the value of the stock kept should be the test of the amount of the fee paid. I think hon. Members of this House will agree with me that nothing in either clause 5 or clause 6 of the Petition shows any reason why a goldsmith or silversmith should not pay the same fee as an ordinary tradesman. The result is if his stock is more than £150 he pays £15 a year; if it is less he pays Sh. 30.

In concluding my remarks on this provision of the Bill, Sir, I may say that in the view of Government those provisions are perfectly just and reasonable.

In this Bill there is one other small point which affects money-changers. This alters the fee payable by a money-changer from Sh. 10 to Sh. 40. It is thought—and I submit rightly thought—that the fee at present paid is too small and it is therefore increased.

It is expected, Sir, that this Bill will bring in a certain amount of very welcome additional revenue which is very much required at this time and I therefore commend it with all confidence to the favourable consideration of hon. Members of this House. I beg to move, Sir.

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

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

CART. THE HON. H. E. SCHWARTZ: Your Excellency, I am not quite happy about this Bill and I do think there is something a little more in the argument than the Solicitor General would have us believe. In the first place I think I am right in saying—no doubt one or both of the hon. Indian Members will correct me if I am wrong—that the stock on hand of many of these goldsmiths and silversmiths is stock not actually belonging to them but brought to them to exercise their craft upon. In other words, if a man wants a brooch or a bangle or whatever it may be made for his wife he brings in the material and the brooch or bangle is fashioned out of that material. There may be a very large stock at one time of gold or silver in the goldsmith's or silversmith's shop of gold or silver in the form of fact belong to him. Most—practically all, I understand—of the money that comes to goldsmiths and silversmiths comes to them as a reward for the actual labour that they put into the material and not, as in the case of an ordinary retail trader, for buying an article at one price and selling it at an enhanced price to the consumer. If that is so, it would appear to be unjust that the fee should be the same as for an ordinary retailer. On the other hand, I am of opinion that the present fee is considerably too low, taking into consideration the ordinary profits which the craftsman working in gold and silver makes. I do also think that there is something in that argument that suddenly to increase the fee payable by ten times requires very strong justification. I think it should be increased but I rather incline to the view that to increase it right up to Sh. 300 from Sh. 30 is too much. I do not know whether there is any great urgency about passing this Bill now—it is passed in March, and if it comes through the 1st January if it is passed in March, and if it meets with Government's approval I would suggest this Bill after it has passed its second reading should go to a Select Committee and report back to the next meeting of this Council after considering the matter and really going into details.

I have another Petition here from the Nairobi Association of Goldsmiths and Silversmiths but I do not propose to follow the example of the Solicitor General and read it because it is a word for word the same.

THE HON. F. A. BEMISTER: Your Excellency, I rise to oppose this Bill because it perpetuates a system which I cannot find a word to describe—the idea of taxing a man according to the stocks held. You can take it from me, Sir, that there is not a goldsmith or a silversmith in this whole country who would not be only too pleased to see his stock down to £50. To-day they cannot sell it and yet you are going to raise this tax on them simply because they have to hold high priced stock for the benefit of people who are very

difficult to please and take a lot of time to choose the articles they require. The system altogether, Sir, of taxing traders in accordance with the amount of stock they hold has never been approved by any section of the community in the Colony. It was in the old days a system which you could not improve upon because in those times stocks really were being held by the Coast firms mostly and the establishers of *safaris*. It was never an idea on which you could get at the standing of a firm, but here you are, Sir, proposing a system of taxation which is based on the ability to pay and which we some of us hope—and some of us do not hope—will be passed, but the principle which is going to be discussed in this Council in a few months time is a new tax based on the ability to pay. The perpetuation of a system which charges a man on stocks based on stocks which are costing him interest all the time and which are really of detriment to his making a profit, is entirely wrong.

