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COLONY AND PROTECTORATE OF KENYA



LEGISLATIVE COUNCIL
DEBATES, 1934

VOLUME II

NAIROBI
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1935

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List of Members of Legislative Council

President:

HIS EXCELLENCY THE GOVERNOR, BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.

Ex officio Members:

COLONIAL SECRETARY (HON. H. M. MOORE, C.M.G.) (1)
 ATTORNEY GENERAL (HON. W. HARRISON)
 TREASURER (HON. G. WALSH, C.B.E.)
 CHIEF NATIVE COMMISSIONER (HON. S. H. LA FONTAINE, O.B.E.,
 D.S.O., M.C.) (Acting) (2) (3)
 COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT
 (HON. W. M. LOGAN, O.B.E.) (4)
 DIRECTOR OF MEDICAL SERVICES (HON. DR. H. C. JOHNSTON)
 (Acting) (5)
 DIRECTOR OF AGRICULTURE (HON. H. B. WATERS) (6)
 DIRECTOR OF EDUCATION (HON. H. S. SCOTT) (7)
 GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS
 (HON. A. E. LEAF) (Acting) (8)
 DIRECTOR OF PUBLIC WORKS (HON. J. C. STROGAN) (Acting) (9)
 COMMISSIONER OF CRIMINALS (HON. G. D. KIBSOBY)

Nominal Official Members:

HON. T. FITZGERALD, O.B.E. (Postmaster General)
 HON. H. R. MONTGOMERY (Provincial Commissioner, Nyanza Pro-
 vince) (2) (3)
 HON. R. G. PILLIS, C.M.G. (Deputy Colonial Secretary)
 HON. H. R. E. WELBY (Acting Provincial Commissioner, Rift Valley
 Province)
 HON. G. H. C. BOLDRESON (Acting Provincial Commissioner, Coast
 Province)
 HON. T. D. H. BAUCK (Solicitor General)
 MAJOR THE HON. H. H. BRASSEY-EDWARDS (Deputy Director, Animal
 Industry)
 HON. E. B. HUSKINS, O.B.E. (Commissioner of Mines) (10)
 HON. H. M. GARDNER (Conservator of Forests) (11)

European Elector Members:

LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O. (12)	Rift Valley
HON. CONWAY HARKY	Nyanza
LT.-COL. THE HON. J. G. NIKKWOOD, C.M.G., D.S.O.	Trans-Nzoia
HON. F. A. BEMISTER	Mombasa
MAJOR THE HON. F. W. CAVENTISH-BENTINCK	Nairobi North
HON. A. C. HOBY (13)	Uasin Gishu
MAJOR THE HON. G. H. RIDDELL, M.V.O.	Kiambu
MAJOR THE HON. SIR ROBERT DE VERA SHAW, BAET, M.C.	Ukamba
HON. E. H. WRIGHT	Aberdare
THE HON. A. C. TANNAHILL (Acting) (14)	Nairobi South
HON. W. H. LILEY-WHITE (Acting) (15)	Coast

Indian Elector Members:

HON. ISHER DASS
 HON. NABAR SINGH MARGAT
 HON. JAGANNATH BHAYANSHANKAR PANDYA
 HON. SHAMSETT-DEEN
 HON. DR. ALEX CARNEIRO LAURANCIO DE SOUZA

LIST OF MEMBERS OF LEGISLATIVE COUNCIL—(Contd.)

Arab Elector Member:

SHERIFF ABDULLA BIN SALIM

Nominated Unofficial Members Representing the Interests of the African Community:

THE REV. CANON THE HON. G. BURNS, O.B.E.
 THE HON. R. W. HERMISTED, O.B.E.

Nominated Unofficial Member Representing Interests of the Arab Community:

THE HON. SIR ALI BIN SALIM, K.B.E.

Acting Member of the Legislative Council:

MR. J. F. G. TROUGHTON

- (1) Hon A. de V. Wale, O.B.E., Acting Colonial Secretary, sworn in as *ex officio* member 30th July, vice Mr. Moore.
- (2) (3) Mr. Montgomery appointed Acting Chief Native Commissioner 28th August, vice Mr. Wale; Mr. La Fontaine sworn in as Nominated Official Member, 16th October.
- (4) Mr. W. M. Logan, Commissioner for Local Government, Lands and Settlement, sworn in as *ex officio* Member, 24th July.
- (5) Dr. A. R. Paterson, Director of Medical Services, resumed seat as *ex officio* Member, 26th November.
- (6) Mr. H. Wolfe, Acting Director of Agriculture, sworn in as temporary *ex officio* Member, 26th November; Mr. Waters resumed seat, 13th December.
- (7) Mr. R. H. W. Wisdom, Acting Director of Education, sworn in as temporary *ex officio* Member, 26th November; Mr. E. G. Morris, Director of Education, as *ex officio* Member, 27th November.
- (8) Brig.-Gen. Sir Godfrey D. Rhodes, C.B.E., D.S.O., General Manager, K.U.R. & H., sworn in as *ex officio* Member, 26th November.
- (9) Mr. H. L. Sikes, Director of Public Works, sworn in as *ex officio* Member 23rd October.
- (10) Mr. E. B. Huskins, Commissioner of Mines, appointed as Nominated Official Member, vice Mr. Home.
- (11) Mr. H. M. Gardner, Conservator of Forests, sworn in as Nominated Official Member, vice Col. Wilkinson.
- (12) Cdr. F. J. Coudrey, Acting Member, sworn in 30th July; Lord Francis Scott resumed seat, 24th October.
- (13) Mr. E. J. Symons, Acting Member, sworn in 24th July; Hon. A. C. Hoby resumed as Member, 16th October.
- (14) Mr. Tannahill, Acting Member, sworn in 24th July, vice Capt. the Hon. H. E. Schwartz, Member.
- (15) Major the Hon. R. W. B. Robertson Eastoe, D.S.O., resumed seat as Member, 23rd October.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS

- 24th July, 1934—
 THE HON. THE COMMISSIONER OF CUSTOMS,
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
- 25th July, 1934—
 THE HON. THE COMMISSIONER OF CUSTOMS,
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
- 26th July, 1934—
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
- 26th July, 1934—
 THE HON. T. D. H. BRUCE,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 31st July, 1934—
 THE HON. T. D. H. BRUCE,
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.,
 MAJOR THE HON. G. H. RIDDELL, M.V.O.
- 1st August, 1934—
 THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS,
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.,
 MAJOR THE HON. G. H. RIDDELL, M.V.O.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 2nd August, 1934—
 THE HON. THE DIRECTOR OF AGRICULTURE,
 THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS,
 THE HON. T. D. H. BRUCE,
 LT. COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.,
 MAJOR THE HON. G. H. RIDDELL, M.V.O.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 16th October, 1934—
 THE HON. SIR ALI BIN SALIM.
- 17th October, 1934—
 THE HON. N. S. MANGAT,
 THE HON. SHERIFF ABDULLA BIN SALIM.
- 18th October, 1934—
 THE HON. N. S. MANGAT,
 THE HON. SHERIFF ABDULLA BIN SALIM.
- 19th October, 1934—
 THE HON. THE DIRECTOR OF PUBLIC WORKS,
 THE HON. H. G. PILENGO,
 THE HON. N. S. MANGAT.
- 23rd October, 1934—
 THE HON. H. R. E. E. WELBY,
 THE HON. T. D. H. BRUCE,
 THE HON. N. S. MANGAT.
- 24th October, 1934—
 THE HON. N. S. MANGAT.
- 25th October, 1934—
 THE HON. N. S. MANGAT,
 THE HON. SIR ALI BIN SALIM.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.)

- 20th November, 1934—
 THE HON. THE DIRECTOR OF AGRICULTURE,
 THE HON. T. D. H. BRUCE,
 THE HON. N. S. MANGAT,
 THE HON. SIR ALI BIN SALIM.
- 20th November, 1934—
 THE HON. THE DIRECTOR OF MEDICAL SERVICES,
 THE HON. THE DIRECTOR OF EDUCATION,
 THE HON. F. A. BEMSTEL,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 27th November, 1934—
 THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 28th November, 1934—
 THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 28th November, 1934—
 THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 29th November, 1934—
 THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 30th November, 1934—
 THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS,
 THE HON. F. A. BEMSTEL,
 THE HON. N. S. MANGAT,
 THE HON. R. W. HEMSTED, O.B.E.,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 13th December, 1934—
 THE HON. T. D. H. BRUCE,
 MAJOR THE HON. F. W. CAVENTISH-BENTINCK,
 THE HON. N. S. MANGAT,
 THE HON. SHERIFF ABDULLA BIN SALIM,
 THE HON. SIR ALI BIN SALIM, K.B.E.
- 14th December, 1934—
 THE HON. T. D. H. BRUCE,
 THE HON. F. A. BEMSTEL,
 THE HON. N. S. MANGAT,
 THE HON. SHERIFF ABDULLA BIN SALIM,
 THE HON. SIR ALI BIN SALIM, K.B.E.

AGENDRES FROM LEGISLATIVE COUNCIL
MEETINGS—(Contd.)

15th December, 1934.

THE HON. THE COMMISSIONER OF CUSTOMS.
THE HON. H. H. WELBY.
THE HON. T. D. H. BRUCE.
THE HON. S. H. LA FORTAINE, D.S.O., O.B.E., M.C.
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.
THE HON. F. A. DREWSTER.
MAJOR THE HON. F. W. CAVENDISH-BENTINCK.
MAJOR THE HON. SIR ROBERT DE V. SHAW, M.C.
THE HON. E. H. WRIGHT.
THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
REV. CANON THE HON. G. BURNS, O.B.E.
THE HON. SIR ALI BIN SALIM, K.B.E.

17th December, 1934.

THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
THE HON. SIR ALI BIN SALIM, K.B.E.

19th December, 1934.

THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
THE HON. SIR ALI BIN SALIM, K.B.E.

20th December, 1934.

THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
THE HON. SIR ALI BIN SALIM, K.B.E.

21st December, 1934.

THE HON. A. C. HOBY.
THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
THE HON. SIR ALI BIN SALIM, K.B.E.

22nd December, 1934.

LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O.
THE HON. A. C. HOBY.
THE HON. E. H. WRIGHT.
THE HON. N. S. MANGAT.
THE HON. SHERIFF ABDULLA BIN SALIM.
THE HON. SIR ALI BIN SALIM, K.B.E.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1934

THIRD SESSION

TUESDAY, 24th JULY, 1934

The Council assembled at 11 a.m. on Tuesday, 24th July, 1934, at the Memorial Hall, Nairobi, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to—

Ex-Officio Members:

WILLIAM MARSTON LOUAG, Commissioner for Local Government Lands and Settlement.

FREDERICK JOHN CARLYLE JOHNSTONE, Acting Director of Medical Services.

Nominated Official Member:

HAROLD MURPHY GARDNER, Conservator of Forests.

Acting European Members:

ARTHUR CLAUDE TANRAHLL.

JOHN HARRIS SYMONS.

COMMUNICATION FROM THE CHAIR.

His Excellency made the following Communication from the Chair:—

HONOURABLE MEMBERS OF COUNCIL.

The main reason for this special sitting of Council is to lay before you a Bill to amend the Native Lands Trust Ordinance, 1930, framed to enable mining leases to be granted without further delay. It is an interim measure which will, with such amendments as may eventually be found necessary, be incorporated in a new Native Lands Trust Ordinance, remodelled in accordance with the recommendations of the Kenya Land Commission.

I think everyone will agree that the progress of mining on a productive scale by responsible companies and others cannot be any longer retarded by doubts and uncertainties as to the granting to them on lease of the very small pieces of land which are necessary for the conduct of their business.

You are aware that the negotiations between the Eldoret Mining Syndicate and the Tanganyika Concessions Limited, to which I referred at the opening of the last sitting of Council, have been brought to a successful conclusion and have resulted in the flotation of a company which has received strong financial support in the City of London. Other substantial companies etc. I understand, in process of formation and give grounds for faith in the future of the mining industry in Kenya, an industry which—as I have many times stated—will undoubtedly be of benefit to the natives living in the areas concerned and to the country at large, which at present has to rely mainly on the export of agricultural produce.

The Commission in their report envisage two methods of dealing with mining leases in Native Reserves, one being the "setting apart" of the area required for the lease. When the land has been so set apart—and after full local consultation with the native interests concerned and after full compensation has been paid both for disturbance and for the use of the land—then a lease will be granted. I need not now enter into details; these will be explained to you on the motion for the second reading and in the course of the debate. Personally I am convinced that this method will prove satisfactory to the Reserve. Moreover, we will find in practice that in each case the number of natives affected will not be great and that I feel certain will be able to find accommodation in the vicinity of their old homes and I imagine they would much prefer to remain there rather than be granted equivalent land far removed from their present surroundings, as must usually be

the case in the event of a temporary addition to the Reserve being found practicable. In addition, they will be liberally compensated for disturbance and in certain cases receive a money payment in the nature of a rent of the land from which they have been moved.

The second method envisaged by the Commission is the temporary exclusion from the Reserve of the area leased and the temporary addition as far as possible of an area equal in extent and equal in agricultural value. This alternative, in the opinion of the Commission, should only be used if the Local Native Council and the natives affected prefer it, and—which is important—if it is found to be practicable in the particular circumstances.

In addition, having regard to all the circumstances in which mining operations in the Kakamega area were initiated, the Government proposes to earmark an area not exceeding 1,500 acres from the Elgon Forest Reserve to be added to the North Kavirondo Native Reserve, in accordance with the recommendations in Chapter 13 (Part II) of the Land Commission Report.

In this connection it is realized that until the parent Ordinance—the Native Lands Trust Ordinance, 1930—is remodelled and passed, there is no power to make temporary exclusions from a Native Reserve. At present we are doubtful whether any natives will, in the event of equivalent land being available, prefer temporary exclusion to setting apart, but clauses will be inserted in the Bill now before you giving the necessary power to make such temporary exclusions.

Honourable Members of Council, before I adjourned the last sitting I stated that the Government proposed to move for the appointment of a Standing Finance Committee under the provisions of Standing Rule and Order No. 51. The necessary motion will accordingly be tabled and I trust it will receive the assent of the House. It will also be remembered that at the last sitting a Select Committee was appointed to consider the Standing Rules and Orders of the Council and to report on such amendments thereto as may be considered necessary. The Report of that Committee will also be laid during the present sitting. If that Report is adopted, the principal duty of the Standing Finance Committee will be to take the place of the existing Select Committee on the Estimates which now examines and reports upon the annual Estimates once a year and also upon such supplementary estimates as may fall to be considered during the course of the year.

I am glad to see that the Report of the Select Committee is unanimous and I hope its adoption will receive similar support, since our present procedure takes up a great deal of time

and causes unnecessary expense. Honourable Members will observe that provision is made for any hon. Member to be heard in person if he so wishes. In this way adequate representation of all interests should be secured.

It will be realized that any amendments of our Standing Rules and Orders are subject to disallowance by His Majesty, in accordance with paragraph XXIV of the Royal Instructions dated the 29th March, 1934, which also recites the objects for which Standing Rules and Orders may be made. Subject, therefore, to the power of disallowance not being exercised in the meantime, I propose that the new procedure, if approved, should be adopted in dealing with the 1935 draft Estimates.

In addition, this Standing Finance Committee, keeping in close touch as it will with the general financial position of the Colony through the close scrutiny which it will be required to give both to annual and supplementary estimates, should prove a peculiarly well qualified body of official and unofficial opinion to advise me on any major proposals involving expenditure either from loan or revenue that may be referred to it.

One of the first matters on which Government will require its advice is in connection with the suggestions I made in my address on opening the session on the 24th April with regard to the building of a Group Hospital for Europeans, Asiatics and Africans in Nairobi, and the improving of the boarding accommodation at the European Girls' Secondary School. Obviously the consideration of these proposals will also involve a careful examination of the unexpended loan position and of our revenue prospects.

I should like here to refer briefly to two other Bills of ordinance which will be laid before you during this sitting: the Agricultural Mortgagees' Relief Ordinance and the Laibons Removal Ordinance.

The original draft of the Agricultural Mortgagees' Relief Bill formed the annexure to the report of what was known as the Agricultural Mortgagees Committee and was laid on the table on the 5th December, 1933. Honourable Members will probably recollect that in my communication from the Chair I explained that before it was possible for the Government to take any action on the report it would have to be referred to the Secretary of State and that subsequently in a reply to a question asked by the Honourable Member for Aberdare it was announced that telegraphic information had been received to the effect that he had approved of the Bill in principle.

The Secretary of State's comments on the Bill have since been received and his suggested amendments have been embodied therein; but these in no way constitute any departure

from the principles of the measure as originally drafted. As Honourable Members are probably aware, the Bill is designed to give protection to agricultural mortgagees against mortgagees who may be tempted, should a rise in values become apparent, to institute proceedings for foreclosure or sale.

As regards the Laibons Removal Ordinance, Honourable Members will have had the opportunity to study the provisions of the Bill. I am convinced that the only possible way to combat the criminal activities of the Laibons (or Orkoyot) is to remove them from their present area to a place far enough away to have the effect of putting a stop to their malignant influence over the Lumbwa, who have petitioned for their removal, and to a place which will not prevent them and their families from living in tribal fashion. In order to ensure that the place to which they will be removed is suitable, we propose to appoint a Select Committee to examine the various alternatives.

I am fully aware that this Bill is a stern and drastic measure; but, after long and anxious deliberation, I am convinced that it is the only way to meet a grave situation among a tribe anxious to regain its name and the reputation it deservedly gained during the war.

Turning to financial matters, the budgetary position of the Colony, both revenue and expenditure, continues to be kept under constant review.

So far as revenue is concerned, a detailed revision of Estimates based on actual receipts during the first four months of the year under the various heads, with the exception of Customs, has been undertaken, with the result that on present indications a net shortfall of rather less than £3,000 as compared with the original Estimates is anticipated. This makes allowance for a reduced collection of £32,000 for Native Poll Tax, and £5,000 from Trade and Professional Licences, but considerably increased receipts are expected from the Petrol Tax and Estate Duty.

It is still somewhat too early in the year to frame a reliable estimate of the Customs revenue likely to accrue to Kenya during the year, but on present indications the position is not altogether satisfactory and some downward revision may be necessary in due course.

Expenditure is, however, well within the sum provided in Estimates, and even when provision for Supplementary Estimates is made, there remain grounds for hope that, in the absence of circumstances at present unforeseen, the year's working may still show a small surplus.

In December, 1932, I made a statement in this Council to the effect that the Secretary of State was quite unprepared to entertain any proposal involving manipulation of the local currency, and in his published interview with the European Elected Members in February last he clearly indicated the attitude of His Majesty's Government on this question.

The fact that this unequivocal statement was published as lately as April last should make it unnecessary to repeat the assurance that the Government of Kenya has no intention of considering any proposal involving an alteration of the sterling value of the shilling, but the attention given to this matter in the correspondence columns of the local Press may have a disturbing influence on the minds of persons who are not fully acquainted with previous Government pronouncements on this very important subject. In fact I may mention that I have recently received reliable information as to the possible withdrawal from the Colony of considerable sums of capital owing to the feeling of insecurity engendered. I therefore take this opportunity of reiterating the above statement of policy in order that persons both within and without the Colony may be under no misapprehension.

In regard to agriculture, farmers have been faced with low prices and drought, and the realization of crops must be seriously delayed again this year by the late arrival of satisfactory rains. Greater interest has been shown in the sisal industry but prices have again declined owing, it is believed, to reduced demand in the United States and Canada and to conditions in Germany.

The interests of the coffee industry have been carefully studied by the Coffee Board of Kenya and the Board's recently published report contains evidence of the enterprise which has been shown during the past year. We shall follow with interest the deliberations of the Coffee Conference which I am opening on Friday: it is a most important Conference whose recommendations may have considerable effect on the industry. One welcomes the spirit of organization which is now growing in the non-native agricultural industries, and particularly of those efforts which are being made to rationalize the more specialized of these industries. Dairying, coffee, sisal, tea, sugar, essential oils, pyrethrum, are all receiving attention in this direction.

I am glad to be able to announce that a grant of £600 from the Colonial Development Fund has been approved for the purpose of enabling research to be carried out in Kenya in connection with the essential oils and pyrethrum industries.

A great advance has been made in native production of wattle bark and cotton, and in the improvement of hides and skins, and a valuable industry in cashew nuts is being built

up at the Coast. In 1929 the production of wattle bark was under 3,000 tons and the value was Sh. 30 per ton less than that of Natal wattle bark: to-day the production is 12,000 tons with a value of less than Sh. 10 below Natal bark. Three years ago natives produced two and three-quarter million pounds of cotton seed: the present production is eight million pounds.

The importance of improving the quality of native produce is recognized in the Marketing of Native Produce Bill, which has been published but will not be introduced at this sitting, pending further consideration of the details of the Bill.

The position as regards the Railway is that at the end of the half year the revenue earned was slightly in excess of that for the similar period of the previous year.

The exports of coffee—including Tanganyika and Uganda coffee—sisal, timber and sugar showed an increase. Cotton remained about the same, while the export in low-rated crops—maize and cotton seed—showed a heavy decline.

Imports have been slightly in excess of last year, but the revenue earned has been considerably greater due to the increase in high-rated traffic going to Uganda.

The marked increase in traffic that occurred during 1933 has not been progressive, but the improvement then gained has been maintained, and there is no doubt that the Railway will be able to meet all its liabilities and contribute something towards reducing its deficit by the end of the year.

Honourable Members, we can now proceed with the items on the Agenda.

MINUTES.

The minutes of the meeting of the 11th May, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

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

Report of the Kenya Land Commission and Kenya Land Commission Evidence.

Kenya Police Annual Report, 1933.

Registrar General's Annual Report, 1933.

By THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGIN) :
Report of Committee appointed to consider and report on
the Liquor Licensing Laws of the Colony.

Report of the Select Committee on Standing Rules and
Orders of the Legislative Council.

By THE HON. THE TREASURER (MR. G. WALSH) :

Report of the Board of the Land and Agricultural Bank
of Kenya, 1933.

Financial Report and Statement for the Year 1933.

Annual Trade Report of Kenya and Uganda for the Year
ended 31st December, 1933.

By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. S. H.
LA FOSTAINE) :

Summary of Local Native Fund Accounts, 1933.

Table of Expenditure of Local Native Councils in 1933.

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

Report on the work of H.M. Eastern African Dependen-
cies Trade and Information Office, London, from
1st January, 1933, to 31st December, 1933.

Crown Lands Ordinance: Return of Land Grants,
1st January, 1934, to 31st March, 1934.

By THE HON. THE DIRECTOR OF MEDICAL SERVICES (DR.
F. J. C. JOHNSTONE) :

Medical Department Annual Report, 1932.

By THE HON. THE GENERAL MANAGER, KENYA AND UGANDA
RAILWAYS AND HARBOURS (MR. A. E. HAMP) :

Report of the General Manager on the Administration of
the Railways and Harbours for the Year ended 31st
December, 1933.

By THE HON. THE POSTMASTER GENERAL (MR. T. FITZ-
GERALD) :

Abridged Annual Report of the Post and Telegraphs
Department, 1933.

LAND COMMISSION REPORT.

THE HON. THE COLONIAL SECRETARY: With reference to
the Kenya Land Commission Report, I would take this oppor-
tunity of informing the House that it is the intention of
Government to provide a date for debate on this important
report. The actual date will be announced later, but I have
your authority, Sir, to state that you will arrange for a meeting
of the Council before the ordinary Budget session, when we
would normally meet.

BILLS.

FIRST READINGS.

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

The King's African Rifles (Amendment) Bill.

The Asiatic Widows' and Orphans' Pension (Amendment)
Bill.

The Bank (Amendment) Bill.

The Blackwell Pension Bill.

The Traffic (Amendment) Bill.

The Laibons Removal Bill.

The Land and Agricultural Bank (Amendment No. 2)
Bill.

The Agricultural Advances (Amendment) Bill.

The Agricultural Mortgagees' Relief Bill.

The Native Lands Trust (Amendment) Bill.

The Police (Amendment) Bill.

The Electric Power (Amendment) Bill.

The Mining (Amendment) Bill.

The District Education Boards Bill.

The Registration of Designs (Amendment) Bill.

The Native Hut and Poll Tax Bill.

Notice was given to move the second reading of each of
these Bills at a later stage of the session.

The Council adjourned till 10 a.m. on Wednesday,
25th July, 1934.

WEDNESDAY, 25th JULY, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 25th July, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 24th July, 1934, 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):

- Judicial Department Annual Report, 1933.
- Schedule of Additional Provision No. 2 of 1934.
- Schedule of Additional Expenditure not included in Schedule of Additional Provision No. 2 of 1934.

NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY: I beg to give notice that if and when the Standing Finance Committee is appointed I shall move that the Schedule of Additional Provision No. 2 of 1934 and the Schedule of Additional Expenditure not included in the Schedule of Additional Provision No. 2 of 1934 be referred to it.

ORAL ANSWERS TO QUESTIONS.

WATER SUPPLY, KITUI.

No. 69.—THE HON. ISHER DASS asked:

“Will the Government please state if it is a fact that (a) a deputation of the Indian community waited upon His Excellency the Acting Governor in August, 1933, at Kitui, complaining about the unhealthy water supply in the township; and (b) that a promise was given that the arrangements will be made for the healthy supply of water from the Dev River in the beginning of 1934?”

If the answer to the above is in the affirmative, will the Government please state what arrangements have been made in the matter?”

THE HON. THE COLONIAL SECRETARY: The answer to the first part of the question is in the affirmative and to the second part in the negative. An undertaking was, however, given that the question would be examined and consideration given in the light of actual estimates to provision being made in the 1934 Estimates. The estimated cost was put at £1,624, but it was not found possible to make provision in the current Estimates. It will receive consideration, with other works, when the 1935 Estimates are drawn up.

QUESTION WITHDRAWNS.

THE HON. J. B. PANDYA: In view of the answer to the previous question I beg to withdraw Question No. 48 dealing with the same subject.

POST AND TELEGRAPHS STAFF.

No. 49.—THE HON. J. B. PANDYA asked:

"Will the Hon. the Postmaster General inform this House of the number of—

- (a) European;
- (b) Asian; and
- (c) African learners

at present in the Post and Telegraphs Department;

- (i) their respective scales of pay, and
- (ii) the respective periods for which—

- (a) European;
- (b) Asian; and
- (c) African

learners have to undergo training before taking them into regular service?"

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

Part (i) of the question:—

Europeans	...	10
Asians	...	60
Africans	...	168

Part (ii) of the question:—

Europeans	...	£60 to £120 per annum
Asians	...	£24 to £60
Africans	...	£12 to £60

Part (iii) of the question:—

There are no fixed periods. Advancement from the Learner grade depends, in all cases, upon the qualifications and progress of the learner and the existence of vacancies in the grade establishment.

GRADUATED NON-NATIVE POLL TAX, 1933.

No. 51.—THE HON. J. B. PANDYA asked:

"Will Government state the amount realized from the Graduated Non-Native Poll Tax under Non-Native Poll Tax Ordinance of 1933 up to 31st December, 1933, from (a) Europeans, and (b) Indians and the number of persons who paid the tax from each community?"

Will Government also state the amount of expenditure involved in collection of the tax?"

THE HON. THE TREASURER (MR. G. WALSH): According to the records maintained in the Central Revenue Office the total amount of Non-Native Poll Tax paid after the commencement of the Non-Native Poll Tax Ordinance, 1933, up to the 31st December, 1933, was approximately £31,700: Of this amount:—

- (a) 7,006 Europeans had paid £24,813.
- (b) 8,078 Indians had paid £5,274.

The balance was paid by Goans, Arabs and others.

It will be realized that under the provisions of section 31 of the Ordinance a set-off was allowed of the tax paid under the old Ordinance and that in cases where the taxable income did not exceed £100, the new Ordinance entailed no further tax payment. The numbers of Europeans and Indians given above include persons who, under the provisions of the section referred to, made no additional tax payment under the new Ordinance. The actual numbers of such persons were not separately recorded.

The amount of expenditure involved in collecting the tax cannot be separately assessed.

TRADING LICENCES.

No. 52.—THE HON. J. B. PANDYA asked:

"Will Government state the number of licences taken out during the year ending 31st December, 1933, under items (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and under the proviso to item (c) of sub-section (1) of section 7 of Ordinance No. XLI of 1933 by (a) Europeans, (b) Asians, and (c) Africans, and the respective amounts realized therefrom?"

THE HON. THE TREASURER: The records of the Central Revenue Office show the following particulars regarding the number of licences taken out during the year 1933 and the amounts realized therefrom:—

Section 7 (1)

	Sh.	No. of Licences	£
(a) 600	...	125	945
300	...	21	165
(b) 300	...	23	148
(c) 450	...	564	2,170
30	...	2,952	383
(c) 1,000	...	8	200
(h) 600	...	13	210
(i) 15 per person	...	27	134
(p) 100	...	140	331
(q) 300	...	82	610

2. The records do not contain information as to the number of licences in each category taken out by Europeans, Asians and Africans respectively.

3. It will be realized that in 1933 only half the annual fee prescribed was payable and that against this fee there was set off half the amount of any fee paid in 1933 under the 'Traders' Licensing Ordinance (Cap. 58).

MAINTENANCE OF DESTITUTE PERSONS.

No. 53.—**THE HON. J. B. PANDYA** asked:

"Will Government state the number of (a) European, and (b) Indian destitutes and the cost of their maintenance during the years, 1929, 1930, 1931, 1932 and 1933?"

THE HON. THE TREASURER: The expenditure incurred against the vote "Miscellaneous Services—Maintenance of Destitute Persons" during the period in question is:—

Year	£	Sh.	cts.
1929	...	92	11 00
1930	...	237	7 94
1931	...	1,144	14 23
1932	...	946	1 43
1933	...	668	5 58

It is regretted that Government is unable to allocate these figures racially.

AFRICAN AGRICULTURAL INSTRUCTION.

No. 54.—**THE HON. J. B. PANDYA** asked:

"(a) Will the Hon. the Director of Agriculture state the number of African Agricultural Instructors employed by the Department during the years 1929, 1930, 1931, 1932 and 1933?"

(b) Whether the number of African Agricultural Instructors has been reduced for reasons of economy?"

If the answer to the second part of the question be in the affirmative, will the Hon. the Director of Agriculture state what steps are being taken to continue this important service?"

THE HON. THE DIRECTOR OF AGRICULTURE (MR. H. B. WATERS): The number of African Agricultural Instructors employed by the Department of Agriculture during the years in question were:—

1929	...	68
1930	...	80
1931	...	64
1932	...	63
1933	...	77

The number of Instructors was reduced in 1931 and 1932, but increased provision was made in 1933, and again in 1934, and the number of Instructors will shortly reach 90. Instructors are selected from the natives receiving training at the Native Agricultural Schools, as they complete the course.

OFFICERS RETRENCHED AND RETIRED.

No. 55.—**THE HON. J. B. PANDYA** asked:

"Will the Government state the number of—

- (a) Europeans;
- (b) Asians; and
- (c) Africans

- (i) retrenched for reasons of economy or otherwise;
- (ii) retired on pension; and
- (iii) new hands engaged in their respective places during the years 1929, 1930, 1931, 1932 and 1933?"

THE HON. THE COLONIAL SECRETARY: It is regretted that it is not possible to provide the information asked for by the Hon. Member without prolonged and detailed examination which, in view of the inordinate amount of labour involved, is not justified in the present circumstances, when departmental staffs have been reduced to the lowest minimum compatible with efficiency.

INDIAN SETTLEMENT IN KENYA.

No. 56.—THE HON. J. B. PANDYA asked:

"What is the policy of the Government of Kenya in regard to Indian Settlement in this country and will Government be prepared to make suitable areas available for increased Indian settlement?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Government has, in the past been willing to consider any schemes for Indian settlement or any individual applications from Indians for lands in the Lowlands. After the recommendations of the Kenya Land Commission have been put into effect certain areas of Crown land in the Lowlands will become available for alienation irrespective of race, and any proposals which may be submitted for Indian settlement in respect of these lands will receive Government's careful consideration.

MARKETING KENYA PRODUCE IN INDIA.

No. 58.—THE HON. J. B. PANDYA asked:

"Will Government state the steps so far taken, and proposed to be taken, to establish a market in India for some of the perishable commodities produced in Kenya which are finding their way to India in increasing quantities?"

THE HON. THE DIRECTOR OF AGRICULTURE: From time to time investigations have been made by the Agricultural Department as to the possibility of export of perishable commodities to India. In 1931 investigations into the marketing of potatoes, including improved methods of packing, were made and a departmental bulletin issued on the subject. In 1933 the Department published an article on the subject of the Indian market for other perishable articles, including fresh vegetables, bacon and ham, cheese, pulses and fruit. Such investigations are being extended to other products from time to time.

Arrangements are being made at the present time for experimental consignments of ghee to be forwarded through the ghee selling agent with a view to testing the markets in India, Ceylon and Burma.

Representations were made through the Secretary of State at the Imperial Conference at Ottawa for a measure of preference for Kenya produce in India. As a result preferences were secured on a variety of commodities, including among others fresh and preserved vegetables and fruit.

MOTIONS.

STANDING RULES AND ORDERS OF LEGISLATIVE COUNCIL;
REPORT OF SELECT COMMITTEE ON.

THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGIN): Your Excellency, I beg to move that the report of the Select Committee on Standing Rules and Orders of Legislative Council be adopted.

As hon. Members are aware at the end of last session it was decided by His Excellency that provision should be made in the Standing Rules and Orders for a Standing Committee on Finance, and with that object in view a Select Committee of this House was appointed to examine them. As a result, you have the report which is before you, which goes a little bit further than was originally intended, in that in addition to making provision for the Standing Committee on Finance it also endeavours to remove certain anomalies that appear in the Rules.

The first amendment that we suggest to the existing Rules deals with the time within which the first Council should be called after a general election has been held. The amendment to this Rule has been necessitated by the fact that in the last session but one we amended the Legislative Council Ordinance by making it clear that where the words "General Election" are used in the Ordinance, Rule or whatever document it may be that that date shall be taken to be nomination day. The necessity for this, hon. Members will remember, was the fact that it was impossible to say exactly in Kenya when a general election did take place, because whereas provision was made for a twenty-eight days election in the case of Indians, the Europeans had different days on which their elections took place, and it was impossible to say exactly when an election had taken place. The Select Committee which then sat decided that it was necessary to fix on one day as election day, and they decided on, for want of a better day, nomination day. Now, the result of that must be obvious to everyone; that as nomination day is at least twenty-one days earlier than that on which any election can take place, any Rule which says a meeting of the Council shall take place thirty days after nomination days provides a task almost impossible to carry out. With that object in view, we recommend that the time be extended to forty-two days, which will give the necessary time to get the returns in from the outlying stations and the various papers sent out to Elected Members.

The next point is a small one, that in Rule 3 we have altered the word "meeting" to the word "session", which is clearly the more desirable as it is the word used throughout all the Royal Instructions.

There is a small amendment to Rule 11 with regard to the withdrawal of strangers. As is pointed out, although Your Excellency had power to order that strangers should withdraw, there was no provision to keep them out once they were out. Having been removed, there is nothing to say they could not walk in again. This is a small technical amendment.

The same may be said of the amendment to the Rule regarding petitions. It was never quite clear whether petitions were well and truly laid or not. The Rule is a little bit ambiguous, and we have therefore amended it, Sir, to make it clear that when a petition is laid it shall be deemed to have been laid on the table of the House, and if nothing further is done about it there it remains; but naturally we preserve in the Rule the right of a Member to ask that such petition shall be printed or referred to a committee by the ordinary motion of the House.

We then discovered another small error in that no provision was made for the application of the closure. The result in theory was presumably that any Member so desirous could go on speaking for a week! We have therefore inserted the usual provision that any Member may get up with your permission, Sir, and move that the question be now put, in which case only the mover of the motion will be entitled to his reply.

We have made it clear also with regard to laying papers, that these papers shall be produced by the Clerk of the Council whenever Members so desire. As the Rule read, it would appear that the unfortunate Clerk had to carry about all the papers laid during the session so that any could be produced at any moment if a Member said he wished to see a particular paper. That was not intended, and now the usual procedure under the amendment proposed will be followed: that notice will be given the Clerk that a certain Member wishes to see a paper, when it will be produced at the earliest convenient time.

We now come, Your Excellency, to the most important part of this report, that dealing with Standing Committees. The first amendment is with regard to Standing Rule 51, in this House is appointed Your Excellency would have the right to refer any question you may desire to that committee, and that committee need not necessarily report to the House, and in matters referred to it by Your Excellency and not by the House in general they would report back straight to you. Naturally, we had in view in making this what is to come later, namely, the appointment of the Standing Committee on

Finance. We then go on to say that where a Standing Committee on Finance is appointed, the following procedure shall be followed. Let us take the simple example of the estimates, which presumably will be the most important matter referred to that committee in the course of the year. The first thing that will happen will be that the hon. the Colonial Secretary, or any other person deputed by Your Excellency, will lay the Estimates on the table of the House, where they will remain for seven days. The object of that is clear, that everyone will have an opportunity of examining those estimates at his leisure. After seven days, he will then give notice of motion that those Estimates be referred to the Standing Committee on Finance. On that motion, any Member has the right to raise any relevant question on the Estimates that he so desires.

In fact, it will take the place of the main debate on the Estimates. That is when the whole of the question will be raised and every detail that a Member wishes discussed that arises out of the Estimates will be capable of discussion. The Estimates will then be referred to this Standing Committee, and any Member of this House who is not a member of the committee will have the right to appear, on due notice being given the Clerk, before the Standing Committee and put before them any views that he wishes to express on any item of those Estimates. After this has been done, the committee will report back to Your Excellency and the report will be laid on the table of the House. It will remain on the table for four days, again the object being that Members will be able to study the report and see exactly what has happened in committee. After the four days, the Colonial Secretary or whoever is deputed for the task will move that the report be adopted, with whatever amendments which may be desired of which due notice must be given. Any Member who wishes to move an amendment to the report will have to give twenty-four hours' notice to the Clerk. This point was very carefully considered, Sir, by the Select Committee, and they think that in dealing with things like figures of Estimates some time must be given to consider amendments, and what their effect will be, instead of having something suddenly sprung on one after arriving in the House. The report will then be adopted and when carried the Appropriation Bill will go through in the usual manner. That is as far as we thought it necessary to provide in the Rules for the appointment of the Standing Committee on Finance.

We then clear up one or two other points, Sir. One has to do with a question which arose, you will remember, at the last session of the Council, when the meaning of the word "adjourn" came up. There was some argument as to whether it meant adjourn for five minutes or a day or for the session. We are of the opinion that the word adjourn means for the

session. You will remember the Rule. It refers to His Excellency appointing members of a Select or Standing Committee as the case may be after the House has adjourned. That is, of course, if the House has omitted to do so. It is clear that the word adjournment cannot be taken to mean the midday adjournment of ten minutes, but it is necessary that power should be given to His Excellency to appoint the members of a select committee where the House has gone into an adjournment of a considerable period without having made the necessary appointments.

We then come to three little amendments for which I must take full responsibility, Sir, together with the Clerk of the Council. These are just matters of detail which refer to Bills. As you all know, Bills have to be in the hands of hon. Members fourteen days before they are introduced into this House, a very necessary and proper provision. As a matter of practice, you also know that Executive Council always sits on a Friday, and that these Bills have to be considered before being passed on for publication. Assuming a Bill is approved subject to certain amendments, those amendments have to be done in my office on possibly Friday afternoon, and the Bill cannot be sent to the printer until Saturday morning at the earliest. As you also know, the usual way of sending out Bills is with the Gazette on Tuesday. If these Bills are not got to Members by Tuesday, it would be impossible for me to get up on the Tuesday fortnight following and move the introduction of those Bills in this House for their first reading. I know that hon. Members will say, "Why do you not submit these Bills to the Executive Council at the meeting before, so that there is not always this rush?" Unfortunately, Sir, we are dealing with human beings, official and unofficial, and for some unaccountable reason not only in this Colony but everywhere I have been to, you cannot get any finality until the last possible moment, and you may take it from me most Bills leave my office on the last possible day for printing, which in practice means that they are published in the Tuesday's Gazette exactly fourteen days before Legislative Council commences its deliberations, which as you know, means that certain honourable Members do not receive them for another two days. For that reason I suggest that the time limit be reduced to twelve days.