There is another item here, though, Sir, which raises the licence for a money-changer. Now I do not know if this House has much experience of money-changers. I have, and I do not suppose there is a business in the whole Colony which can and does make such huge profits as the money-changer. He wants no stock, he wants no capital. £20 or £30 is quite enough and he changes it on one beat and then on the next beat he changes it back again. I would not mind guaranteeing, Sir, that the average total floating capital of a money-changer has never been more than £100—the floating capital—yet that man who can always get a ready demand for his goods—he has more customers than there are supplies—you tax at £2 simply because you are basing it on this obsolete system of his stock in hand, and you are raising this against the goldsmith who is forced to hold a high valued stock which often he would be only too glad to give away to save his rent. I think you are maintaining an obsolete and idiotic system which was dead from the day it was started.

THE HON. HAKIM SINGH: Your Excellency, I beg to oppose this Bill and I agree with the hon. Member for Nairobi South in saying that the stocks held by these people do not belong to them or may be only a fraction of what they hold. A lot of people keep money in cash for buying stuff for them and some of them bring stuff themselves and the only profit these people get is the craftsman's profit which they have to pay to the man who makes it. The trader gets very little profit out of the craftsman's business because in many instances the man who runs the business is not a craftsman himself. He has to employ a craftsman to do the work and in that way the profits go down. I also oppose the money-changers bill.

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THE HON. THE COLONIAL SECRETARY: Your Excellency, perhaps it would . . .

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I should like to associate myself with the remarks made by the hon. Member for Mombasa, especially as regards money-changers and gold- and silversmiths.

THE HON. THE COLONIAL SECRETARY: Your Excellency, perhaps it would save the time of the House if I were to say at once that Government is quite prepared to adopt the suggestion that this Bill be referred to a Select Committee.

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

The question was put and carried.

The Council adjourned for the usual interval.

On resuming.

HIS EXCELLENCY: The Select Committee on the Brokers' (Amendment) Bill will consist of the following:

- The Hon. the Attorney General (Chairman).
- The Hon. the Treasurer.
- The Hon. the Solicitor General.
- The Hon. Member for Mombasa.
- The Hon. Member for Nairobi South.
- The Hon. Hakim Singh.

As regards the Native Betterment Fund Committee which the Government promised to set up, I am afraid I cannot announce the personnel just now. It is a matter on which I should like to get the advice of Executive Council. It will be announced later.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that the Council resolve itself into a Committee of the whole Council to consider the following Bills clause by clause:

The Coffee Industry Bill,

The Native Lands Trust (Amendment) Bill.

THE HON. THE COLONIAL SECRETARY: I beg to second the motion.

The question was put and carried.

The Council went into Committee.

## In Committee.

## THE COFFEE INDUSTRY BILL.

The Bill was considered clause by clause.

## Clause 2.—Interpretation.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM): Your Excellency, I beg to move an amendment to clause 2—after the definition of "Director", the addition of the following:—

"export" means export from the Colony to a place outside the limits of the Uganda Protectorate or Tanganyika Territory or of the Colony."

I need not, I think, repeat the reasons for that. I explained them in the course of my speech on second reading. This additional definition is related to clause 10 (1) and (3).

The question was put and carried.

## Clause 3.—Constitution of the Board.

THE HON. THE DIRECTOR OF AGRICULTURE: I beg to move the following amendment under clause 3 (1) (a): that the words "of Agriculture" be deleted, as they are redundant, having regard to the definition of "Director".

The question was put and carried.

## Clause 4.—Licence to deal in coffee.

THE HON. THE DIRECTOR OF AGRICULTURE: For the same reason, I beg to move that in clause 4 (2) in the third line thereof the words "of Agriculture" be deleted.

THE HON. F. A. BEMISTER: I would like it announced or explained, Sir, that this licence for a coffee dealer does not affect a coffee dealer with business in Kenya dealing in foreign coffee. The Bill itself deals with Kenya coffee, that I appreciate, but it does not seem to deal with a dealer in coffee who may be dealing slightly in one or two odds and ends, but who really deals with foreign coffee. Does he still have to be licensed?