The next small amendment is introduced at the suggestion of the printer. As hon. Members know, it is necessary to print on the opposite side of a Bill the section which is being amended. I think the best way of explaining the object of the committee is by showing you a little example which happened last session. We were making an amendment whereby we were changing one word in a section of the

Companies Ordinance, and, the amendment occupied exactly three lines, altering "Supreme Court" to "Registrar". But the printer had to print the whole of that section on the opposite side to the amendment, and it occupied three and a half pages, so that for the alteration of two words we were obliged to print on the opposite side in order to conform with Standing Rules and Orders those three and a half pages. Hon. Members do not wish to be told, they must know, that that was a waste of time and money. I asked the printer if he could tell me how much he considered it worth, but he said it was rather difficult to calculate fully a man's time; roughly speaking, it cost between £3 and £4. It is a question for you to say whether it is reasonable to agree to the proposed alteration in the Rules and have printed only the relevant portion of an Ordinance which is to be amended. You will put yourselves, I admit, to a certain extent in my hands. It will be up to me to say what is the relevant portion and to see that it is printed, and I think that hon. Members might rely on me.

The last small amendment is with regard to financial implications which I have to place at the end of the objects and reasons to a Bill sent out. I am supposed, as you know, to put down an estimate of the financial implications of the Bill if passed. This is often impossible to estimate for obvious reasons. We therefore suggest the words "where possible" be added after the words "financial implications" in order to give me some loophole by which I can escape when I really do not know the cost. I beg to move, Sir, the motion standing in my name.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to second the motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I rise to support the motion before the House. The only point with which I do not agree is the reduction of the time from fourteen to twelve days. It used to be one month, and was reduced to fourteen days, and while twelve days is ample time for ordinary, unimportant Bills, sometimes there are Bills which affect the country at large and which it is necessary people outside this House should have ample time to consider. For that reason, Sir, I am afraid that I cannot support this particular recommendation.

These Rules and Orders have been very carefully considered by a very well fitted Select Committee who have gone into all the questions, and I believe the changes proposed do express a great improvement in our present procedure. The

major part of this report is dealing with the proposed Standing Committee on Finance, a motion for the appointment of which stands in the name of my hon. friend, the Colonial Secretary.

I should like, Sir, to take this first opportunity on behalf of the European Elected Members to offer to my hon. friend our very sincere congratulations on the recent recognition of his great ability, which has been accorded him by his promotion to the Governorship of Sierra Leone. (Applause.) While offering him our deepest congratulations, I cannot help saying with what regret it is that we shall lose him from our midst. One of the unfortunate defects of the present Colonial system is that our senior officials come here unknown, and in course of time they achieve the respect, often the admiration and affection, of the people in the country, and just as we have got to know them well, and they to know us, they get transplanted to some other sphere. I know it is inevitable, Sir, but it is a matter for regret. In this particular instance the hon. Member has now been here I think for five years, and I think I can say without fear of contradiction that during those five years his position in the feelings of those I am speaking for has increased in geometrical progression as the years have gone by. From our point of view, Sir, there is no one of greater importance to enable us to carry on the business from the unofficial side than the chief executive officer of Government and, speaking from personal experience, I should like to pay this tribute to the spirit of fairness, frankness and tact which the hon. Member has always shown us and met us, thus making our task so much easier. (Applause.) As for this House, Sir, I think everyone must agree that we have all been filled with admiration at his power of debate, and over and over again I have been greatly struck by the dexterity and quickness of wit with which he has extricated himself from a somewhat sticky position and turned a position of defence into one of counter-attack; and I can also say that, however incisive his thrusts may have been in return, they have always been delivered in such a way as to leave no possible feeling of rancour or ill-feeling among those who have been the victims of his pretty wit. We wish him all prosperity in the future, and I should like to add to our good wishes the name of the very charming lady who has been accompanying him and who will be so sorely missed by her many friends in this country.

THE HON. SHAMSID-DEEN : I have not got anything to say, Your Excellency, on the report of the Select Committee before this House, but I do wish to associate myself wholeheartedly with what the last speaker has said about the hon.

the Colonial Secretary, who is going to Sierra Leone. I expected that a motion of some sort of congratulation would come forward at a later stage and I hardly anticipated that it would crop up on a report of a Select Committee on Standing Orders; otherwise I should probably have got myself equipped in more complete form to express the feelings of the community I represent. I think, Sir, that I am in no fear of contradiction from any section of the community of this Colony, especially the Indian community, when I say that the hon. Member has always shown consideration and tolerance, especially to the Indian community—who are not always in the same happy position as the European Elected Unofficial Members are. He has always shown impartiality and given sound advice whenever he has been approached and I think he has certainly got, in a manner which he enjoys, the confidence of all sections of the community. I wish to associate myself with what the last speaker said and wish him every prosperity in his future life.

THE REV. CANON THE HON. G. BURNS : On behalf of the native community of Kenya Colony I wish to associate myself and my colleague entirely with every word the Noble Lord has expressed with regard to the hon. the Colonial Secretary's appointment. From every point of view from those of us who have known him he carries with him and—if I may be allowed to express the same with regard to Mrs. Moore—they carry with them the very best wishes and the very deep regret of all at their departure; and, I am saying this personally, it is with very deep regret indeed that we are going to lose the services of such an able, courteous officer from this Colony. We do wish him and Mrs. Moore every blessing in their new sphere and every prosperity and usefulness where they are going.

MAJOR THE HON. F. W. CAVENDISH-BENTLEY : Your Excellency, as one of the members of this committee which draw up this report, naturally I hope and trust that with one small exception it will be adopted unanimously.

The small exception, Sir, to which I refer is the recommendation contained on page 7 and referred to by the hon. Attorney General, which deals with Standing Rule No. 64 in the existing Standing Rules and Orders. It is proposed, Sir, to delete the word "whole" and substitute therefor the words "relevant part". As was explained by the hon. the Attorney General, the idea is that it is not always necessary to print in full the section of any Ordinance to which an amendment is being proposed; and he quoted as an example an exceptional case of a small amendment which was passed in some Ordinance during the last session. Well, Sir, I am afraid I entirely disagree with him on this point and I think it should be remembered that, at any rate on this side of the House, most

Members are busy people and that they have their own jobs of work to do. Prior to coming down to a session, where there are a large number of Bills to be considered or a large number of amendments to be made, it is not always possible for them to read very carefully through a large amount of literature, and therefore, Sir, it is, I think, most necessary that they should clearly understand exactly what they are being asked to amend. Hitherto it has always been the practice that, when an amendment is being suggested, that that amendment is printed on one side and the whole of the section on the other. Now it is suggested that all you need print is the relevant part of the section. I submit that that is very dangerous from my point of view. One might easily not understand what is involved, and as it has been found necessary hitherto to print the whole of the section which has to be amended I consider that that practice should continue, even though it may on one occasion have cost three or four pounds extra.

The only other point, Sir, to which I want to make some small reference is contained on page 8 of the report, in which it is recorded that the three European Elected Members who form part of this committee considered that, in their opinion, some steps should be taken to amend Standing Rule and Order No. 52 by the deletion of the proviso thereto. I am well aware that this Standing Rule is contained in practically all Standing Rules and Orders throughout similar colonies and dependencies. I am also aware, Sir, that something similar is contained in the Standing Rules and Orders, or whatever it is which governs the procedure in the House of Commons; but that is very differently worded I believe. We feel, Sir, that the time has possibly now come when we, who are taking a considerable part in forming and building up this Colony, should be given a little more latitude, and we are asking under this Standing Rule and Order that consideration should be given to that point. Under this Standing Rule and Order we have no right whatever, except by your consent, to discuss anything of a financial nature. We can neither charge the revenue, nor can we revoke, alter or vary any existing charge on the revenue. Of course, in practice this proviso is ignored, but we would just like to draw attention to our recommendation contained in page 8 of this report.

THE HON. J. B. PANDYA: Your Excellency, I should like to say a word or two in connection with the last point made by the hon. Member for Nairobi North. I do not agree that there should be any amendment to Rule 32, which conforms to the Royal Instructions. I was the other day reading the Parliamentary debates, and I came across a similar provision which applied in England also. In Hansard, Volume 289,

No. 64, of May the 1st, 1934, Mr. Gordon White said: "I make no quarrel with the very salutary rule which prevents a private member or any body save the Government from coming to the House with a proposition which places a charge upon the Exchequer." That in a nutshell is the principle of this reservation, and we should be wise to keep to it.

I should also like to take this opportunity of associating myself with the remarks of the Noble Lord, the hon. Member for Rift Valley, in congratulating the hon. the Colonial Secretary, and in wishing him every success in his future career.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I think perhaps it would be an advantage if I were to intervene at this point in the debate, particularly to get the feeling of the House clearly on the point raised by the Noble Lord, the hon. Member for Rift Valley, on the question of fourteen versus twelve days, because I am authorized by you, Sir, to state that if the general feeling of members is that twelve days will be too short a time, Government is quite prepared to leave the notice as it is at present, at fourteen days. I would welcome an indication that that is the general feeling, Sir, then we can put the debate on right lines by my formally moving an amendment to the motion for the adoption of the report in that sense. I think I may take it that hon. Members generally are in favour of that proposal? (Hon. Conway Harvey: Yes.)

I should also like to take the opportunity of moving one other small amendment to the report which my hon. and learned friend the Attorney General tells me he had originally intended to mention in his opening speech: If hon. Members will turn to Standing Rule and Order No. 52, they will see that in that it is clearly laid down what the procedure and duties of the Standing Committee on Finance are to be. If, however, they will turn over further to Standing Order No. 59, they will see that that Standing Order provides for the life of a Select Committee or Standing Committee. But I believe, Sir, it was always the intention, when the proposal to appoint the Standing Committee on Finance was first mooted, that it should be appointed for the life of the Council. Therefore, to make sure there is no ambiguity in our Standing Orders on that point, I would suggest that we should add as sub-section 10. to come immediately after sub-section 9 of Rule No. 52, the following paragraph: "The Committee shall continue to sit until dissolved by the Council or until the dissolution of Council." That will put it beyond doubt, that this Standing Committee on Finance continues in continuous session even after it has reported on the particular subject

either to this Council or to Your Excellency. In order, therefore, to put the debate in order, I will formally move "That the motion be amended by the deletion of (i) of recommendation (h) and the consequent renumbering of (ii) and (iii) of that recommendation as (i) and (ii) and the addition of the following to New Standing Rule and Order No. 52: (z) The committee shall continue to sit until dissolved by the Council or until the dissolution of Council."

There is just one other point, Sir, that perhaps I might mention before sitting down; the point taken by the hon. Member for Nairobi North, on the question of a motion varying an existing charge on revenue. As Your Excellency made clear in your address from the chair, under Royal Instructions these Standing Orders have to go home for the allowance or disallowance of His Majesty the King in just the same manner as a Bill which has passed this Council and which has been assented to by you, Sir. It is perfectly clear, I think, that if we were to incorporate in our Standing Orders a clause which is directly at variance with the Royal Instructions under which these Standing Orders of ours have to be approved, we should have them disallowed at once. As we are anxious to get the procedure going as early as possible, on these grounds—apart from general constitutional grounds—it seems a mistake to press the point at the moment, more particularly as hon. Members will agree that whatever may be the actual terms of the Standing Order, they have invariably been most liberally interpreted by the chair. I do not believe there has been any stifling of debate or difficulty on the part of hon. Members in bringing to the notice of Government any particular motion of that character which they have desired to put forward.

Finally, before sitting down, I should like to take this opportunity, Sir, of thanking hon. Members for their exceedingly kind remarks about me personally. I can only say with all sincerity, that it is with the greatest regret I am leaving this country. The longer one stays here and the more one becomes involved in the extraordinarily difficult but interesting problems that have to be faced, the more one realizes that in this country, at any rate, one can perhaps do something towards the general advancement of the Empire which, after all, is what all of us, on both sides of the House, have at heart. I should like to thank you all very much for the very kind words you have used, both as to myself and my wife. (Applause.)

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

MAJOR THE HON. G. H. RIDDELL: Your Excellency, as one of the members of the Select Committee whose report we are considering, I should like to say that we do not wish to press this question of an alteration to Rule 32 in any way. We should like the matter to go on record, so that the Council may thoroughly understand our position, that despite what the hon. Member, Mr. Pandya said, at home you cannot charge the revenue. In other words, you cannot increase the expenditure. But here, we cannot even decrease or even discuss it in any way. I would also make allusion, Sir, to another point raised by the hon. Member Mr. Pandya. Government here is a different thing to Government at home, where it is elected. That is all I have to say, Sir, to make that point clear.

HIS EXCELLENCY: The question is, that the Standing Rules and Orders be amended in accordance with the amendment of the hon. the Colonial Secretary.

The question was put and carried.

The question that the report as amended be adopted was put and carried.

The Council adjourned for the usual interval.

On resuming.

BILLS.

SECOND READINGS.

THE ELECTRIC POWER (AMENDMENT) BILL.

THE HON. T. FITZGERALD: Your Excellency, I beg to move the second reading of a Bill to Amend the Electric Power Ordinance.

I feel, Sir, that the best line of approach in regard to explaining the provisions of this Bill is to take the various clauses as they stand.

Clause 2 provides for the renewal of a distributing licence. As the law stands at present there is no such provision, and it is felt that it is very desirable that some procedure should be arranged. The procedure proposed is that when, on the expiry of the term of a licence, a licensee wishes to get a renewal of the licence, he has in effect to proceed as if he were applying for an entirely new licence. He has to advertise his intention, and adequate opportunity is given to all concerned to make representations to the Governor in Council before a renewal of the licence is granted. In that way the public are adequately safeguarded against any renewal of a licence without reasonable opportunity for consideration.

Clause 3, Sir, is the important clause in the Bill. As the law stands a licensee who obtains a licence for fifty years or five years, or whatever the period may be, is subject to the disadvantage that any local authority can at any time, except within six months before the expiry of the licence, make an application to the Governor in Council to revoke the licence and ask to have a licence issued to itself. The law as it stands at present in this Colony is very unusual and exceptional in that respect. The usual arrangement is that a licence is issued for a period and, subject to a fairly long initial run, a Local Authority cannot make an application to the Governor in Council for a transfer of that licence to them. The relevant section, as included in the present law, was taken from the English legislation and for some reason unknown confusion appears to have arisen with regard to this period of six months. Representations have been made by financial interests who have observed this provision in the law, and it is felt that some difficulty may be experienced in raising additional money for development unless the existing law is altered.

Clause 4, Sir, deals with the question of a licensee obtaining security in regard to payment for the supply of electrical energy and power. The intention of this clause is to make the legal position clear. It is by no means certain at present whether the licensee has power to demand a deposit from a consumer, and this clause 4 makes the position clear. This clause may require some amendment later on.

Clause 5 simply applies, in regard to generating stations, the same procedure as is provided in clause 2 in respect of distributing licences.

Clause 6, Sir, is in effect consequential and simply provides that the Electrical Inspector can certify what are known as "check meters."

Clause 7, Sir, is also an important clause, in so far as it is intended to make it clear that only a licensee may issue supply meters to consumers. It is felt that this is a very necessary and a very desirable provision, in so far that it would be a very undesirable situation if consumers were at liberty to purchase their own meters and instal them. That might mean that the country would be flooded with meters of a cheap and defective kind and this would be very unsatisfactory.

Section 8, Sir, simply provides that where a large quantity of power is being used two or three meters can be used for checking purposes. As the law stands at present, it is either one meter or three meters.

The amendment in Clause 9, Sir, is of a very minor character. As the law now stands, before a connection can be made in a consumer's installation, forty-eight hours notice has to be given in writing. The amendment is to the effect that the alteration can be made by mutual agreement. The same, Sir, applies to clause 10.

Clauses 11 and 12, Sir, are consequential on clause 7.

Clause 13 is a minor amendment also, and is simply intended to make the position clear.

Clause 14 is also of a minor character. It simply provides that where a licensee changes his methods of charge and where the consumer has supplied his own meter, which he can do under certain conditions, the change if it involves a change of meter has to be made at the expense of the licensee.

Clause 15, Sir, is simply a recast of the existing section 105, and an expansion of it to provide for certain necessary conditions. Instead of imposing a penalty for a breach of this section, payable to the licensee, anyone committing an offence becomes liable to punishment before a court.

Clause 16, Sir, is intended to do away with the possibility of a person who is guilty of negligence being sentenced to a term of imprisonment for certain breaches of the Ordinance, and also to do away with the danger of double punishment for the same offence. Sub-section (2) of the clause, Sir, is intended to clarify the position in regard to the liability of the consumer to see that his meters and his electrical installation are not tampered with.

Clause 17, Sir, has to do with clause 2 in so far as it provides for the necessary notice to be given where a licensee makes an application for the renewal of his licence. It also contains the important proviso that, when a licence is renewed, a Local Authority can apply, after the initial period has run, to the Governor in Council for revocation of the licence at the conclusion of seven-year cycles.

In regard, Sir, to clause 3, amending section 19, representations have been received from certain Local Authorities, namely, the Nakuru Municipality, the Eldoret Municipality and the Mombasa Municipality, and in view of those representations, Sir, it is proposed to refer the Bill for consideration to a Select Committee.

THE HON. T. D. H. BRUCE: I beg to second the motion.

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

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in rising to support the Bill, I should like to emphasize the fact that this is a very young country, entirely dependent on outside capital for any big undertaking in the nature of a public utility company, such as the Electric Light Company is. If we are to expect capital from outside to be invested in this country, it is essential that they should be given the best security possible. For those reasons, Sir, I support the general objects underlying this Bill. At the same time, Sir, when we come to section 3, which amends section 19 of the Principal Ordinance, it does seem very strange how the original wording of section 19, sub-section (a) came into being because it seems to be completely contradictory. You give a company a monopoly for a long period of years and at the same time you say that the Municipal Council can at any time apply to the Governor in Council for the rescinding of that monopoly for the purpose of distributing power themselves. How that came about I do not know. For instance, they entirely agree that the Company should be given a considerable period of security, they consider that this alteration is too long. Their proposal is that they should be given a monopoly for twenty-five years and that in any period after a question, Sir, on which I hope, when the representatives of this Municipality come down here, a way out may be found by mutual agreement. It would be unfortunate if this Bill were held up owing to a disagreement on that particular point.

With regard to clause 4, the words to be inserted are "in a sum not exceeding twenty shillings." I feel that has somehow got into this draft Bill under a misapprehension. I think there was an idea that the maximum charge now was Sh. 40, which is not the case; in actual fact, there is no sum laid down, and I believe in practice each case is dealt with on its merits. If you limit the amount to Sh. 20 we all know it will not cover the case of large consumers of electricity, though it may possibly cover small users. At the same time it must be remembered that this Company is a public utility company and has to provide electricity to anyone who asks for it and is not in the position of an ordinary retail shop, which can refuse to supply its customers if it feels they are not likely to pay. For that reason it is reasonable I think that they should have a certain amount of security in having deposits put down. I understand that this section will probably be dealt with later on, Sir, and I hope that that will then be done.

That covers the two main points which will have to be dealt with, Sir, and with those few remarks I wish to support the second reading of the Bill.

THE HON. J. B. PANDYA: Your Excellency, I find it rather difficult to agree with the views expressed by the Noble Lord in regard to one or two questions, and mainly in connection with the amendment to section 19. It has been said that this is designed to cover an evident error in the principal Bill. I do not think, Sir, that that explanation seems justified, when we see that the Electric Power Company have already accepted a licence under this clause. If the Company did not feel security under that section it is quite natural they should have refused to accept the licence. In my view, Sir, they have ample security, because up to now there is not a single instance in which the Local Authorities have applied to the Governor in Council for a revocation of the licence. A further section provides that in the first instance an application has got to be made by the Local Authority to the Governor in Council, and I cannot imagine that unless there was a very strong case. No Local Authority would go to the extent of making an application to the Governor in Council. But in the case where such an application has been made, the Electric Power Company would naturally get the fullest opportunity to present their case. I cannot think that the Governor in Council, unless they see a very strong case made out, would go to the extent of revoking a licence. I consider, Sir, that the fears of the Electric Power Company are purely imaginary. The point is raised, Sir, that such security is given at home. I could not imagine that circumstances at home in regard to Electric Supply Companies are the same as we have in this country. The Local Authorities at home have more powers and are more for the interests of their constituents, and I entirely agree that circumstances might arise there when the Company could not get the advantage from their investments. In this country, those conditions do not apply. On the other hand, the amendment does seem to me to be fraught with danger as far as we are concerned here.

There is an instance at the present moment at Mombasa. The Municipality has a contract with the Company for street lighting at the rate of 65 cents a unit. The period has expired, and the Municipality is negotiating with the Company for a reduction of the rate. On this question, the feeling of consumers at Mombasa is very strong, because I have seen a petition which has been signed by consumers of electric power at Mombasa asking for a reduction, and, in exasperation, they mention in that petition that unless the Company reduce the

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rate they will refuse to have the current and will go back to the old system of kerosene oil lamps. That may be practicable or otherwise, but it is an instance of the feeling of consumers in that respect. When we compare the rates which the Company charges in Nairobi—I have been making inquiries this morning of the Municipality of Nairobi, and the street lighting charges are unfortunately not on a unit basis so that I cannot compare them with Mombasa, but the basis of the rates to private consumers in Nairobi is so low as 30 cents a unit if a certain number of units are used. Naturally, therefore, I must assume that the street lighting rates are lower than that. Now, I put it to this House, Sir, the difficulties of the Mombasa Municipality and the consumers in the event of this amendment being passed or accepted. If in the negotiations we are carrying on the Company does not feel justified in coming down to a reasonable frame of mind—and does not agree to a reasonable reduction, then to-day, under the section as it stands, we are justified in applying to the Governor in Council and asking for a revocation of that licence by the Local Authority, but if this amendment goes through, the Municipality or any other Local Authority has no redress except the goodwill, or perhaps arbitration, or perhaps appeal to Your Excellency in that matter, and I do not think we shall be justified in giving that security to the Company if by that we take away a certain amount of security given to others.

I should like to support the point which the Noble Lord has made in regard to the period of a licence. I think, Sir, in a country like this, forty-two years is a longer period than is justified, and twenty-five years would be quite a reasonable period. The only other point I wish to raise, Sir, is in regard to the amendment to section 91. It is in connection with meters, and the amendment gives the company the monopoly of the supply and hire of meters. I consider this, Sir, will be unfair, because it allows the Company to make a large profit which they ought not to make. I quite agree that recently, after complaints from the public, the company has reduced the rent of meters from Sh. 2 to Sh. 1/50, but I am quite sure from my own experience that this rent still stands at a figure which would pay for the cost of the meter in two or three years. And I also know from my experience that a meter ought to give longer service if it is properly kept. I should certainly give authority to the Company to choose the manufacturer of the meter, and that the meter could only be installed after a certificate from their engineer, but I should think that the option as regards ownership or paying for the meter should certainly be given to the consumer. That aspect of the question does require consideration. I hope, Sir, that these few points I have raised will be carefully considered by

the Select Committee and that they will take into consideration any amendments in the light of the case I have put forward.

THE HON. J. H. SYMONS: Your Excellency, may I support the motion that this amending Bill be referred to Select Committee? I would associate myself almost entirely in general with the remarks of the Noble Lord, the Member for Rift Valley. Nevertheless, with regard to section 3, I would draw your attention, Sir, to the rather peculiar position of the Eldoret Municipality. This Municipality, the last to be served by the Electric Power Company, at the time the licence was under consideration, had power to appeal to Your Excellency, a power which it is proposed to take away under this amending Bill for the full period the licence is running. I would therefore support the motion, that this Bill goes to a Select Committee, in order that an opportunity be given to Municipalities to put forward their case so that if possible mutual agreement may be obtained.

THE HON. T. FITZGERALD: Your Excellency, the observations of the Noble Lord, the Member for Rift Valley, do not call for any comment from me as they are in general support of the Bill. Regarding the observations of the hon. Member Mr. Pandya, I would like to say this in regard to the question of security, that taking home conditions and those in a Colony like this, one would have thought there was a need for greater security under pioneering conditions, that is if capital is not to be affected. He also made various comparisons between conditions in Nairobi and Mombasa. The position is this: each undertaking, although operated by the same Company, has to stand on its own legs, and we have in the Nairobi area more favourable conditions. We have water power to fall back upon; in Mombasa oil which has to be imported, and which is costly, is used. In the matter of protection from the Company, there is the fact that the Governor in Council has power to review the maximum charges made by the Company, and has power periodically to fix those charges. It is felt that that power gives all necessary security to consumers and the general public. The same applies to the question of street lighting. Street lighting must necessarily be cheaper in Nairobi than in Mombasa for the reasons I have stated. There is also the position that if an agreement cannot be come to between the Mombasa Municipality and Company regarding street lighting charges, the matter can go to arbitration, as was recently the case in Nairobi. The Mombasa Municipality can be satisfied that if the matter does come up for consideration, a fair charge will be fixed having regard to the operating costs of the Company.

On the question of meters, the hon. Mr. Pandya has been fair enough to say—I think he did recognize the danger of flooding the country with cheap meters—that meters might be supplied by manufacturers nominated by the Company; that is, that a consumer might be allowed to purchase and install a selected type of meter. There would always be a certain amount of difficulty with regard to maintenance if various makes of meters were permitted, and in regard to meter rents something more than first costs are involved, that is the cost of testing and subsequent maintenance, which is fairly considerable. In the matter of meter rents, the Governor in Council has power to supervise the charge in relation to the cost of maintenance, so that in that regard also consumers and general public are amply safeguarded.

There is only one remark I would make on the observations of the hon. Member for Uasin Gishu, that although the Company has got a licence for 50 years the period for the purpose of the Eldoret Municipality making an application is really 42 years, not that this makes a lot of difference, but it is a point.

On the question generally, I should like to say this, that although the Company have accepted licences under the existing Ordinance there is the question of future development. We all hope and expect that there will be tremendous development in the Kakamega area and a tremendous demand for power which I think can probably be better supplied by electricity than in any other form. If that development takes place, it is certain that whoever may be the promoters of a power scheme in a place like Kakamega, they would be faced with the question of raising large sums of money with which to provide the plant to deal with potentialities in the area, and it is certain that legislation as it stands would have a deterrent effect on the freedom with which such capital could be raised.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. T. FITZGERALD: Your Excellency, I beg to move that the Bill to Amend the Electric Power Ordinance be referred to a Select Committee consisting of the following Members:—

The Hon. T. Fitzgerald (Chairman).

The Hon. T. D. H. Bruce.

The Hon. the Acting Director of Public Works

The Hon. Member for Nairobi North.

The Hon. Member for Ukamba.

The Hon. Shamsud-Deen.

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

HIS EXCELLENCY: The question is, that the Bill be referred to a Select Committee consisting of the Members named by the hon. Mr. Fitzgerald.

THE HON. SHAMSUD-DEEN: Your Excellency, I should like to ask you to leave the question of the personnel of this Committee until after the personnel of the Standing Committee on Finance has been decided upon. You will be conferring a great favour on the Indian Members, Sir, in delaying the matter until then.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I am afraid that I must oppose that for one reason. It is a question of necessity to get this committee together and to get it to work. Why I say that is because we are getting people down from Mombasa, Eldoret and Nakuru to give evidence, and we hope to pass the Bill next week. To postpone the appointment of the committee will postpone the Bill.

HIS EXCELLENCY: If the hon. Member does not wish to serve I am sure the House will agree to his withdrawing.

THE HON. SHAMSUD-DEEN: Your Excellency, I am unable to accept nomination, and I wish to say that in matters of this nature the Indian Members should be selected by themselves instead of being nominated without their consent.

HIS EXCELLENCY: Do you wish your name withdrawn?

THE HON. THE ATTORNEY GENERAL: Your Excellency, with the leave of the House I beg to withdraw the name of the hon. Shamsud-Deen.

The question was put and carried.

THE NATIVE LANDS TRUST (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Native Lands Trust (Amendment) Bill.

As hon. Members are aware, the Bill which they now have before them is the first fruit of the Carter Commission, which I think we all agree has received, at any rate in principle, the approbation of Great Britain and Kenya generally, no matter what may be the individual views on isolated details throughout that Report.

I should explain at once that the reason why the Government is hurrying part of the recommendations of this committee forward and leaving the major part for further discussion in the future is because it is imperative in the interests of the mining industry that in the immediate future Government should be in a position to grant security of tenure. As you all know, at the moment no mining leases have been granted in this Colony, and it is perfectly obvious that anybody who wishes to float a company on the Stock Exchange in England or anywhere else must be able to inform the public that they have some security of tenure with regard to their property.

As hon. Members are aware, this is being done not only in the interest of the companies but also in the interests of the natives themselves. The Carter Commission was given the task, amongst many others, of examining the law in this country with regard to the granting of leases in native reserves. As a matter of interest, at the moment practically the whole of the mining industry of this Colony happens to be in native reserves and there are only two methods which can be used in order to grant mining leases to those companies. The first was the old method envisaged in the original Ordinance, which refers to permanent exclusion of the part desired from the native reserve and compensation being given by way of land, where possible. Unless you could give land under the old Ordinance, and suitable land, there was no possibility of excluding the land required for mining from a native reserve, and it was found in 1932 that that provision was not suitable in this country. The next thing that happened was an amendment which provided for the temporary exclusion of land with compensation, and that you will remember was the amendment in 1932 which caused so much interest to be taken here and elsewhere in the position of natives with regard to mining. As a matter of fact I might state that actually the Government has not found it necessary to exercise its powers under this amending Ordinance and perhaps the reason can be found in this, that almost at the same time as the 1932 Ordinance was being passed, there was being appointed the Carter Commission to consider the whole position. The Carter Commission considered two methods and they have adopted or recommended a third. The third is the one which I am placing before you to-day, and for want of a better name I will call it the "setting-apart" method.

Perhaps the easiest way to understand this new method would be if I took a simple example of a mining company in a native reserve which desired a lease. The first thing that would have to be done by the company would be to put in two applications. They would put in an application to the

Commissioner of Mines and ask for a mining lease and to the Provincial Commissioner and ask for the land which they desired to be set aside in the native reserve for the purpose of mining. The object of that is that if the Commissioner of Mines is not going to grant the mining lease it would be a waste of time to go to the trouble necessary under the Ordinance of setting apart the area required; so that it is necessary first to make these two applications. As soon as the Provincial Commissioner is aware that the mining lease is to be granted in the ordinary way if the land is set aside, then immediately he sets the machine in motion. With the application from the mining company will come a plan of the area desired. This will be referred by the Provincial Commissioner to the Local Native Council and the Local Board. The Local Board is described to you in section 3 of the Bill and is a small Board which has been brought into existence in this Ordinance solely in order to deal with the setting-apart of land in the reserves, and they form a very important unit in the machine which we are setting up. If the Local Board and the Provincial Commissioner are satisfied that the land should be set apart—and I am leaving out at the moment all question of compensation—I will come to that later on—and if that land is under ten acres, the Provincial Commissioner may, immediately, by notice in the Gazette, set aside that land, subject to the compensation section. If, on the other hand, there is disagreement between the Provincial Commissioner and the Local Board, the matter may be referred to the Governor, whose decision in the matter is final. So much for areas of under ten acres.

When you come to areas greater than ten acres, exactly the same procedure is followed, except that the application, having first gone to the Provincial Commissioner and then to the Local Board has to be referred to the Central Lands Trust Board for their approval or otherwise. The personnel of the Central Lands Trust Board at the moment can be found in the parent Ordinance. Whether or not that personnel is going to remain as it is at present is a matter for future consideration and not for us. For the moment that Central Board will be the Board as envisaged in the principal Ordinance. As soon as this Board has considered the application and considered the position with regard to the natives on the land desired—the natives having had an opportunity of expressing an opinion through the Local Board and the Local Native Council—the Central Board either approves or disapproves of the setting aside of that land. If it approves, the land is set apart and a mining lease is issued in the ordinary way. If the Board does not approve, then the matter is referred through the Governor to the Secretary of State, whose decision on that particular point shall be final.

I now come to a small detail. We do not envisage the Board being worried with small areas, and provision is made for them to delegate their powers to the Chief Native Commissioner in regard to areas of 50 acres or under. With regard to possibly the most important part of the Ordinance, the compensation clause, what is envisaged by the Bill is the following. The moment this land has been applied for and the application has been referred to these various bodies of which I have told you, an assessment is made by these people, who will hear all the parties interested in this piece of land and living on it. The Provincial Commissioner is then called upon to assess the amount of compensation which shall be paid by the mining company. That compensation can be divided into two parts. The first part is compensation for disturbance. Any native living on an area of land which is set apart and who is legally damaged in any way by the setting apart of the land, is entitled to compensation for disturbance and compensation due to him as the result of having to move and go to another place, and he will be paid for his huts and crops growing and everything of that description. There is also envisaged in the Report and in the Bill the possibility that there may be—I do not say there will be for a minute—but there may be some native who has acquired some sort of right holding peculiar to himself as apart from the tribe or clan. With regard to that, if the Provincial Commissioner is satisfied that such right holding does in fact exist, he will be entitled to see that the native is paid by the mining company the full agricultural value of his land plus 15 per cent just as if the land were being acquired under the Land Acquisition Ordinance from any one of us present here. In addition, he will get the compensation for the disturbance that I have mentioned before. Every person who is interested, and the mining company, has the right of appeal to the Governor if he is dissatisfied with the final assessment made by the Provincial Commissioner. Those, shortly, are the compensation provisions of the Ordinance.

In addition to that, we come to the rent which has got to be paid by the mining company to the District Commissioner as representing the Local Native Council. The rent shall be paid on the agricultural value of the land which is set apart on their application. That rent will be the fair agricultural rent of land in that district and shall be paid in advance. You may wonder what happens to the rent? What is envisaged in the Bill is this. Before the land is set apart, first of all the compensation I have referred to earlier has to be paid, after a possible appeal to Your Excellency, and also they will have to pay this commuted rent. The amount will depend, of course, on the number of years that the land is asked for and the agricultural value assessed

on that land. We visualize that that Local Board will have as one of their duties the duty of seeing that those natives turned off the land are settled somewhere in their district or that they receive the equivalent value of rent for their land which has been taken away. I may explain that further in this way. If a native is turned off a piece of land and immediately finds in the same vicinity another piece of land of equal agricultural value, there will be no necessity to pay him any part of this rent paid in by the company. If on the other hand that native is unable to find any land, which we believe will be extremely unlikely, and he represents to the Local Board that he has, in order to get land, to pay some person for permission to use land, it will be for the Local Board to give him either all or part of the rent which would be due to him as if he had been the land-holder, so to speak. If as I say, on the other hand he is happily settled as we believe he will be in the near vicinity, we then say that the Local Board shall hand over that rent to the Local Native Council and it will go into the latter's funds for that area. That is the position with regard to the native, who in any event will be well provided for. He will either find land near by in the jurisdiction of the same Council probably, where he will be quite happily settled, having been paid his amount for disturbance, but he will not get any rent unless he is damaged to the extent of having to pay rent to someone else for land on which to live.

With regard to this rent which is paid, should a mining lease be renewed after the term of years for which it was originally granted, provision is made for another 20 per cent to be added to the amount of the rent. That means that if originally the company had to pay commuted rent of £100, if the lease were renewed for a similar number of years on renewal they would have to pay £120 instead of £100. The reason is obvious. If you want a renewal of a mining lease, it indicates that there is something in the land worth having and you are getting it out of the land, and to that extent the Native Council will be able to share in your good fortune.

I might mention at this stage the amendment of which I have given notice. It refers to the temporary exclusion of land which is envisaged in the Report. They do not think it will have to be used very often, but they do recommend we should retain in the Ordinance the right where the natives themselves desire it and where it is practicable to find other suitable land, that the land which in the ordinary way would be set apart be temporarily excluded instead from the native reserve and another bit of land of equal value be

given them elsewhere; the only amount paid in that case would be compensation for disturbance. At the end of the lease, if the mining were not proceeded with, the natives can go back to that land, and provision is made that where the land is damaged in any way they will have an equal amount given them as compensation for the land damage. I may mention in this connection also that these right holders to whom I have referred will also receive special consideration, and can be bought out if it is proved they are right holders, and if they have any particular right to the land they can be paid in full or can go and live on the land temporarily granted by Government for their occupation; in due course, when the lease falls in, they can go back on their original land. That will be absolutely on their option.

I think, Sir, this House will be satisfied that the natives are being treated generously in this matter, that they are going to receive complete compensation for moment. In view of the fact that land at the present Kenya is not unfortunately of a very high rate of value, I do not think that you will find that any mining company will have minded of them in this Bill. It sounds a great deal if you read it through section by section and that they have to pay this and that, but if you calculate the exact amount that a company will have to pay I think you will agree with me it will not be very serious item. I do not think, Your Excellency, that there are any other provisions to which I should call attention. Provision is also made for the distribution of the lump sum due to the natives by the company in instalments should the Provincial Commissioner think fit. This of course is to protect the native from squandering his small fortune.

I beg to move the second reading.

THE HON. T. D. H. BUTER: Your Excellency, I beg to second the motion.

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

THE HON. CONWAY HARVEY: Your Excellency, it is highly problematical whether this legislation would have been necessary at all had the advice of the European Elected Members been heeded when the original Bill was under discussion in 1930. Those hon. Members present at that time will have very clear recollections of a somewhat prolonged debate, Sir, and I think I can safely say that our representations were most

favourably and sympathetically received by the Kenya Government. However, Sir, a deadlock arose on more than one occasion, and a prolonged series of cables was sent to the then Secretary of State for the Colonies. He was adamant in his rejection of the advice of those who know the country, who visualized that the need would inevitably arise, such as has now arisen, for amended legislation. Nevertheless, in spite of that, European Elected Members support the principles of this Bill, because, Sir, they share the desire of the Morris Carter Commission to secure the confidence of the natives to the fullest possible degree, and to secure to the native land owner the full and unfettered enjoyment of his tribal land. There are, however, one or two points in this amending Bill which I think can quite properly form the subject of closer examination by a Select Committee to which I trust Your Excellency will agree.

The first point I would like to mention, Sir, is in connection with the personnel of the Local Board which has already been referred to by the hon. and learned Mover. As you will notice, Sir, it does represent a very big change from the Local Board appointed under the 1930 Ordinance which, in addition to official and native representation, made provision for one unofficial Member to be nominated by His Excellency the Governor. Now, Sir, it is fairly obvious to all of us who know Kenya and Kenya conditions, especially as they exist in the native reserve, that there must be many unofficial gentlemen of the settler community who are very highly qualified to assist in this very important work, part of which, as the hon. and learned Attorney General said, embraces the problem of settlement and valuation. I suggest with all due respect that administrative officers are not the monopolists of all wisdom, anyhow until they reach the rank of Provincial Commissioner (laughter), and that it would be very much in the interests of the natives and Government and everyone concerned with a square deal that Government should reconsider its decision to cut out the advice of unofficials who might be helpful in this connection. It does represent a complete negation of the principle laid down by the Secretary of State for the Colonies a few years ago, that settlers should be more closely associated in exercising the trusteeship which we hear so much about from time to time.

Another point, Sir, assuming that it is highly desirable, we all agree, to get the goodwill of the native to secure and maintain his confidence and give him security, I suggest that the settler who has lived among them for perhaps 30 or 40 years and who knows him well, will gain his confidence to a much greater degree than the Serkali whom he never sees except when he comes along to extract his poll tax. (Laughter.)

That is not the way to get his affection or his confidence, Sir. One other point might be looked into. In order to achieve what is highly desirable, a somewhat lengthy and cumbersome procedure has been laid down by Government. If that is absolutely necessary it must stand, but it is very very important indeed we should do everything reasonably possible to expedite this measure and any other measure that tends in the direction of issuing mining leases, for the reasons so clearly expressed by the hon. and learned Member. I trust, Sir, you will agree to the appointment of a Select Committee, and accept my assurance that the European Elected Members quite unanimously support the main principles of this amending Bill. (Applause.)

THE HON. R. W. HEMSTEN: Your Excellency, as the hon. the Attorney General has explained the whole question so very clearly, I have very few comments to make so far as the interests of the natives are concerned; but I have one comment vinctual Commissioner may set apart additional land to that originally set apart, but it does not state the extent of that additional land. If the Provincial Commissioner may set apart such additional land in excess of ten acres it would appear to be a departure from the recommendations of the Land Commission, but if he is limited to ten acres I do not quite see the necessity for the provision except in so far as to make the total area so set apart more than ten acres. The Land Commission did not specify the numbers of areas of ten acres which the Provincial Commissioner could set apart, and I hardly see how it would be possible to lay down any limit. I think it is a matter which must be left to the discretion of the Provincial Commissioner and personally I would be quite content to leave it at that, Sir.

There is one other point: I am not quite clear about the position in the case where land set apart may be partly subject to right-holding and partly not. In the former case the right-holders are to all intents and purposes entirely bought out, but in the latter case the commuted rent is payable in accordance with section 39 (2). I should like to know, Sir, what will be the position on the expiry of the mining lease. Would it be that the whole area on the expiry of the mining lease would revert to the native reserve or only such portion in respect of which the commuted rent had been paid?

In conclusion, Sir, I would say these are the only comments I have to make in regard to the provisions of the Bill, but I think the interests of the natives have been very fully safeguarded and they have been treated in a very fair, if not generous, manner in regard to this Bill. I beg, Sir, to support the Bill.

THE REV. CANON THE HON. G. BURNS: Your Excellency, there are just one or two points that I should like to draw the attention of the House in regard to this Bill. The first point is in regard to the composition of the Local Board as set forth in section 9 (b) and (c). First of all, there are to be nominated members of the Local Native Council selected by the Provincial Commissioner, and then, in (c), two elected members of the Local Native Council, one of whom shall be selected by the Provincial Commissioner and one by the election of the Local Native Council. My criticism, Your Excellency, of that section is this: that seeing the Governor in the person of the Provincial Commissioner has already nominated two members on to that Board, I think it would be a gesture that would be appreciated by the natives if the other two members who are to be elected to that Board were elected by the Local Native Council themselves. I throw out that suggestion, and I think it would be helpful from the point of view of tending to establish the confidence of the natives in the belief that we are really trying to give them an absolutely fair deal and allow them to have a say in this matter.

One other criticism I should like to make occurs in regard to section 29 of the Bill. The section reads thus:

- "(a) prior to the making of the application to the Provincial Commissioner for setting apart an application for the grant of a mining lease in respect of such land must have been duly lodged with the Commissioner of Mines;
- (b) the proposal to set apart such land must have been brought to the notice of the natives concerned and to the notice of the Local Native Council having jurisdiction over such area, and such natives and such Local Native Council must have had an opportunity of expressing their views upon the proposal;
- (c) the Local Board concerned must have been consulted and representatives of the location or section concerned must have been co-opted as additional members of the Local Board for the purpose of expressing their views upon the proposal."

After they have given their advice it does not seem to me to be quite clear what effect those views may have upon those who have to deal with the matter afterwards. After they have expressed their views, will those views carry much weight about the setting apart of that specific area with which they have been dealing? I would like to bring that also to the attention of the Select Committee which may be dealing with this matter.

With regard to the necessity of having an area of land whereby the natives can be told, "Your land is being taken from you. We want this land where you are now living. We are going to pay you full compensation"—and I should like to pay tribute to the very generous way in which the question of compensation is dealt with under this Bill. You would be able to say to the native: "The Government has seen well to set aside an area of land, whatever the area may be, not 100 miles away on the foot of Mount Elgon, but not contiguous to your own reserve, where, if you prefer to go and take an area equivalent to the area to be set apart from out of your place, you are quite willing to do so." But that area, I suggest, Sir, it should be the business of Government to have the land set aside as soon as possible, so that, if this Bill is passed, those in authority would be able to say to the native: "There is the area I mean. You can have an equal area of land in that section if you wish to do so."

The idea in the Report of the Carter Land Commission appeals to me very much that the land to be set apart should be the forest area on Mount Elgon and the other area contiguous to the North Kavirondo Reserve and that, when the mining operations come to an end, the area should be returned again to the Crown and the area of land in the native forest reserve should become part of the forest reserve.

With regard to compensation, I am in entire agreement that the money should be paid to the District Commissioner because if it were a matter of paying an individual native, you would have to increase your staff by 20 or 30 officers or more. The District Commissioner will be able to understand the position and the Board will be able to work out the amount to be paid and to whom such money has to be paid.

With these few criticisms, which I hope will be dealt with in Select Committee, I will support the Bill.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I rise only for a moment or two because I think I would like and I feel hon. Members on this side of the House will agree with me—to support very strongly what the hon. Member for Nyanza has said in regard to the formation of these Local Boards. I am aware, Sir, that it is the general recommendation of the Land Commission that Local Land Boards in future should consist of natives only, under the chairmanship of the District Commissioner. For the reasons the hon. Member for Nyanza has pointed out, which I will not repeat, hon. Members on this side of the House will undoubtedly disagree with that recommendation, but for the purpose of this particular Bill, Sir, I would like to add that I really cannot

see the necessity for Government taking the trouble to constitute a new form of Local Board to deal with these matters. It does seem to be a quite superfluous act on the part of Government. One of the most important duties of these Boards will be the assessment of the agricultural value of the land for the purpose of compensating right-holders and assessing the agricultural rent to be paid. There is one class of person in this Colony which is professionally qualified to advise Government on the subject of the agricultural value of land, and that is the settler class, who are professionally engaged in the economic development of that land: and it seems amazing to suggest that Provincial Commissioners and District Commissioners and the natives themselves should for this important purpose be deprived of the possibility of obtaining that advice where it is available. Furthermore, I would like to draw the attention of hon. Members to the composition of the Local Board as it exists at present, which it is intended to amend for the purposes of this Bill. It consists of the Provincial Commissioner as Deputy Chairman, one European Unofficial Member, with the power to co-opt another European to advise if necessary—possibly such an officer as an Agricultural Officer, who may be of great value in certain circumstances—and an African Member, with power to co-opt an additional African as a member of the Board. It is possible for this particular purpose that that might be required when you come to a question of the distribution of compensation or commuted rent.

If one considers the composition of that Board, Sir, one cannot see any object in including section 3 in this Bill, and if I may so put it, it is, as it were, stealing a march on hon. Members on this side of the House in the matter of carrying out these recommendations of the Land Commission in regard to the Local Board. It is a matter which one would hope to discuss with Government more fully at a later date, when discussing the recommendations of the Carter Report, and I do suggest that the Select Committee, if Your Excellency sees fit to appoint one, when examining this Bill, should take into consideration this quite unnecessary appointment of a new form of Board for the purpose of carrying out the very desirable portions of this Bill, which otherwise has our strong support.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, as one who has been closely associated with the work incidental to the introduction of this Bill before the House, I would emphasize that no effort has been spared and no safeguard has been omitted which should protect native interests, and to secure them against avoidable hardships. The hon. and learned Mover has covered the main features of the Bill so ably that he has left very little for me to say, but

I would refer, Sir, to the remarks of the hon. Members for Nyanza and Ukamba in regard to the constitution of the Local Boards.

One of the main criticisms of natives in regard to Local Boards under the existing Ordinance is that they are really not representative of natives. In saying that, Sir, I would like to pay my tribute here to the excellent work done hitherto by the European members of the Local Boards. Their work has been indeed valuable. But that criticism has been offered to the constitution of these Boards, and I think it is right that the recommendation of the Land Commission Report in regard to this matter should be carried out. It has been stated that the settlers are the best qualified to advise as to the values of land, but I would also mention, Sir, that there are other persons in the native reserves, and I refer to the agricultural officers, who are probably equally qualified to give such advice.

The only other point which I wish to mention is in regard to the three alternative methods in dealing with the land exclusion and permanent addition. The first is the permanent amendment to which the hon. and learned Attorney General has made reference, namely, the temporary exclusion with a temporary addition; the third is the setting-apart. I would make it quite clear, Sir, that as far as the natives are concerned, the third method, the setting-apart of the land, is the one which the vast majority of them would prefer. Those who know the natives will agree with me when I say that the vast number would prefer the retention of the right to return to the land in the future, however remote that future may be, rather than surrender forever their right to the land to which they believe themselves bound.

THE HON. ISHER DASS: Your Excellency, the hon. and learned Mover, the Attorney General, gave us reasons that it was absolutely essential to provide security to those who are investing very large capital in mining industries in this country, and that no leases have up to the moment been granted. He also told us that as far as is humanly possible, he has done everything in his power to safeguard the interests of the native in this Bill, and he has also told us that the natives have been very generously treated. That is one version. On this side of the House the hon. Member for Nyanza has informed us that he supports the Bill, because everybody is anxious to win the confidence of the natives by providing them with all kinds of safeguards in their interests. In addition, Your Excellency, the hon. Member representing native interests also assured us of the same thing. But I should be permitted to say the truth, the absolute naked truth, that

yesterday, on the floor of this House, the representatives of the natives came to me and told me the least possible assistance to their cause would be to delay the bringing in of this Bill or the implementing of any of the recommendations of the Carter Commission until they had full opportunity of discussing or digesting so big a volume as this Report is. That is their version. In view of that statement, Sir, coming direct from the people themselves, I do not think that they are being treated generously. One thing I do certainly agree with them, and that is that there would have been no harm if the matter could have been delayed for three or four months. After all, these people are not highly educated, and a delay of three or four months could certainly do no harm to anybody. Those people who have invested money know the conditions of the country well. Surely they could wait another three months.

I am also given to understand, Your Excellency, by the hon. and learned Attorney General that it was essential to provide security with the least possible delay. May I point out to him that there are other people who also happen to have their money invested in native reserves in one way or another. Those people have all along been asking for leases, and no action seems to have been taken in providing proper security for their capital. When I say that, I refer to the millers who have invested money in mills situated in the native reserves. I am sorry to raise this point, Sir, because the hon. and learned Attorney General did say that because these mining leases are situated in the native reserves they should be protected. I do not wish to take up the time of the House, Sir, but I wish to contradict the hon. Member Mr. Harvey when he said that two years ago the policy declared by Government was that the settlers should be allowed to have a bigger share in the trusteeship . . .

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, those were not the words that I used.

THE HON. ISHER DASS: Certainly the hon. Member used the word settlers, Your Excellency, and I challenge him that by the word settler he did not mean immigrant races. I would not raise an objection to the word settler, if it means anybody settling in the country. That is all I have to comment on. But, as I have said, Sir, these people have approached me themselves, and I say the least that Government could do for these people is to delay this matter until they have had an opportunity of studying the whole Report before the recommendations are put into operation.

THE HON. SHAMSUD-DEEN : Your Excellency, the Indian Elected Members Organisation have decided generally not to speak on matters where the natives of the country are interested unless it is very important indeed. I should ordinarily have kept quiet on this Bill, Sir, but for the sake of one or two small points on which I feel somewhat doubtful in my own mind. One is regarding the constitution of the Local Board. If any alteration is going to be made, unless that it should be constituted in such a manner that it should be representative of all capable of looking after the interests of those people who have capital invested in the native reserves. That is the only point I wish to make clear.

I understood that the Report of the Commission was going to be debated in a session of the Council, but now I see we are making a piecemeal job of it by dealing with a part of the Report in the form of the present Bill. I hope that that practice will not be continued, because I wish to say a lot of things on this Report. The only other point, Your Excellency, is this: that we can go on arguing as long as we like and complimenting each other for the introduction of this Bill, but we cannot get away from the fact that only three years ago we passed a Bill in which we assured the native population of the Colony that that was the last law which was going to be passed in this Colony, and that the native reserves were to be reserved forever for the natives. No amount of argument in this House can do away with the fact that the natives are feeling that under the pretext of mining or other public works such as electrical works and various other things we are tinkering with the native reserves. Personally, I am in favour of developing the mineral resources of the Colony, and it is absolutely necessary that the miners must have leases and security, but we are up against that trouble, and unless we make it absolutely clear by introducing some other clauses that it is not meant by Government to tamper with the boundaries or to alter what was given to them forever, then we are going the wrong way. We must remove that suspicion which still exists among the natives, Sir.

The Hon. H. R. MONTGOMERY, Your Excellency, there are two points on which I may be able to give an answer, or a partial answer, to hon. Members. One is on the question of the Local Board. As I see the position it is that the amendment bringing in the composition of the new Local Board is made necessary in order to carry out the recommendations of the Commission. If you leave the composition of the present Board in the Bill, you would have to reconstruct the whole. Certain power is given to the Provincial Commissioner, and the Board which is proposed is advisory to him.

He is not chairman of it, as he is in the present Board. I think we can take it for granted that, when the question of assessment of land values arises, the Provincial Commissioner is most certainly going to take the advice of anybody he can find who is competent to do so. I may have something to do with these matters, and I certainly would seek advice wherever it could be obtained.

The hon. and reverend Member representing Native Interests raised the question of what consideration would be given to natives who are consulted under the provisions of clause 29. I suppose the answer is that as regards the setting apart of land, any objection they have would not carry very much weight, but where their views would be valuable is whether the amount of compensation, as assessed by the Provincial Commissioner, would be, in their opinion, fair, and on the one point which the hon. the Attorney General mentioned, which I think in one small respect did not entirely meet the case, the question of computed rent. He did say that rent would be paid to the Local Native Councils, unless the natives had to pay money to acquire the right to occupy land, and that it would not be paid to him if he moved to land added to the reserve for the purpose. But I think he must also get a rent if he moves on to another portion of his own land and settles there. If he moves a couple of hundred yards, still on his own land, he would be entitled to the rent. I think I have nothing more to say on that.

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, I think that every point raised by hon. Members really is for Select Committee consideration, but there are just one or two things I would like to mention before we go into Select Committee. The first is in regard to the accusation of the hon. Member for Nyanza that this is a very cumbersome procedure. Well, I can assure him that it is a procedure which took me, with the assistance of many other Government officials, about three weeks of hard work. We endeavoured to discover every possible means of shortening it, and if we are to follow the recommendations of the Carter Commission, this is the only procedure that I can recommend to you. If we were going to cut out the recommendations of the Carter Commission and go on our own, then possibly we might be able to find something which is a little shorter.

With regard to the Local Boards, you have already heard from the Provincial Commissioner, Nyanza, the reason for their existence, and when you think of the task which they

will have to perform, as they come between the Provincial Commissioner on the one hand and the native on the other, I think it is absolutely essential that the Board should be composed principally of natives themselves. If you are to have the confidence of the natives you must have a Board where they are in the preponderance of representation. The District Commissioner will merely be their chairman. He might lead them to think in the right direction, but the decisions are all going to be theirs, and I think it would be a fatal thing if we were to introduce other interests on to that Board when we are only dealing actually with natives themselves in the native reserves.

With regard to the point about this land being taken out of the reserve, I think the hon. Member has entirely missed the object of this Bill, which is to preserve the reserves intact. The reserves remain exactly as they are, but a certain portion is set apart for a certain time, during which time mining operations will take place. There is no question of excluding that land from the reserve whatsoever except under the particular sections that I mentioned earlier on. There might be temporary exclusion, where they are given land elsewhere, but that is the other procedure which would not be touched at all. The point made by the hon. and reverend Canon Burns with regard to the representations which would be made by persons interested, where he quoted from the section which says that the persons concerned should be informed, the procedure that I visualize will be that the persons living on this land which is to be set apart will be informed that it is proposed to set apart this land, and the various provisions in regard to compensation, etc., will be explained, and they will be asked if they have any objection. If so, they will be able to air their objections to the Local Board, which will consist of the District Commissioner and four of their own people, and they will be able to put their case up to them as strongly as possible, and then it will be for the Local Board to carry that case further if there is any substance in it. What better people could you have to consider objections or whatever it may be? If the Board think the objections are trivial nothing further will be heard about them. If they do not think they are trivial, the Board will say: "Yes, we think there is a lot to be said for what these people living on the land have to say." They will then report to the Provincial Commissioner and it will be for him to decide whether the land shall be set apart or not—and I have already referred to the right of appeal to Your Excellency.

I do not think there is much else for me to reply to except to say that Your Excellency does intend to refer this Bill to a Select Committee.

With regard to the point that European settlers are such excellent people at valuation, I have no cause to complain but I think it is generally thought to be a very good thing to call an expert witness instead of having an expert judge. It is an old proposition of law that you do not take the man who knows the case to try the case but that you let an independent man try the case and call in experts to guide him, and I have no doubt that opportunity will be given to call in experts to give advice on the valuation of land in the various districts.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Native Lands Trust (Amendment) Bill be referred to a Select Committee consisting of the following Members:—

The Hon. the Attorney General (Chairman).

The Hon. the Acting Chief Native Commissioner.

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

The Hon. E. B. Hosking.

The Hon. Member for Nairobi North.

The Hon. Member for Nyanza.

The Hon. N. S. Mangat.

The Hon. R. W. Hemsted.

THE HON. THE TREASURER: I beg to second the motion.

THE HON. N. S. MANGAT: Your Excellency, I sincerely apologize to the hon. and learned Member, but for reasons very similar to those given by the Hon. Shamul-Deen on the last motion I beg to withdraw my name.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with the permission of the House, I will ask leave to withdraw the name of the Hon. N. S. Mangat from the personnel of the proposed committee.

The question was put and carried.

The Council adjourned till 10 a.m. on Thursday,
26th July, 1934.

THURSDAY, 26th JULY, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 26th July, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BRUSE, 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 25th July, 1934, were confirmed.

PAPER LAID ON THE TABLE.

The following paper was laid on the Table:—

BY THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. J. C. STRONACH):

The Annual Report of the Public Works Department for the year 1933.

NOTICE OF MOTIONS.

THE HON. W. G. LILLYWHITE: Your Excellency, the motion standing in my name on the Order of the Day is to take the place of the Notice of Motion appearing on the Order of the Day on Tuesday last. It is a revised motion.

ORAL ANSWERS TO QUESTIONS.

DAILY SICK LIST, NAIROBI PRISON.

No. 62.—BY THE HON. J. B. PANDYA:

"Has the attention of the Government been drawn to the fact that the daily average sick list in Nairobi Prison during the year 1933 was the largest in the whole Colony?"

If the answer be in the affirmative, will Government state reasons for same and the steps Government proposes to take to improve the condition?"

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): Nairobi Prison has by far the largest daily average population of any prison in the Colony and its inmates have been drafted from all parts of the Colony, and normally has in consequence a higher daily average sick list than other prisons in the Colony.

In point of fact the percentage of prisoners upon the sick list during 1933 was 5.25 per cent; this is the lowest, during

the past four years. For the information of the hon. Member I may add that this figure is considerably lower than the relative figure for all prisons in England and Wales during 1933.

NON-PAYMENT OF POLL TAX BY ARABS.

No. 61.—By THE HON. J. B. PANDYA :

"Is it a fact that during 1933, 111 Arabs at Mombasa and 104 at Lamu were sent to prison for non-payment of Poll Tax?"

"If the reply be in the affirmative, will Government state what amount has been collected from them after sending them to prison?"

THE HON. THE COLONIAL SECRETARY: The reply to the first part of the question is in the negative. The actual numbers of Arabs who were sent to prison at Mombasa and Lamu for non-payment of Poll Tax in 1933 are 62 and 93 respectively.

A sum of Sh. 700 was collected from these 145 Arabs after imprisonment.

COMMITTALS TO PRISONS.

No. 64.—By THE HON. J. B. PANDYA :

"Has the attention of the Government been drawn to the fact that in comparison to 1929 the total number of committals in 1933 have increased by 100 per cent and lately in Nairobi Prison, is necessary?"

If the answer be in the affirmative, will Government state what steps are being taken to provide necessary accommodation and when it is likely to be available?"

THE HON. THE COLONIAL SECRETARY: Government is fully aware of the position, which is not so grave as the question suggests. The number of committals cited refers to committals to Detention Camps as well as to Prisons. Moreover, when consideration is to be given to the question of accommodation, the figures representing the daily average population of the Prisons are of more importance than the number of committals.

The daily average population of the Prisons in 1929 and 1933 was as follows:—

1929	1933	Actual Increase	Percentage Increase
2,329	2,693	365	24.27%

The consequent overcrowding is being relieved by the establishment of temporary Prison Camps in places where there is sufficient work available for the employment of prisoners.

Two such camps are already in operation. One of these is situated at Maragua River near Fort Hall. It has accommodation for 120 prisoners who are employed upon road work under the direction of the Executive Engineer, Public Works Department. The prisoners confined in this camp are all first offenders.

The other camp, of more permanent construction, is situated at the Ngong River Concrete Works of the Kenya and Uganda Railways and Harbours. This camp accommodates 220 medium and long term prisoners who are employed by the Railway Authorities in quarrying and ballast breaking.

The establishment of two more Prison Camps is under consideration at the present time.

POLICE ESTABLISHMENT, COAST PROVINCE.

No. 68.—By THE HON. W. G. LILLYWHITE :

"Will Government inform the House as to the total number of police allotted to the Coast Province, excluding Mombasa District?"

THE HON. THE COLONIAL SECRETARY: The authorized establishment of police in the Coast Province, excluding Mombasa District (as gazetted on page 57 of Vol. I, Subsidiary Legislation, Laws of Kenya), totals 63 African Subordinate Officers.

LAND COMMISSION RECOMMENDATIONS.

No. 72.—By THE HON. ISHUR DASS :

"Will Government please state if they have received a copy of the telegraphic representation made to the Secretary of State for the Colonies, London, in the name of the Kikuyu tribe for the postponement of implementing any recommendations made by the Land Commission until the Africans have the opportunity of studying the Report and make any further representation to the Secretary of State for the Colonies?"

If the answer to the above is in the affirmative, what action the Government intends to take?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): The answer is in the negative.

MOTIONS.

APPOINTMENT OF STANDING FINANCE COMMITTEE.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I rise to move the motion standing in my name on the Order of the Day:

"Be it resolved that, in accordance with Standing Rule and Order No. 31, a Standing Finance Committee be appointed for the remainder of the life of the present Council for the purpose of considering and reporting upon the annual and supplementary Estimates of Revenue and Expenditure in accordance with the procedure laid down in Standing Rule and Order No. 32, and of advising the Governor upon such other financial questions as His Excellency may from time to time refer to it."

The Standing Finance Committee shall consist of:—

The Hon. the Colonial Secretary (Chairman).
The Hon. the Treasurer.

The Hon. Chief Native Commissioner.

Lt.-Col. the Hon. Lord Francis Scott.

Major the Hon. F. W. Cavendish-Bentinck.

The Hon. Conway-Harvey.

The Hon. J. B. Pandya.

The Hon. R. W. Hensted."

I think, Sir, in view of the debate which we had yesterday on the Select Committee report on the motion for the amendment of Standing Rules and Orders, that it is unnecessary for me to make very many remarks upon this motion. The principle of the appointment of such a Standing Finance Committee was really adopted yesterday at the time that this Council adopted that report, and I know, Sir, that it is a matter of particular gratification to yourself that the principle of setting up such a Finance Committee should have been adopted unanimously, both on the recommendation of a unanimous report and by a unanimous vote of this House.

I think, Sir, it is particularly important that perhaps I should just stress that point at this juncture because it has been suggested, or it was suggested at one time, that the appointment of such a committee might be in some subtle way undermining or modifying the existing constitution of this country. That, I need hardly say, is in no sense the case. Furthermore, I am sure the Noble Lord, who I know is anxious to second the adoption of this motion, in himself putting forward to Government the suggestion that some such finance committee should be set up, wished to make it quite clear that on their side of the House, in putting forward that suggestion, there was no intention of in any way departing from the last announcements which have been made, both here and at home.

on the subject of what has been known as "constitutional advance"; but he did suggest that a committee of this sort would give the Government a signal opportunity of implementing the statements which we have so often made that we were most anxious and desirous of obtaining the maximum of co-operation with unofficial opinion in this Council in all ways that we could properly do so within the bounds of the constitution.

The position, therefore, Sir, as regards this committee is, I think, briefly this: that in so far as Estimates are concerned, it is by agreement of all the Members of the House that we should give a trial to this Finance Committee taking the place of the usual Select Committee of all Members which examines the Estimates and reports to the Council from time to time. Further, that in the same way they should deal with any supplementary estimates that may be presented in the course of the year. In addition, owing to the amendment which, it will be remembered, I moved yesterday so as to make it clear what the position of this Finance Committee was, it will be regarded as being in continual session and therefore you, Sir, will be in the happy position of having a committee which during the life of Council will have been actively engaged in scrutinizing Estimates and keeping the whole financial position of the Colony under review. In that way you will have such a committee always in session to which you will be able to refer in matters of major financial importance for advice. I need hardly stress the fact that in that capacity this committee is naturally advisory in character and that the existence of such a committee does not in any way affect the position of the Executive Council which, under Royal Instructions, is the principal body which Your Excellency is bound to consult on all matters of major policy which in your opinion you consider should properly be referred to it.

So much for the principle of the appointment of this committee which, as I have just said, on the Government side we are most happy to know is being supported by the unanimous opinion of this House. The only other matter, to which I think I should refer is the question of personnel. In that, too, I am happy to say we have equally arrived at general agreement with but one exception. The exception to which I refer is the matter of Indian representation.

I am sorry, Sir, that it should be necessary for me to refer at any length in this House to matters which I think are more or less purely of domestic interest to the Indian community, but as I feel there is a danger that the Indian electorate at large, whose interests are very much involved in these matters, will not be fully informed of the course of events unless I state them here quite clearly in Council, I will ask the in-

dulgence of the House for referring to matters of detail which in my opinion ought never to have to be discussed upon the floor of this Chamber.

The position is this, Sir, that during the course of conversations that you had with the Indian Elected Members of this Council when this Standing Finance Committee was under discussion you made it clear that at that stage the actual personnel, or rather the numerical numbers of the personnel had not been decided, but you equally made it clear that whether the Indian representation was to be one or two you felt that the first Member who should have a seat on this body was Mr. Pandya. Your selection of Mr. Pandya was based on the fact that he is well known to be a business man with business experience, a knowledge of finance, chairman of the Federation of Indian Chambers of Commerce, and without in the least casting any reflection upon the abilities of the other Indian Members you felt that or a Finance Committee he was the best selection that you could make. My recollection, Sir, of that meeting—and I know it to be yours—was quite clearly this: that the Indian Members acquiesced in the appointment of Mr. Pandya, but that certain of them considered that there should be a second Member, and that the discussion as to who that second member was to be did not proceed further at any length. Subsequently, as a result of further consideration of the question, you decided that in the present circumstances you considered that the appointment of one Indian Member to this committee was adequate and desirable, and though, Sir, you realized that the Indian community might possibly be disappointed that their representation was confined to one instead of two, you never anticipated that there would be any objection, in the event of one member being appointed, to Mr. Pandya's name being put forward. Unfortunately, Sir, your anticipations in that regard proved to be incorrect, as only two or three days before the meeting of this Council I received a letter—which I passed on to you, Sir—from Indian Members stating that for reasons which I can really only regard as personal ones and not reasons which really should be brought forward in this House at all, the Indian Members, while maintaining their position that they would like two Members if possible on this committee, intimated to Your Excellency that, if you decided that only one should be appointed, they retreated from the position—four of them reported from the position that Mr. Pandya's name should be accepted, and another name was put forward. It need hardly say, Sir, that, both as you are to make an appointment which has not been made with the general approval of all the Indian Members, you must be guided in a matter of this sort by your discretion in choosing a man who in your opinion is most likely to serve the interests of the Indian community as a

whole, and, as I have already said, for this particular committee, dealing as it will be with financial problems, Your Excellency has no doubt in your own mind that the man who will best serve the interests of the Indian community is Mr. Pandya. Those, Sir, quite frankly stated are the facts of this rather peculiar proceeding, and I would only make one further appeal, if I may, to the Indian Members. Hon. Members will have observed from yesterday's proceedings that, owing to this rift in the Indian lute, two Members whose presence would have been of great value to the Indian community on Select Committees of this House declined to sit. There are further committees which it is proposed should be appointed in the course of this morning's business. On each of these the Government proposes to appoint an Indian Member, and in making the selection we have endeavoured to appoint a person for the particular Bill on which we think he can best advise in the interests of the Indian community; and I would suggest to Indian Members that they should remember that once they enter into public life they have got to serve the public and sink their personal jealousies; and if, as a result of this internecine warfare the Indian community, after a long period of non-co-operation, is to be deprived once more of having a proper voice in the proceedings of this Council, I consider they will have a very heavy indictment to answer to their constituents.

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

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

HIS EXCELLENCY: The question is:—

"Be it resolved that, in accordance with Standing Rule and Order No. 51, a Standing Finance Committee be appointed for the remainder of the life of the present Council for the purpose of considering and reporting upon the annual and supplementary Estimates of Revenue and Expenditure in accordance with the procedure laid down in Standing Rule and Order No. 52, and of advising the Governor upon such other financial questions as His Excellency may from time to time refer to it.

The Standing Finance Committee shall consist of:—

- The Hon. the Colonial Secretary (Chairman).
- The Hon. the Treasurer.
- The Hon. the Chief Native Commissioner.
- Lt.-Col. the Hon. Lord Francis Scott.
- Major the Hon. F. W. Cavendish-Bentick.
- The Hon. Conway Harvey.
- The Hon. J. B. Pandya.
- The Hon. R. W. Hemsted."

THE HON. SHAMSUD-DEEN: Your Excellency, I feel that I ought to make it clear from the very outset that no personal jealousy is involved in the matter at all. There is certainly a feeling of very great jealousy as regards the right of the Elected Members. The Indian Elected Members generally feel that the Government have, after giving very good advice to the Indian Members from the Chair to unite and organize themselves into an organization, interfered with what was quite rightly described as a domestic affair of the Indian Members. I can assure this House that there is no personal jealousy whatever. We consider the hon. Member Mr. Pandya to be one of us, and there is no doubt about his ability; we have the greatest respect for him. But it is a most obnoxious method introduced by Government themselves as regards the choice of members of any Standing or Select Committee, that is very galling indeed to the Indian Elected Members. It is rather strange that after the Indian Elected Chair, and the prompt answer by the hon. Member, Mr. Mangat, that Government should not presume Indian Members incapable of organizing themselves into an organization, that Government should deliberately go and declare in very enigmatic terms their resolution to appoint the hon. Member, Mr. Pandya. Such a method precludes all possibility of complete unanimity and unity in the organization. The advice when it came from the Chair was very welcome indeed and appreciated, but the moment we begin to act on that advice the Government creates a dissent by calling on a Member separately and giving him the promise that he shall be nominated on this committee. That we consider, Sir, is an infringement on the inherent rights of any Elected Members. As far as the hon. Member, Mr. Pandya, is concerned, we had two long meetings, and we promised him, or in other words, we were quite prepared to bribe him by promising him he would be appointed to this Standing Committee provided he joined in our organization, but the only reason, Sir, why he has remained out is because he has been encouraged by Government and given the impression that he stands to gain much more by standing on the side of the Government rather than by joining his colleagues in this organization.

The Indian Elected Members certainly think this is really the beginning of a very dangerous method by which the Government, who are already in the majority, are enlisting in their ranks one of our Members by giving him the promise that they had no business to do, and which should be the business of the Indian Elected Members themselves. I have heard it said that it is the business of the Government to look after the interests of the Colony as a whole, and as a result of that they thought they must offer this appointment to the hon. Member, Mr. Pandya. I say with all respect, Sir, that whereas the

Government is responsible for the welfare of the whole Colony, the Elected Members are also responsible to their constituents in putting up the best representation they can on this Council. We stand in the position of advocates, and any one of us who, instead of representing the cause of those constituents, goes and flirts with Government, actually places himself in the same position as an advocate who colludes with the opposite side. I submit again, that if Government had left the method of choice to the Elected Members, the disruption of the organization would have been avoided and the Indian Elected Members would have recommended the hon. Member Mr. Pandya. As regards that point, I propose to move an amendment at a later stage, but I wish to say one or two things about the personnel and composition of this committee.

As I understand it, the object is to reduce the numerical strength of the unofficial representation on the committee which did the work before. I am not against it, Sir, I think it is in the interests of economy and that it is a very good thing. But there is one legal aspect, a technical point probably, which I wish to bring before the House. Your Excellency said yesterday that the Standing Orders as amended will have to be referred to the Secretary of State for the Colonies for approval or otherwise as with a Bill. I think it is rather premature, before these Standing Orders in their amended form have received that approval, that any committee should be appointed under these Orders. That is one point to which I wish to draw the attention of the Government benches. The second is, that although the House has practically approved of such a committee, I do not think it was made quite clear that the appointment of the Members was going to be for the life of the Council. That is a point we should like you to consider, Sir, whether the appointment cannot be made from year to year.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, that does not arise on this motion; that was passed yesterday.

HIS EXCELLENCY: The hon. Member is going a little beyond the motion, but I do not want to restrict him too much.

THE HON. SHAMSUD-DEEN: Your Excellency, if you rule that I am going beyond the actual subject I will not go any further, but I do think that this question of the appointment being for the life of the Council is one that ought to be more definitely considered.

HIS EXCELLENCY: That was approved yesterday by the Council.

THE HON. THE COLONIAL SECRETARY: On a point of explanation, Sir, the terms of my motion stated that the committee was to be appointed with the leave of the Council, and Standing Orders yesterday said that this Committee should continue until the dissolution of the Council or until dissolved by Council, so that this Council even during its life can by motion dissolve the committee under Standing Orders.

THE HON. SHAMSUD-DEEN: In other respects, I fail to see, Sir, where this new committee will be doing any extra work. From what I can see, this committee will be called on to examine the Estimates seven days after they have been laid on the table . . .

HIS EXCELLENCY: The hon. Member is dealing with a motion which was moved yesterday and then approved by Council, and it cannot be debated now. We are dealing now with the appointment of the committee, not with the procedure.

THE HON. SHAMSUD-DEEN: Your Excellency, there is one other point: the total inadequacy of the representation of Indian interests on this Committee. I cannot envy the position of the solitary Indian Member ploughing a lonely furrow, with no one else to support him or someone to consult in case of any difficulties. I do think, unless I am again making a mistake and the personnel or the numbers of the members was also approved yesterday, I should submit to the House that they consider whether the number of Indian members cannot be increased.

THE HON. J. B. PANDYA: Your Excellency, I should have very much preferred to remain silent, but as the hon. Member, Mr. Shamsud-Deen, has made certain references concerning me, I am afraid my silence will be misunderstood and misinterpreted. I am therefore forced very reluctantly—and I can assure this House much against my wish—to take part in this debate.

At the very outset I should like to say, if I may, that I have every sympathy with the hon. Member when he says that there should be two Indian Members on the Standing Finance Committee. At the interview we had with Your Excellency, and at the Select Committee on Standing Rules and Orders, I have pressed this viewpoint for the consideration by the Government and I should still like to maintain that position. So that to that extent I agree with them.

The Government this time appear to have decided that they would appoint one elected Indian Member on this committee, and as I happen to be the one my position is very

difficult indeed. I am aware of the difficult position in which I am placed and I wish to lay emphasis on this, that I have thought over the whole question most anxiously and most carefully, and I could not find a way out without sacrificing my self-respect and honour. One may say that the honour of the community should be greater than the individual. I entirely agree with it, but in this instance it has nothing to do with the honour of the community at all. When Your Excellency expressed a wish to appoint me at the interview when all the Indian Elected Members were present, I consented to it and I cannot possibly think of withdrawing from that position in order to oblige those who, for personal reasons opposing my name, wish to have a seat on that committee. At that interview the hon. Member, Dr. De Souza, acquiesced and expressed no desire to covet a membership of this committee. The hon. Member, Mr. Mangat, in very strong words supported your wish to appoint me, and both the hon. Members, Mr. Shamsud-Deen and Mr. Isher Dass, required time to think, but did not oppose it. I do not say that any of them have no right to change their views, but when views are changed in such a sudden fashion there must be some strong reasons for it, but to-day during this debate I have been unable to see on grounds of public interest any valid reasons for such a complete somersault on their part.

I may say that I have as much right as any of them to claim that I represent Indian interests, because much against the wish of three of them I won in the election. Therefore there could not be a reason that they were elected and I was not, that I should not be nominated on the Standing Finance Committee. The second and the most pertinent question is whether I am fit for the work for which I am chosen. I have not heard any arguments against me in that respect, and the hon. Member, Mr. Shamsud-Deen, agrees that I am a fit person to serve on this committee, and while I do not claim any superiority of knowledge I do claim that I understand these financial questions and that by accepting a seat on this committee I shall be better able to serve the interests of my community.

There is a Watch Dog Committee at present in existence on which there is no Indian Member. The Federation of Indian Chambers have been pressing for an appointment of an Indian Member on that committee for a long time. This Standing Finance Committee is going to take the place of the Watch Dog Committee, and if a seat has been offered to an Indian Member for which we have been pressing I should be doing great injustice and harm to the interests of my community which I claim to represent here if I do not accept that seat.

Now, Sir, it is quite fair for them to expect that I should give consideration to the views of the majority of the Indian Elected Members, and I can assure them that if at any time the interests of the Indian community were threatened or were at stake, and I felt differently at that time, I should certainly on those grounds submit to the wishes of the majority as many of us have to do in public life, but here in this instance it is exactly the opposite. I am here expected to serve on an important committee, and the majority of the Indian Members say I should not do so for no other reason except that I do not happen to agree with them on this or some other thing. To my mind that is not a reasonable attitude to take by any responsible people. Then again if we take the functions of this Committee into consideration, it will be seen as the hon. the Colonial Secretary has said that no powers are transferred to that committee which are not subject to the final vote of the Members of this House, and they have an opportunity to express their views on any question. The whole affair, however, is most unfortunate, and I cannot say how much I feel at this public exhibition by them of personal feelings in this House where as representatives of an important section of the permanent population of this country certain manners and certain dignity have to be observed. The hon. Member, Mr. Shamsud-Deen, said that this was not due to personal jealousy, but for establishing the rights of Indian Elected Members. That is one way of saying it, but I have said it very often and I do not mind saying it once again here, that over this whole unfortunate affair the word jealousy is written in large and bold letters. I have said it many times again, but it is one of the biggest things that we should own up to, namely that we do not like to see the rise of one of us among ourselves. I, unfortunately for them and fortunately for others, happen to be one of those who has risen, and the reason for this is they would not appreciate a man, who is well-to-do and at the same time has the ability and intellect to understand. If he were a man who was well-to-do only and had no brains, I suppose they would prefer to work with him; if in the alternative he had only brains and no wealth that would be more acceptable. In my case, as I said before, it is unfortunate for the others that they find both in me!—and I am very sorry, Sir, that this sort of situation has arisen. I may say this, Sir, the best kind of comment would be to rise and deserve such a position, for it is easy to pull down but difficult to build up.

The other point which I wish to make, Sir, is that in exasperation and in giving vent to their personal feelings they are doing a great disservice to the Indian community. They have decided that they would not sit on any Select Committee

If I may be excused I should like to say this is a very childish, a very foolish, and a very irresponsible attitude to take. This means that they would non-co-operate not because the interests of the community demands it, but they would do so in order to achieve their personal object, and in my opinion in doing this they are doing no good to the interests of the Indian community. If they do not serve on these committees, whose interests would suffer? Have we not yet had enough experience in this country that non-co-operation has always been barren of results, and has it not proved generally harmful to Indian interests? I thought when the decision was made that we should seek proper election and sit on this Council we had at least dropped the idea of non-co-operation. If they have any grudge they have it against me. They need not take me with them. I am not anxious to be one of them, but I cannot understand why for that reason they should do harm to the interests of the community.