THE HON. THE DIRECTOR OF AGRICULTURE: If the hon. Member who has just spoken will refer to the second proviso under clause 4 (1), which reads "And provided further that no licence shall be required by any person who deals only in coffee grown outside the Colony," I think his case would be completely met.

THE HON. F. A. BEMISTER: If that means, Sir, that he can work in this Colony, that his office can be in this Colony—it does not mean he must stay out of the Colony? He is in this Colony?

THE HON. THE DIRECTOR OF AGRICULTURE: Certainly.

THE HON. F. A. BEMISTER: Thank you, Sir.

HIS EXCELLENCY: The question is that in clause 4 (2), the third line, the words "of Agriculture" be deleted.

The question was put and carried.

## Clause 9.—Coffee planters' licences.

THE HON. THE DIRECTOR OF AGRICULTURE: Again for the same reason, I beg to move that in the third line of clause 9 (4) the words "of Agriculture" be deleted.

The question was put and carried.

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## Clause 11.—Coffee Levy Fund.

THE HON. THE DIRECTOR OF AGRICULTURE: I beg to move that a comma be inserted after the word "levy" in the third line of clause 11 (1).

The question was put and carried.

THE HON. CONWAY HARVEY: Would the absence of a comma vitiate the Ordinance, Sir?

## THE NATIVE LANDS TRUST (AMENDMENT) BILL.

The Bill was considered clause by clause.

## Clause 2.—Amendment of section 15 of the Principal Ordinance.

CAPT. THE HON. H. F. WARD: Your Excellency, I take it there is no opportunity at this stage of doing anything to draw attention to the apparently rather harsh provision in the latter part of this clause. And the latter part of this clause does not agree with the Objects and Reasons, which state that the amount of compensation will be not less than that payable in similar circumstances to any holder of private land outside the Reserve. That, in my view, would be a fair provision, but in this case the amount of compensation is to be the amount that would be paid to a private owner of land transferred to a such land to the Governor in full ownership, which is equivalent to very heavy capital sum for a purely temporary lease of a mining area.

THE HON. THE CHIEF NATIVE COMMISSIONER: It is not known, of course, whether the lease will be temporary or permanent. In any case, when the land is returned to the native reserve in any such case, the full value when it is excluded. Certainly the intention is that they are to get the full value when it is excluded.

CAPT. THE HON. H. F. WARD: In reply to the hon. Member, I am all for giving the fullest and fairest compensation, but why that should be based on no exception as the highest capital value, I cannot understand. Surely, the fairest thing is a fair value of compensation on the assessed capital sum, and that in fact is what is paid to the private owner.

THE HON. THE CHIEF NATIVE COMMISSIONER: The idea is to pay a capital sum, when taking the land out of the Reserve, and the Native Fund equal to the value of the land so taken; and so pay annual compensation at all.

CAPT. THE HON. H. F. WARD: There is another point, that the area covered by the lease will have only a very small amount of its disturbed at all, and when it reverts to the native reserve a much smaller area indeed will be disturbed, and the land will be returned in its original state very largely.

THE HON. THE CHIEF NATIVE COMMISSIONER: Actually the area will be small. The area will only be large enough just to take the necessary machinery and buildings. I do not contemplate that a large area will be taken out to cover all the underground workings.

CAPT. THE HON. H. F. WARD: What is the objection of a mining lease? Would the Commissioner for Local Government.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT: The areas released for Lands and Settlement (MR. W. M. LOGAN): The areas released for mining operations vary from time to time, but there is special provision in the Mining Ordinance, of which it is hoped special use will be made for mining leases. The idea is that as little surface land will

be taken as possible, but sub-surface rights it will be possible to lease for mining purposes. The area on the surface will not be co-terminous with the mine underground.

**HIS EXCELLENCY:** Does the hon. Member wish to press any amendment?

**CAPT. THE HON. H. F. WARD:** No, Sir.

**THE HON. T. D. H. BRUCE:** Your Excellency, I beg to move that the Coffee Industry Bill be reported to Council with amendment and that the Native Lands Trust (Amendment) Bill be reported without amendment.