The hon. Member, Mr. Shamsud-Deen, made a point that the Government was trying to divide the ranks of the Indian community by offering me a seat on this committee. I wish to contradict that mischievous statement most definitely. I can assure them at once that the Government has no hand in this affair at all, and whether I am appointed on this committee or otherwise it would not make the slightest difference in my attitude in regard to joining the so-called organization set up for achieving their personal objects. He also made a point and insinuated that I stood out because I am gaining more by siding or flirting with the Government. I do not know where in this matter the siding or flirting comes in. The question is an appointment on the Standing Finance Committee, and the difference is that if it was offered to one of them it would have been very much acceptable and in that case it would not be siding or flirting with the Government. Why, then, should it mean anything else in my case? He said this seat was offered to me as a bribe. I am not one of those who accept bribes. The issue was quite clear, whether as a Member of this House the appointment was open to me or not and whether I was fit to serve on that committee? It could not be denied that some of them very much coveted it and therefore this exhibition to-day.

The only other thing I wish to say, Sir, is this: that I do understand my responsibility in this matter and I have consulted a number of my friends, and the advice I have received from them is to keep out of this combination which is mis-called an organization, and which is not created in the interests of the community, but in order to advance their own interests and to serve their purpose. The hon. Members often talk of justice and fairness when it is to be given by others,

but when it applies to them they would take the fullest advantage to act unfairly. What is their attitude to-day towards me? Is it not a great injustice to me? Am I unfit to be a member of the Standing Finance Committee? Have I done anything or prejudiced the interests of the Indian community? Have I done anything except that I have accepted a seat which some of them very much coveted? Under the circumstances, it is natural that as long as this attitude on their part continues I do not know what other stand I could take consistent with my self-respect and honour than the one I have taken to-day. Time alone will show that I was right and that I have done a great service to the Indian community in taking this stand to-day.

THE HON. SHAMSUD-DEEN: Your Excellency, I wish to move an amendment . . .

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Sir, the hon. Member has spoken once.

THE HON. SHAMSUD-DEEN: I can move an amendment at any time.

HIS EXCELLENCY: The hon. Member cannot move an amendment at this stage.

THE HON. ISHER DASS: We have had a common cause amongst us, which is to refuse to serve on Select Committees, and we are taking care that nobody shall destroy the solidarity and unity of our organization, because I believe the strength of our unity cannot be judged by non-co-operation.

Your Excellency, I do not want to go into details in regard to certain unfortunate incidents which have been mentioned in the Council this morning—the Colonial Secretary referred very clearly and briefly to them; I think he made the whole position very clear, but I respectfully wish to remind him—I am open to be corrected—that all the time in conversations with Your Excellency it was never suggested that you were going to appoint Mr. Pandya. I think, if I am not mistaken—I think I have a good memory and most people in this country have not—you said you would like to have Mr. Pandya. You never said so definitely and there was no question of objection. What we actually and respectfully submitted was that we were taken so suddenly and that we would go back and consider amongst ourselves and let you know our decision. There was no question of a definite appointment. Now, Sir, the organization has been formed. It was not only desired by you and by Government; but, in fact, every individual member of

the Indian community from one end of the country to the other has been clamouring and saying that it is no use sending five representatives to the Council if they did not work together in accordance with the wishes, and the expressed wishes of the community, so that this organization had one day or another to be formed, not in the interests of the Government or of the community, but, frankly, in the interests of the Members themselves, because they had to seek re-election after three years. Leaving aside that question, if anyone had no desire to join, no one could be persuaded to join, but there are a couple of points raised here, that the hon. Member Mr. Pandya suggested that he does not believe in bribes, and the hon. Member Mr. Shamsud-Deen unfortunately suggested he went to the extent of giving him a bribe. Well, Your Excellency, I do not say that the hon. Member Mr. Shamsud-Deen was wrong, but I do say that probably the hon. Member, Mr. Pandya has just lost sight of the facts when he mentioned that he does not believe in bribes. I am sorry to have to mention this, and I thought there was no necessity, but the hon. Member has gone beyond what was necessary to have said in the House. But he did say definitely that he would not join the organization unless he was appointed leader of the organization and as the Member on the Finance Committee. If that was a fact . . .

THE HON. J. B. PANDYA: On a point of order, Your Excellency, I did not say that.

THE HON. ISHER DASS: Then it must be a question of your against one. There are certain other points also, and the point mentioned about non-co-operation. I think my hon. friend has tried to paint an awfully disgraceful picture of non-co-operation movement which was unfortunately started in 1927, when the people had unfortunately not got sufficient representation in the Councils or were able to express their feelings, and who knew in their heart of hearts there was no one to stand for them and to safeguard their interests . . .

HIS EXCELLENCY: The hon. Member is getting beyond the subject. He can mention the matter of non-co-operation, but he does not want to go into the whole history of it; for it is not relevant to this debate.

THE HON. ISHER DASS: Your Excellency, my hon. friend referred to non-co-operation. I would say that the hon. Member himself was one of the supporters of the resolution of non-co-operation in 1927, and to-day he thinks it is a childish game. As we state, the attitude taken up by the Indian organization is not composed of any jealousy, personality, or any thing, but

it is a question of principle, that we had to form the organization in the interests of ourselves and our community, and in accordance with the wishes expressed from the Chair and other good friends of the community. But when the expressed wishes of that organization are submitted to Government, it is up to Government to accept them. I do say the best interests of the community can be judged, or can be looked after, or safeguarded, by the members of the community themselves rather than by outsiders. Therefore I do say, that if Government had just taken into consideration the expressed wishes of the Indian Elected Members' Organization, I think there would have been no difficulty. As unfortunately it has been overlooked, we feel that probably this attitude on the part of Government might encourage, and has encouraged, as the hon. Member said himself—he seems to be under the impression that he is the only man competent to look after the interests of the community and has no desire to be one with Government. There is no question of one or the other, but this is not the first time Government has created dissension. There are others also. In 1931 and at other times Government unfortunately has done the same thing, and I wish to say here that my appeal to you, Sir, and to Government in the future, and it is one that I hope will not fail—whenever there are unfortunate differences of opinion among responsible members of a community or institutions, the duty of Government is, whenever one section approaches Government, the duty of Government is to tell both sections to go back to their own places, to mind their own business, and settle their differences among themselves, and not to set one section against the other.

DR. THE HON. A. C. L. DE SOUZA: Your Excellency, I move that the name of the hon. Member, Mr. Pandya, be deleted from the motion and that the name of the hon. Member, Mr. Mangat, be substituted therefor.

THE HON. SHAMSUD-DEEN: Your Excellency, I beg to second.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Is the hon. Member allowed to second?

HIS EXCELLENCY: The question is that the motion be amended by the substitution of the name of the hon. Member, Mr. Mangat, for that of the hon. Member, Mr. Pandya.

DR. THE HON. A. C. L. DE SOUZA: Your Excellency, I think we all deplore the said exhibition made on the floor of the House this morning, and I do not think the history of the Council from its inception will contain a similar record of

what has happened this morning. I regret it all the more, Sir, because it was from the Government benches that the opportunity was afforded; I thought it regrettable indeed that any reference had to be made at all to this dissimilarity among the Indian Elected Members. I think that reference was made in all sincerity and good wishes for the welfare of the Indian community, but I submit that that welfare would be better safeguarded in this House by this side of the House than any other, and in the interests and honour of that community it was necessary an occasion of this kind should not have been given, that we were dissimilited and that when an organization has been formed there are four on one side and one away from it. I propose this amendment, Sir, because I feel that expression should be given to the views of the four Indian Elected Members who have formed themselves into this organization. I do not mean any slight on the hon. Member, Mr. Pandya, for whom I have a high regard and with whom I have been for many years on intimate terms of friendship. But I consider that an organization cannot function unless it puts before Government very quickly, whether you call it non-co-operation or obstinacy it does not matter, but unless it puts before the country generally its views by abstaining from Select Committees. Unless they do so, I do not think the Indian community itself will realize that its representatives are slighted, that they are not given the same opportunity by Government as Government have given other sections of the community. Could one imagine, Sir, if the European Elected Members' Organization had recommended the name of one Member for Select Committee and Government had turned it down, what would have happened? Could one imagine that happening? I do not think there have been cases of that kind, but what Government is prepared to do for Europeans they are not prepared to do for others. It is in that spirit, Sir, that this amendment is moved, and I again express regret that any opportunity should have been given at all for this and exhibition in this House.

THE HON. SHAMSUD-DEEN: On a point of order, Your Excellency, I should like to be given a clear ruling from the Chair: that any Member who has spoken against a proposition cannot move an amendment. That is No. 1. No. 2 is . . .

HIS EXCELLENCY: The time that you should have moved an amendment was when you were speaking. That was when you had your opportunity. Once you have spoken you cannot rise again.

THE HON. SHAMSUD-DEEN: At a later stage I can move an amendment.

HIS EXCELLENCY: If nobody else wishes to speak on the amendment, I will put the question. The question is, that the name of the hon. Member, Mr. Mangat, be substituted for that of the hon. Member, Mr. Pandya.

The question was put and lost by 23 votes to 3.

(*Clerks:* Messrs. Isler Dass, Shamsud-Deen, Dr. De Souza.)

(*Noes:* Messrs. Boulderson, Brassey-Edwards, Bruce, Canon Burns, Messrs. Fitzgerald, La Fontaine, Gardner, Hamp, Harragin, Hemsted, Hosking, Dr. Johnstone, Messrs. Kirsopp, Logan, Montgomery, Moore, Pandya, Pilling, Scott, Stronach, Walsh, Waters, Welby.)

(*Declined to vote:* Mr. Bemister, Major Cayendish-Bontineck, Messrs. Harvey, Lillywhite, Mangat, Riddell, Lord Francis Scott, Sir Robert Shaw, Sir Ali bin Salim, Sheriff Abdulla bin Salim, Messrs. Symons, Tannahill, Wright.)

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I should like to say how very much I welcome this resolution which is before us to-day, and I should like, Sir, to pay especial tribute to yourself for having brought this Standing Finance Committee into being. For a long time past, Sir, there has been a demand in the country for the officials to be taken into closer co-operation with the Government. You yourself, Sir, have said on more than one occasion that you wish for the fullest co-operation and the appointment of this committee, Sir, is putting that wish of yours into actual fact.

As the hon. Mover has said, there is no constitutional change in this; it is all done within the constitution and it is definitely a method by which Government wish to make use of any abilities which may exist in the unofficial community and work with them in dealing with this great and difficult question which is overhanging us all at this present time, this question of the finances of the Colony.

I should like to say, Sir, whilst speaking on this, that I have also appreciated your action, Sir, on the same lines in adding another Member to represent Native Interests, and also, when there was a vacancy for a Nominated Member to represent Arab Interests. In appointing those two Members, Sir, you brought the Unofficial and Official side very nearly to parity. In fact, I think it is the case that during the last sitting of this Council we were in an Unofficial majority the whole time! No terrible thing happened as a result of that,

but it did show that Your Excellency is prepared to show your confidence in the unofficial community and to believe that we will not use any position of trust which may be given to us for personal ambitions or for sectional interests, but that we do wish to do our part to the best of our abilities in helping on the general welfare and prosperity of this country.

Sir, I am sorry that the debate to-day should have taken the lines of so much personal recrimination amongst certain Members of the House and I should like to draw the attention of some of them, Sir, to Standing Rule and Order No. 43, sub-section (9), a Standing Rule which was very nearly, if not quite, infringed this morning.

There are just two points which were raised by the hon. Member, Mr. Shamsud-Deen, to which I should like to refer. The first one is that he said he thought it was improper that this motion should be brought forward before the Secretary of State had had an opportunity of approving the amendments to the Standing Rules and Orders passed in this House yesterday. I should like to point out that this resolution to-day is under old Standing Rule and Order No. 61 and is not under any amendment which was passed yesterday.

THE HON. THE COLONIAL SECRETARY: On a point of explanation, I think the Noble Lord is not correct in that statement. The motion as it stands is for the appointment of a Standing Finance Committee under the Standing Rules and Orders as adopted yesterday, and perhaps, if I might intervene, the legal position over that is perfectly clear. It is exactly the same position as that of a Bill which passes all three readings in this House, is assented to by Your Excellency and then automatically becomes law and is carried into effect. Should subsequently His Majesty's pleasure be exercised in disallowing the Bill the necessary steps have to be taken, but until that is done the Bill is law and runs as law in the Colony. Exactly the same position stands to-day as the result of the adoption of amended Standing Rules and Orders yesterday. We are now operating under new Standing Rules and Orders.

THE HON. SHAMSUD-DEEN: Your Excellency, I must correct the expression of the Noble Lord with regard to "recriminations." I said it was a question of organization and I cannot allow statements of that description to stand.

LT.-COL. THE HON. LORD FRANCIS SCOTT: As a matter of fact, the hon. Member did suggest that it was more to Mr. Pandya's interests to be on the side of Government than on the side of his colleagues, which is imputing motives.

The other point which I wish to refer to is that Mr. Shamsud-Deen said it would be very difficult for an Indian to plough his lonely furrow. I am quite sure that Mr. Pandya when he serves on this Committee will not go on that committee merely thinking of how he is going to serve any particular sectional interest, but he will do his best to bring what knowledge he has of the commerce of the country and other matters connected with finance to help in the general pool of knowledge and thought which this Committee will devote to the general welfare of the country as a whole and not to any small sectional interest in the country. I have no more to say on this, Sir, and I beg to support the motion.

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

THE HON. THE COLONIAL SECRETARY: Your Excellency, I do not think there is anything more for me to say. I have already covered the point made as to the propriety of acting under these Standing Orders, but I would just like to say this in reply to the hon. Member, Dr. De Souza, that nobody regrets more than I do that it should have been necessary to allow the full and unwelcome light of day into the skeletons in the Indian cupboard. But I considered it was necessary to make the statement I did in order that the Indian community as a whole should be fully alive as to the circumstances which led to you, Sir, appointing Mr. Pandya, and further, that they should realize, rightly or wrongly, that Government has made that appointment in the belief that by so doing we are best serving the interests of the Indian community at large.

I would just like to say one personal thing before I sit down and that is, I feel sure that hon. Members will all join with me in regretting the circumstances which will render it impossible for the Noble Lord to take his seat at the first meeting of this committee.

The substantive motion was put and carried.

The Council adjourned for the usual interval.

On resuming.

MOTIONS.

SCHEDULES OF ADDITIONAL PROVISIONS.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I move that Schedule of Additional Provision No. 2 of 1934, and Schedule of Additional Expenditure not included in Schedule of Additional Provision No. 3 of 1934; be referred to the Standing Finance Committee. As the items in these

schedules will be fully examined by the committee, it is not necessary for me to say anything about them in detail now. The additional expenditure, speaking broadly, involved which is not covered by savings is negligible.

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

The question was put and carried.

REPORT OF COMMITTEE ON LIQUOR LICENSING LAWS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the report of the committee appointed to consider and report on the Liquor Licensing Laws of the Colony be adopted.

As hon. Members are aware, the committee was appointed in the early part of this year with the following terms of reference: "To examine the provisions of the Liquor Ordinance (Chapter 71 of the Revised Edition), and to make recommendations as to what amendments are necessary thereto, due regard being had to the necessity of safeguarding the revenue." It was perfectly obvious, Sir, when we met that the public did not understand our terms of reference. We were inundated with pamphlets and suggestions with regard to evidence that might be given on every subject that has been inquired into by the Royal Commission in England, and it was necessary for it to be made perfectly clear that we were not there to pass judgment on whether drink was a good or bad thing for individuals generally, or whether the Continental system, whereby one could buy a drink at any hour of the day or night, would be preferable in this Colony. Lastly, they seemed to forget the last part of that reference, which was that whatever we did we must not interfere with the finances of the Colony.

Your committee, Sir, sat in public, and we took evidence from all and sundry who were ready to come and give evidence before us. At one time we thought that we would have to travel to various parts of the Colony, particularly to Mombasa, but having advertised in the papers that we were willing to take evidence we were able to relieve the Colony of the expenditure which would have been involved had we gone down, as we found there was no response whatever from persons in Mombasa. But I must say in this respect, that Mombasa acted in a public spirited way, because they had a meeting of their own and forwarded to us a comprehensive report, and an agreed report as far as we could see, from everybody interested in Mombasa, and we were able to adopt that report almost in toto in our recommendations. I may say, further,

at this stage that the gentleman from Mombasa and the District Commissioner were of the opinion that there was no necessity for us to make the trip—which we were most anxious to do incidentally. (Laughter.)

I think, Sir, you will find on examination that the recommendations of the Committee are very moderate. The first is a very small one, with regard to the definition of the word meal. That word is an innovation in the law as it stands at present, because we intend later on, as hon. Members will see, to recommend certain extensions of hours of general retail licences when a meal is served. The next point that came before us was with regard to what are popularly known as "nips." It appears that the habit has grown up of importing liquor in bottles of one ounce or two ounces, which, of course, can be sold in the shops with a much lower licence than the general retail licence, grocers' licences for instance; and that persons were in the habit, we are told, of getting these nips and drinking them around the corner. The committee were unanimously of the opinion that that should be stopped. They therefore provide that in future only bottles containing half a pint shall be imported and sold under that licence.

The next, and probably the most difficult question that we had, was with regard to the general retail licences. It was pointed out to us very strongly that it was unfair for hotels in Mombasa and Nairobi to pay the same price as smaller hotels in the country. At present, the only difference in the Ordinance is the difference between £50 and in certain places £40. Various methods were suggested to see how we could differentiate. Suggestions were made in regard to statistics dealing with turnover, and that type of thing. Having examined them all, the Committee thought the only practical solution at the moment was to come out into the open and definitely lay down the places where the higher licences should be paid, and you will see that naturally two places came first—Mombasa and Nairobi. We then carefully set out the towns you have the third licences for those who do not come under the first two categories. A very strong effort was made on behalf of those representing what I may call the country hotels, to reduce the licences even further, but in view of the financial implications and having gone into it carefully, I can assure hon. Members most thoroughly, and from every point of view, the only solution we could put forward was the one which you have before you to-day. I may say at the outset that if we are to balance our budget, as we have been instructed to do, and if we still further reduce the country

licences, it will be necessary of course to increase it somewhere else, and I hope hotels will bear that in mind in any scheme they may think it necessary to put forward.

The next question that came up was with regard to theatre licences, and there the committee were of the opinion that the whole idea of theatre licences as granted at present—which incidentally always appears to be general retail licences—have been misconceived by the licensing courts not exactly following the Ordinance. I wish to make it perfectly clear that because a man puts up a cinema or theatre, it does not automatically entitle him to have a licence. There is provided a theatre licence. If it happens that a man has put up a theatre in a place where it is desirable that there should be a general retail licence, we say emphatically that there is no reason why it should not be granted. But the mere fact that he happens to put up a theatre, if there are many other general retail licences in the vicinity that would be quite sufficient to debar him from having a general retail licence.

With regard to the hours of extension, we found that the law really was at fault there, a very wise District Commissioner and perhaps a very wise predecessor of mine, rather than worry about amending the Ordinance had in fact taken a section which was never meant to deal with the matter and made provision for the present extensions. We therefore suggest an amendment to bring this into line, and we suggest, among other things, that the extension should be so much per hour, that in the towns the extension should be at Sh. 15 per hour up to 2 a.m., and in the country—and I am talking very broadly when I say town and country—it should be at the rate of Sh. 10 per hour.

The next thorny question to deal with was clubs. I wish to make it perfectly clear that after all our sittings the committee were perfectly satisfied that only on a very few occasions could it be honestly said that any clubs in Kenya were evading their responsibilities; and that although a lot is said about competition between clubs and licensed houses there are only one or two clubs who in effect have been evading the law. While we have recommended that clubs should be brought under the provisions of the new Ordinance, if and when passed, with the object of satisfying really the public in general that there is and can be proper supervision, we do not wish it to get abroad that we think there is any very serious necessity, except in one or two isolated cases. We have, of course, recommended that only clubs which are working under recognized rules, which we have set out, should be permitted to have a licence, but we have safeguarded the granting of licences to clubs in this way—by saying that it shall not be

considered by a licensing court whether a club is a necessity or not in a district provided the requisite number of persons decide that they wish to have a club, and, in the same way, unless the club is guilty of offences against the Ordinance, they cannot be refused renewal each year.

The question of native barmen came up in regard to clubs, because the position at present is that any club may have a native barmen, although a licensed house may not. Your committee was satisfied that there was no reason why there should be any differentiation between the two, and the question to decide was whether the clubs should not have native barmen or whether everyone should. We are convinced that the time has now arrived when there is no logical reason why native barmen should not be permitted to serve in licensed houses. The reason for this is that at the present moment you have innumerable waiters who deal with drinks the whole time, but the particular man who happens to pour out the drink and put it on the tray for the customer is not permitted to be a native. The recommendation of the Committee is that this distinction be cut out, and any licensed house desiring to employ natives as barmen be permitted to do so.

There is one small point with regard to the extension of hours up to 12 o'clock. It was represented to us that people who came in from the country to Nairobi particularly to attend a theatre or cinema, and had perhaps a long drive back, on coming out of the cinema were unable to obtain a drink. That seems to be a reasonable grievance, and we have suggested therefore instead of a temporary extension to 12 o'clock that in future every general retail licence and restaurant licence shall be able to serve drinks up to 12 o'clock to the public provided those drinks are taken with a meal.

We also recommend that no person living in a hotel shall be permitted to treat friends to a drink after the permitted hours. The reason for that is, as hon. Members are well aware, that it is quite impossible for the management or police to deal with cases where people want a drink at night, and they have only got to have one man resident in the hotel in theory paying for all the drinks, whatever the private arrangement may be between them. We make it clear that if a man in a hotel wants a drink, he can stand himself a drink, but he will not be able to have parties out of hours.

The next question, Sir, deals with the ships at Mombasa. This we thought at one time was going to be extremely difficult, but in view of the meeting held by the people of Mombasa, which I referred to earlier, we found our task made

far easier, because we got a recommendation consented to by both parties as far as we could understand to the effect that the licensed houses, which we were thinking of at the moment, in Mombasa, were quite satisfied if we halved the free allowance to ships when in port, and also—and this was done by arrangement with the shipping companies—that persons with business who wished to visit the ships should be in possession of a permit from the agents. The reason for that is fairly obvious. No one wishes to prevent any person on legitimate business or seeing a friend off or welcoming one, from having a drink at the bar of the ship. On the other hand, even if that man—and again I am thinking of it from the point of view of the licensed dealer—if that man did not have a drink with his friend on the ship it would not necessarily mean that he would go to the nearest pub on land and have a drink. So we did not feel that the licensed dealer was in fact being in any way damaged by the particular drinks served in these cases. But we were told in Mombasa there was a certain class of people who, having no business on a ship, no one to meet or to see off, wandered down to the ship because they could get their drinks more cheaply, and spent the time they would have spent in a licensed house in drinking on the ship. That was manifestly unfair, and with the co-operation of the shipping people, who assure us that they have no desire whatever to have these loafers on board their ships, the permit system will be instituted. If that is not done it may be necessary to amend the law still further.

We also dealt with one small point with regard to the holding of a special licensing court, and that was that at present, as the Ordinance reads, a special court can only be held when a state of emergency arises—I think the exact words are "in the event of an emergency". It has been held in the past, and I think quite rightly, that in the case of war no question of emergency can arise, and therefore, in theory, no special licensing court could sit except at the appointed time. We suggest amending that to "if he thinks fit". If Your Excellency is of the opinion that for some reason it would be wise to hold a special meeting, then it may be held.

The other two points dealt with were patent medicines and methylated spirits. We were assured that there was coming into this Colony under the guise of "medicine" certain liquids with more alcohol content than many wines and liquors sold as alcohol, and we suggest that Your Excellency should take powers on the advice of the Director of Medical Services to put a stop to that.

We did not feel that methylated spirits came actually within our terms of reference but we do point out that Government should examine and see how the present

Ordinance dealing with methylated spirits could be tightened up, as it was clear that at present a great deal more was being drunk than most people imagine. What exactly can be done I am not prepared to say, and if we had known the solution we would have pointed it out ourselves. It is a problem that has defeated even the people at home. You cannot make methylated spirits so unpleasant to drink that people will not drink it. Every system up to poisoning has been tried for making it unpalatable, but so far all have failed.

Those are the principal provisions of the report. The chief things of interest will be the recommendations with regard to clubs and the reassessment of retail licences which we suggest.

THE HON. THE TREASURER: I beg to second the motion.

HIS EXCELLENCY: The question is, that the Report of the committee appointed to consider and report on the Liquor Licensing Laws of the Colony be adopted.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, I rise to oppose the adoption of the Report, and I do so on two points and two specific points alone. One is that the terms of reference are so restricted as to prevent this Council from having a true picture of the position of the licensing trade as a whole, and the second ground of opposition that I have is that the findings of this Licensing Committee appear to me to restrict the development of the tourist traffic.

Dealing with the first objection that I have to this report, so long as I have the honour to be a Member of this Council, any terms of reference which do not give us a true picture as a whole of the question that is before us will always find in me an opponent. I am mindful of what my hon. friend the Attorney General said to me and others just now in his speech, when he referred to the question of the necessity of safeguarding the finances of this country. I am fully sensible of that warning in common with all my colleagues on this side of the House, but I claim that the picture should be put in front of us as a whole without limitation as regards terms of reference and that we are equally bound to safeguard the revenue on this side of the House as on the other. I do not want to labour that point any further, but there was another limitation of the terms of reference which I was rather surprised was not referred to by my hon. friend. If you will refer to the Financial Report and Statement for the year 1933 you will find that the sum derivable from liquor licences as a whole was £10,725. If you will refer to the Schedule at the end of this Report—and I submit to you, Sir, that the

figures which I have should have been put to us as a Council and should not have to be evolved by a Member—you will find that the licences as enumerated here work out at the sum of £8,625; and therefore you will find that there is a shortfall in revenue as between the year 1933 and the number and classes of liquor licences granted in 1934 of £2,200—an apparent shortfall that is, because when I evolved these figures I went to my hon. friend the hon. Member for Nairobi South, himself a Member of this committee, and I asked him to explain to me that apparently tremendous shortfall in the revenue. He assured me that that was, in fact, untrue and that the Committee had before them a statement from Government that there was no appreciable shortfall in the revenue.

THE HON. ISHER DASS: May I inquire if the hon. Member has a liquor license?

MAJOR THE HON. G. H. RIDDELL: Yes.

THE HON. ISHER DASS: Then, Your Excellency, under Standing Order No. 43, sub-section (10), the Member concerned may not speak.

HIS EXCELLENCY: He can certainly speak. I hold that he can speak.

MAJOR THE HON. G. H. RIDDELL: I am entitled, therefore, to say to the House that the apparent shortfall in revenue is caused by the removal from the ken of the committee of various sources of revenue up to the amount or near the amount of £2,200 that should, in my opinion, have been within their terms of reference. I believe that that statement is substantially correct, and with that statement I will leave the first part of my objections and go to the second part.

The second objection that I have to these recommendations is that they discourage the development of the tourist traffic. If you will again look at the schedule of licences at the end of the report you will find that in the numbers of hotels outside townships there are only in the whole of this Protectorate seven that own a general retail licence. If it is of any interest to my hon. friend Mr. Isher Dass, I am one of them. But in the whole of this country there are only seven. In the constituency of my hon. friend on my left, the hon. Member for Ukamba, which is a constituency as large as Yorkshire, which has not, I believe, a liquor licence holder, there is no general retail licence at all in the whole of that area.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Thika!

MAJOR THE HON. G. H. RIDDELL: My authority is the book. If you look at the enormous area in the Northern Frontier District, which Your Excellency has just visited, a country as large as England, there is not one general liquor licence. Your Excellency did this country a service by your visit there the other day in as much as it was published in the papers and it gave people who, unlike myself, were never in that country some idea that it was not a dust and lava lake hut, on the contrary, that it is a country which contains features of extreme beauty—Marsabit, the world's best instance of a crater lake, the Horr Valley and the Mathews Range. In all that country there is no tourist hotel and there will not be while you keep these liquor licences at their present prices, I can assure you. Sir, Marsabit itself, is a place that I might say is referred to in this report in a way which makes an old pioneer black with rage! They say in this report that presumably, or possibly, in the future an hotel might spring up whose very isolation is its advantage, and, so far as I can see from this report, the first thing that any pioneer will find will be a tax collector waiting for him, instead of being welcomed with open arms, offered leases or anything else, whether it is a "B" area or a "C" area, in order to get him there. But perhaps—I do not know—perhaps the Council would like to keep the pioneering of the Northern Frontier for future generations, or perhaps they would like to retain it as a happy hunting ground for Administrative Officers searching for promotion; or perhaps it could be kept as a place for the Samburu!

If you go back again to my figures, you will find that under the existing schedule the amount derivable in liquor licences, of which the Council has the power of inspection, is £8,225 if my arithmetic is right, and if my arithmetic is right—and I should like to make a mild protest that I have to do it and it is not done in the schedule—the recommendations of this committee, if implemented, increase the amount of revenue derivable from liquor licences by from £200 to £250. Now, Sir, I know perfectly well from the terms of their reference that the Committee were not allowed to decrease it. But we never heard there was anything in the terms of reference to permit them increasing it. My figures are derived in the following way, and while it is not clear that my figures are right I am satisfied they are substantially correct. The second column says "Coast." It has 13 hotels. Of these, I have taken three as being in Mombasa, and 10 under the second schedule, that is £45, so that I do not think I err in that respect. Also, I understand, and my hon. and learned friend the Attorney General will correct me if I am wrong, that the eight midnight licences charged £10 each, under the new recommendations disappear, and therefore

there is a revenue shortage of £80 in that respect. Well, now, I would like to say this also, that further relief could have been given to what I describe as tourist hotels. When I say that I mean not only those seven scattered and isolated hotels that I have named but I mean also the 30 hotels that are outside the municipality of Nairobi and of Mombasa in these smaller townships elsewhere. Naivasha, for instance, to me comes under the heading of a tourist hotel.

I want to make another point while recommending that tourist hotels should be sympathetically dealt with as they have not been, I contend, by this Commission, and that is this. The tourist hotel is to the tourist what the club is to the resident, a home from home. I am not a member of the Hotel Keepers' Association, nor do I agree with the case they have put up. The opposition of the Hotel Keepers' Association seems to me to be, according to the evidence, an attack on the clubs and on the privileges of clubs. With the finding of the Committee as regards clubs I am in full accord. I believe also it is of great benefit to this country that each and every district should have what it is likely it has got, and that is a well conducted club run for sports and the amenities of existence. I know from personal experience in dealing with land that in a district which has a well appointed club the land values are enhanced to a considerable degree. I may say in conclusion this, that I am in opposition to this Report for the reasons mentioned. In the olden days it was said constantly, I have heard it from at least five Governors, that one of our main functions was advisory. Although that function following the Carter Commission Report seems to have disappeared in recent years, greatly daring, I venture to offer to Government one word of advice—that is, scrap that Report.

HIS EXCELLENCY: Which Report is the hon. Member thinking of?

MAJOR THE HON. G. H. RIDDELL: This Committee's report, Sir. (Laughter.) And to substitute therefor a small Select Committee unfettered by terms of reference to give us the true picture that we can debate in this House.

THE HON. F. A. BEMISTER: Your Excellency, I think that on several occasions I have had the privilege of suggesting to you means of increasing the revenue of the Colony, and it is a very great pleasure to-day to be able to attempt to assist the Committee in speaking on this Report, by taking the terms of their reference as dictated to them to try and assist in finding some means to increase the revenue. Now, Sir, the hon. and learned Attorney General has said that he has satisfactorily settled the question of the ships' consumption in

Mombasa, and he has referred to some of us as loafers (laughter) who visited the bars of the ships. But, Sir, I would suggest to him that the ships in Mombasa are a direct advantage to Mombasa, they are an attraction to Mombasa, an addition to our civil life, and I speak from 20 years' experience. It is a great advantage for a man who lives a monotonous life on an island to be able to go into the luxurious European surroundings of a handsome ship and enjoy himself for half an hour or an hour in the evening. (Hear, hear.) He is not a loafer, Sir, and if he were half the people from up-country who visit Mombasa would come under that title. (Laughter.) It has been suggested, the hon. and learned Member said, that people get their liquor cheaper on ships. It is not true, because I know. (Laughter.) On the "Gripsholm" we had to pay 25 per-cent advance, and no ship sells whisky and soda under a shilling, the same as in the bars in town.

What I am leading up to is this. I now want to ask you to put a law you have already on the Statute Book into operation. I contend that this idea of a free allowance is so beneficial to the ships that it is robbing the revenue of, I contend, £3,000 or £4,000 a year. That seems an awful figure, Sir, but let me tell you that I was at lunch the other day on a ship—I grant you it was a free lunch—and I calculated that the duty payable on the drink consumed—it was only a lunch taking 45 minutes, but the duty that could have been collected—and no doubt the Commissioner of Customs will see to that—would have amounted to £25. I said it was free, Sir! Nevertheless, I am showing you that there is a huge amount of revenue which could be collected. That lunch was not the only free entertainment. Entertainments are held by the companies and managers generally, and they are also free, and the consumption there is heavy. Look at the law which you have on your Statute Book at the moment. I think it is under the Customs Management Ordinance that this free allowance comes, and the words there distinctly are that such an allowance is for the service of the ship. I do not say it is not used for that, but Government should ask the shipping companies to prove they have used that allowance for the service of the ship. This ship I spoke of, the other day had one passenger. That is all I ask, Sir; if you will do that, if you will attend to that side of the question and put up the system I have suggested, it would be well. There is another point that I wish to bring up which deals entirely with Mombasa.

HIS EXCELLENCY: I was going to adjourn the debate because we are anxious in the first place to get the Bills through which are on the Order Paper.

THE HON. F. A. BEMISTER: It should not take me long, but it will handicap me if I am pushed. May I move the adjournment of the debate, Sir, or I will withdraw that, and reserve the rest of my remarks until after the hon. Member for Rift Valley has spoken.

HIS EXCELLENCY: I do not know that the hon. Member can speak in between. The only alternative is for him to go on now.

THE HON. F. A. BEMISTER: Then I will, Sir, for this is a serious matter. Now, Sir, I want to refer to the hours at Mombasa. In all the deliberations apparently of this Committee and the spirit of the Report, it is quite clear that conditions in Mombasa are entirely ignored. I would like to move that the hours on Sundays should be altered so that they are from 10 a.m. to 2 p.m.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as a member of the Committee which dealt with this question, I naturally support the report. With regard to the point raised by the hon. Member for Kiambu, I should like to say this. First of all, with regard to getting a true picture. He says there was a discrepancy of something like £2,000 in the revenue obtained from the licences last year according to the figures given in the schedule to the report. I suggest that he might have done as I did, when this discrepancy was brought to my notice, and tried to find out the true picture from the person who could explain it. I did that, and the difference is not that there has been a shortfall this year as compared with last year.

MAJOR THE HON. G. H. RIDDELL: I did not say there was a shortfall. I said an apparent shortfall.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Those figures, which are not included in our report, include all licences, those under the Native Liquor Ordinance, half-year transfers, extension fees, and so on, whereas the Committee's figures reflect the licences issued in 1934. I have no doubt the Treasurer could give the position more accurately. With regard to the lower licences for smaller hotels and the tourist traffic, the Committee were far from being unsympathetic to this point of view. They were only too anxious to try and reduce the licences to help them. At the same time, it is perfectly correct as the hon. the Member said, that we were restricted by the terms of reference, so that we were not able to make a report which causes any considerable falling off in revenue. The lowest figure that we could recommend was

£35 a year instead of in some cases as at present £50 and others £40. I may say, Sir, that £40 refers only to hotels outside the townships, any sort of township, and there are only seven of these, but everyone agreed that it was manifestly unfair to take places like Naivasha or Molo with a hotel just in the township and charge them more than one just outside. So we agreed to put them in the three categories: hotels in Mombasa and Nairobi, those in such towns as Nakuru, Eldoret, Kitale and Kisumu, and those in other places. Although this Committee has now reported, and I believe the Report will be adopted, it does not mean that the Committee were not in sympathy with the idea that the tourist traffic should be encouraged by improving the law relating to licences for these hotels, but this was the best we could do under the circumstances.

With regard to the idea of the hon. Member for Mombasa about the ships, I have no doubt the hon. the Treasurer and the hon. the Commissioner of Customs will see if they cannot take advantage of the suggestions put forward for increasing the revenue, and no one would disagree if it is a feasible proposition. I should also like to say that it was not the wish of the Committee to prevent people going on board ships, but representations were put up by the hotel keepers that they were having unfair competition. I know that they were having Mombasa curtailed in his speech, and that there was one the hours of opening on Sundays should be from 12 to 3.30. In Mombasa, the habits of the people are slightly different to those up-country. They go to church earlier in the morning, considerably sooner than is the custom up-country. They opening hours of up-country they could be arranged that instead of the 9 p.m. That is a question which the Committee dealing with this question would have no objection to if it can be done in practical business.

THE HON. THE COLONIAL SECRETARY: Your Excellency, the hour is late, and we have a large number of Bills before us which we want to get into the Select Committee stage so have the support of the House. I am sure, if I move that this debate stand adjourned.

THE HON. THE TREASURER: Your Excellency, I beg to second.
The question was put and carried.
The debate stood adjourned.

BILLS.

SECOND READINGS.

THE AGRICULTURAL MORTGAGORS' RELIEF BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Agricultural Mortgagors' Relief Bill.

As hon. Members are aware, a committee was appointed last year to consider the question of relief to agricultural mortgagors. That committee sat for some time and I think that I can safely say that the Bill before you represents exactly what they recommended in their original recommendations, which were laid on the table of this House I think it was in December last.

In dealing with a subject like this one has to be extraordinarily careful not to give the wrong impression to the public. There are some who will think that by interfering with the legal rights of the mortgagor you are doing some harm to the credit of the Colony and that in some way you will be frightening away the much desired capital which we wish invested here. There are others who believe that it will give them a respite from the paying of any of their debts under agricultural mortgages. Well, neither of these propositions is correct. It is true that the provisions of this Bill give relief to those persons who are in the unfortunate position of being inmortgagors and who the Court is satisfied will make good if given a breathing space—this Bill will permit a suspension of the more stringent penalties to be found in the mortgage for the space of one year only. In this connection I would ask hon. Members to glance for a moment at section 8 of the Ordinance, sub-section (f), where you will see reflected the whole object of the Bill before you. The section reads:—

"8. (1) In determining whether relief against the doing of any act or the exercise of any powers as aforesaid by the mortgagor shall be granted to the mortgagor, the Supreme Court may take into consideration—"

I will leave out the intervening sub-sections (a) to (c). Sub-section (f) is as follows:—

"(f) whether any relief granted by the court pursuant to this Ordinance would be reasonably likely to enable the mortgagor, having regard to his circumstances and the conditions mentioned in the last preceding paragraph, to meet his liabilities under the mortgage within such time as the court deems reasonable."

That is a most important—it is the most important subsection probably in the Bill, because it gives the ordinary man in the street an idea of what he can hope for in relief through the Supreme Court.

I should also point out that this Bill automatically comes to an end at the end of 1936, and therefore, unless something further is to be done, the worst that can happen to any person who has invested in an agricultural mortgage—and I want to point out that it is only agricultural mortgages which we are dealing with here; agricultural mortgages and instruments under the Chattels Transfer Ordinance which deal with stock and things of that description are the only two instruments dealt with under this Bill—those persons may in the circumstances which I have asked you to visualize under section 8 receive respite for a space of one year and, at any rate, not after 1936.

Let us see what happens to-day, or immediately this Bill passes, if a mortgagor wishes to take action under his mortgage instrument. I refer to such action as a foreclosure or sale. The first thing the Bill says is that the mortgagor shall serve a notice on the mortgagee informing him of the particular relief that he is going to take advantage of. Within one month the mortgagor, if he wishes relief, must make application to a judge in chambers. That is an important point, because by referring it to a judge in chambers—and we must have it considered by a judicial body of some sort—we make it as cheap as it is possible to make it. Some of you may know that it is not by any means necessary to be represented by counsel before a judge in chambers, and further, if you were represented, I do not know what the cost would be, but the taxed costs as far as counsel is concerned would only be Sh. 15 and in ninety-nine per cent of the cases which go before the Court the cost to the applicant will not be more than £3 at the outside, counting counsel's costs at Sh. 15 if he has one, which is not necessary. In addition to that, there is a small safeguard in the Bill which states that when you make application to the Court you must also file that application with the Registrar of Titles. The object of that is to acquaint any person who chances to be buying a mortgage from the mortgagee with what has been happening behind his back. Any person who takes the trouble can go and look up the title with the Registrar of application pending before the Court. It is a small point of detail, but it is one I want mortgagors to realize must be fulfilled. The moment the mortgagor comes before the Court, the Court hears the application and considers it in the light of section 8, which I have referred to, and if

of the opinion that it is just and right that there should be a postponement, the Court may grant that postponement for not more than one year. Later on you will find provision—and I will deal with it in a moment—that where the Court is of the opinion that the mortgagor has been making a real effort to pay his mortgage interest—let us say he is liable to pay interest at 8 per cent—if, in fact, he is paying 4 per cent, the Court has the power to say with regard to the interest outstanding that it may be added on to the principal, and from the date that the outstanding interest is added on by the Court it becomes part of the principal and not arrears of interest, and, of course, as part of the principal, it will be entitled to be treated for interest purposes as principal.

Having obtained this order, the mortgagor shall within seven days register the order with the Registrar of Titles, and if he does not do that the order shall be deemed to be null and void. I imagine that is an important item because if he does not register it some innocent person may buy over the mortgage not knowing that the rights of the mortgagee have been postponed for one year. We therefore make it incumbent on the mortgagor to register this order when he has got it.

There is one other provision, with regard to this postponement, and that is that if during the time the postponement is current the mortgagor does not pay the interest due within forty-two days then automatically the order becomes null and void also.

I do not think there are any other points of particular interest in this Bill. I know that it is a strong measure to take, as I mentioned at the beginning of my speech, but at the same time there is precedent for it. This Bill was, I think, originally taken from British Columbia, and since then other clauses have been taken from places like New Zealand and Victoria, so that we know that large agricultural countries elsewhere have found it necessary to make similar provisions. But at the same time I know that many will think that it does not go far enough. Others will say "Why are you doing this thing when there is no indication that mortgages are in fact exceptionally harsh in Kenya?" On that I would like to say at once that I have no evidence that mortgages in Kenya have been particularly hard on the unfortunate mortgagors. In fact, I think it has been quite the other way from all the evidence that I have been able to gather, and the only ray of sunshine I can find in this situation is that the agricultural community are anxious that we should bring this Bill in now, because naturally the only time when it is really essential that we should have a Bill like this is after a depression and there is likely to be a rise in land values, when in will come the rapacious mortgagee and turn the unfortunate

people off the land. The fact that the agriculturists of this country have been pressing Government of late to bring in this Bill is, I think, the most hopeful sign I have seen for some considerable period. But I wish to make it perfectly clear before I sit down that all this Bill does is to grant a breathing space to the worker.

THE HON. T. D. H. BAUCE: I beg to second the motion.

HIS EXCELLENCY: The question is that the Agricultural Mortgagees' Relief Bill be read a second time.

MAJOR THE HON. F. W. CAVENDISH-BENTINOK: Your Excellency, I think that every Member in the House will agree in principle that we welcome a Bill of this kind, because it does show that there is a genuine appreciation of the plight of the agricultural community in these hard times. At the same time, I do hope that this Bill is going to be sent to a Select Committee, because with all due respect to the hon. and learned Attorney General I do not consider that what he says is quite the case, that this Bill does represent the exact recommendations made by the committee which sat last year.

The Agricultural Mortgagees Committee was appointed, it sat in 1933, and consisted of the late Attorney General, the late Treasurer, the Director of Agriculture, a lawyer of very great experience in this country, and two people of experience, one of farming and one intimately connected with agricultural enterprise. That committee, with full knowledge of local conditions and embracing within its personnel two lawyers, drew up a suggested Ordinance which in their opinion met local conditions and did exactly what was wanted at the time. That draft Ordinance was sent home and was reviewed by some legal authority in the Colonial Office. I submit, with all due respect to that legal authority, that by culling sections from other Ordinances in other parts of the world, far from improving the Ordinance sent home he has very nearly ruined it.

I will make a few specific comments on this Bill. First of all, I should like to ask the hon. and learned Attorney General that in his reply he should inform us why in section 2 mortgagee should include any person who has guaranteed the performance by the mortgagee of any covenants for the purpose of this Ordinance, and should also include any person against whom the mortgagor has a legal or equitable right of indemnity. No doubt there is good reason for including these among the interpretations, but the reason is not obvious to anybody.

Under section 3 of the Ordinance they have left out a subsection which was in the original as sent home for approval by the Secretary of State. The reason for that omission is not clear. Section 5 also has a material alteration.

Again, section 6 (3) says that you must serve a copy of any application on the mortgagee and Registrar of Titles. The reason for that, I think, has been explained by the hon. and learned Attorney General. But in section 10, any order of the Court shall be registered by the mortgagor with the Registrar of Titles within seven days, and furthermore, the Registrar of Titles shall cause a register to be kept containing particulars of all the orders so registered. That seems at first sight to a layman to be quite an unnecessary obligation. I should have thought that any order of the Court should be registered against the title of the property. That is where anybody who is thinking of purchasing or entering into negotiations would institute a search. It seems to me it is quite unnecessary, and unnecessarily expensive, to start an extra register. Again there may be a reason for it, no doubt.

Section 8 is very important in determining whether relief against the doing of any act or the exercise of any powers by the mortgagee shall be granted to the mortgagor that the Supreme Court may take into consideration certain things. I think it is only equitable from time to time to take into consideration whether or not a man who owes money is in fact keeping up the security. That is one of the biggest changes made. Under the recommendations of the committee which sat, they quite agreed that relief should be given to mortgagors and purchasers of agricultural land against harsh or embarrassing proceedings by mortgagees or vendors, especially when a rise in land values becomes apparent, but they also said that a *sine qua non* was that the security on which the money was originally lent should not be depreciated. In that respect, the original clause 8 of the Bill drafted was very specific. This new clause is not nearly so specific, and in my opinion it is a little unfair on a lender. Lastly, I am not quite sure whether this is a matter for the Select Committee which I trust will be appointed, I think they have changed clause 8 considerably and clause 12, which to a certain extent refers to the old clause 8 and not to the new one. I move that this Bill go to a Select Committee.

THE HON. E. H. WRIGHT: Your Excellency, I beg to second.

THE HON. THE ATTORNEY GENERAL: Your Excellency, on a point of order, we must get through the second reading first. I intend to accept that motion, I may say, in due course.

THE HON. A. C. TANNABILL: Your Excellency, I think the hon. and learned Mover seemed to be extremely unenthusiastic about this Bill. Of course, as a member of the learned profession he could not be enthusiastic about any Bill which interferes with the law of contract, which could only be introduced in my opinion under very dire necessity. The hon. and learned Attorney General does understand the dire necessity which might arise if land values showed a likelihood of distinct appreciation. I do not think he was quite right in saying that this Bill has no effect on capital being introduced into this country. Supposing it was introduced for the benefit of the commercial community? Very definitely and at once it would affect the introduction of capital into this country. I do not think as it happens that it will affect the introduction of capital, because for some considerable time past, I am very sorry to say, there has been practically no capital available for mortgage purposes on agricultural properties.

The matter has been considered tentatively by the commercial community in this town. We were told it would do no harm, and I agree. The hon. and learned Attorney General, in support of the Bill, says it is really only for a little while, it does not matter very much, and I believe, Sir, the only reason why this Bill should be brought in after I think a considerable amount of revision, is the one case in a hon. and learned Attorney General saying he had had very little experience and had heard but a few cases of a rapacious mortgagee. I will confirm that, and say that mortgagees in this country in regard to agricultural mortgages have been extremely lenient, and that it is very difficult to find a single case of what one would term a rapacious mortgagee. But there is one possibility. That is, that the land values apportion steps forward and desires to get hold of the property. He goes to the mortgagee, and says "I will give you so many hundreds or thousands to buy the mortgage as it stands", and then steps in and acquires the property without giving the mortgagor a reasonable chance to make good on a rising market. I do not think this Bill goes far enough if dire necessity in commodities arose, it is quite possible for land to rise in value, perhaps very quickly. In that case the mortgagor would require a great deal more protection, in my opinion, than is given here. I believe in case of war that would occur almost automatically.

I think there are only one or two points which call for the absolute necessity of a Select Committee to deal with them. The hon. Member for Nairobi North pointed out this question.

of a new register. I do suggest for consideration whether there is any necessity to open a new register, whether these applications could not quite easily and automatically be registered against the title. I did mention that there had been very little necessity for this Bill, because quite definitely under the existing terms of mortgages it takes practically six months before a mortgagee can completely foreclose. I am supporting the Bill with the proviso which I hope will be accepted, that it will be referred to Select-Committee.

THE HON. CONWAY HARVEY: Your Excellency, as a representative mainly of farmers I do support the principles of this Bill, particularly as it represents the first recognition on the part of Kenya Government to the very serious plight in which the Kenya farmer finds himself, and for the first time proclaims to the world that the Kenya farmer is in precisely the same unfortunate condition as agriculturists everywhere else. It is just a crumb which may afford those who may benefit by it some slight feeling of security, which is all to the good, but I do, Sir, honestly believe if deserving farmers are to be kept on the land, and every effort should be made in that direction, very much more drastic action is necessary on the part of Government and any other body in a position to help. The chief trouble, a point not yet made in this debate, is the fact that indebtedness has increased three or four times over in terms of commodity prices. I have no intention, Sir, of entering the troubled arena of devaluation—my own personal opinion, and I should like to say this, in regard to that particular subject is that we are treading on very dangerous ground indeed, and we should be very well advised to leave the present currency situation alone. The main point is that something must and should be done to assist the farmers who through no fault of their own find themselves in such a bad way. I do not think the Bill will help them very much; it may a little, and should therefore be supported in the hope that it is the forerunner of greater assistance at a future date.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, after hearing the hon. Member for Nairobi North, whatever qualms I may have had about referring this Bill to a Select Committee entirely left me, as it is certainly necessary for all his points to be gone into in Select Committee, and in committee of the whole House I am afraid it would take an inordinate time. Actually, I fear that I must have missed his first point, which was taking exception to an amendment. I thought it was with regard to the word "mortgagor" in the

Bill—he will correct me if I am wrong. If his objection was to the definition of the word "mortgagor" I can only say that I have just compared it with the definition in the Bill recommended by the committee and it is exactly the same. If, on the other hand, he referred to the definition of the word "mortgagee", then I must admit that has been altered because it was an invention of the committee's and it was thought by those capable of judging to be so difficult of interpretation that it would be wise to take a definition straight from, I think, actually Queensland, a definition which has been before the courts hundreds of times and which is known to be legally sound.

With regard to the other points, they will certainly be considered in Select Committee, but I would like to clear up a small misunderstanding with regard to section 10. If hon. Members really feel that it is unfair on the Registrar of Titles that he should cause a register to be opened to the public at all reasonable times I will certainly see it is deleted, but I will just mention this, that the point about that sub-section is the fact that you can go and see it free of charge, whereas if you want to read through documents of titles you will have to pay a search fee. The committee went into these points and I can take no credit for it myself.

I was surprised to hear the last speaker when he said that at last Government had recognized the necessity of assisting the unfortunate agriculturist. Of course, it is a question entirely of individual opinion as to whether they are assisted as much as they want to be or should be, but two things cross my mind, such as the Agricultural Advances Scheme and the Agricultural Bank, which I seem to have heard about and which I have been led to believe came into existence with the idea of assisting these unfortunate members of society.

The point made by the hon. Member representing Nairobi South with regard to my introducing this Bill with diffidence—I think there may be a little in it, because he must remember that it is a step-child of mine! It is one thing to introduce a Bill when you have been a member of the committee and you have fostered the whole thing, with the assistance of others, and you have probably drafted the Bill yourself; but when you have it pushed on to you and you find, for instance, as I have mentioned before, a peculiar—I do not say a not very excellent definition; probably it is—of the word "mortgagee", which I have not seen in any other law, I think you will agree with me that it is probably wise for me to say in such a case "I think we had better have a definition which has received legal sanction". These are all very small points and we can go into them in Select Committee, and I feel sure that you will find excellent reasons for the alterations in every case.

HIS EXCELLENCY: The question is that the Agricultural Mortgagors' Relief Bill be read a second time.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Agricultural Mortgagors' Relief Bill be referred to a Select Committee with the following personnel:—

The Hon. the Attorney General (Chairman).

The Hon. the Treasurer.

The Hon. the Director of Agriculture.

The Hon. Member for Aberdare.

The Hon. Member for Ukamba.

The Hon. Acting Member for Nairobi South.

The Hon. J. B. Pandya.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

ADJOURNMENT.

HIS EXCELLENCY: Council will not sit to-morrow owing to the Coffee Conference, but I am afraid we shall have to assemble on Monday at 10 o'clock in order to get through the Agenda; so, instead of sitting on Tuesday, we shall have to assemble at 10 o'clock on Monday.

The Council adjourned till 10 a.m. on Monday,
30th July, 1934.

MONDAY, 30th JULY, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Monday, 30th July, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Acting European Member:

FRANK JAMES COULDREY.

MINUTES.

The minutes of the meeting of the 26th July, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the Table:—

By THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGIN):
Report of the Select Committee on the Agricultural Mortgagors' Relief Bill.

NOTICE OF MOTION.

By THE HON. THE ATTORNEY GENERAL:—

That the Report of the Select Committee on the Agricultural Mortgagors' Relief Bill be adopted.

ORAL ANSWERS TO QUESTIONS.

EXPENDITURE FOR EDUCATIONAL PURPOSES.

No. 60.—THE HON. J. B. PANDYA asked:

(i) In reply to my question No. 22 of 9th May, 1934, asking for figures of amounts in respect of (a) Housing, (b) Pensions, and (c) Loan Charges for Educational purposes for (a) Europeans and (b) Indians, Government stated that the same were not available. May I ask how did Government supply Lord Moyne the following figures in respect thereof for 1931 which are given on page 90 of his report?

	European	Indian
	£	£
(a) Housing	2,961	2,957
(b) Pensions	4,041	2,166
(c) Loan Charges	10,421	2,481
Total	<u>£17,423</u>	<u>£7,604</u>

(ii) Whether the Revenue and Expenditure described as 'Chargeable to Education vote' for European and Indian Education for the year ending 31st December, 1931, was:—

(a) Revenue.

	European	Indian
	£	£
Education Tax	11,309	14,481
Wines and Spirits Tax	21,306	5,961
Tuition Fees	4,112	5,199
Boarding Fees	12,430	1,000
Total	£49,343	£26,641

(b) Expenditure.

	European	Indian
	£	£
Recurrent	49,191	34,105
Non-Recurrent	411	246
Total	£49,602	£34,346

(i) If the figures submitted in the first and second part of the question be correct, whether according to Government figures the total expenditure for European and Indian Education including (a) Housing, (b) Pensions and (c) Loan Charges, would be:—

	European	Indian
	£	£
Described as 'Chargeable to Education Vote'	49,603	34,346
Described as 'Not Chargeable to Education Vote'	17,423	7,604
Total	£ 67,025	£41,950

showing that Indian revenue fell short, by £15,309 and European revenue fell short by £17,682 respectively?

(iv) Whether there have been additions to (a) Housing, (b) Pensions and (c) Loan Charges for Education since 1931?

If the answer be in the affirmative, what are the amounts in respect thereof for (a) Europeans and (b) Indians?

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): (i) The figures given in Lord Moyne's report were given to him as an approximate liability in regard to pensions, as is clearly indicated in the footnote on page 90 of his report. The actual expenditure on individual pensions is almost impossible to state in respect of any one year.

It was possible to give Lord Moyne the loan charges in respect of 1931 but it would not have been possible to give the loan charges in respect of the years previous to that year without very great labour, as the loan expenditure had not been full incurred prior to that year.

The answer given to the Honourable Member was correct. It was not possible to provide the figures asked for.

(ii) The figures given in Lord Moyne's report quoted by the Honourable Member were figures given before the Treasury accounts were finally made up and are therefore liable to slight alteration.

They should be as follows:—

	£
European Revenue	49,944
Indian Revenue	26,732
European Expenditure	49,600
Indian Expenditure	34,330

(iii) Subject to the modifications mentioned in reply to part (ii) of the Honourable Member's question, the Honourable Member's calculations may be taken as substantially correct.

(iv) It would involve a great amount of labour to examine the actual payments in respect of the first two items and it is very doubtful if accuracy could be secured: the variations in regard to loan have been negligible.

THE SISAL CESS.

No. 66.—THE HON. W. G. LILLYWHITE asked:—

"Will Government inform the House to what purposes the moneys derived from the sisal cess are to be devoted, whether for researches which will benefit the industry as a whole or which will only affect a proportion?"

THE HON. THE DIRECTOR OF AGRICULTURE (MR. H. B. WATSON): The proposed researches comprise:—

(i) research in Great Britain to discover new uses for sisal products;

(ii) the eventual establishment of a high level research station in Kenya to discover methods of reducing the cost of production; and

(iii) research at a projected low level research station in Tanganyika.

The first will benefit the industry as a whole; the second and third together will also benefit the industry as a whole.

The results of these researches will be made available to all sisal estates in Kenya.

LOCUST REPORTS.

No. 67.—THE HON. W. G. LILLYWHITE asked:—

“Will Government inform the House who is responsible for the Locust Reports, as published in the Official Gazette and Press, and if the responsible officer is satisfied as to the integrity of these reports?”

THE HON. THE DIRECTOR OF AGRICULTURE: The answer to the first part of the question is that the Locust Officer, Mr. H. J. Carlisle, is responsible.

The answer to the second part of the question is in the affirmative.

If the Honourable Member will call at the Head Office of the Department of Agriculture I shall be pleased to show him the evidence which proves that the suggestion that the seriousness of locust infestation has been exaggerated in these reports is untrue.

FASCISM IN KENYA.

No. 78.—THE HON. ISHAK DASS asked:—

“In view of the fact that Fascism is about to be introduced in Kenya by the Lord High Constable of Scotland and as this movement is the direct negation of all civil and religious liberty, will the Government be pleased to state if the movement meets His Majesty's Representative's approval?”

If the answer is in the negative, what action the Government intends to take in the matter?”

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORS): This Government has no information regarding any impending introduction of Fascism into the Colony.

The second part of the question therefore does not arise.

REPORT OF ADVISORY COMMITTEE ON EUROPEAN EDUCATION.
No. 79.—MAJOR THE HON. F. W. CAVENDISH-BENTON (for Lt.-Col. THE HON. LORD FRANCIS SCOTT) asked:—

“What action do Government contemplate taking in order to implement the recommendations contained in the Report by the Advisory Committee on European Education which was laid on the Table of the House during the last Session?”

THE HON. DIRECTOR OF EDUCATION: I would invite the attention of the Honourable Member to the terms of the Report of the Select Committee on the 1933 Estimates, which reads as follows:—

“The Committee agreed that the present financial position of the Colony precluded the introduction at the present time of compulsory and free primary education, but recommend that this objective should be kept in view”.

In the opinion of the Government the Colony's financial position continues to preclude the adoption of any such proposal, but the Government proposes to refer the Report of the Advisory Committee to the Standing Finance Committee for the examination of its recommendations from a purely financial point of view.

MOTIONS.

PENSIONS—MILITARY SERVICE.

THE HON. THE TREASURER (MR. G. WALSH): Your Excellency, I beg to move the motion standing in my name on the Order of the Day:—

“This Council approves unreduced pensions to the following officials in respect of their temporary service on military establishment, the period of which, together with the amounts of the pension and the dates of retirement, have been shown against their respective names:—

Name	Temporary Service on Military Establishment	Amount of Unreduced Pension Per Annum	Date of Retirement
		<i>Sh. etc.</i>	
A. A. Mascarenhas	11-7-17 to 12-11-19	241 26	3-10-33
J. M. Collaco	15-7-17 to 11-4-20	224 35	1-1-34

and reduced pensions and gratuities (in lieu of unreduced pensions) to the following officials:—

Name.	Temporary Service on Military Establishment	Amount Unreduced Pension Per Annum	Reduced Pension Per Annum	Gratuity	Date of Retirement
R. L. Patel.	9.3.16 to 15.6.19	349 05	261 79	872 60	1-1-34
Abdul Ghani	15-12-16 to 15-6-19	278 50	208 88	696 20	1-1-34
E. J. Lewis.	10-9-17 to 23-11-19	241 65	181 24	604 10	10-1-34

Prior to the enactment of the Non-European Officers' Pensions Ordinance of 1932, service on military establishment followed by service under the civil Government was allowed to count for pension provided that the following conditions were fulfilled: firstly, that no break in the continuity of the service had occurred; secondly, that the military service had been in the same capacity as the subsequent civil service; thirdly, that no gratuity, pension or other remuneration had been granted in respect of the military service. On the introduction of the Non-European Officers' Pensions Ordinance, 1932, however, this procedure no longer held good as no provision under that Ordinance is made in regard to pension in respect of this type of service. Although the principle has been accepted, it is necessary to obtain the sanction of the Legislature to accord to officers who come under the 1932 Ordinance the same privileges as had been granted to officers who were outside the scope of that Ordinance and came under the Superannuation Acts. I might explain that military service in the same capacity is in effect clerical service. As such as the Military Audit Department, the Military Customs Department and the Military Labour Department were necessarily placed on a military footing and on the cessation of hostilities were to a considerable extent merged in the civil establishment of Government.

The motion now before this House refers to the period during which clerks serving in these semi-military departments were under military authority.

It so happens that all the officers referred to in this particular motion were transferred to the Military Labour Department of the Native Registration Department. Other motions of a similar nature may be necessary from time to time but I do not anticipate that the number will be great or that the amount involved will be large.

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

The question was put and carried.

UNEXPENDED LOAN MONIES, KENYA AND UGANDA RAILWAYS AND HARBOURS.

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I beg to move the motion standing in my name:

"Be it resolved that this Council hereby approves the expenditure of a sum of £12,204 upon the purposes specified in the Schedule hereto and further approves the provision being made from unexpended moneys provided in the 1928 Imperial Loan under item 1—Extension of Uganda Railway into Uganda and Construction of Branches into Kavirondo and Uganda.

Schedule.

Capital Improvements £12,204."

These re-allocations of loan balances are necessary to free savings made on individual main line and branch line construction, and also to transfer funds over-provided for in the original schedule, and to make the whole of these balances available for general railway improvements as and when required in the future. These re-allocations have been recommended by the Railway Advisory Council and have received the sanction of the Secretary of State.

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

The question was put and carried.

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I beg to move the motion standing in my name:

"Be it resolved that this Council hereby approves the expenditure of a sum of £112,741 upon the purposes specified in the Schedule hereto and further approves the provision being made from unexpended moneys provided in the 1928 £9,500,000 Loan under items 1—Construction of Nyeri, Kitale and Soloi Branch Railways; and 4—Additional Locomotives and Rolling Stock.

Schedule.

Railway and Harbour Development—

General Improvements on Main Line and Additional Equipment £112,741."

The explanation is exactly the same, Sir, as in the case of the first motion.

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

The question was put and carried.

BILLS.

SECOND READING.

NATIVE HUT AND POLL TAX BILL.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move the second reading of the Bill to provide for the levy of a native hut and poll tax. Since the enactment of the existing Ordinance, various defects have appeared in its working which this Bill sets out to remedy. It results from the inquiry of a sub-committee of Provincial Commissioners and embodies, together with certain existing provisions, amendments which have been considered necessary for the efficient and smoother collection of the tax. It also includes, with certain amendments, rules under the Hut and Poll Tax Ordinance, and so consolidates in one comprehensive enactment all the legislation on the subject.

To turn to the provisions of the Bill. The definition of "native" in the existing Ordinance is retained, as in practice that definition has not resulted in any difficulties of interpretation. It does not set out to decide the vexed question of the status of native and non-native. This House is probably aware that the Arabs and Somalis are paying non-native taxes. Legislation for defining the status of Arabs and other non-natives is under the consideration of Government, and no useful purpose will be served by raising the issue under this Bill.

The first important provision is that which makes the tax payable by both a male and female hut owner. The amendment will in practice not affect the majority, if any, of the women at all in the aboriginal tribes, as by native custom all the women are under the nominal guardianship of some male within the family group. But it will bring within the liability of the law a number of women but owners on the coast and elsewhere who could probably be considered as liable under the law and whose means are such as to enable them to pay the tax without resultant hardship. On the other hand, widows and other destitute women whose nominal guardians are unable to find the money for the tax, could be exempted under the provisions of the Bill.

The second important provision is that which empowers the magistrate to impose imprisonment instead of or after the levying of distress. Under the existing law, it is necessary to levy distress before imposing imprisonment, and this necessity has in some areas resulted in considerable difficulties in collection, if a defaulter has property incapable of attachment or deliberately conceals it whereabouts. On the other hand, destitute persons incapable of paying can be exempted under another clause of the Bill. It is not anticipated that there will be an extensive use of these powers, but their existence on the statute book is considered necessary to provide for the efficient enforcement of the law.

A further provision of importance is that which widens the power of exemption by removing the proviso which lays down that no taxpayer can be exempt unless he is prevented by age or physical infirmity from obtaining employment. It is felt by administrative officers that the powers of collectors should not be fettered in this manner, and it is believed that officers can be trusted not to abuse but to exercise those powers with judgment. In regard to the actual collection of the tax, the question has been raised as to the procedure which is followed in cases where a native leaves the district for work outside and the tax is demanded from his relatives who remain within the reserve. It is alleged that cases of hardship have occurred when the stock of a taxpayer has been attached in his absence when possibly he has paid elsewhere. This question has been the subject of consideration in the past by administrative officers, and various methods of obviating hardship in cases of this kind have been evolved. It is proposed to bring this matter up again at a forthcoming meeting of Provincial Commissioners, with a view to devising some practically foolproof method which will obviate dual payment and resulting hardships.

In regard to the age limit, that is retained at the age of sixteen. It agrees with the procedure in Tanganyika, and it is not considered necessary to make any change, as the age of maturity for natives is considered to be sixteen, and they are then considered capable of earning the money for the tax. I am aware that section 27 of the Juvenile Offenders Ordinance provides for the detention of a child or young person at an approved school, Class I, until the age of eighteen, but this Ordinance is more concerned with correction and reform, and less with the question of the age a native reaches maturity. In actual fact, the age of a child under that Ordinance, the Juvenile Offenders Ordinance, is considered to be under fourteen, and of a young person fourteen and over.

A further important provision is widening the definition of a collector, which will now include a native; the collection of native taxes by natives is the ultimate object of Government, and experiments are already being tried in this connection in some of the reserves. It is hoped to extend this method as opportunity offers.

In conclusion, Sir, I would emphasize that the system of hut and poll tax, with the possible exception of stock tax, is the only suitable form of taxation for the native under his present stage of development. Alternative systems such as a tax on land or other form of property have been the object of the fullest consideration by administrative officers. The consensus of opinion has always reverted to the existing system as the most equitable and most acceptable to the native, and the nearest approach to a property-tax or income tax which could be devised. I beg, Sir, to move the second reading of this Bill.

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

HIS EXCELLENCY: The question is that the motion for the second reading of the Native Hut and Poll Tax Bill be adopted.

THE HON. R. W. HEMSTED: Your Excellency, I would refer to the definition of an adult male native which fixes the age of a native at sixteen years. I shall propose that eighteen be substituted for sixteen.

I think, Sir, that in the case of non-natives I am right in saying they are not liable for taxation until they reach the age of eighteen, and I see no reason why there should be any differentiation in the case of natives. It may perhaps be held that Europeans do not reach the adult stage until at least eighteen, it is twenty-one in England I think; but I believe in the case of other non-natives, Indians, I consider Africa. On the question of employment, Sir, I think it is perhaps rather hard that boys of sixteen should be liable for the tax of Sh. 12. In the townships possibly they receive a fairly good wage, but I think in the out districts that the wage of a boy of sixteen would not amount to more than Sh. 7 or Sh. 8 a month. It will doubtless be held, Sir, that the revenue would suffer if the age was increased to eighteen, but I am by no means certain that that would be the case. Taxation becomes more and more difficult to collect, and I think if the burden of taxation were slightly reduced and some

relief afforded, the tax would be collected with greater facility. I would ask, Sir, the sympathetic consideration of the House to that proposal.

THE HON. CASON THE HON. G. BURNS: Your Excellency, I rise to support my colleague in the matter of the age, and in the desire to have it fixed at eighteen. That, I understand, is the time in South Africa and also in Uganda when natives have to pay their hut taxes. Another very urgent reason for making it eighteen instead of sixteen—we have in our towns a large number of boys who flock in to those centres from the natives reserves. They are a problem, and the authorities are up against it very often with regard to these boys, and they are also the seed beds for criminals. A boy would have to go into Nairobi, provided he has no means and the father cannot provide the hut and other taxes, he would have to leave the reserve to come to some centre or some farm, between fifteen and sixteen years of age; and I submit, Sir, that that should not be the case in practically compelling these boys to leave the reserves at fifteen and a half years of age to come to centres or to go on farms to produce their hut and poll tax. I notice, Sir, with very great satisfaction, that provision has been made for exemptions, and especially for the exemption of widows. To boys who come in to Nairobi and other places, to my knowledge this becomes a very, very heavy burden indeed. Sometimes the widow or widows of a man—because there may be more than one—the man dies, and there is no one to accept the responsibility or shoulder the responsibility for their taxes but perhaps some boy who is working in Nairobi or at some other centre trying to earn enough money to buy or pay for his own bride. If this extra burden is placed on him without some possibility of relief, it would indeed be a very great hardship, so that I am very glad provision has been made.

There is just one thing. I should like to be assured in connection with the native hut and poll tax collectors that such collectors should under no circumstances be allowed to collect taxes on a percentage basis. I should like to be assured that that would not be the case. If such was in the thought or mind of the Government or of the administrative officers, it would be a source of danger to the natives who are collecting the tax, and it would in my mind also lead to hardships and cruelty on the part of those who collect the tax on a percentage basis. I hope this point, when the Bill comes to the committee stage, will be dealt with and taken into consideration, and that some assurance will be given that that method of collecting the tax by native collectors will not be made possible. I have nothing else just now to say, Sir.

THE HON. CONWAY HARVEY: Your Excellency, may I express the hope that these matters which have been introduced will form the subject of close examination by a Select Committee. I for one, Sir, am not the least bit in sympathy with the main points made by the last two speakers. I have now lived in Africa for very nearly four decades and I do know the African moderately well, and I say without fear of contradiction from anyone with a reasonable amount of knowledge of native conditions that the natives at the age of fourteen, when they are ready to go out to work, develop very much more quickly than Europeans, and I suggest, Sir, that between the ages of fourteen and eighteen is just the right time to send these young scallywags out of the reserves to do an honest job of work in the form of Government service or some similar undertaking.

With regard to the hon. Canon's second point, Sir, about a percentage being paid to those who relieve Government of a great deal of fuss and bother in collecting taxes, I hope his remarks only refer to collections by natives. I understand, Sir, that Government is sympathetically disposed towards representations which have been made by farmers' bodies, industrial bodies and several administrative officers that large employers of labour who go to very considerable trouble and considerable expense in collecting very large sums of money for the Treasury each year should at least be given a trifling percentage which will reimburse them at least their actual out-of-pocket expenses in this very valuable work which they perform for Government.

THE REV. CANON THE HON. G. BURNS: On a point of explanation, Your Excellency, I was speaking of and dealing with native collections only.

THE HON. CONWAY HARVEY: You did not say so.

MAJOR THE HON. SIR ROBERT SHAR: Your Excellency, there is only one clause in this Bill on which I would like to comment. I must apologise in that apparently I appear to have mislaid my copy of the Bill on which I had some notes, but there is only one point, which I hope to be able to make clear from memory.

The clause I refer to is clause 6 of the Bill. We have been told by the hon. mover that this is a comprehensive Bill which proposes to bring the whole of this matter of collection of hut and poll tax under one Ordinance, a very laudable object which we all support, but obviously in such circumstances steps must be taken to remunerate with the gentleman who pleads that he is unable to pay his taxes. That is done,

Sir, in clause 6 of the Bill. The first paragraph, I think, is a perfectly straightforward and natural method of recovering by distress. The Bill then quite rightly goes on to provide for the person charged with non-payment of tax who has no property which may be attached, and there, I think, is where the procedure breaks down, for we have nothing better to suggest than that the court should put that gentleman in prison for a few months. If that proposal is considered for a moment it will be seen right what you have is a proposal to compensate for loss of revenue by giving this person free board and lodgings for two or three months. That does not recommend itself to us very much, and secondly, I do think it is important to realize that such a native is not a criminal in the accepted sense of the term, and I submit it is entirely wrong to put him in prison and thereby make him a criminal by forcing him to consort with compatriots who have been incarcerated for criminal offences. I suggest also that it is not a suitable deterrent in that two or three months of more or less congenial imprisonment is not a fit alternative for a native in hard times who is unwilling to part with his hard-earned shillings. I may say that many of us would be very pleased to accept His Majesty's hospitality for two or three months instead of having to pay the taxes for which we are liable! I do think this is not an alternative which ought to be offered to Africans. The proper, straightforward, just and understandable method of dealing with such a thing as that is that, if these citizens can contribute nothing in cash or kind, they should contribute the only thing they have to contribute, and that is honest labour. They should be handed over to the Railway or the Public Works Department, or other departments, and work for the State piling up earth or digging drains, or whatever it is these departments do in their spare time, and in that way work off their dues to the State by honest labour.

It is possible that such a method is denied to us as a result of what a distinguished visitor to the Colony the other day described as the "pathological sentimentality" of the people at home. If we adopt this method, which is the one the African would appreciate and understand, it would be fair and would be absolutely just. It would be equally fair and just and proper in such a case to make a family or clan of the defaulter or whatever sub-section of the tribe organization he belongs to, make that organization responsible for his taxes and leave it to them to keep this defaulting citizen by their own peculiar methods, which I suggest they would be able to do rather better than ourselves. I think it is worth considering whether in this stage of the world's history we cannot

suggest something better than this very archaic proposal in the Bill to put the defaulting taxpayer in prison at the expense of the State.

THE HON. ISHAK DASS: Your Excellency, I understand this Bill has been brought in by Government in the interests of natives, and also to improve their economic conditions, but one thing I have noticed up to this time is that there is not a single organization of the natives which has supported it. Before this Bill was brought before this House I think it should have been considered by the natives and the natives asked for their opinion about the Bill, as it affects them. People who are directly concerned have not been given any opportunity to voice their opinions about this Bill. On page 1, Your Excellency, there is a definition of a "wife". I am really sorry that in 1931 there should be given to understand that the definition of a "wife" includes a concubine. I am really surprised that we should do this instead of improving the young people whose interests Government is very anxious to look after.

THE HON. THE COLONIAL SECRETARY: Your Excellency, it will be as well if I intervened in the debate at this stage, merely to indicate the intention of Government in the matter of procedure regarding the Bill. It was not our intention originally to move that this Bill be sent to a Select Committee because, as explained by the hon. the mover, and in the objects and reasons, the primary object of the Bill is that it is a consolidating measure. It is not raising the whole question of whether the hut tax should be introduced or not—tax collection on the present basis. But, as certain points have been raised, certainly of very great interest and importance, I have your authority, Sir, to say that we propose to refer this Bill to Select Committee. A motion to that effect will be moved later when we have had an opportunity of considering further the personnel of the Committee.

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

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER: Your Excellency, the hon. Member, Mr. Hemsted, and the hon. and reverend Member, Canon Burns, raised an issue of tremendous importance as far as the revenue of this Colony are concerned. It would hardly be proper for me to give any indication of either my own or the opinion of Government on this point at the present stage. In regard to the point raised by the hon. and reverend Member, Canon Burns, on the

subject of the native collectors, that is a point again which will be carefully considered by the Select Committee, but I may inform him that at the present time the system of payment on a percentage basis is not in force in the native reserves. Where the tax is collected by native chiefs, it is not collected on a percentage basis. In regard to the point raised by the hon. Member for Ukamba, the actual practice in most reserves as far as I know is for the hut tax defaulters to be sent to detention for a period of one, two, or three months as the case may be, and in effect they do work for the State and give the equivalent of the hut tax by their labour. The other points raised, Sir, I think could be more suitably debated by the Select Committee when it sits.

The question was put and carried.

THE LABOURS REMOVAL BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to provide for the removal and settlement of labours be read the second time.

As hon. Members probably realize, this Bill is somewhat out of the ordinary for this House to have to consider, not merely because of the preamble—which almost explains the whole Bill and renders the making of a speech almost unnecessary—but because it is in effect such strong legislation. Government realizes, I may say at once, that it is a strong measure and I can assure the House we have only decided to place this Bill before you after every other possible and more usual method have been tried, and have failed. From time to time we have used the existing laws which entitle us to remove persons guilty of certain offences to other parts of the Colony. But, I regret to say, it has not had the result that we had hoped it would. Administrative officers have for years been considering this question. You will hear one who has considered it himself for a considerable time to-day in support of the Bill; I refer, of course, to the Provincial Commissioner of Nyanza. In addition to him there are persons under him, such as the present District Commissioner, Mr. Brumage, who has spent an enormous amount of time and done an enormous amount of work endeavouring to avoid having to take this exceptional course. It is the opinion of everyone who has had anything to do with them, that something of the nature of this measure must be done.

Hon. Members probably know about the labours themselves far better than I myself. They are as you know a class of witch doctors, or an organization of witch doctors, who have worried themselves into the heart of the Lumbwa tribe. The Lumbwa do not want them, but are too terrified

to get rid of them themselves, and we are satisfied that this organization is responsible for the great percentage of crime which has been going on among the Lumbwa in the last two years. We have therefore decided to ask you to give us power to remove this sore from the midst of the Lumbwa tribe, and give them a chance to reconstruct themselves as well behaved citizens. We are not satisfied that the Lumbwa themselves are bad, but we consider it is the influence of this organization of laibons which inspires them to commit the majority of crimes which have been committed. The laibons themselves have been perfectly safe sitting in their own villages, doing nothing overt themselves, but being responsible by their organization for disposing of the great majority of things that have been stolen. Examples have occurred of thefts when the stolen property in a ridiculously short time has been found hundreds of miles away, and without an organization behind it we know perfectly well that no individual native who had actually performed a theft could have disposed of it in that way.

The provisions of the Bill itself are small. We first give authority to set aside land. With regard to the setting aside of that land, I may say with the authority of Your Excellency that it is proposed to move at a later stage a small amendment to clause 3 of the Bill which relates to the land we propose at the moment to send these laibons to, and to say that a committee, not necessarily a Select Committee, will be appointed to go more thoroughly into the question of the exact area that these people should be sent to. I should say at this stage that an enormous amount of trouble has already been taken in going over the areas suggested in this Bill, not only by the administrative officers but by the Medical Department as well, but since the area has been scheduled and the Bill published, certain other considerations have come forward, and it is the last desire of Government to send these people to a place that will not be suitable, and I have been authorized to say that a Committee will be appointed to go into the question more thoroughly.

Having decided on the area to which these people will be sent, then a proper register shall be made of all laibons in this particular Province. The Provincial Commissioner is given power to make all the necessary arrangements with regard to the preparation of this register. He will be allowed to concentrate these people, to take their finger prints, and make them answer all relevant questions with regard to their parentage, etc. He is then given power, having decided who and who are not laibons, to remove these people under escort to the area in which it is finally decided to put them, and

having removed them into this area, provision is then made to keep them there. It is quite useless to provide an area from which they could escape the next moment. They will be kept in that area, which we believe and think will be an area suitable to them in every way so that we may be able to remove the Lumbwa from their influence.