The question was put and carried.  
The Council resumed its sitting.

#### On resuming.

**HIS EXCELLENCY:** I have to inform the Council that the Coffee Industry Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council with amendment; and that the Native Lands Trust (Amendment) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

#### THIRD READINGS.

##### THE COFFEE INDUSTRY BILL.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I beg to move that the Coffee Industry Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second.  
The question was put and carried.

The Bill was read a third time and passed.

##### THE NATIVE LANDS TRUST (AMENDMENT) BILL.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** I beg to move that the Native Lands Trust (Amendment) Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second.  
The question was put and carried.  
The Bill was read a third time and passed.

##### THE MINING (AMENDMENT) (NO. 2) BILL.

**THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:** I beg to move that the Mining (Amendment) (No. 2) Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second.  
The question was put and carried.  
The Bill was read a third time and passed.

**THE NON-EUROPEAN OFFICERS' PENSIONS BILL.**  
**THE HON. THE TREASURER:** I beg to move that the Non-European Officers' Pensions Bill be read a third time and passed.

**THE HON. T. D. H. BRUCE:** I beg to second.  
The question was put and carried.  
The Bill was read a third time and passed.

**HIS EXCELLENCY:** Hon. Members, before I adjourn may I offer to you all my best wishes for Christmas and for the New Year. 1933 will undoubtedly be a year of hard work and indeed of continued sacrifice from all sections of the community. However, with goodwill and with co-operation I believe that when next year's budget is presented a more healthy state of affairs will be shown. A balanced Budget during 1934 is our aim and object, an object which I personally am of opinion we shall most certainly attain. I wish you all my best wishes for the New Year.

*The Council adjourned sine die.*

#### WRITTEN ANSWERS TO QUESTIONS.

##### SALE OF WHEAT ORDINANCE.

**BY THE HON. T. J. O'SHEA:—**  
Whether Government will be pleased to review for the information of the Council the working of the Sale of Wheat Ordinance, including in such statement the following information:—

(a) the steps taken by Government to ensure that the monopoly created by the Ordinance is being worked in the interests of the wheat growers as a whole and of the general public;

(b) whether Government is represented on the Board of Control and whether the annual accounts of the pool are audited by Government or by any auditor other than the auditors of the party appointed as sole selling agent;

(c) whether it is a fact that all the accounts of the monopoly are kept by the selling agents, and that the Board of Control having no clerical staff of its own is entirely dependent upon its selling agents for information as to the quantities of wheat handled and the disposal thereof;

(d) a detailed statement showing—  
inter alia—  
the total number of bags handled by the pool,  
" " " " sold locally,  
" " " " exported,  
the prices paid by millers for the various grades sold locally;

the prices paid for wheat exported, and the grades thereof;  
the prices paid out by the pool for the various grades;  
costs of exporting and marketing the wheat sold overseas,  
excluding payments made to the selling agents for  
their services;

the total amount received by the selling agents for their  
services whether by way of commission or other  
allowances;

the number of bags sold in each of the various grades;  
the number of bags lost or stolen or otherwise unaccounted  
for by the agents.

*Reply.*

(a) Special returns are secured from the agency in the  
terms of Rule 13 of the Sale of Wheat (Agency) Rules, 1930,  
as amended by Rule 3 of the Sale of Wheat (Agency) (Amend-  
ment) Rules, 1931, and of Rule 14 of the Principal Rules.

These Returns include:—

- (1) Periodic returns of the operations of the agency  
under the Ordinance.
- (2) Complete and accurate statements of account in  
respect of the operations of the agency under  
the Ordinance.
- (3) An annual report upon the season's operations is  
also called for from the agency.

(b) There is no "Board of Control," but a Wheat  
Advisory Board is appointed with the concurrence of Govern-  
ment. On this Board, which acts in an advisory capacity  
to the agency, Government is not however directly repre-  
sented. The accounts of the agency are not audited by  
Government; the audit is carried out by a firm of auditors  
of repute.

(c) The answer is in the affirmative.