It may well be that some of you think this is not a sufficiently strong measure. At any rate, we ask you to give it a trial. If it is found in the light of experience not to be strong enough, it may be necessary to go even further, but sufficient for the day is the evil thereof. We realize that it is necessary to give them the usual appeals—you will find them in the various sections of the Ordinance—but we do give the Provincial Commissioner one power to himself, in that he is the court of appeal himself with regard to who are and who are not laibons. Naturally some of you may think that this is a very wide power to give an individual, but it is very necessary that action should be taken, and taken quickly, and we can think of no one more capable or better of judging whether a particular person in his province is a laibon or not than the Provincial Commissioner. Originally, of course, he himself will not undertake the preparation of the register, it will be some of his subordinates, and there will be an appeal from them to the Provincial Commissioner. We do not think there are at present in this province more than about 700 laibons, with their wives and children, and it will be necessary to make provision for the removal of these 700 people after the various things have happened that I have just told you about, of concentrating them, making the register, seeing the register is properly up-to-date, having them removed, having made provision for removal with escort—and having got them to the new area having them confined within that area.

I do not think, Your Excellency, that there is any more I can tell the House. I do trust that hon. Members opposite, even though they realize it is a tremendous power to give a Government, to remove a whole body of 700 souls, as we are asking in this case, I do hope you will think, having regard to everything that has happened in this Colony within the last few years, that it is a wise provision to ask for.

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

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

THE HON. CONWAY HARVEY: Your Excellency, European Elected Members are quite unanimous in their support of the main principles of this measure, Sir, and having lived in very close proximity to the laibons and the Lumbwa native reserve for a long period of years I personally appreciate the need for some measure of this sort. I do, Sir, congratulate Government for once in taking what the hon. and learned mover has described as a very strong action. Belated though it may be, better late than never. Your Excellency, and I suggest that had similarly strong action been taken a good many years ago a good deal of the bloodshed and trouble generally might very well have been obviated. I feel, Sir, that a very special word of congratulation is due to those officers whose assiduous efforts have revealed a most amazing criminal organization which, to those who know most of the facts, is more hair-raising than what one reads in three-penny thrillers. I do most heartily congratulate Government on taking action, and sincerely trust that their efforts will meet with the success they deserve.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER: Your Excellency, the hon. and learned mover has detailed the main provisions of this Bill, and I propose to confine myself to the history which led up to its introduction.

The laibons belong to the Tali Clan of the Nandi tribe, and came to the Lumbwa district towards the end of the last century. All medicine men, both among the Nandi and the Lumbwa, belong to this clan, and it is recorded that they originated from the Segala Masai, from whose midst they escaped when a number of them were being put to death. Amongst the Nilotic tribes of the group to which the Nandi, Masai and Lumbwa belong, the medicine men have the functions of divining events by casting stones, the inspection of entrails, and by such things are the interpretation of dreams, but to them were also attributed powers of rain making, and they were consulted by the Nandi and Lumbwa before all important events; for instance, making war and planting of crops. By immemorial custom they were the brains and driving force behind all important actions of the tribe, and so concentrated in their hands all essential power. Their arrival in the Lumbwa district was of comparatively recent origin. In 1911, when Mr. Dobbs first took charge of the district, the first laibon, by the name of Kipchomber arap Koteke, arrived. He was put in a position of authority under Government and received the sum of Rs. 50 a month. Mr. Dobbs records that between the years 1911 and 1914 (when the laibon was deported from the district) stock thieving

was very prevalent, stock thieves being harboured and protected by the laibon himself, and tribute being paid to him by the Lumbwa, whose dread of him was abject. Between 1914 and 1918, the absence of the laibon from the district was very beneficial to the Lumbwa tribe, and in fact stock thieving decreased to a considerable extent. But in 1919 the laibon's eldest son, named Kenduiwa, made his appearance in the reserve, and from that date the commission of blackmail and instigation to crime was renewed, but it did not actually reach an acute stage until a considerably later date. It is clear from this that the evil influence of the laibon clan was established at an early date, and also it is clear that Government did its best at an early date to win the cooperation of the laibons in the peaceful development of the tribe, but without success.

In 1929 and 1930 lawlessness reached such an acute stage that the Provincial Commissioner, Mr. Dobbs, was compelled to ask Government to remove the laibons. His request was backed by a number of petitions, one from the Local Native Council, one signed by 467 of the leading members of the Lumbwa tribe, and one strangely enough from the laibons themselves, who asked to be removed from the district provided they were not taken away too far from their own reserve. In addition there were thirty-nine affidavits signed by leading Lumbwa bearing witness to the evil influence of the laibons and asking for their immediate removal from the district. All these petitions and statements were attested by the District Commissioner as having been voluntarily signed.

I do not propose, Sir, to give a complete list of the crimes committed by the Lumbwa under the alleged instigation of the laibons. It would take up too long the time of the House, but a few which are outstanding I propose to mention here. Last July a gang of Lumbwa broke into the house of Mr. Duirs, an old resident in the Sotik area, and after threatening to kill him if he resisted, robbed him of all his money. Later in the year a laibon, a son of Tonui arap Boisick, confessed that he had instigated this outrage. Towards the end of the year another laibon, Chebuehuk, confessed that he had persuaded a native of his to steal five head of cattle from the farm of a European near Molo. His brother, Sowe, was so incensed at this confession that he himself gave information which resulted in the conviction of Chebuehuk for having attempted the robbery of a safe from the farm of a lady farmer in the Keflowa area, and in fact a number of the jewels were found in his hut. This man, in

confessing to the theft of those five head of cattle went and pointed out the glade in the forest where the cattle were actually found. During 1934 the same man was convicted of abetment in the theft of three fire-arms, which were found in his possession. Since September, 1933, twenty-one stolen rifles and five hundred rounds of ammunition have been recovered from the possession of the laibons and it is believed on good foundation that about twenty more rifles are still in their possession. A raid on the Kipsigi Trading Centre in March resulted in the theft of about 5,000 shillings in cash and goods from Indian traders and is believed, again on credible information, to have been instigated by the laibons.

From the confessions of three laibons and various statements recorded in criminal cases the existence of an organization such as has been referred to by the hon. Member for Nyanza has been proved. It was confirmed by sixty of the laibons' supposed agents in the Kericho district and there is no doubt that the Kericho district and the Lumbwa Reserve were divided up into areas, each area being under the control of a particular Laibon. The natives of those particular areas paid tribute to the laibons and also a share of the stolen property which had fallen into their hands.

Before leaving this particular point, Sir, I would like, if the House will have patience with me, to quote from the letter of a prominent settler in the Kericho district, who writes:—

"It is quite evident that with such an organization as that controlled by this clan of laibons not only can there be no security of property but that there can be no progress of any kind amongst the *Kipsigis* as a whole. For the organization is, in fact, a rule by fear of their powers of witchcraft, a fear which is stronger than any other, thus depriving Government of all authority and suppressing all incentive to progress. Not only does this organization encourage robbery of every kind but instigates and even compels it. It leads the law-abiding into trouble and causes the innocent to suffer. It has destroyed the people's democratic system of local government and with it the individual's interest in the affairs of his locality, and hence his sense of responsibility.

It fears and resists all progress such as schools, the improvement of stock management, dairying or agriculture, for these witchdoctors know that the progress of dare to side with Government, law and order and progress for fear of these men.

Whilst this clan remains in the neighbourhood it is useless, nay impossible, for the Administration to do any constructive work for the benefit of the people, for neither do the people dare help or take part in such schemes, nor has the Administration the time to attend to anything but the suppressing, or rather punishment of crime.

If we believe, as surely we must, that the future welfare of the people depends chiefly on the development of a system of education adapted to their mode of life, then it is obvious that this foreign clan of powerful witchdoctors must be removed before even a beginning can be made. It would be a disaster to see a people with many fine and attractive characteristics allowed to languish and deteriorate for the sake of a few self-seeking evil-doers."

Well, Sir, we propose to transplant these laibons from the Kericho district to another area where their activities can be no longer harmful to the Lumbwa tribe. It is a step, Sir, which I believe will be not only necessary but which will be of immense benefit, not only to the Lumbwa tribe but to the laibons themselves. To move 700 people, men, women and children, to an alien area is a tremendous step but I am sure it will be justified by results. Without the cooperation of the farmers in the Lumbwa area the task of Government will be heavy and its efforts less certain of success. I refer, Sir, to the observance of the provisions of the Squatters' Ordinance which a recent inspection of certain farms in the Sotik area has proved to be deplorably neglected: Farms where the squatters are allowed to run wild and are not properly controlled menace to the whole country. They provide a refuge and asylum for every outlaw and for every stock thief. In making this appeal, Sir, to such farmers as have not properly controlled their squatters, I wish merely to suggest that every section of the community has a responsibility and a duty to fulfil in sharing in this control of the Lumbwa.

THE HON. R. W. HEMSTED: Your Excellency, originally I intended to oppose this Bill, but in view of what the hon. the Attorney General has said, and also my hon. friend the Chief Native Commissioner, I am willing to give the measure some support.

I do not want hon. Members to think that I hold any brief for the laibons or other persons of that ilk because I consider their influence is thoroughly evil and, as the hon. the Chief Native Commissioner has said, they are opposed to educational and medical work and other social services. Their object, there is no doubt, Sir, is to keep the people as ignorant

and superstitious as possible and so retain their powers, but what I think is most important of all is that the laibons are opposed to any change in the tribal constitution.

I am not altogether certain that the removal of the laibons is going to have the effect which the hon. member and the hon. Chief Native Commissioner expect. I do not think it is all quite so simple and the fact that there are one or two laibons removed, or a whole family of laibons, will not, I think, have a very great effect on the criminal tendencies of the Lumbwa. The point is, I think, to what extent are these laibons responsible? We have been told they have a wonderful organization extending as far as Nanyuki and over a large part of the Colony. It may be, Sir, but I am rather inclined to think that their influence does not extend at all events outside the Nyanza Province. It is further said, Sir, that they exact a tribute from their people and that they receive a portion of the proceeds of the stolen stock.

If that had been the case, it is reasonable to suppose, Sir, that these laibons would have been extremely wealthy. If my information is correct, Sir, a community of some 700 people have something under 3,000 head of cattle between them; that is to say, they have perhaps four head of cattle individually. If they have been exacting tribute, receiving the proceeds of stolen stock for a considerable number of years, one would naturally expect them to be much more wealthy than the average Lumbwa. But I do not think that that is the case, that is assuming the figures I have quoted are correct, that they possess about 3,000 head of cattle. In my opinion, Sir, it is a tribal organization, or certain features of the very large organization first started by the laibons, which is to a very large extent responsible for the criminal activities of the Lumbwa. The feature of the tribal organization to which I refer requires that every young man has to join a kind of military unit or regiment in which he remains for several years until he becomes an elder. While warriors, or morans as they are called, they lead a life of complete idleness, and when they become elders they have to show how they have distinguished themselves during the period they were warriors. In the old days, Sir, of fighting and raiding, the custom had very much to be said for it. But latterly the organization has degenerated, and a stock theft or murder or some crime of that kind receives as much appreciation from the people generally as killing a man in battle. The women, I think, are largely responsible, and jeer at a moran who cannot say that he distinguished himself in some manner during the period that he was a moran. A murder nowadays is regarded

in the same light as killing a potential enemy, and theft as bringing in some wealth to the tribe. The organization has degenerated to that extent.

The organization to which I have referred among the Lumbwa existed in a most highly developed form among the Masai, and until some twelve years or so ago the kind of crime which the Lumbwa are now doing, that is murder and stock thefts, were of frequent occurrence among the Masai. I think the wave of crime some twelve or fourteen years ago among the Masai was far more serious than anything which has happened in the Lumbwa country, but it did not receive the same publicity; less was heard of it. The local administration took steps some twelve or fourteen years ago to break up that organization, and finally succeeded in doing so about 1922. The result, Sir, was almost magical and for several years afterwards hardly any serious crime occurred among the Masai. There is no doubt, Sir, even among the Masai, that the morau or warrior organization was very strongly supported by the laibons there, but I think the main trouble came from the idle, vicious young men. Among the Masai, Government, I believe, subsequently allowed this moran organization to be revived, though it was revived in a somewhat modified form. I think that this was a great mistake. The organization having once been wiped out, it was a great mistake to revive it in any shape or form, and I see by the annual report for 1932 of the Native Affairs Department that the Masai moran again caused some serious trouble. I do not know the Lumbwa organization as well as I know that of the Masai, but I think the Lumbwa organization resembles that of the Masai to the extent that every young man has to join some kind of military unit, and I attribute a great deal of the crime that has occurred among the Lumbwa to this. The Lumbwa themselves require very little encouragement in the way of stock thieving, and what little encouragement is required is supplied by these laibons.

I am afraid, Sir, that I must accuse Government of never having had any definite policy in regard to these unnecessary, degenerate, undesirable—under present conditions that is—features of the tribal constitution, and had it done so, I do not think the drastic and somewhat expensive measure now proposed would have been necessary. While the present organization exists, that is an organization of this nature, among such tribes as the Masai, and the Nandi and the Lumbwa, and the Samburu and other pastoral tribes, I consider that these waves of crime are bound to occur, and possibly something more serious. I think in my own mind that the recent wave of crime among the Samburu was attributable to the

same cause, that is these young men in these organized military units, and was not so much due to the influence of the laibons.

As I have said before, I do not think the removal of the laibons from Lumbwa is going to make the Lumbwa immediately a law-abiding people, but I expect it will have a temporary effect, and I must admit that the hon. and learned Attorney General and the hon. the Chief Native Commissioner have made out a strong case for the removal of these laibons. The hon. the Commissioner referred to Mr. Dobbs when in charge of the Lumbwa district some years ago. Mr. Dobbs I think, as many-hon. Members know, was a very experienced District Commissioner who knew the Lumbwa probably better than anybody else, with the possible exception of the settler to whom the hon. Member referred. Mr. Dobbs considered it essential that these laibons should be removed, and other experienced officers such as Mr. Brunnage also consider it essential. The people themselves, the Lumbwa, apparently are very anxious to get rid of them. On those grounds, Sir, I am willing to support the principle of moving these laibons. I only do so, Sir, if I am satisfied that a suitable area can be found for them. As I was saying, I originally intended to oppose this Bill, and should have done so mainly on the ground that the areas referred to in the schedule to the Bill are entirely unsuitable. The area in the South Kavirondo district was formerly a sleeping sickness area, and I think about some thirty years ago 60 per cent of the people there died of it. I think that sleeping sickness is still there, although not in any severe form. It is a very malarious area, and people who know the Lumbwa will admit they are highly susceptible to malaria. Also, it is a rather barren and waterless country. If it is a suitable area or a potentially valuable area, I think it should be reserved for the Kavirondo, as it is in their reserve.

There is one other point that I will refer to, and that is the question of marriage. I believe it is a fact that the Talai or laibons clan of the Lumbwa cannot inter-marry, that is to say they have to procure their wives from other parts of Lumbwa, and if they are kept from contact with the Lumbwa in this way and can only procure wives from among themselves, naturally they will soon die out. Some people may say that is just what is required, but I hardly think it advisable. If the laibons are removed from among their own people, I think Government should investigate the whole question of these features of the tribal constitution to which I have referred among other of the pastoral tribes. As I have said, I think these outbreaks of crime, and possibly something

more serious, is likely to occur until this is done. I welcome the proposal to refer the question of the area to a committee, and if a suitable area can be found for these laibons I can support the Bill, although I think at the same time that Government is rather unduly optimistic as to its effect.

The Council adjourned for the usual interval.

On Resuming.

NOTICE OF MOTION.

PUBLIC SECURITY.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, with the leave of the House I would like to have your permission to withdraw the motion which stands in my name on the Order of the Day for Wednesday, 25th July, and substitute in its place the following:—

"That in view of the anxiety felt in certain districts in the Colony with regard to public security the Commissioner of Police should prepare for the information of this Council a report showing the prevalence of crime and to what extent if any its incidence has been affected by the recent reductions in the Police Force."

HIS EXCELLENCY: I take it the House has no objection to this substitution for the notice of motion originally given.

We will now continue the debate on the Laibons Removal Bill.

BILLS.

SECOND READINGS. THE LAIBONS REMOVAL BILL.

THE HON. E. H. WRIGHT: Your Excellency, I have nothing but praise for this Ordinance as displaying a newly found virility in dealing well and thoroughly with the hereditary witch-doctors, but I want to make one suggestion with respect to the paragraph dealing with the financial obligation of the country. In the last paragraph of the Objects and Reasons it is stated that the sum of £850 will be involved. The fact that a further statement says that there should be no recurrent costs would imply that £850 will be the estimated cost of the whole removal and settlement of the laibons. Now, Sir, in spite of the statement made by the hon. Member representing Native Affairs to the effect that the laibons in terms of stock are not over wealthy, I take the view, and I hope Government may yet share it, that the fact that these laibons have for so many years carried on their nefarious and doubtless very lucrative professions in that reserve, is sufficient to warrant the cost of their transportation being charged to the laibons themselves.

THE REV. CANON THE HON. G. BURNS : Your Excellency, the hon. Member my colleague in connection with Native Affairs has so dealt with the whole situation that there is very little left for me to say. I should like first of all to say that I support this measure but that there are certain doubts in my mind, first of all in regard to the area. It seems to me to be a very strange thing that there should be an area available in the South Kavirondo country capable of carrying 700 people and their stock. The stock figure is 3,000 head, but I have heard from a very good authority that the number of stock is 10,000. That may or may not be so, but it is rather remarkable that a country like that should be without inhabitants unless there is some very good reason for it. The fact that the hon. mover of this measure has stated that he will look into the area as to its suitability or otherwise has made me happier about it than I would be otherwise. In Schedule II certain islands have been mentioned that are known to be places where sleeping sickness prevails. Also I understand they are fairly thickly populated at the present time, and it would be rather difficult to find room for many people in those islands.

There is one other point I would like to draw attention to, and that is in clause B (c) which says:—

"a direction that the holding by them of public meetings of any kind be restricted or prohibited".

I can quite conceive that at some future time efforts will be made to elevate these laibons out of the state of degradation in which they are at present and make them to be useful citizens; and if that should be so an effort must be made, either by Government or some missionary society, who I hope will not be prohibited from making the effort to elevate these people and educate them. Will this sub-clause, Sir, in such an event prohibit such meetings or congregations of people as would be in those circumstances necessary for such work? I would like to be assured on that.

Then there is another point in connection with paragraph 15 about the permanent settlement of these laibons. I am sure one can depend upon the administrative officers and upon Government, but this is an experiment that we do not know yet exactly how it is going to turn out. Should the area in which these people are to be settled prove to be unhealthy and their stock die, and they themselves suffer from malaria fever, we should trust Government that such arrangements would be made as would be necessary to lift them from such a position as that.

Then with regard to the last paragraph—the hon. Member for Aberdare spoke of the expense and said the laibons should

bear the expense themselves. The laibons did not come with their hut in their hand to Government begging Government to shift them, and I think it is up to the Government and up to the country, if they believe that this step, which I sincerely hope will prove to be beneficial to the whole country, is desirable, then I think the country should bear the cost of such removal. The point in my mind was not whether the Government should spend £250 but whether £250 would be sufficient for the purpose until such time as they have settled in their area in villages, and also, we hope, settled down to do some little manual work in the way of cultivation.

These, Sir, are the only points that have been left to me; the others have been so ably dealt with by my colleague that there is nothing else I should like to draw the attention of Government to. But I should like to be assured that when the laibons prove themselves to be amenable to reason and give up these affairs of theirs, that the restrictions will in some measure be lifted to allow them to become useful members of society, helpful to the settlers and peaceful to the Lumbwa people in that place.

THE HON. H. R. MORGENTHAU : Your Excellency, to me it is very gratifying to know that this Bill is not going to be opposed by hon. Members opposite. It takes a great load off my mind to be quite sure that the principle of removing these laibons will be approved.

A good deal has been said by the hon. Member Mr. Hemsted to the effect that possibly the removal of these laibons will not solve the question, and I would like at once to say that from my own experience I know perfectly well the removal of the laibons will not necessarily mean all the Lumbwa tribe will settle down immediately. I am perfectly certain that for a year or possibly more the young men will be very difficult to deal with. Probably owing to their influence there has been built up in Lumbwa a criminal class and they have to be dealt with. But every consideration will be given to that problem. I am by no means certain the right way to go about it is to break up the existing organization of the Moran. It is felt we cannot break up any organization at all till we replace it by a better one. Under their tribal customs they have to do something brave or something like that in order that they may be able to obtain girls. Girls will say: "What did you do in coming and asking me to marry you?" We have got to replace that organization by something better and possibly we shall be able to use that organization in order to educate the tribe more efficiently. But the laibons have been responsible for a terrible lot of damage. Since 1929, the question has increased enormously

and some 117 witch doctors have been able to control the destinies of some 70,000 natives, who could be and I am quite certain will be made law-abiding.

The hon. Member representing Native Interests mentioned that he did not think the laibons were as wealthy as they should be if they had done all these deeds and collected all this tribute. I must ask him to believe what I say now, that they are enormously wealthy. We know for a fact that every year they collect tribute of wambi and other grain from natives. They take proceeds from a large number of thefts, but they know that the only cattle they can disclose as being their own property number about 3,000. They will not say they own 10,000 head of cattle because these are all illegally obtained.

With regard to the Schedule, Sir, I was responsible for suggesting that that area should be set aside. We had a good look round; we searched the islands and we came to the conclusion that the best area in the province was the Gwassi Hills. There is a difference of opinion about that and as Your Excellency is going to appoint a Committee I will not go into that now. Obviously if a better place can be found I shall be the first to agree to it.

The hon. Member for Aberdare has asked for information about the £850. The money is an estimate of the amount required to settle these people in the Gwassi area. If it is decided to settle them elsewhere the figure might be greater or smaller. It will enable us to prepare the way for them, build houses, get the land under cultivation and feed them till they get their first crops. After that they will go anywhere they like in the area and live their own lives. The hon. Canon Burns has asked whether they are to be permanently there. In a different section of the Bill the Governor has power to allow any person to return to or leave the area. It is quite possible that after a lapse of ten years we may find we are able to educate the Lumbwa in better ways so that the whole lot may be returned, but that is rather looking into the future.

I think, Sir, those are the only points mentioned by the hon. Members which I can possibly answer.

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

THE HON. THE ATTORNEY GENERAL: I feel that as this Bill has been accepted in principle by this House and in view of the fact that shortly I am going to move that it be referred to a Select Committee, no useful purpose will be served by

going into details which have been raised by various Members. I do think though that it is a little hard that the hon. Member representing Native Interests should in one breath chide Government with having had no policy and with having allowed the thing to go on as long as it has, and now, when we have got a policy and we are really going to do something—which I hope, if it does nothing else, will restore the confidence of the people of this country in that Government—is prepared to take strong action when necessary—to chide them and say he is not quite sure that he agrees with it. First of all he blames us when we have no policy, and then, when we have a policy, he blames us for it. All that we say is that we have a policy and that we do hope that it will do good. We know perfectly well that the laibons have nothing to do with the Samburu blood-sparing; we are not thinking that all the ills of this country are going to be cured by the removal of the laibons; but we do know this, that people will realize that if they persist in wrong doing Government is going to take strong action in dealing with them and let them know that they are going to be ruled and that they are, not going to rule us.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEES.

THE LAIBONS REMOVAL BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Laibons Removal Bill be referred to a Select Committee consisting of—

- The Hon. the Attorney General (Chairman).
- The Hon. the Acting Chief Native Commissioner.
- The Hon. H. R. Montgomery.
- The Hon. Member for Nyanza.
- The Hon. Member for Kiambu.
- The Hon. R. W. Hemsted.
- The Hon. Shamsud-Deen.

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

THE HON. SHAMSUD-DEEN: Just a word of explanation, Your Excellency. I shall have the greatest pleasure in working on this Committee, but I must make the position clear to the House. I am not going to revive the debate which took

place the other day but the principle I hope will be accepted by Government: that when the Government wishes to nominate a Member to act on a certain Select Committee the organization of the Indian Elected Members will be consulted and their recommendations taken into consideration. The principle underlying the debate the other day was that we were opposed to the Government taking into their own hands the responsibility of nominating Members from amongst the unofficial Members without consulting the organization. I believe that has been done in the case of the European Elected Members Organization, and there is no reason why it should not be done in the case of the Indian Elected Members. There are absolutely no grounds for suggesting that Indian Members wish to non-cooperate. We have come here with the greatest desire and determination to cooperate fully on all Select Committees. I am not going to take up the time of the House but I do wish just for one minute to explain what I mean when we talk about the word "co-operation". I understand that all of us on this side of the House form an official opposition. I may be wrong, Sir, but my idea is to oppose the Government on all measures where they do not give due weight to unofficial representations.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, may we be told what the hon. Member means by "this side of the House"?

THE HON. SHAMSUD-DEEN: By "this side of the House" I mean the unofficial side. I am really looking forward to the time when all the Unofficial Members of this House will organize themselves into an organization by which they can defeat the Government as a token or a gesture. That is my idea of "this side of the House", and therefore I submit it is only fair that when the Government wishes to appoint an Indian Member that the Indian Elected Members Organization should be consulted before his name is mentioned in the House.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I do not propose on a motion of this sort to go into the question of when is an opposition not an opposition or things of that sort, but I would like to make this point clear with reference to what has been said. As everyone knows, things move very rapidly in this twentieth century and particularly amongst Indian Members. Last week we were only too anxious to consult them in every way on the matter of nomination but certain of them, no doubt for good reasons as they thought, said that a certain section of them would not serve on committees. Now, I understand, as a result of what the hon.

Member has said and of a conversation just before the interval, he hopes that in future, if, as the Government always wishes to do as a matter of courtesy, we can agree with them as to who should be put on a committee, they will be willing to serve, and on the Select Committee which is shortly to be appointed on the Non-Native Poll Tax Bill we have already secured from them a Member whom they are anxious shall serve. On this particular motion a previous agreement was not arrived at owing to the rather kaleidoscopic march of events.

HIS EXCELLENCY: The question is that the Laibons Removal Bill be referred to the following Select Committee:—

The Hon. the Attorney General (Chairman).

The Hon. the Acting Chief Native Commissioner.

The Hon. H. R. Montgomery.

The Hon. Member for Nyanza.

The Hon. Member for Kiambu.

The Hon. R. W. Hemsted.

The Hon. Mr. Shamsud-Deen.

The question was put and carried.

NATIVE HUT AND POLL TAX BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER: I beg to move that the Native Hut and Poll Tax Bill be referred to the following Select Committee:—

The Hon. Acting Chief Native Commissioner (Chairman).

The Hon. Treasurer.

The Hon. H. R. Montgomery.

The Hon. H. E. Welby.

The Hon. The Rev. Canon Burns.

The Hon. R. W. Hemsted.

The Hon. Dr. de Sousa.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

THE MINING AMENDMENT BILL.

THE HON. E. B. HOSKING: Your Excellency, I beg to move the second reading of the Bill to amend the Mining Ordinance, 1930.

As is stated in the objects and reasons, the amendment is required owing to the lack of clarity in certain sections in the parent Ordinance, and the opportunity has been taken, as we have to amend the Mining Ordinance, to cross certain 'i's and dot certain 's's, experience having found out a number of uncrossed 'i's and undotted 's's. It is inevitable in the course of time that what appeared to be perfectly clear in the original Ordinance to its drafters should be misinterpreted on the field, and we are bound to find certain weaknesses in an otherwise perfect Ordinance. The parent Ordinance has worked smoothly and has been tried out in newly opened areas, and the main object of the amending Bill is to make the Ordinance read as smoothly as it runs. Since the publication of the Bill certain invaluable criticisms have been received. As my friend the Attorney General said earlier in the session, the public seldom take an interest in a Bill until just before it is introduced. He was right, as all Attorneys General are, and we have received certain suggestions that, with the leave of the House, I should like to introduce in the committee stage of the Bill, on the assurance that there will be no departure from the principles of the Ordinance as already approved in this House. To begin with, in the committee stage I should like to introduce a definition of a phrase that occurs three times in the Ordinance: "Officer of the Mines Department", and to have it defined as meaning an officer appointed under section 9 of the Ordinance. An officer of the Mines Department has certain powers of arrest, and I should not like it thought that an office boy or typist in my office had such powers! It is necessary therefore to limit it to officers appointed under section 9.

Passing to clause 2 of the Bill before us, I want it made perfectly clear that we only contemplate one person holding one prospecting right. The reason is that this has been misinterpreted on the field. I did not think it originally capable of misinterpretation. After all, we can only licence the same person to do the same thing once. But I find to my surprise that people were applying for more than one prospecting right, because under the regulations the holder of a prospecting right has also the right of acquiring a protection area. We granted this protection area in order to avoid ill-advised big claims and unnecessary disturbance. We had no intention of allowing a man, by paying an extra Sh. 20, to acquire more than one protection area. It is also a grave temptation when a man is prospecting for himself and for other parties, that he shall acquire the plums of the pudding for himself and leave the duff for the people whom he

is representing. The Committee which was responsible mainly for the drafting of the Mining Ordinance of 1933 recommended the reduction of the transfer fees so that it would be easy for a man who desired to prospect for more than one person to prospect in his own name and subsequently to transfer the other claims if he desired to the persons for whom he is working. It would be simple for Jones to prospect for Smith, Brown and Robinson, but we only allow him to prospect for Jones and to register in the name of Jones and afterwards he must transfer to the other parties.

Passing to clause 3, the original Ordinance made provision for a man to dig vertically, that is shafts and wells, as well as trenches, and it is now desired that he should be able to dig horizontally or laterally, so we have included the right to drive adits or levels.

The fourth clause is merely amplifying the rights under an exclusive prospecting licence that have been exercised and will be exercised by the holder of such a licence.

In clause 5 we had omitted to provide for the case of a man who requires a mining location not by the virtue of a prospecting right but by transfer from the holder of a prospecting licence. It is necessary that he should have the same rights to prospect that particular location as he would have acquired had he taken it himself by virtue of a prospecting right.

Clause 6 is what I would like to describe as a "printer's error", but which is a drafting error for which I think hon. Members of the House are responsible for having overlooked in the original Ordinance. Clause 7 is again a question of drafting, and clause 8 is another so-called "printer's error".

Clause 9 is merely amplifying the powers of the inspector, for it is not clear now as to the right of an inspector to go down a mine and make inquiries. I think it was fully covered in the original Ordinance by section 80 (6), but it seemed advisable to make it quite clear that an inspector has the right to go down and inquire into the cause of an accident and, as it were, prepare a case as a police officer does in the case of a collision on the road. He can hold a preliminary inquiry, as it were, before submitting the case to a magistrate, or it may happen that there is no case to submit.

In the committee stage I should like also to amend section 84, where reference is made to the four previous sections, whereas only three apply. Again, in section 85 reference is made to the magistrate, whereas it is preferable to define a magistrate as a magistrate of the first or second class.

It is not desirable that a third class magistrate should have the powers given under this section. In clause 10 again, I want to alter the word officer to magistrate as a consequential amendment.

In the original ordinance we had made provision for compensation on death or injury to a native. Very properly, our first thought should be for the natives entrusted to our charge, but there are times when we should think of our own people. Accidents have happened, and will happen, in the best regulated mines to Europeans and others employed in those mines. We have under the existing Ordinance no provision for the payment of compensation to them. There have been some distressing cases involving loss of limbs, and the insurance entered into was quite insufficient to make adequate compensation to the man injured. There was one case where the amount was barely sufficient to give the man an artificial limb, and there was no provision for him for the next two or three years. It is suggested in clause 10 that the magistrate inquiring into an accident should be able to grant compensation to an amount not exceeding the amount of three years' wage or salary, so that the man should have something. We do not say that the compensation is really adequate, but it is something to tide him over a very difficult period.

Clause 11 is really the reason for the amending Bill. It is pointed out to us by the home authorities that we appear to be advocating or allowing or leaving a loophole for the truck system, whereby apparently you can do a native out of a cash payment by giving him a pair of old trousers or an old hat. It was never our intention, Sir, and I trust the section in the Bill amending the original section will make it perfectly clear that we only allowed deductions to be made from wages due where the employer has made a cash advance or at the request of the employee provided him with certain goods. At the present moment, many places in the mines are working twenty-four hours a day in three eight-hour shifts, and employees sometimes require to supplement their rations they have received, and it seems advisable to make provision that their wages shall be paid in full less advances asked for and goods which they have asked their employer to supply for them. There has been no departure from the principles approved in the Ordinance; there is but one deliberate extension, that is in the case of compensation to be paid to people other than natives.

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

HIS EXCELLENCY: The question is that the Bill to Amend the Mining Ordinance be read the second time.

MAJOR THE HON. F. W. CAVENDISH-BUNTING: Your Excellency, it has been explained that the necessity for this amending Bill is to endeavour to get our mining laws up to date, and more in accordance with the requirements of a growing industry. As such, I heartily support the Bill. At the same time, there are one or two matters which it deals with which may be of very great importance in the future. I sincerely trust that this Bill will be sent to a select committee. I gather it is the intention of Government to do so from the various references to the committee stage which have been made by the hon. Member in charge of the Bill.

The chief subject, Sir, which I think requires very careful consideration is that which really comes down to a form of compulsory insurance, because under the provisions of this amendment companies will have to insure to cover themselves. The question of insurance and the question of providing for compensation for accidents in the mining field is a subject which requires very, very careful consideration, in dealing with which we want to endeavour to make the fullest possible use of the experience which has been acquired in other and perhaps fairly similar parts of the world. I think the chief reason for introducing at this stage legislation providing for compensation for all races, is that we all know that recently there have been accidents which have occurred to people who were earning a very low rate of salary and were probably doing a dangerous job for which their experience was not very adequate. So a very long period has been given for which they could receive payment in the case of an accident, that is three years. In most other countries, I believe, Sir, the regulations or the legislation which deals with compensation goes hand in hand with other mining legislation which deals with who and what class of person is allowed to undertake dangerous work underground. Therefore they generally have a limit as to the amount of compensation payable. That limit may take the form of a lump sum, or it may take the form of so many months at so much. But I think it will be found that it is rarely put as high as three years, because in most of the long established mining fields a man is not allowed to go down and undertake dangerous work unless he has a certain amount of experience. In view of that experience, he is probably earning a much larger salary than has been the case in one or two occurrences that have happened in Kenya. I submit, Sir, that when the Bill does go to select committee that that committee should make further inquiries into what is paid in the way of benefits in other parts of the world, because if the Bill goes through as it is it will be found by persons who are engaged in mining that the premia they have to pay in order to be covered for the liabilities they

may incur under this legislation will be very high indeed, and unnecessarily high. I am not for one moment suggesting, Sir, that we should not make provision immediately for compensation. I think it is very necessary and it is overdue. My point really is that we should, in introducing legislation, try and introduce such legislation as has been found necessary in other parts of the world.

The hon. mover also referred to the question of payment to natives in kind instead of in cash. I am sure, Sir, that everybody on this side of the House and everybody in this Council agrees that was never the intention and obviously it is a very good thing indeed to make that point perfectly clear. I think, Sir, that is the only thing I have to say.

THE HON. J. B. PANDYA: Your Excellency, I should like to say a few words in regard to clause 11 which amends section 91 of the principal ordinance. It says in 2 (b) that a mining company or an employer will have a right to deduct from the wages the cost of goods supplied to an employee for his personal use. The hon. the mover mentioned that this does not mean that wages of the natives would be paid in goods. It will be necessary under this that an employee should order goods for his personal use. The point I wish to raise in this clause is that it implies that mining companies would be allowed to trade in their locations and would be able to sell goods to their employees. If it is for the reason mentioned by the hon. the mover that men are working there under regular shifts and therefore would not get time to get away to buy what they want, which under this clause they would be able to do through their employers, in reply to this I should say that if an employee gets cash advances he could no doubt get anything he wants through his friends going to a trading centre. I think we should take this opportunity to lay it down very definitely and unequivocally that mining companies, syndicates, or individuals engaged in mining should not be allowed to trade on mining lands. It seems to be quite unfair that those who have been given licenses for prospecting should be in a position to trade also and supply the needs of their employees. It may be argued that such supplies to employees would be made by mining companies at cost or without any profit. There can be no guarantee that this would be the case in every instance, and there is nothing to prevent them from turning these supply depots into a regular shop in their location. It would be unfair to allow the mining people to trade in areas which are mainly for mining while licensed traders are not allowed to trade outside the trading centres,

and I submit, Sir, that the trading community is as much entitled to have their legitimate trade interests protected as any other section of the community.

THE HON. SHAMSUD-DEEN: On a point of order, have we altered our Standing Orders to the effect that a Member may read his speech?

HIS EXCELLENCY: One has to interpret that Standing Order fairly liberally. The hon. Member is referring to his notes I take it.

THE HON. J. B. PANDYA: I have notes, Your Excellency. There are to-day sufficient numbers of trading centres in the mining areas and if in future it is found there are not sufficient trading centres more centres could be provided for the convenience of the mining population. It is true that in the original clause also this provision appears but now when we are amending this Bill I think we should set right this unfairness to the traders. I have made some enquiry as to the system existing in South Africa in this matter and so far as my information goes I learn that in South Africa miners are not allowed this privilege which is being given here to the miners. If this is deleted I am quite sure there would be no inconvenience to any one, and in view of the fact that there is already sufficient competition in the trading centres the mining population in those areas would be able to get the benefit of competitive prices. To my mind it would be wise that this privilege should be stopped in its infancy before vested interests are created. Otherwise it may become a serious problem for traders in the mining areas.

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

THE HON. E. B. HOSKING: Your Excellency, I was much impressed by the arguments of the hon. Member for Nairobi North as to the advisability of placing some limit on the compensation payable to the employees. I think it is a matter that should receive careful consideration in the Committee stage of this Bill. There are precedents in other countries of putting a limit to the amount of compensation that can be paid. In Southern Rhodesia in certain cases it is three years' wages or salary, or £500, whichever is less, and in certain other countries there is a limit placed on the salary—it is governed by the salary drawn by the applicant. It only applies to people earning under £500 a year on the supposition that those earning more than that have the opportunity of making their own arrangements regarding insurance.

The hon. Member Mr. Pandya has raised the question of shops. I would draw his attention to the fact that this is a mining ordinance. Shops are neither allowed nor disallowed under a mining ordinance. There are traders licensing ordinances and there is also a Native Lands Trust Ordinance which has much to say on this subject. I do not think we have raised the issue in this section. All we say is that if the employer is making advances by way of cash or goods ordered he should be allowed to deduct from wages. I do not consider that this is a question that need be dealt with here.

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 MINING (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Mining (Amendment) Bill be referred to a Select Committee consisting of the following:—

The Hon. E. B. Hosking (Chairman).

The Hon. T. D. H. Bruce.

The Hon. H. R. Montgomery.

The Hon. Member for Nairobi North.

The Hon. Member for Nyanza.

The Hon. J. B. Pandya.

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

The question was put and carried.

THE POLICE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Police (Amendment) Bill.

I am glad to say that the Bill is not quite as imposing as it looks when you first take it up, as the majority of the amendments which hon. Members will have to consider are what might be called consequential amendments. One of the first clauses in the Bill deals with the new nomenclature which has been brought into the Police Force. We are abolishing the term "European Police Constable" and substituting "Assistant Inspector of the Second Grade". The reason for this is obvious, because ordinarily a police constable undertakes point duty and that kind of thing whereas, as we

all know, the work done by these particular officers is supervisory. Therefore we are substituting these words for the ones I have mentioned.

We are also doing away with the term "commissioned officer" because, in fact, no officer receives commissioned rank from His Majesty the King, and we are substituting therefor the words "superior police officer". The same holds good in regard to "non-commissioned officer", who in future will be known as a "subordinate officer". Those small amendments have necessitated about fifteen amendments all through the Bill, where we have to substitute one or other of the words we have mentioned.

There are, however, one or two other points which we are amending, particularly with regard to pensions, provident fund and that sort of thing. As hon. Members are aware, the Police Bill which we are amending was brought into force in 1930, but since it passed this House there have been various difficulties raised with regard to pensions, and the question of whether we should do away with the exemption from hut and poll tax and things of that description. It was thought wise not to introduce a new law until we had finally settled these questions, hence the amendments.

The first amendment to which I will draw your attention deals with the subordinate officers of the police force, who now come under exactly the same terms as any other officer serving in Government. There seems to be no object in differentiating between officers serving in one department and officers serving in another. Therefore, they are brought under the same terms of service. They will join the Provident Fund in the same way as other officers under the new Provident Fund Ordinance. This, of course, refers to the European and the Asian Provident Funds, one of which has been passed and one which we hope to pass in the very near future. We have done away with the exemption from hut tax. It has been found undesirable in practice to be always granting exemptions from an ordinance which may be varied from time to time and we are substituting therefor a definite amount by way of gratuity, which incidentally at the moment will be practically the same in amount as the man would have got if he had got exemption from hut tax. Another anomaly was pointed out—and I may say all these amendments have been submitted by the Commissioner of Police, who is now on leave, and they are of the opinion that it is unfair that the Ordinance. He is of the opinion that it is unfair that the police of whom he has charge should have to purchase their discharge. If a Government official chooses to resign, we know perfectly well all the various things he loses. He may

lose his pension in one case; he may be subjected to other liabilities with regard to the Provident Fund, and so on. We are therefore doing away with the necessity for the purchase of his discharge.

We are also doing away with flogging in the police as a form of punishment. That, as hon. Members know, has been on the *tapis* for some considerable time and it is the opinion of the Commissioner that it is unnecessary and undesirable; and if he is of that opinion, naturally I have nothing further to say about it. He is the man best capable of judging. We are also making arrangements for the destruction of finger-prints taken by the police when the person charged is acquitted. It has been represented that it is unfair for the police to be able to take your finger-prints and thereafter, even if you prove yourself to be innocent, that your finger-prints should be on the police records. We are therefore making provision that after the conclusion of the case these finger-prints should be destroyed.

Then there is one slight innovation with regard to police rewards. In most other countries, where a policeman has been beaten, in the course of his duties, of course, and a fine has been imposed on his assailants, it is the accepted principle that part of the fine should be given to the Police Fund. I believe, although I do not know this for certain, that one of the reasons is that the police should get something indirectly for the beating they have received or whatever the injury may be which has resulted in the Crown obtaining an amount by way of a fine. It is proposed that in future those fines should go into the Police Reward Fund. In future, of course, as hon. Members know, under the new terms of service—I have already said that these officers will come under the terms of service existing in other departments of Government—there will be a gratuity instead of a pension for all lower ranks.

We have then reinserted a clause which used to appear in the old Procedure Code, which was repealed and replaced in 1930. Under the old Procedure Code the out-district police officers in charge of a station were given the right, where it was impossible to obtain a warrant from a magistrate in a reasonable time, to permit by writing under their hands the execution of a search warrant without a warrant of a magistrate. It is only done in case of necessity, and it has been represented to Government that to force a police officer in charge of a district to rush off and find a magistrate resulted in more cases than not in arriving too late. We have therefore reinserted the old provision, so that where it is not possible to obtain a warrant from a magistrate a police officer in charge of a district may by

writing under his own hand authorize one of his officers, if he cannot go himself, to execute that search. There is also the usual provision put in with regard to investigation of crime, that where a policeman is investigating a crime it is incumbent upon all people to give their names and addresses in case they have to be called upon to give evidence in the case afterwards. I do not think, Sir, that there is any principle that can cause serious objection. It is merely bringing the police force into line really with the other branches of the Civil Service in existence in Kenya to-day. I move the second reading, Sir.

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

HIS EXCELLENCY: The question is that the Bill Amending the Police Ordinance be read the second time.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I have not much to say in regard to this Bill, but there are one or two points I should like made clear. With reference to pensions, for instance, I hope that in the not very distant future some of the Africans will reach the highest ranks in the police force, such as sub-inspectors and that sort of thing. Will they also be included in this £10/10/0, or will they get anything higher? Men who have distinguished themselves in the Force and have served a long term of years in the higher ranks, will they only receive the same as any subordinate officer who serves twelve years?

THE HON. J. B. PANDYA: Your Excellency, I should like to make a point or two. Clause 10, amending section 24 of the principal Ordinance, sub-section 2 (i)—I see from this clause that this particular part of the section is not for amendment, but when the whole section is clear before the House, I should like to make one point, namely, that in this particular instance, when a policeman is found inefficient and is discharged by the authority of the Commissioner, that in this particular instance there should be provided the right of appeal to the Governor in Council, in order that the man may get—I do not say he would be unfairly treated—that he would have something to fall back upon. In regard to clause 16, amending clause 42 of the principal Ordinance, sub-section 2 (ii) (a), there is of provision there for appeal to the Governor in Council, but that particular portion has been deleted in this amending clause. I should like to see it in. It was found necessary to provide for this appeal before, and I do think the same provision should remain in the amended Ordinance.

Then there is section 21 amending clause 55 of the principal Ordinance, and the matter of pensions is to be deleted from (2) according to this amendment. The hon. and learned Attorney General has said that this is in connection with the terms of service which are coming into operation in the near future, but unless these terms have come into operation it would be better or wiser to delete this provision which simply mentions the word pensions or gratuities, and it does no harm to anybody. I should feel that that should be allowed to stay in, and naturally it will be administered according to the rules in practice. Those are all the comments I should like to make, Sir.

THE HON. F. A. BEMSTER: Your Excellency, in support of the remarks of the hon. Member Mr. Pandya, and taking up the remark of the hon. and learned Attorney General, when he said this amending Bill was intended to bring these officers under the same terms and conditions as other officers in Government service, I have never heard the head of a department without reasons given could dismiss any officer, and not let him have any appeal to Your Excellency in Council. That is a most essential thing.

MAJOR THE HON. F. W. CAVENDISH-BENTON: Your Excellency, I would also like to point out it does seem that a right which has existed for many years of a police officer to appeal against a decision of the Commissioner has been removed by this amending Bill. Whether that is exactly the case or not I am not sure, but no doubt we shall be informed. As I read it, the Commissioner has now more powers than a general commanding a division in the Army.

The other point is this. We have been told that these officers are to come under the terms of service, the same as everybody else. My first point on that is that I am not quite sure in a disciplined force such as the police you can make their terms of service precisely similar to anybody else's. The second point is that I understand they are to come under the new terms whether they wish to do so or not. That also I am not clear about, but it seems to me a man who has done a certain number of years' service even in a subordinate rank should be given to some extent the choice of saying whether he wants to come under the new terms or to continue under the terms under which he was engaged. Those are the only points I wish to make, Sir.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, the hon. Member for Nairobi North has made a very good point with regard to these terms of service, that where a policeman has joined under one set of terms it would be manifestly unjust now to have fresh terms imposed on him. Actually, the position is that he will have six months within which to elect under which terms of service he will come. The only drawback to that is that if he accepts promotion it is laid down in the Bill that he will have to come under the new terms of service. It is a difficulty that the police themselves raised, because they said they would have half the Force under one set of terms of service and the other half under another, and naturally the Commissioner of Police is anxious they should all come under the terms of one service. He has agreed that it would be unfair that persons who joined under one set of circumstances should be forced into another, and he has given way and says that in spite of the difficulties he will administer the two Ordinances for the time being.

There is another excellent point made with regard to appeals which was also taken up with the Commissioner, and I may relieve hon. Members' minds by saying that in the principal Ordinance the Commissioner is subject to the orders and directions of His Excellency the Governor in the superintendence and direction of the Police Force, so that in fact he will be acting on behalf of Your Excellency on all occasions. I do not wish the House to be deceived into thinking that we are not taking away the right of appeal as it existed in the old Ordinance. We are, and it has been deliberately done, and I understand it is done in Ordinances in other colonies, and a particular person aggrieved will only have the usual redress which every Civil Servant has in going to the Governor whenever anything happens which he has to take exception to, and the police will not be in any better position by providing specifically for appeals to the Governor.

I do not think there was very much in the question of the hon. Member Mr. Pandya regarding pensions, if he does not mind me saying so. We are cutting out the word pensions because it is deceiving. To put it into the Police Ordinance that you were giving pensions or gratuities when we have no intention of giving them to future entrants into the force, would be manifestly unfair on the person who is joining. We have therefore cut out pensions, and those who have the right to pensions will naturally get them if they elect within the next six months to remain under the old provisions.

The hon. and reverend Member Canon Burns referred to the native getting only a certain gratuity, but he will see if he refers to the Ordinance that that is in addition to any other gratuity which he may have earned in the course of his service. I do not know exactly what that would mean, but one visualises as the hon. Member did, that in the future native constables will rise to higher ranks, and as such would be entitled to further gratuities. As the hon. Member for Nairobi North said, this Bill is going to be referred to a Select Committee, and I can assure hon. Members that all these questions will be considered there.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to amend the Police Ordinance, 1930, be referred to a Select Committee consisting of the following Members:—

The Hon. T. D. H. Bruce (Chairman).

The Hon. the Acting Chief Native Commissioner.

The Hon. H. E. Welby.

The hon. Member for Nairobi North.

The hon. Member for Kiambu.

The Hon. Isher Dass.

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

The question was put and carried.

*The Council adjourned till 10 a.m. on Tuesday,
31st July, 1934.*

TUESDAY, 31st JULY, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, 31st July, 1934, His Excellency THE GOVERNOR (BRIGADIER GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

COMMUNICATION FROM THE CHAIR.

HIS EXCELLENCY: Honourable Members of Council, I have two announcements to make, the first one which I unfortunately forgot to make before the adjournment yesterday, and that is that I have appointed under Standing Rules and Orders the hon. Member for Ukamba to take the place on the Standing Finance Committee of the Noble Lord, the hon. Member for the Rift Valley, who will be absent from the country for a short period.

The second announcement is a telegram which I have received from the Secretary of State containing an announcement which has been made in Parliament yesterday and which will be published to-morrow in the press. I will read it:—

"The King has been graciously pleased to approve a recommendation of the Prime Minister that the 25th anniversary of His Majesty's accession to the Throne which falls on Monday, the 6th May, 1935, shall be recognized in a fitting manner and Government are making necessary arrangements. The title 'Silver Jubilee' has with His Majesty's approval been officially adopted for the year 1935.

The Secretary of State for the Home Department has it in command from the King to intimate that His Majesty desires that the celebrations should be on a local basis and that His Majesty's subjects should wherever practicable have the opportunity of observing the occasion near their homes. It is His Majesty's express wish that the celebrations should be as simple as possible and that all undue expenditure should be avoided.

The official celebrations in London will extend over the period May 6th to May 18th. Accession day, Monday, May 6th, will be a Bank Holiday and a Public Holiday throughout the United Kingdom. The celebrations will be inaugurated on that day by a Thanksgiving Service at Saint Paul's Cathedral which will be attended by Their Majesties the King and Queen and members of the Royal Family. Services of a similar character will be held throughout the countries of the Empire on that day or on the Sunday following, the 12th May.

A programme in outline of such celebrations as will take place in London has been drawn up by Government. It has been submitted to the King and has received His Majesty's approval. Details will be published at a later date."

We here, naturally, in consultation with all concerned, will begin to make our own arrangements as soon as possible—at least to think out our arrangements as soon as possible.

MINUTES.

The minutes of the meeting of the 30th July, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGIN):—

Report of the Select Committee on the Native Lands Trust (Amendment) Bill.

Report of the Select Committee on the Laibons Removal Bill.

ORAL ANSWERS TO QUESTIONS.

ECONOMIC SURVEY OF NATIVE RESERVES.

No. 57.—THE HON. J. B. PANDEA asked:—

"Whether it is proposed to carry out an Economic Survey of the Native Reserves?"

If the answer be in the negative will Government state what it is proposed to do to intensify Native Production?"

THE HON. ACTING CHIEF NATIVE COMMISSIONER (MR. S. H. LA FONTAINE): An Economic Survey of Native Reserves is being undertaken as rapidly as the available staff of the Agricultural Department permits.

Wherever officers of the Department of Agriculture have been stationed in the Native Reserves, notably in the Nyanza and Central Provinces, a primary and general survey has been conducted and a good deal of information recorded as to the possibilities of intensified production, upon which a policy of development has been specifically laid down for each "agricultural zone". The possibilities of each zone, which is defined by natural conditions of elevation, soil and rainfall, are being further explored as the results of agricultural experiments become available.

The intensification of native production is proceeding along these lines with the support of the Administration and within the resources of the Department of Agriculture, and I am confident that a large measure of progress is being made which will shortly become evident.

DUTY ON LIQUOR SALES ON SHIPS.

No. 77.—THE HON. P. A. BHIMSTRA asked:—

"How much revenue (Duty) has been collected on liquor sales from ships in Kilindini Harbour during the period January 1st, 1930, to December 31st, 1933?"

THE HON. THE TREASURER (MR. G. WALSH): No revenue from this source has been collected during the period in question.

NOTICE OF MOTIONS.

By THE HON. THE ATTORNEY GENERAL:—

That the Report of the Select Committee on the Laibons Removal Bill be adopted.

That the Report of the Select Committee on the Native Lands Trust (Amendment) Bill be adopted.

MOTIONS.

PENSION—MR. E. B. HORNE.

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

"This Council approves the payment of an unreduced pension of £1,035 a year to Mr. E. B. Horne, C.M.F.G., O.B.E., who is retiring from the service of this Colony with effect from about the 1st December, 1934, in lieu of a reduced pension of £776/5/0 a year and a gratuity of £3,587/10/0."

The considerations governing this motion, Sir, are almost precisely similar to those which governed a motion which was passed by this Council on the 13th February, 1934, in respect of Mr. S. F. Deck. In both cases the officers concerned were senior Provincial Commissioners, both officers had completed a period of service which entitled them to the maximum pension, and both officers in the first place elected to receive a gratuity and reduced pension. In the case of Mr. Deck, he was asked for a revocation of his option, and that revocation was asked for a revocation of his option, and that revocation was asked for a revocation of his option and it is considered, for the same reason, that that request should be granted, the reason being that in the present financial circumstances of the

Colony it is more convenient he should receive a maximum pension rather than a large sum as a lump-sum payment at the end of his service.

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

The question was put and carried.

COAST ROADS AND COMMUNICATIONS.

THE HON. W. G. LILLYWHITE: Your Excellency, I beg to move the motion standing in my name on the Order of the Day:—

“That in the opinion of this House the attention of Government should be drawn to the needs of the Coast Province, particularly in regard to its roads and communications, and its effect on the people there.”

Speaking to the motion, Your Excellency, I should first like to preface my remarks by saying that I hope hon. Members will not in any way construe this motion into any form of vote of censure on Government. That is not my intention and nothing is further from my thoughts. No Government, however well-intentioned, can possibly realize all its wants, conditions and interests of all the people under its charge.

I have heard a figure of a total vote of £101,000 voted by Government for the purpose of the roads and communications of the Colony and Protectorate as a whole. Of that sum, £4,600 is allotted to the Coast Province. Although, Sir, I think that this possibly is not a fair allocation, yet I am not prepared to say either one way or the other, and should like to leave that in more efficient hands. But, Sir, when you consider that one portion of the Coast Province road system—the users of the Coast Province road system—subscribe forcibly some £5,000 per annum in hard cash to enable them to use that road at all, it does seem to me to be rather unfair and it does not require a chartered accountant to elucidate the fact that we receive very little indeed, in fact, during the last few years, Sir, the traffic along this road has increased enormously.

I will give figures later on taken in the last two or three days. At the same time production in the native reserves and on the Coast in general has increased beyond all seven years ago the production of seed cotton in the Malindi district amounted to some 300,000 lb., whereas to-day, ordinary circumstances have expected some 3,000,000 lb. of and so persistent that probably this figure will have to be somewhat modified.

Another fact which might interest hon. Members is that some 10,000 to 15,000 coco-nuts are consumed daily in Mombasa. This represents a matter of some five or six lorries daily to take those nuts into market. These are drawn from as far afield as Roka on the north and Msambweni on the south. Large quantities of hardwood timber are also taken in large amounts by lorry to Mombasa.

The collection of gum copal also has to be controlled by lorry. Cashew nuts, which I think has been negligible in the past, is now being carried in large quantities to the factory. Sisal from two estates on the Coast is being transported by road and they have to take their finished article from the factory to the Port. All copra produced along the road is taken now by lorries in preference to sea.

On Friday and Saturday last I had a count taken of traffic which passed over the Kilifi Ferry on those two days. If I may be permitted I would like to read the figures. I have them here.

On Friday, the 27th July, eight lorries and three cars travelled north, and six lorries and one car travelled south; on Saturday, 28th July, seven lorries and five cars travelled north, and seven lorries and one car travelled south.

I might mention here, Sir, that on account of the deplorable condition of the road, which is not only difficult to get over, but in some places positively dangerous, these people have only been able to carry from half to three-quarters of a load. This, of itself, is a frightful loss to these people, and also it does to a great measure put a damper on the transport of goods from the Coast into Mombasa and vice versa.

All the foregoing, Sir, has been stated for the express purpose of showing how important it is that we should have cheap facilities for transporting the produce of the Coast to Mombasa. It is not of much use persuading the natives or other people to cultivate or produce produce unless cheap transport facilities can be provided. If the native is to receive a fair price for his produce his chances should not be ruined by a fair price for his produce is so expensive and so costly. It is not the fact that transport is so expensive and so costly. It is not of much use my saying anything further on this subject unless Government are prepared to take over the road system of the Coast as an integral part of the road system of the Colony. Why we should be singled out as the only instance in the Colony of having to pay to go along these roads is really beyond my comprehension. It is not a question of profit and loss account, it seems to me; it is more a question of equity. It is not a question of what Government loses; I think that

in the long run, with a free ferry service and better roads, Government would find that trade would increase to such an extent that there would be no loss at all—in fact, there would be a gain.

Another subject on which I should like to touch, Sir, which is related to what I have just said. On the completion of the Nyati Bridge a company acquired land over which a right of way passed. I am informed by the Nominated Member for Arab Interests that this right of way has existed as long as he can remember, and no doubt a long time before. This company, on the completion of the bridge, closed this right of way, no doubt with the idea of forcing these people to use the bridge as their means of access to Mombasa. This is a great hardship, Sir, on these people. Not only has the use of the road been taken away from them, but they had to walk some one-and-a-quarter miles with loads on their heads to arrive at the bridge head. On arrival there they paid their money in the usual way, and then had to walk across the water instead of being carried as they previously were in a boat. This, I think, Your Excellency, will be admitted by everyone was a great hardship to these people. At the present time this has been alleviated. The Municipality of Mombasa have once again allowed the use of boats and this right of way, but we should like an assurance from Government that this condition of affairs will never be allowed again, so that the rights of the people will be preserved.

I have here, Sir, the report of the Kenya Police for 1933, and on pages 3 and 4 a list is given of the various tribes from which this force is drawn. I may say that I am very sorry to notice that the coastal tribes, out of a total of 1,501, are only represented by ten members. There may be very strong reasons of which I am not aware, for this, but I should like to have an assurance from Government as to the reasons why these people are not given the opportunity of joining this force. It may be that they make very poor policemen, or it may be that conditions are such that it is too expensive to bring them in for training to Nairobi or wherever the training is done, but it does seem that there is some unfairness in this respect.

Several days ago I had the opportunity of visiting an estate in the Voi district. While there I was apprised of certain difficulties. I am not going to speak of them here, be left unreturned that is possible for Government to do to keep open an estate of this sort, valuable as it is to the district in particular and the Colony as a whole.

Your Excellency, to return to the subject of roads and communications, I should like to ask Government to seriously consider the question of really putting a road, a real road, along the coast, as opposed to the present dirt track. This kind of track, although perfectly negotiable during the periods of dry weather, in rain becomes not only impossible but dangerous. If Government would consider this at some time, it might be a very good opportunity to consider the question of a bridge at Takaungu as opposed to the expensive road which makes a detour round. I beg, Sir, to move this motion.

THE HON. E. H. WRIGHT: Your Excellency, I beg formally to second.

HIS EXCELLENCY: The question is that the motion moved by the hon. Member for the Coast be adopted.

THE HON. J. B. PANDYA: Your Excellency, I rise to support this motion, and I associate myself with the remarks which the hon. Member for the Coast has made in regard to the need of roads at the Coast. If nothing has been achieved by this motion, it has at least drawn the attention of Government to the serious problem as regards communications at the Coast. It is quite true, Sir, that the allocation of road expenditure for the Coast has been inadequate for a long time, and I feel, Sir, that the Coast does deserve much more consideration at the hands of the central Government. In view of the fact that the production in the Highlands and other areas has been progressive, while on the Coast it has been practically neglected, production much more depends upon a system of roads, and we do feel that in this particular matter of help to production the Coast has been sadly neglected.

The question of transport and production go together. As an instance, there is at the Coast the Fundiish Salt Works, about one hundred miles from Mombasa. The cost of the transport of a bag of salt from there to Mombasa is much more than the cost of transporting a bag of maize from Kisumu. Again, we cannot rely on regular supplies from these salt works because there is no system of all-weather roads, and they have to bring their salt by dhows, and that is only possible in certain seasons. This is only one instance, but there are so many industries which could be developed at the Coast but cannot be so developed because of the want of roads and communications.

With regard to the instance which the hon. Member quoted in regard to the hardship to natives in crossing the mainland by ferries, I think that they should be allowed to have an option, because it makes a difference of about two

miles to natives. I do not say that they must not be allowed to use the bridge, but they should have the option to go by ferry, which will largely reduce their journey, and in certain instances it will be much more preferable to them. I support the motion, Sir.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I have not very much to say with regard to this matter, so that I should like to associate myself entirely with the words of the hon. Member who introduced the motion. I should like to give one instance about the road communications. About a month ago one of our people was seriously ill at Kaloleni and had to be taken into Mombasa Hospital. A stretcher had to be tied on to a car, the sick man lifted on, and two natives held him until they reached Mombasa. I do not say that that was the cause of his death, but he died ten days after. The state of the road from Muzerna to Kaloleni is appalling in the extreme, and not only there but in other directions.

With regard to the question of the right of way on the road mentioned close to Nyali Bridge, I know that that right of way has been recognized for thirty-five years to my knowledge. I am glad to hear from the hon. Member who moved the motion that the Municipality have now agreed to open the right of way, but that right of way over this road has been recognized to my knowledge for thirty-five years. I hope Government may see their way to so help the natives, particularly the Arabs, who have to cross from the mainland to Mombasa day after day, so as to enable them to have a ferry there which is certainly very much more convenient than to have to cross this bridge.

THE HON. F. A. BEMISTER: Your Excellency, I most heartily support my colleague from the Coast, but what has to be recognized, Sir, is really that the Coast has hardly ever been considered seriously. If you will remember, a short time ago I was querying the expenditure of money on the Takaungu diversion, and I was informed by competent opinion at the Coast that no one at the Coast had ever been consulted by the Public Works Department as to the advisability of re-organizing the ferry and causeway against making a diversion of six miles. Now, Sir, we do feel at the Coast, and in Mombasa too, that whenever anything is admitted as being required at the Coast, the very people who are not considered are the people who live in the district, and use the facilities offered in the district. We contend that the administration should be more definitely considered. We can approach our local District Commissioner or Provincial Commissioner, and

they travel over the whole district and know the details, but we have never been, and this has been the complaint of the hon. Member Major Robertson Tustace before, and my own as well.

There is one special point that I wish to bring to your notice. I understand that £1,500, or in our currency Sh. 30,000, was voted for repairs or alterations to Kilifi Ferry for 1934. I would like to know from the Acting Director of Public Works if that is a fact? If it is, how much of that money has been spent and by whose recommendation? I will go back again to the Kataungu Ferry, and to the fact that points on both sides of the river were based on mud. Yet the son of the hon. Member for Arab interests, Sir Ali bin Salim, who knows the Coast better than anyone, has definitely advised and has shown the district engineer that within 350 feet on both sides there is actual rock bottom where the causeway may be built. Sir, in not one instance has our advice been sought, and if sought it has never been acted upon.

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS (MR. J. C. STRONACH): Your Excellency, as hon. Members are aware, considerable reductions have taken place in the vote of the Public Works Department for the maintenance and repair of roads and bridges throughout the Colony. In the year 1931 the average expenditure approximately on all roads throughout the Colony was £10.6 per mile, while for 1934 the provision is £7.5 per mile. The allocation for certain roads and tracks only amounts to about £1 per mile. In certain cases, in the case of main roads, the expenditure amounts to about twenty times this figure; in isolated cases this figure is exceeded. The allocation to the Coast roads is £6 per mile. The last really heavy rains occurred in 1930, when a very large sum was voted to repair flood damage. Luckily for the roads, but unluckily for the farmers, since 1930 abnormal rains have not occurred, so that road funds which would have been required to make good flood damage and gradually build them up to improve the surfacing of the roads and gradually build them up to an all-weather standard. This process is, however, slow, and I think it can be generally said that with very few exceptions there is a noticeable improvement in the roads generally throughout the Colony. The rainfall at the Coast during April, May and June was approximately twenty inches above the normal of the three years previous. The Department is doing its utmost to repair the damage with what funds are available, but it would be a pure waste of money to pour additional funds on to this work until the roads dry out. In the meantime, the executive engineer of the Public Works Department is doing his best to maintain them.

The Member for the Coast, who is also a member of the Central Roads and Traffic Board, has already put forward his case to that Board, and it has been arranged that at the next meeting he will put forward what will amount practically to an economic survey of the Coast area, and he will put the Board in a position to be able to consider whether additional funds are required for maintenance or whether further capital expenditure is justified in order to increase production. In the meanwhile, it was also arranged at the last meeting of the Board that executive engineers in areas which had not been affected by heavy rain will hold funds in reserve to be re-allocated if necessary to the Coast roads. I appreciate the need for the utmost economy, and I have every hope that the emergency can be met with the funds voted and that it will be unnecessary to solicit additional funds from Government. I understand, Sir, that in spite of the Indian Ocean being conveniently placed, producers find it cheaper to transport their produce by road rather than by sea. I think that this is an extremely good certificate for the roads such as they are, and in addition, the Customs benefit by the duties on oil and petrol.

With regard to the ferries, the House has already been informed that it was hoped to reduce the charges substantially in 1935 to meet the needs of Coast producers. There is one point that the hon. Member for the Coast made with regard to the provision for roads. He mentioned that the vote for the Colony was £104,000; the actual figure is £37,000 this year. With regard to the suggestion of the hon. Member Mr. Bemister that a large expenditure was provided for the Kilifi Ferry, I know of no provision in this year's Estimates for this work.

Your Excellency, I welcome the motion of the hon. Member in view of the fact that the attention of the Central Roads and Traffic Board will be called to the needs of the Coast, and I feel certain that he will get a fair deal when he supplies the information as a result of his economic survey.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, mention has been made by the hon. member and one or two other Members of the closing of the right of way from Freretown Ferry up to the present Malindi Road, to where it joins the road to the new Nyali Bridge, and I gather the mover of the motion thought that that right of way had been closed by the Municipality, in that he expressed pleasure that the Municipality had now reopened it. The position is that the Nyali Bridge Company, after the bridge had been constructed,

purchased further land at Freretown, through which a right of way used to run, and, as an amiable gesture, closed the right of way until representations were made by the Municipality when it was opened again. The right of way is now open, Sir.

MAJOR THE HON. F. W. CAVENDISH-BESTOR: Your Excellency, I have listened with interest to the case put forward by the hon. Member for the Coast and I think I can say, certainly on behalf of the European Elected Members, that we are in entire sympathy with the principles underlying his motion. We look upon ourselves in this House not as representing any particular portion of the territory, but as representing the territory as a whole and trying to do the very best we can for that territory, or any part of it which may have been treated unfairly.

I think, Sir, after hearing the reply, or the remarks made by the hon. Director of Public Works, that there is a certain amount to be said for the fact that, owing to rains and one thing and another, the Coast has perhaps suffered more than it should have done in lack of attention to its roads. At the same time, Sir, I am a little doubtful whether the precise wording of the motion is quite what is wanted. What is really meant is that in the opinion of this House more expenditure should be devoted to the needs of the Coast Province, and that may be the case—I think probably they have, as I have said, been slightly unfairly treated in this respect during the last two or three years.

The hon. Member for the Coast, in proposing his motion, said that he did not in any way wish to criticise the action of Government, but I suggest, Sir, that in his motion, actually perhaps unintentionally, he suggests that the attention of the Government should be drawn to the needs of the Coast, and I think, in a way, that is a criticism; not only of Government, but a criticism of every one of us here; and that is my chief reason for intervening in this debate.

Possibly we have been unmindful to a certain extent of the needs of the Coast, but I do not think it is perhaps entirely wise to pass a resolution criticising ourselves; and now that we have had an opportunity of hearing, as Members of the Legislative Council, the needs of the Coast, I suggest that we have proper ways and means of dealing with them, and I am going to suggest, Sir, that possibly, having heard the case going to the Government point of view and having heard the case put forward by the two Members for the Coast and the hon. and reverend Canon Burns, that it might be advisable to

withdraw this resolution and deal with the matter through the Roads Board as the proper method for dealing with roads, and so on.

Before sitting down, Sir, I should like to say that I was not terribly impressed by the hon. Director for Public Works in his figures for road expenditure on the Coast. The Coast has had extremely heavy rains. The roads in that part of the world are bad and some steps should have been taken to meet the situation before attention had to be drawn to it in this House.

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

THE HON. W. G. JIJALWHITE: Your Excellency, I should like to have leave to withdraw the motion.

HIS EXCELLENCY: The hon. Member requests the leave of the House to withdraw his motion and I presume the House will grant that leave.

The motion was by leave withdrawn.

BILLS.

SECOND READINGS.

THE KING'S AFRICAN RIFLES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move the second reading of the King's African Rifles (Amendment) Bill.

This Bill, as hon. Members have probably observed, is entirely a domestic Bill dealing with the King's African Rifles themselves. The amendments have been prompted by the Secretary of State. It was found to be inequitable that there should remain on the Statute Book those provisions which relate to minimum punishments. You will find if you look through the criminal law of any British Colony or of England itself that it is extremely rare for a minimum punishment to be placed on the Statute Book. By minimum punishment I mean—but perhaps an example which we would all understand would explain it best. Let us assume that a man is charged with manslaughter and is found guilty. In theory that man may be given up to life imprisonment. We all know, as a matter of fact, that the degrees of manslaughter vary considerably; that whereas one man may be brought in guilty of manslaughter for something which approaches very nearly to murder, another man would be equally guilty of manslaughter if he were to drive his motor car too fast round a corner—but there is no comparison between the moral

culpability in each case. In the one case a judge might give a sentence of life imprisonment, and in another, two or three months or even a reprimand and discharge.

All through the King's African Rifles Bill you will find minimum punishments occurring, and at the suggestion of the Secretary of State these punishments are being removed, leaving it to the Court to decide the suitable punishment in each case.

That small amendment has unfortunately necessitated, as hon. Members will read from the Bill, innumerable other small amendments, including a definition of the word "imprisonment". As the definition stands at present "imprisonment" can only be given up to two years. Naturally, if you are to remove the minimum punishment, it is necessary to amend that definition so that you can give imprisonment for more than two years. But hon. Members need not be afraid that that will lead to tremendous sentences being imposed because there are several safeguards in the Bill. The chief safeguard is that 99 per cent of the cases that go before a court martial are tried by a District Court Martial and you will find that their jurisdiction is only up to two years. It is only the more serious cases that go before a General Court Martial, which has the right to give imprisonment for life. In addition to that, you have the power of revision by the Commanding Officer and also, in this Colony and in all other colonies, I believe, by His Excellency the Governor; so that there is no danger really in practice of any hardship arising from this amendment.

The other small amendments are merely verbal. I refer to such amendments as you will find in sections 9, 10, 11 and 12. If hon. Members will turn to them they will see they deal with no principle whatever.

These amendments are being brought in in all the other East African colonies and I notice that Tanganyika has already put them into force.

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

The question was put and carried.

THE TRAFFIC (AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the second reading of the Bill to Amend the Traffic Ordinance, 1928.

The principal clause in this short measure, Sir, is the last one, clause 7, which provides for a review of licence charges in respect of carts and vehicles whose tyre width is less than four inches. When the Traffic Ordinance, 1928, was passed, it was then the deliberate policy of Government as advised by the then Roads and Traffic Committee, to endeavour to drive off the roads vehicles with a tyre width of less than four inches owing to damage to the roads, and it was provided that the fee would rise by 50 cents per 100 lb. every year. The effect at the present moment is a tax rising to Sh. 25 and Sh. 50 for two-wheeled vehicles and Sh. 30 and Sh. 60 for four-wheeled vehicles; there will be a further rise in 1935 if the present Bill is not passed. This policy seems to have had the desired effect, but not in the way in which that effect was really expected, in that Government is advised that native users of carts, through their inability to pay the increasing tax, have laid up their carts, stating that they are not able to afford the price of carts fitted with tyres of a greater width than four inches. The net result has been that carts in native use have to all intents and purposes been driven off the roads. That is an undesirable effect of this taxation, and at the present time it is the greater of the two evils.

The matter did come before the Select Committee on Estimates for 1934, and that Committee recommended that, while approving the principle of endeavouring to drive these vehicles off the road, Government should during the present agricultural depression review the position.

The licensing officers were circularised, and the consensus of opinion—which has been endorsed by the Central Roads and Traffic Board—is that a fair thing would be to take the 1933 rate and consolidate that for the future. This Bill provides in effect that the 1933 rate of taxation shall be the taxation for the future.

In clause 4 there is another small amendment proposed. At the moment, carts and vehicle licences can be taken out quarterly, half-yearly and yearly. The licence itself is not very much, and it is the District Councils who get the revenues from it. Rules were passed providing for the issue and display on carts of a metal badge. The badges themselves are not very expensive and the fee is not large, and it was thought it would certainly ease the collection and make the collection less expensive if provision were made for quarterly and half-yearly licences to be abolished and only annual licences permitted for carts and other vehicles not being motor vehicles.

The remaining clauses of the Bill are not particularly important in themselves.

Clauses 2 and 3 deal with safety measures, and clause 5 is a consequential amendment owing to the abolition of daylight saving.

Some hon. Members may remember that the majority of the clauses of the Bill did form part of a Bill published for introduction in 1932, but it was never brought before Council because the greater part dealt with the provision for compulsory insurance and third party risks. It was felt at that time very strongly by some that the legislation in this country should come into line with the legislation at home regarding this type of insurance, making it generally compulsory, but on examination of the figures it appeared that any such measure would involve the payment of somewhere about £37,000 by motor users generally, and Government, while in sympathy with the idea, felt that the people who would have to pay should be taken into consultation before any measure was enacted. The fullest consultation as far as possible has been effected, the District Councils being invited to express their views, and the Central Roads and Traffic Board was consulted. They are unanimous that the principle is one to aim at when times improve, but that at the present time it is far too expensive on the general motor car user to introduce compulsory third party insurance. These clauses, therefore, have been deleted for the time being.

I may say, perhaps, that Your Excellency proposes to send this Bill to a Select Committee, and in Select Committee I propose to suggest a further amending clause, the necessity for which has arisen from a recent court case at Mombasa. The general effect of the proposed amendment is that if a person hires a taxi and wishes to drive it himself, he should not be subject to all the regulations that apply to taxi drivers. This is the position at the moment.

Some few months ago a motor conference was held in Nairobi, which submitted a number of recommendations, and there are one or two points in regard to the road worthiness of vehicles and the compulsory use of signals for the safety of the traffic which will also be laid before the Committee with a view to minor amendments being introduced into the Bill. I beg to move, Sir, the second reading.

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

HIS EXCELLENCY: The question is that the Bill to Amend the Traffic Ordinance, 1928, be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, the European Elected Members approve of certain individual features in the amending Bill, and definitely disapprove of others. Provided we secure an assurance from the hon. the Commissioner for Local Government in replying to the debate, that very careful consideration will be given to those points on which we do not see eye to eye with Government proposals, we shall vote for the second reading of this Bill.

Of course, Sir, we approve of the main principle, namely, that the very heavy penalty pertaining to the use of vehicles with tyres of four inches and under should be removed, because action was taken by Government entirely on our suggestion. As a matter of fact, Sir, those of us who were Members of the House in 1928 share responsibility with Government for this measure, which has not proved so successful at it was thought. The main reasons for making that provision were first of all the necessity for protecting our road surfaces, and of course we could not at that time foresee the fact that the roads would greatly improve so that they did not require particularly that measure of protection; we could not foresee that the life of a vehicle would be very much longer than was at that time anticipated. And there are many vehicles on the road, South African wagons, constantly in commission for a period of twenty years. That means that if the Ordinance in its present form was continued for a period of twenty years they would carry an annual taxation of something like Sh. 300 per annum.

Another and very important development not at that time foreseen was the poverty of the farmers, as things are to-day in Kenya and in every other agricultural country. What I do resent, Sir, is the insidious attempt on the part of Government still further to maul the unfortunate farmers in increased taxation by the proposed deletion of the quarterly and half-yearly licences. I am astonished, Sir, that the Kenya Government, with opportunities of consulting people who know this subject, should have been tempted to perpetrate such a monstrous iniquity on the farmers of this Colony from whom Government derives the bulk of its sustenance. In actual fact, a very large proportion of the farmers of the country only use the bulk of their fleet of vehicles for a very brief period each year. I know, Sir, one deserving member of the farming community who has a fleet of no less than eight scotch carts. He is a member, as are many hundreds of our farmers, of a co-operative society. He is called upon to deliver his maize and wheat either during the last quarter of one year or the first quarter of the next year. He licences these vehicles for the period that he uses the road, namely, one quarter; and I suggest it would be manifestly unfair, unjust, and inequitable

if we were to make that man pay an annual licence for a vehicle only on the road for possibly three days in the last quarter of the year. It is unfair in comparison with the transport using the roads for every day throughout the year, and I sincerely trust, Sir, that we shall get an assurance from the hon. Member in charge that those points may be reconsidered in select committee. While it is admittedly easy of collection, that does seem to me a most fooling reason for the introduction of this change. Just think, Sir, what that would mean were it applied to all forms of taxation. I leave the illustrations, Sir, to the imaginations of hon. Members themselves out of regard for your time.

There is one other point, Sir, which might well engage the attention of Government. It is a small matter, very largely a technical matter. In the Ordinance, Sir, owners of vehicles are required to fix the name plate on the right or offside of the vehicle, but, Sir, in the Rules made under the Ordinance, they are compelled to fix the tablet indicating the vehicle licence on the left or near side of the vehicle. I suggest, Sir, it would simplify inspection if as in the majority of similar countries both licence plates were fixed in the same position, namely, on the right or offside of the vehicle, which would greatly facilitate inspection.

THE HON. SHAMSUD-DIN: Your Excellency, there is only one point on which I wish to say a few words. I am not quite certain if the hon. the Commissioner for Local Government has made the point clear already; if so, owing to the bad acoustics of the building and my partial deafness I did not catch it. I fail to understand why the operation of clause 7 should be postponed until 1935. I understood the hon. Member for Nyanza to say that perpetually increasing the tax by 50 cents per 100 lb. was certainly an injustice to the ox transport, and if not checked by the present amendment it might have gone on *ad infinitum*. The ox transport people will be grateful to Government for having removed that, but I do not see any reason why the operation of the clause should be postponed until 1935. I hope that when the Bill should be postponed until the beginning of this year. I cannot see it commence from the beginning of this year. I cannot see why a man should be taxed so much on this type of transport. There is so much to be said in favour of ox transport compared with motor transport: it gives employment to so many people; it keeps the money in the country, and it is the sort of transport that should be encouraged instead of discouraged in the way of being called on to pay this tax of Sh. 2 per 100 lb. instead of Sh. 1/50.

Mrs. THE HON. F. W. CAVENDISH-BENTING: Your Excellency, I shall support what the hon. Member for Nyanza said. The only point that I should like to stress is "Objects and Reasons (c)": this limitation of quarterly and half-yearly licences to motor vehicles only. The hon. Member Mr. Harvey has put up the point of view of the farmer. I should like to add also that in Nairobi and the big towns there is dissatisfaction with this provision, because there are users not only of ox transport but also of a number of trailers, some of which are very heavy and on which considerably more money has to be paid in licences although only used on rare occasions. There is a feeling that some provision should be made for these.