(d) The amount of wheat handled and disposed of by the  
agency during the season ended August 31st, 1931, was as  
follows:—

	Bags		Bags
"Pool" Delivery ..	159,382	To Mills .. .. .	59,758
Surplus .. .. .	41	Sold Locally .. .	23,648
Odd lb. not Credited ..	30	Sold for Coast Market ..	680
		Exported .. .. .	22,389
		Loss on Re-conditioning ..	678
		Stock on Hand .. .	52,308
	159,461		159,461

The prices paid by millers for the various grades of wheat  
during 1930-1931 were as follows:—

Grade	Bushel Weight	PRICE		
		First Quality	Second Quality	Third Quality
	<i>Lb.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>	<i>Sh. cts.</i>
1 .. .. .	62	17 50	14 50	12 50
2 .. .. .	61	17 25	14 25	12 25
3 .. .. .	60	17 00	14 00	12 00
4 .. .. .	59	16 50	13 50	11 50
5 .. .. .	58	16 00	13 00	11 00
6 .. .. .	57	15 25	12 25	10 25
7 .. .. .	56	14 50	11 50	9 50
8 .. .. .	55	13 00	10 00	8 00
9 .. .. .	54	11 00	8 00	6 00

The following rebates were allowed on wheat converted  
into flour for coastal and other markets:—

From January, 1931	Via Mwanza and Kasimba
	<i>Sh. cts.</i>
Moshi .. .. .	1 30
Arusha .. .. .	4 30
Tabora .. .. .	7 50
Mombasa .. .. .	3 00
Zanzibar .. .. .	5 30
Tanga .. .. .	9 00
Dar es Salaam ..	4 50
	<i>Sh. cts.</i>
	Mwanza .. .. .
	Shinyanga .. .
	Tabora .. .. .
	Livina .. .. .
	Kigoma .. .. .
	*Belgian Congo ..
	Mahege and Kasimba ..

Of the above rebates, those for Tanga and Dar-es-Salaam  
were increased by Sh. 1/50 per bag from April, 1931.

Rebate for Mombasa was increased to Sh. 6 per bag from  
August.

In all, rebates were allowed on 12,837 bags and the total  
amount of rebate allowed was Sh. 102,541/56.

The f.o.r. values of various grades of wheat exported  
were:—

	Grade	Per Bag
		<i>Sh. cts.</i>
To London .. .. .	1	5 13
	2	4 54
	3	4 39
To Beira .. .. .	1	4 65
	2	2 62

2. The costs of marketing the wheat sold overseas during the season 1930-1931 were:—

	Sh.	cts.
Coastal Railrage .. .. .	32,012	68
Coastal Charges .. .. .	714	69
Coast Re-bagging .. .. .	433	06
Coast Re-conditioning .. .. .	10,007	65
Coast Grading .. .. .	2,543	16
Port Shipping Charges .. .. .	14,519	05
Export Cables .. .. .	1,619	15
Ocean Freight .. .. .	45,451	06
Port Storage .. .. .	725	03
Superintendence .. .. .	270	67
Interest .. .. .	439	03
London Commission .. .. .	2,611	59
Insurance .. .. .	233	36
Bank Charges and Exchange .. .. .	3,847	81
	Sh.	115,433 15

The total "establishment charges" made by the agency against the wheat account amounted to Sh. 62,822/40. This included all charges except direct charges against local and export sales. The agency received no commission or other allowances for its services.

The number of bags sold in each grade with the prices paid out of the pool were as follows:—

Quality	Grade	Bags	Price Per Bag
			Sh. cts.
1 .. .. .	1	15,426	10 90
	2	14,497	10 65
	3	25,377	10 40
	4	23,845	9 90
	5	30,115	9 40
	6	15,164	8 65
	7	12,294	7 90
	8	9,707	6 90
	9	8,942	5 90
2 .. .. .	1	299	7 90
	2	556	7 65
	3	123	7 40
	4	696	6 90
	5	69	6 40
	6	190	5 65
	7	532	4 90
	8	237	3 90
	9	362	2 90
3 .. .. .	1	2	5 90
	2	101	5 65
	3	3	5 40
	4	70	4 90
	5	35	3 65
		159,322	

All wheat is accounted for by the agency and none as "lost or stolen" is recorded.

COMMITTEE ON NATIVE AND SOMALI STOCK.

By LT.-COL. THE HON. J. G. KIRKWOOD:—

Will Government state when the Committee appointed to investigate and report on Native and Somali stock on Crown lands and Townships will visit Kitale?

Reply.

It is not anticipated that this Committee will visit Kitale before the end of this year.

SLAUGHTER OF ANIMALS AT KERICHO.

By THE HON. CONWAY HARVEY:—

What facilities exist for the humane and hygienic slaughter of animals by Kericho butchers?

Reply.

The existing facilities remain for the slaughter of animals at Kericho by butchers and it is regretted that the need for economy and the prior claims of other works have, so far, prohibited the construction of a slaughterhouse there.

REPORT OF TERMS OF SERVICE COMMITTEE.

By LT.-COL. THE HON. J. G. KIRKWOOD:—

Will Government state the extent of acceptance by Government of the Terms of Service Committee's Report.

Reply.

Government is in agreement that the time has arrived when local conditions justify some modification of the existing terms of service on the lines suggested in the report of the Terms of Service Committee. As regards the Overseas Service the Government's recommendations have been forwarded to the Secretary of State whose attention will be drawn to the enquiries now made.

A committee has been appointed and is at present sitting formulating detailed proposals for the inauguration of Local Services.

SURVEY FEES.

By CAPT. THE HON. H. E. SCHWARTZ:—

1. Is it the established practice of Government, in the event of their alienating a farm which has already been alienated and surrendered and on which survey fees have been paid, to impose on the second purchaser the obligation of also paying survey fees?

2. - If so, can Government justify such a practice?

3. If the answer to (2) is in the negative, will Government arrange to discontinue the practice?

*Reply.*

1. The answer to the first part of the question is in the affirmative.

2. Government is satisfied that this practice is justifiable. The maintenance of survey beacons in the interval between the surrender of a farm and its re-sale cannot be fully ensured in actual practice. It is a fact that if any considerable period elapses between survey and alienation of a farm, it is usually necessary to replace one or more of the beacons which have been removed in the interval. When beacons have to be re-established, the cost of a special survey for this purpose almost invariably exceeds the cost of the original survey.

3. Government is consequently not prepared to discontinue the present practice.

TRADING LICENCE—CHURCH MISSIONARY SOCIETY.

By CAPT. THE HON. H. E. SCHWARTZ :—

1. Do the Church Missionary Society pay an annual Trading Licence in respect of the business carried on in their bookshops?

2. If not, why not?

3. Are the materials imported by the Church Missionary Society for sale in their bookshops subject to ordinary Customs duty?

*Reply.*

1. The answer is in the affirmative.

2. This part of the question does not therefore arise.

3. Goods imported by or on behalf of the Church Missionary Society bookshops are subjected to the ratings prescribed under the Customs Tariff Ordinance, 1930.

COASTAL SERVICE OF STEAMERS.

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

Whether Government is aware of any obstacles or restrictions having been placed in the way of British steamship lines operating a coastal service of steamers on the East Coast.

*Reply.*

Government and the Transport Administration is aware of any obstacles, or restrictions, having been placed in the way of British steamship lines operating a coastal service of steamers on the East Coast.

Exceptional treatment is given to coastal vessels in respect of harbour charges at Mombasa with a view to encouraging coastal trade.

CHANGE OF USER.

By THE HON. CONWAY HARVEY :—

Will Government be pleased to issue instructions for action in connexion with alleged change of user to be postponed until the Select Committee appointed on 10th May, 1932, has reported?

*Reply.*

Government regrets that it is unable to adopt the course suggested in this question. The sitting of this Committee has been delayed owing to the other business upon which the members have been engaged and to the illness of one member of the Committee. The Committee will, however, be called as soon as possible.

DAK BUNGALOW AT MAKINDU.

By MAJOR THE HON. J. O. K. DELAP :—

What are the figures of revenue and expenditure in connexion with the dak bungalow at Makindu during the months of April, May and June this year?

*Reply.*

The receipts and expenditure figures in respect of the dak bungalow at Makindu during the months of April, May and June, 1932, are as follows :—

	Receipts	Expenditure
	Sh. sts.	Sh. sts.
April ... ..	621 15	709 87
May ... ..	349 00	540 93
June ... ..	255 73	385 79
	<u>1,220 77</u>	<u>1,734 98</u>

## RAILWAY FACILITIES.

By **LT.-COL. THE HON. C. G. DURHAM** :—

1. Is it a fact that a certain Mr. White on stating that he represented the Paramount Film Co., was granted free facilities over the Kenya and Uganda Railway?

2. If so, on what grounds would he be entitled to such free pass?

3. If he did not so represent the company in question what steps have been taken to recover the amount?

4. What was the total value of the concession granted?

*Reply.*

1. On the understanding that he would be producing certain scenic films depicting the territories served by the Kenya and Uganda Railways and that copies of still photographs would be placed at the disposal of the Administration, a free pass was issued to Mr. White and certain reduced fares and rates were authorized for the conveyance of the members of his party and his equipment.

2. It is the usual practice to grant concessions of this nature where valuable publicity is likely to be obtained from the reproduction abroad of films and pictures.

3. The Railway Administration was not directly interested in the organizations behind Mr. White, provided it was satisfied that suitable pictures would be taken and subsequently shown to the public. As, from information received, there seemed to be some doubt about this point, the concessions were withdrawn.

4. As no use was made of the concessions by Mr. White before they were withdrawn, their value was nil.

## REDUCTION OF INTEREST CHARGES.

By **LT.-COL. THE HON. C. G. DURHAM** :—

In view of the low Bank rates now obtaining can Government assist the people of the Colony by interviewing the various financial institutions and endeavouring to get them to consider a reduction in the charges now existing?

*Reply.*

The Government has approached the representatives of the Banks operating in East Africa who have been in communication with their principals in London in the matter. The Government understands that the circumstances have

been fully considered in London, and that the rates of interest charged locally by the Banks take into account all considerations arising from the existence of a low Bank rate in London, as well as the local circumstances both general and particular.

## CATTLE-DIP AT MACHAKOS.

By **MAJOR THE HON. J. O. K. DELAP** :—

Whether it is proposed to construct a cattle dip in the Veterinary Quarantine Boma at Machakos?

If so, at what cost?

And for what purpose, in view of the fact that this is a T. immunisation boma and is in a dirty area?

*Reply.*

It is proposed to construct a cattle dip at the Animal Husbandry Training Centre at Machakos, but not in the Veterinary Quarantine Boma. The estimated cost of construction furnished by the Public Works Department is £310. The object in providing a dipping tank is to demonstrate the value of dipping to natives and to prevent excessive losses among calves bred in the herd used for educational and other purposes. Without a dip the Animal Husbandry Centre cannot effectively function.

It is proposed also to give facilities to neighbouring stock-owners for their cattle to be dipped on payment of the usual dipping fees.

## X-RAY INSTALLATION AT MOMBASA.

By **THE HON. SHERIFF ABDULLA BIN SALIM** :—

What was the amount spent by Government upon the X-ray installation in Mombasa and whether it is now in use or disuse and if the latter what does the Government intend doing with the plant?

*Reply.*

The cost of the X-ray plant at Mombasa was Sh. 8,711/0/3 and the cost of its installation was approximately Sh. 200. The plant is not at present in use as no competent operator is available. It was hoped to obtain an X-ray operator with the necessary training from the Royal Army Medical Corps in 1931, but owing to the financial position this post has not been filled. The whole matter is receiving consideration in connexion with the preparation of 1933 Estimates.

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