THE HON. A. C. TANSABILL: Your Excellency, I am rising only to perhaps emphasize what the last speaker has been saying about trailers. I have before me a cutting which deals with an interview with the Minister of Transport in Great Britain, where this question of special trailers was brought before his notice. In Great Britain there are trailers specially adapted to carrying very heavy weights, even up to 70 tons. In this country, we have, I believe one at least specially adapted trailer which will carry up to 10 tons. It has been in the country, I believe, three years and it has been used not more than three times, but very useful it was when the need for it came. In Great Britain, for that particular class of trailer, a weekly or fortnightly licence is available. If the trailer had to take out an annual license it would be, of course, prohibitive, and for this particular class of vehicle I hope the Select Committee will advise and permit a weekly or fortnightly license.

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

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, we have gone down the easy path of good intentions apparently very successfully, and also trodden where we ought not to have trodden, but I think we did it with the best of intentions. The great bulk of the revenue from these license fees goes to the District Councils themselves, so that there is no concerted effort on the part of Government to increase its own taxation, and I shall be only too happy to give an assurance to the hon. Member that the points raised will all be gone into in Select Committee, and that Government has no pre-conceived opinions on the subject.

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

The question was put and carried.

The Council adjourned for the usual interval.

On Resuming:

THE ASIATIC WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move the second reading of a Bill to Amend the Asiatic Widows' and Orphans' Pension Ordinance, 1927.

This Bill, Sir, is in the main the outcome of the fusion of the Posts and Telegraphs Departments of Kenya, Uganda and Tanganyika, but opportunity has been taken to make a small verbal amendment in sub-section (4) of section 4 of the Principal Ordinance, by describing more precisely the manner in which action should be taken under that section. Clause 3 of the Bill deals with officers who were in or were selected for appointment for the Service in the Tanganyika Government Post and Telegraphs Department on the 1st January, 1933, and this Bill gives them an opportunity of becoming contributors to the Asiatic Widows' and Orphans' Fund. Officers appointed after that date automatically come under the terms of the Principal Ordinance.

No expenditure of public money is entailed, and the provisions of this Bill, Sir, have received the approval of the permanent board appointed to administer the Principal Ordinance.

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

The question was put and carried.

THE BANK (AMENDMENT) BILL.

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

This Bill, as hon. Members will see if they have read it, practically explains itself. The original Bank Ordinance was passed some twenty years ago and reference was made in it to certain statements and lists which had to be put in under the Companies Ordinance of 1903. Since then the Companies Ordinance of 1903 has been repealed and replaced by the Ordinance of 1929 and a new set of lists and statements have been drawn up which companies have to put in with the result

that, if we kept this as it stands to-day, two sets of lists and statements would have to be prepared, one under the 1920 Ordinance and one under the 1908 Ordinance. The lists and statements under the 1920 Ordinance are much more drastic and lengthy than the ones under the 1908 Act.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

THE BLACKWELL PENSION BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move the second reading of a Bill to Legalise the Payment of a Gratuity and a Reduced Pension to Horace Blackwell, Esquire.

The Objects and Reasons, Sir, explain the necessity for this Bill. Mr. Blackwell was appointed a Police Constable in 1922 and was retrenched from the Police Department in 1933. By resolution of this Council in March, 1933, he was allowed to exercise his option to receive a gratuity and reduced pension. Almost immediately after he was reappointed to the Government Service, this time in Uganda, his case being treated as a transfer from Kenya to Uganda, and his service being counted as continuous for pension purposes. The option granted by this Council to enable him to receive a gratuity and reduced pension lapsed naturally on his reappointment and legislative sanction is now sought to extend that option to the date of his ultimate retirement.

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

The question was put and carried.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move the second reading of a Bill to Amend the Land and Agricultural Bank (Amendment) Ordinance, 1933.

This Bill, Sir, is introduced with the intention of simplifying the procedure in regard to the appointment of the Land Bank as agents to Government for the administration of the Agricultural Advances scheme. Under the Ordinance of 1933, which it is now sought to amend, Government is empowered to appoint the Land Bank Board as agents, but in practice it is found more convenient that Government should appoint the Bank itself, which is a body corporate and which has no changing personnel. No new principle is involved in this Bill, Sir, and I beg to move the second reading.

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

The question was put and carried.

THE AGRICULTURAL ADVANCES (AMENDMENT) BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move the second reading of a Bill to Amend the Agricultural Advances Ordinance, 1930.

This Bill, Sir, is framed with the object of improving the operation of the Agricultural Advances scheme by giving somewhat wider powers to the Land Bank to act as agents to Government for the administration of this scheme. From every point of view it is desirable that the Land Bank and the Agricultural Advances scheme should work in the closest possible cooperation and this Bill seeks to achieve that object.

Clause 3 transfers the duties and obligations of the Secretary from the Central Board to the agents; that is to say, the Land Bank.

Clause 4 empowers the Board to waive or postpone in favour of the Land Bank the priority charges over land; and clause 5 authorizes the agents to reissue to participants already in the scheme the proceeds from crops provided that the reissue is for purposes for which the original loan was granted.

Clause 6 enables the agents to make arrangements with merchant firms in connection with anticipatory advances.

This Bill has been put before the Land Bank Board and has received the approval of that Board.

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

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

THE HON. J. B. PANDYA: Your Excellency, I am not quite sure in my mind that the principle in clause 5 to the effect that payments which are due and payable against original advances should be reissued as a fresh advance, is a sound one, especially for the State-owned bank. Apart from the mass of detailed work involved the increased advances might affect the basis of security. Assuming that those in charge would exercise necessary care and caution, the system itself is such that it might result in increased losses which may have to be ultimately written off.

This kind of arrangement would no doubt be suitable and perhaps desirable for private banks or other persons who lend money, because they no doubt charge a higher rate of interest to compensate for the risk involved, but in case of the State bank the interest charged is lower, and therefore those who take advantage of that low rate of interest should be expected to be regular in their payments. In the alternative I should suggest that a higher rate of interest be charged on such fresh advances to compensate for any eventual loss in such transactions.

Clause 6 would make the system much more cumbersome and complicated. It permits a participant to make arrangements with a merchant firm to obtain advances. No doubt this power is discretionary but it would allow the agents to waive the hold on security to that extent. These are all the comments I wish to make on this Bill.

THE HON. COSWAY HARVY: Your Excellency, I find myself in complete disagreement with the remarks made by the last hon. gentleman in respect of clause 5, which in my opinion is probably the soundest proposal incorporated in this measure. No mortgagee in his right mind, and in this connection Government must be regarded as a mortgagee, would take all the money and deprive the mortgagor of the ability to maintain the estate and carry on his work. Speaking as a practical farmer, and in one or two cases I am sorry to say as a mortgagee, it would be the height of madness to deprive a man doing his utmost to pull through and work the land of the wherewithal to carry on the next year or to maintain his estate. I think the amount lost in the shape of annual interest is absolutely nothing compared with the far greater importance of maintaining the estate with the hard work of the mortgagor or borrower.

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

THE HON. THE TUKUSUMA: Your Excellency, I would like to point out to the hon. Member Mr. Pandya that this Bill refers to the Agricultural Advances Ordinance, and that the Land Bank act as agents for the Ordinance, and that it has nothing to do with the funds of the Land Bank as such. Interest is chargeable on agricultural advances at the rate of 8 per cent, but it has happened that it is necessary in certain cases for the agents of Government under this scheme to take more or less complete control of a planter's farm, so that they pay as required and receive the proceeds of the crops. It is for that reason that clauses 4 and 5 are inserted in order

to give the agents more power to operate this scheme on a proper and business like basis. Otherwise it might be that if they had not that power the farmer would be forced off the land, although if times improve or he gets more it is merely a matter of carrying him over, so that the interests of Government and the farmer are properly safeguarded.

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

The question was put and carried.

THE DISTRICT EDUCATION BOARDS BILL.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, I beg to move that the Bill to make provision for the establishment of district education boards in the Colony be read the second time.

This, Sir, is a short Bill, but I do not want to conceal from the House that it is a Bill of some importance. It aims at bringing the African through the Local Native Councils into much closer touch with the administration of education. At present, the only appointed contact is through the School Area Committees which are advisory committees, and it is proposed to replace them by these new bodies which the Bill aims at establishing. The other point of contact between the African and the administration is in the form of the grants which are given by the Local Native Councils. I do not know whether it is fully appreciated that in 1932 the Local Native Councils voted out of their own funds no less than £17,000 to assist in education. It seems therefore not unreasonable to give them the opportunity of having a greater share in the administration of the funds than in the past.

The area over which it is proposed to give them these additional powers is the lowest part of the educational field, namely, the lowest type of schools, and that is done not with a view to restricting the Local Native Councils to what might appear to be of the least important part of education, but to encourage them to do far more in the way of the lowest schools than they have done in the past. The policy, as far as there is a policy, among the councils is wholly to assist the central or secondary schools, which it is not considered to be in the interests of the native to assist to the extent to which they are assisting them. We do want them to use their funds and the funds put at their disposal by Government, to develop education in the villages and the bush schools, and we hope that by giving them these powers they will give more attention to that important part of education of the Africans in the villages.

The Bill I might describe shortly, Sir. In clause 2 is described the type of education in regard to which we wish to give these local bodies more measure of authority.

Clauses 3 and 4 describe the constitution of those bodies. In connection with clause 4, I shall ask the Council to note that it is proposed to give the council over a local district area, a Local Native Council area, and not over a provincial area, because the Local Native Council is the fiscal unit of the area. In this connection I regret that in drafting the Bill I overlooked the fact that in one or two cases we have districts where there are two councils, such as South Kavirondo, where you have the Kisi-Bakoria and the Luo-Abasuba. It is therefore necessary to add in clause 4 (d) the words "or Local Native Councils" in order to provide for the existence of two in one area.

Clause 5 merely provides for the machinery of the meetings of the Boards and clause 6 for the appointment of a secretary who will in practice generally either be an administrative officer or more probably the education officer already a member of the Board.

Clause 7 gives the functions of the Board, and that is really the most important clause in the Bill. They will make recommendations in regard to the establishment of elementary and sub-elementary schools and also be asked to assist in the supervision of the work of these schools in their district, so that the interest will become a practical affair. They will be asked under (c) to make allocations, subject to the approval of the Director of Education, of the various funds set at their disposal. These are threefold: those voted by the Council, those provided from central funds, and those provided by mission funds, so that herein is justification for the nature of these boards, namely Local Native Council members, partly representatives of schools, missionaries in most cases, and partly officers of Government.

Clause 8 merely gives power to the Director to make rules to assist in guiding the Boards.

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

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

THE REV. CANON THE HON. G. BURNS: Your Excellency, it affords me great pleasure to rise and back up this Bill. At the present time, in some of our reserves the situation is not

altogether satisfactory. I think, Sir, the Director of Education is taking some steps to regularise and to help those who perhaps have got away from the missionary societies as such and want to be more or less independent. There are a number of independent schools, Your Excellency, started throughout the whole country, doing very good work from the point of view of elementary or at least sub-elementary education, without which, of course, our elementary and secondary schools would not be of very much use. The difficulty heretofore has been to know who was responsible for these schools, or who could control them. This Bill points out very definitely that such schools will be brought under the control of the District Board, upon which a good number of their own people are appointed, and that they will still have a say, a thing they have desired and complained about for some considerable time, they will have a say in the allocating of the funds they themselves have contributed to the extent of £17,000. It will also keep in check some who might be getting off the lines, and who use their schools for other things that would not be profitable to natives themselves or to Government, Sir. So I am very pleased indeed to support this Bill, and hope it will do what the hon. the Director has forecast.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I should like to say one thing. I should not like it to go out from this House uncontradicted that these independent schools are capable of doing good work. I do not believe they are, without proper supervision by Europeans.

THE REV. CANON THE HON. G. BURNS: Your Excellency, on a point of explanation. That is the reason why I said these Boards will be useful in agreement with the Director of Education, because if they are not controlled they will not be useful, but will be a menace.

The question was put and carried.

REGISTRATION OF DESIGNS AMENDMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Bill to amend the Registrations of Designs Ordinance, 1933.

It has been pointed out to Government that there are one or two hardships appearing in the present Registration of Designs Ordinance. One is to be found in section 5, where it is made obligatory on any person applying to produce two certified copies of the design and a certificate from the Comptroller General. It is thought that this is rather overdoing the safety, and naturally the certificate of the Comptroller General is the important thing, and in forcing people

to get certified copies of designs it means paying money. It is therefore proposed to delete the word "certified" before the word "representations".

In clause 3, amending section 13, another small detail arises with regard to the word "clerical" before "error" in (b). It has been pointed out that there are very few things in these applications which could be said to be clerical, and that there may be a great many small errors which although not clerical should be capable of rectification. It is suggested that the word "clerical" be deleted, thus giving the Registrar power to make any small corrections necessary in an application.

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

HIS EXCELLENCY: The question is that the Bill to amend the Registration of Designs Ordinance be read a second time.

THE HON. A. C. TANNABILL: Your Excellency, I rise very heartily to support the Bill. It has been considered carefully by the commercial community, and they deeply appreciate the methods which the hon. and learned Member has taken to rectify what were defects in the past.

The question was put and carried.

MOTION.

APPOINTMENT OF SELECT COMMITTEE ON TRAFFIC (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill Amending the Traffic Ordinance, 1928, be referred to a Select Committee consisting of—

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

The Hon. the Treasurer.

The Hon. the Director of Public Works.

The Hon. Member for Nyanza.

The Hon. the Acting Member for Nairobi South.

The Hon. Member Mr. Mangat.

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

The question was put and carried.

In Committee.

THE KING'S AFRICAN RIFLES (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 7.—Repeal and replacement of section 13 of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: I beg to move the following amendment in clause 7: that after the word "imprisonment", which occurs in the last line of the first sub-section, the following words be added—"or such less punishment". It will then read as follows: "shall on conviction be liable to imprisonment or such less punishment as is in this Ordinance mentioned". If you leave it as it is it means that you could only impose a sentence of imprisonment instead of any smaller punishment.

The question was put and carried.

THE ASIATIC WIDOWS' AND ORPHANS' PENSION (AMENDMENT) BILL.

The Bill was considered clause-by clause.

THE BANK (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE BLACKWELL PENSION BILL.

The Bill was considered clause by clause.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE AGRICULTURAL ADVANCES (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE DISTRICT EDUCATION BOARDS BILL.

The Bill was considered clause by clause.

Clause 4.—Constitution of the Board.

THE HON. THE DIRECTOR OF EDUCATION: I beg to move the following amendment: At the end of line 2, sub-section (1), paragraph (d), that the following words be inserted: "or Local Native Councils".

The question was put and carried.

Clause 7.—Responsibilities of the Board.

THE HON. THE DIRECTOR OF EDUCATION: I beg to move a consequential amendment at the end of paragraph (c)—the deletion of the semi-colon and the addition of the words "or Local Native Councils".

The question was put and carried.

THE REGISTRATION OF DESIGNS (AMENDMENT) BILL.

The Bill was considered clause by clause.

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

The Asiatic Widows' and Orphans' Pension (Amendment) Bill,

The Bank (Amendment) Bill,

The Blackwell Pension Bill,

The Land and Agricultural Bank (Amendment No. 2) Bill,

The Agricultural Advances (Amendment) Bill,

The Registration of Designs (Amendment) Bill,

and that

The Kings African Rifles (Amendment) Bill,
The District Education Boards Bill,
be reported to Council with amendment.
The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to inform Council 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 Blackwell Pension Bill.
- The Asiatic Widows' and Orphans' Pension (Amendment) Bill.
- The Bank (Amendment) Bill.
- The Land and Agricultural Bank (Amendment No. 2) Bill.
- The Agricultural Advances (Amendment) Bill.
- The Registration of Designs (Amendment) Bill.

And 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 King's African Rifles (Amendment) Bill.
- The District Education Boards Bill.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: I beg to move that the following Bills be read a third time and passed.

- The King's African Rifles (Amendment) Bill.
- The Asiatic Widows' and Orphans' Pension (Amendment) Bill.
- The Bank (Amendment) Bill.
- The Blackwell Pension Bill.
- The Land and Agricultural Bank (Amendment No. 2) Bill.
- The Agricultural Advances (Amendment) Bill.
- The District Education Boards Bill.
- The Registration of Designs (Amendment) Bill.

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

The question was put and carried.

The Bills were each read a third time and passed.

*The Council adjourned until 10 a.m. on Wednesday,
1st August, 1934.*

WEDNESDAY, 1st AUGUST, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 1st August, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 31st July, 1934, 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. MOONS):

Report of the Standing Finance Committee on the Schedule of Additional Provision No. 2 of 1934 and the Schedule of Additional Expenditure not included in Schedule of Additional Provision No. 2 of 1934.

By THE HON. THE CHIEF NATIVE COMMISSIONER (MR. S. H. LA FONTAINE):

Report of the Select Committee on the Native Hut and Poll Tax Bill.

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

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

By THE HON. T. D. H. BRUCE:

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

ORAL ANSWER TO QUESTION.

INDIAN REPRESENTATION ON MEDICAL BOARD.

No. 76.—DR. THE HON. A. C. L. DE SOUSA asked:

“Will Government state whether registered Indian medical practitioners are being appointed to the Medical Board set up under section 9 of the Medical Practitioners and Dentists Ordinance (Chapter 119 of the Revised Edition of the Laws of Kenya)?

If the answer is in the negative, will Government be pleased to include an Indian Medical Practitioner on future boards appointed under the above Ordinance?”

THE HON. THE DIRECTOR OF MEDICAL SERVICES (Dr. F. J. C. JOHNSTON): Appointments to the Board provided for under section 9 of the Medical Practitioners and Dentists Ordinance (Chapter 110, Laws of Kenya), are made from amongst the more senior and experienced members of the medical profession in Kenya. They are not appointed to represent any particular race or section of the profession. As, and when, vacancies occur the names of Indian medical practitioners are considered along with those of others.

NOTICE OF MOTIONS.

By THE HON. THE COLONIAL SECRETARY:

"That the Report of the Standing Finance Committee on Schedule of Additional Provision No. 2 of 1934 and Schedule of Additional Expenditure not included in Schedule of Additional Provision No. 2 of 1934 be adopted."

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENTS:

"That the Report of the Select Committee on the Traffic (Amendment) Bill be adopted."

By THE HON. THE ACTING CHIEF NATIVE COMMISSIONER:

"That the Report of the Select Committee on the Native Hut and Poll Tax Bill be adopted."

By THE HON. T. FITZGERALD:

"That the Report of the Select Committee on the Electric Power (Amendment) Bill be adopted."

By THE HON. T. D. H. BRUCE:

"That the Report of the Select Committee on the Police (Amendment) Bill be adopted."

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE LAIBONS REMOVAL BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee of this Council which was appointed to report upon the Provisions of a Bill to Provide for the Removal and Settlement of Laibons be adopted.

As hon. Members will see from the Report, there are very few amendments to the original Bill; The first amendment is in the definition of the word "Laibon", which has been made

more restricted so that it will apply first only to the Orkoyot and the adult male members of the Talai clan in the South Lumbwa District. This was to make quite sure there would be no question of collecting people who might be called Laibons in other parts of the Colony.

The other amendment is in clause 3, where we make provision for Your Excellency to be able to set apart by proclamation the land to which these people are to be segregated. Hon. Members will remember that Mr. Hemstad raised this point during the debate on the second reading, that perhaps the place mentioned in the Schedule was not the most desirable that could be found; and Your Excellency agreed to appoint a committee to go very carefully into this question. It was therefore necessary to amend clause 3 in order that the new area, if one could be found, could be inserted instead of the one appearing in the Bill.

The other small amendments are merely drafting amendments in order to make it clear that the Provincial Commissioner is not responsible for laying down who and who are not Laibons—that he will be able to appoint others to do that task and that the right of appeal will be him.

THE HON. T. D. H. BRUCE: I beg to second the motion. The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE NATIVE LANDS TRUST (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the adoption of the report of the Select Committee of this House which was appointed to consider a Bill to Amend the Native Lands Trust Ordinance, 1930.

Apart from the amendments of which notice had been given before the second reading, there are very few amendments in the report before you, though, as a matter of form, all the original amendments of which notice had been given again appear. Before I go any further, I notice a typographical error in regard to new section 32 in which reference is made to line 4. It is really line 3. Subject to that amendment I shall move the adoption of the report as it stands.

The first amendment which occurs of any importance, Sir, is in regard to the nomination of the Local Board. In fact, there is no change whatever being made except in the way it is defined. The actual personnel will be exactly the same, but it was pointed out that in fact there are no elected members of these native councils. They are all, in theory, nominated by Your Excellency; but a native council in practice, consists of two parts.

The first part is nominated directly by the District Commissioner, with the approval of the Provincial Commissioner, and then the people themselves put up so many names, from which is selected the other half of the council. We have, therefore, made it perfectly clear in our definition who we mean when we use the word "elected".

The next point we thought it necessary to clear up was in that part of the Bill which appeared in the amendments of which I gave notice dealing with the temporary exclusion of land. It was not thought that I had made it sufficiently clear in the amendments as they stood that it would only be in the event of Crown Land being available and that it was practicable for Government to give over this Crown Land temporarily to the natives that it could be used for the purpose of temporary exclusion. We have therefore amended the Bill so as to make it perfectly clear that only unalienated Crown Land can be taken and then only when it is practicable for Government to give it over.

A small amendment was made with regard to the setting apart of land under which there existed a subterranean lease. In the Bill as it stood it would have been possible for the Provincial Commissioner with the approval of the Commissioner of Mines to set apart any amount. It was thought that this was not quite in keeping with the general tenour of the Bill, or indeed of the Land Commission Report. We have therefore limited the amount which can be set apart by the Provincial Commissioner under those circumstances, without the usual reference to the various Boards which appear in other parts of the Bill, to ten acres. The general effect of that is this, that where you have a mining lease of say 50 acres on the surface and a subterranean lease of 500 acres and it is necessary for the proper mining of your subterranean lease that you should have a further outlet on the surface, then the Provincial Commissioner may grant such further surface right of his own motion, without recourse to the various Councils provided that the necessary compensation is paid and provided that the area required is less than 10 acres.

We have also made it clear that any person aggrieved will have the right of appeal in the case of an assessment in favour or against a private right holder. As it stood it might have been read to mean that only private right holders had the right of appeal. It is only just that the person who has to pay the private right holder should also have the right of appeal and therefore, all the way through, where necessary, we have put in the word "person" instead of the word "native"; and we have also inserted the word "private" in various places before the words "right holder" in order to make it clear that we

are only referring to the man who has an individual title to the land and that we are not in any way referring to the right of clan holders.

THE HON. T. D. H. BRUER: I beg to second the motion.

THE HON. R. W. HEMSTED: Your Excellency, I beg to move that the report be amended by the deletion of section 32. This section entitles the Provincial Commissioner to set apart land up to ten acres without complying with the conditions laid down in section 29 in the Original Ordinance, under which the Provincial Commissioner has to go through the formula of consulting the Local Native Council, Local Board, and so on. In setting apart the additional area he is not required to do that. I think that if he is required to do it in the original setting apart of the ten acres, he should be required to do it in the setting apart of the additional ten acres. It may be pointed out that this makes it rather cumbersome, but I do not think it is quite so cumbersome as it would appear to be. I think that if the Provincial Commissioner complies with the same conditions as in the original area, this section would appear to be unnecessary.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I beg to second the proposal for the elimination of this section, as I think it will show that Government is really anxious to consult the native on every possible occasion and to give him a fair deal. I do not suggest for a moment that he will not get a square deal, but I think that in the setting aside of the additional area he is to be consulted as he is in the case of the first. There is one point that I did not understand with regard to these areas, is it ten acres or a multiple of any small plots amounting to that, and no more, ten acres plus the original claim whatever that might be? There is one other matter that I should like to mention, Your Excellency, that is the recommendation of the Kenya Land Commission with regard to setting apart of some of the present native forest area so that anyone who has to be removed or feels aggrieved in any way, that if it would be more convenient to move any native from his plot Government should be able to do so to him or the Commissioner of Mines or the Provincial Commissioner, the Commissioner of Mines or the Provincial Commissioner. "Well, there is the land set apart, you can go there for the time being and occupy a plot in extent to which you are leaving." I understand the Kenya Commission has recommended that, and I urge very much that that aspect of the case be taken into consideration in the drafting of this measure.

THE HON. THE COLONIAL SECRETARY: Your Excellency, in view of the amendment just made by the two hon. Members, I would suggest that the debate on this matter might be adjourned and resumed after the interval, in order to give Government time to consider the amendment. I think it fair to explain why Government is asking for this time. I understand from the hon. and learned Attorney General that this point was discussed in Select Committee, and I gather that the official members at least were under the impression that they had convinced the hon. Member Mr. Hemsted as to the reasons for the provision standing in the Bill, and he signed the report without any dissent. So that we are taken by surprise at this amendment being moved at this stage of the debate.

MAJOR THE HON. F. W. CAVENDISH-BENTING: Your Excellency, I strongly support the suggestion that we resume this debate after the interval. I was a member of the Select Committee, and understood that the hon. Member for Native Affairs, Mr. Hemsted, had signed the report. I had no idea that this amendment was going to be brought up.

HIS EXCELLENCY: Perhaps the hon. Member, Mr. Hemsted, will after the interval have prepared his formal amendment so that I can see it?

THE HON. R. W. HEMSTED: Your Excellency, on a point of explanation. During the Select Committee I advocated the deletion of this clause 32.

HIS EXCELLENCY: If you will prepare in writing your amendment, I will adjourn now the debate until after the interval.

The debate was adjourned.

REPORT OF SELECT COMMITTEE ON AGRICULTURAL MORTGAGORS' RELIEF BILL.

THE HON. THE 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 give further powers to the Supreme Court with respect to the recovery of money secured by mortgages or charges and similar matters, be now adopted.

I hope, Sir, that hon. Members will not imagine from the shortness of the report that this Bill was not very carefully considered. Although in fact there has only been one alteration in the Bill, in that the word "shall" takes the place of the word "may" in clause 8, I can assure you that it took almost three and a half hours to arrive at that decision, and I can assure any member of the public who imagines this Bill

was not combed carefully section by section that he is entirely wrong. The hon. the acting Member for Nairobi South can be congratulated on raising every conceivable possible point, and from every point of view that I should imagine it was possible to raise (laughter), and it was only after most careful consideration, by reference to reports and all sorts of learned and distinguished people, and quotations from elsewhere, that I was able to get a unanimous report on this matter. More particularly was the hon. Member worried, and I should mention this point, with regard to section 8, (c), under which certain members of the public think a mortgage is not sufficiently covered, or that where a property is being allowed to go to rack and ruin that should be one of the principal things to be taken into consideration by the court. Actually, of course, that is amply covered in two places, more particularly in 8 (c), which is to the effect that the court in granting relief to a mortgagor may take into consideration "the conduct of the mortgagor in respect of any breaches by him of the covenants of the mortgage." That is, we are of the opinion that in practice every mortgage contains covenants with regard to the preservation of property in the usual manner. I can assure the hon. Member that there is not the slightest doubt about the question, that where the property is being allowed to go to rack and ruin it will be one of the first things the court will have to consider under this section 8.

THE HON. T. D. H. BAUER: Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is that the report of the Select Committee on the Agricultural Mortgagors Relief Bill be adopted.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, I should like to ask the indulgence of the House for a few minutes to speak to this motion for one or two specific reasons.

The first is that this Bill has caused a considerable amount of interest among both sections of the community into which, for the purposes of the Bill, the community of Kenya is divided—the borrowers and the lenders. In the first place, divided—the more optimistic ones among the borrowers, by some of the more optimistic of the title of the Bill—which includes the virtue somewhat of the title of the Bill—are disposed to think that the much advertised millennium is coming; whereas some of the more pessimistic among the others think that Government proposes to ravish from them their security on which they have lent their money. I believe it is right to assure the public that neither is the case. As the hon. and learned Attorney General has pointed out, the interests of both parties are in fact very well covered in this clause 8 of the Bill. But the main bone

of contention has been that clause 8 of the original draft which emanated from the committee which Your Excellency appointed differed very materially from the present clause 8. The original clause laid down with great exactitude precisely the form in which the mortgagor must show he has obtained the value of the property. So drastic, in fact, was this that no application under the Ordinance could possibly have received consideration. It is interesting to note that the recommendation that this clause should be amended emanated from the Colonial Office, and it is as a result of their recommendations that the present clause 8 has been inserted. The hon. and learned Member has already drawn attention of hon. Members to the sub-sections of clause 8 (a), (c), and (d) which in effect do cover the interests of the mortgagee. To show what is meant, one has only to consider for a moment the position of the mortgagee who finds himself compelled to foreclose because the property on which money has been lent is being allowed to go to rack and ruin. One further supposes that under such circumstances the mortgagor is sufficiently intelligent to apply for relief under this Ordinance. It is perfectly obvious that no British court of law would not grant relief under such circumstances. However, the interests of the mortgagee are safe, and there is nothing to the detriment of his interests. All that the Bill can do, and purports to do, is to provide that under certain conditions the mortgagor can obtain certain relief if he is victimised by what has been called a rapacious mortgagee or unesteemable speculator. We are also informed that such people do not exist in this country, and I am glad to hear it, Sir, but it is as well to be prepared for the very human reaction to changed conditions which might cause the acquisitive proclivities of these mortgagees to increase at an alarming rate. When the tide turns towards recovery once more, and land begins to have an ascertainable value, is the very moment that we wish to be able to extend some protection to the mortgagor, so that a measure of this nature is valuable to have on our Statute Books. I can assure hon. Members that the Bill in its present form is entirely an equitable one, it may under circumstances be of great value to us, and so I recommend the adoption of the report and the consequent normal procedure of putting the Bill on the Statute Book without further delay.

The question was put and carried.

PUBLIC SECURITY.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I beg to move:—

"That in view of the anxiety felt in certain districts in the Colony with regard to public security the Commissioner of Police should prepare for the information of this

Council a report showing the prevalence of crime and to what extent, if any, its incidence has been affected by the recent reductions in the Police Force."

It is within, I think, the knowledge of all Members of this House that this motion takes the place of the original motion which I withdrew because Government found that it was couched in terms too wide, and they were rather diffident about accepting it; and I would like just to say that I rather regret that that was necessary because I had hoped that Government did realize that we on this side of the House are responsible people and we do not want, when the country is in very difficult circumstances, to start an inquiry on unreasonable lines. However, Sir, the motion which is before us suits the purpose for which it has been put forward as it will give the Commissioner of Police an opportunity, which I hope he will be allowed to use, of showing to us and to the country in general whether he can carry on on the reduced expenditure for an indefinite period, whether he is finding very great difficulties at the present moment, and if so, what they are and what it would cost to assist him to meet them.

Before going any further, Sir, I would like to make one thing perfectly and absolutely clear, and that is that this motion in no way casts any aspersion or any criticism whatever on the personnel or the organization generally of the police force. I think, Sir, we all appreciate that under incredible difficulties they have performed wonders, but what we do want to find out, Sir, is whether we are asking an understaffed force to perform the impossible in certain districts for too long a period. There are very definite fears throughout the country that public security is being to some extent imperilled. People are becoming increasingly nervous, and if that is the case, I maintain it is our duty as representatives of those people to institute an inquiry to see whether those fears are well founded or whether the reasons for those fears are not as serious as some people think.

I said, Sir, that the police are performing their duties under very great difficulties, chiefly caused naturally by the fact that the expenditure on the police force during recent years has been heavily curtailed. It has been curtailed, I think, more heavily than the expenditure on any other Department, and yet it is a Department the maintenance of which is absolutely essential to the country.

I would like to give a few figures. In 1924, ten years ago, I think the police expenditure amounted to £107,841, and that expenditure gradually rose until in 1930, only four years ago—less than four years ago—the police force was costing this country £172,017. In view of the difficulties

which confronted this country and the world in general), expenditure from that date has been gradually reduced, and I believe I am right in saying that this year it is only expected to spend on the police force a sum of £132,729; so that we have reduced in four years the expenditure on the police by no less than £40,000.

I was one of the people, Sir—I think one of the only two still in the House—instrumental in recommending this reduction, and we did so with the help of the Commissioner of Police, who, realizing the situation, and thinking, as I think we all did, that the Colony's difficulties were temporary, did his level best to meet a temporary emergency. But I think we are all at liberty to say that, after a trial, it is possible one has made a mistake, and I think, in view of what I have seen and in view of additional factors which have arisen since that time, that possibly we overdid the economies which were effected in this very important service.

I know, Sir, it is quite impossible, even if we had very much more money, to suggest that every farm and every station in the country should have an efficient force of police or be adequately protected. We know that is not possible. We also know there are other factors which may tend to cause uneasiness. Some people may attribute the feeling of uneasiness to an over-decrease in the Administration. I do not agree with that, but some people may feel that is the cause. Other people, with perhaps more cause, feel that possibly there is over-meticulous review of sentences passed on persons apprehended by the police; that is to say, when sentences have been passed by Administrative Officers, those sentences are reviewed at headquarters a little too drastically. But that is not the question. The question really is, have we got enough police in the out-districts to make quite certain that public security is achieved?

Now I trust, Sir, that when this report—if this motion is passed—is submitted to the House, it will not be merely a jumble of figures giving crime statistics. I hope it will contain something more than that, and I would like to make the following suggestion: that possibly the Commissioner of Police might be allowed by Government to criticize these lines of inquiry. It is possible that in some out-districts they only now have one European police officer and that man is very often working night and day, and I suggest it probably would be a good thing—though it might cost a little more to start with—to have two Europeans instead of one. Furthermore, an increase of Europeans to a limited extent would give an outlet to the young men who are growing up in this country for whom we are very anxious to find employment.

I should like also, Sir, to know whether the Criminal Investigation Department needs any increase at all. I am not criticizing it; it does wonders in arresting criminals in bad cases that we have heard of lately; but at the same time it is possible it needs slightly increasing. There is also great uneasiness about the question of the closing of a number of police posts. I do not suggest that we should re-open all of them, but it is possible the Commissioner might, in the light of experience, feel that it might be wise to re-open one or more of them.

I trust it is clearly understood we do not suggest an all-embracing inquiry into the whole of the police. All we want to get is this: if it is a fact that the police force has been cut down to an undue extent, we should like to know in what ways at a small increase of expenditure greater efficiency can best be secured, and if that money has to be found at the cost of other activities, we think it is utterly wrong for us not to do so and incur the risk of a loss of public security and a risk that law and order will be impaired in this country.

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

HIS EXCELLENCY: The question is—

"That in view of the anxiety felt in certain districts in the Colony with regard to public security the Commissioner of Police should prepare for the information of this Council a report showing the prevalence of crime and to what extent, if any, its incidence has been affected by the recent reductions in the Police Force."

COMMANDER THE HON. F. J. COLEBURY: Your Excellency, I rise to support this motion. I think the hon. Member for Nairobi North has very well covered the ground that is necessary to be covered in order to substitute the reasons for asking that this motion be adopted; but there are just one or two details on which I personally will remark.

The first is this question of uneasiness in the country. Now, Sir, temporarily I represent an up-country constituency, and without any hesitation I say that to-day there is a very real and growing sense of uneasiness, that is to say, especially in the remoter out-districts. The farmer to-day does not feel the same sense of security—security for his stock, his goods, the same sense of security—security for his person—that he did feel a and security from violence to his person—that he did feel a little time ago. Now, I perfectly realize that it must be difficult for hon. Members of the Council resident in or near Nairobi to fully appreciate what this means, what this sense of insecurity in an isolated farm means. In Nairobi, of course,

they are surrounded by close neighbours of their own race, they have such advantages as a night telephone service, and most of the amenities of modern civilization. Therefore, Sir, I shall not be a little bit surprised if I am told, as I have been told by townsmen, that we people up-country are possibly a little bit hysterical, that we are allowing recent outrages rather to get on our nerves, and that after all the people up-country in this Colony do enjoy a greater security than people similarly placed in other parts of Africa. I frankly admit that even under present conditions the people to-day in this Colony do enjoy a greater sense of security than they do in such places as Rhodesia and other parts of the Union. The position of women, for instance, on isolated farms in Kenya to-day is safer than it would be if they were similarly placed in Rhodesia. But surely, no one is going to argue that because an unfortunate state of affairs exists in a less fortunate colony like Rhodesia, we should allow this Colony to sink to the same state if it is at all possible to prevent it? I naturally agree with the hon. Member for Nairobi North that no augmentation of the Police Force which is within the bounds of practical politics could be sufficient to provide adequate guards for every isolated farm. It would be financially impossible, and even if it were not financially impossible it would be undesirable, and, of course, it would be unnecessary.

The real facts of the case are, Sir, this sense of insecurity and uneasiness, and both are of very recent growth. Broadly speaking, and speaking generally, the natives of this Colony are amenable, are tractable, and are amenable to control. The early pioneers of the Colony have not had to face trouble, they have to a very great extent been immune from molestation by natives, in the same way that pioneers had to face in other parts of Africa and in most parts of the Colonial Empire. But the mere fact that we have to a very great extent up to now enjoyed any very great degree of immunity from trouble from natives means that we have not built up the organization to cope with native trouble if it should arise. It has not been necessary to build up such an organization, and therefore we have not had to be faced with the expenditure of the formation of a quasi-military force as many other colonies have had to face. Now, Sir, I said the trouble was of recent growth. I think there is no doubt about it that up-country anyhow the natives to-day are adopting a demeanour, getting out of hand, in a manner which was not noticeable at all as recently as four or five years ago. I am, of course, speaking mainly of the settled areas, but I believe the same thing holds goods in the reserves. Curiously enough, less than two years ago a Government official, an Acting District Commissioner in a native reserve, gave evidence before the Kenya Land Commission,

and he gave most decisive evidence that the Samburu were not giving any trouble to Government. Within eighteen months of that statement, that tribe had given so much trouble that Government was forced to impose on them a collective fine and to remove their laibon. It is of recent growth, and I do not think we need go far to see the reasons. Mainly they are economic, as is the case with crime nearly all the world over. The recent depression, which meant unemployment for natives, came at a time when the native was in an awkward and curious state of evolution. The presence of the white man and what he brought with him awakened a desire for money and what money brings, but there had not been sufficient time to instil into them the fact that the only way to get money is to work for it. The native could not get employment, he wanted money, and so he goes and takes it.

That, I believe, Sir, is the main cause, but not the only one, of the present unrest and the present attitude and demeanour of the native. It was, perhaps, very unfortunate that it should have coincided with this reduction in the Police Force. I do not believe that the reduction in the force is the origin of these troubles, but it has coincided with it, while elsewhere in the world where there have been vast unemployment and industrial troubles, the authorities have thought it necessary to increase the Police Force. With every good intention and with entire good faith, in this Colony we reduced it. I regret, Your Excellency, that Government did not see fit to grant an in-excellency, that Government did not believe that police statistics are going to help us one bit. The last police statistics show that in the Rift Valley constituency which I represent there was actually a diminution in petty crime. That must naturally be so, and if you reduce the force any further there will be a still further reduction in crime, because there are less police to look after cases of petty crime. If we take this to its logical conclusion and abolish the force, there will be no statistics of any crime! (Laughter.) But what is happening in the Colony to-day—anyhow, up-country—is this. The settler to-day does not notify the authorities of cases of petty crime, not entirely because he has a long way to go to find a policeman, and when he gets to him may find he is engaged on some other duty—that is not the only reason. Another reason is because owing to the technicalities attendant on securing a conviction he has to waste a lot of time, but also because when he has got a conviction I believe the sentences are so grotesquely inadequate that the farmer is simply not going to waste time on petty cases. That is a most deplorable state of affairs, because it must inevitably lead to one or two consequences, and I do not know which is the worst. The first consequence is that the

farmer takes the law into his own hands. I do not need to say how deplorable that is: it must lead to abuse and tragedies, if it has not already led to tragedy. But deplorable as that is, I do not think it is any worse than the alternative, which is that the farmer ignores petty theft or crime. I was brought up to believe, Sir, and most hon. Members were I presume, that in crime it is the first step which counts, so that the petty thief of to-day may well be the Charles Peace of tomorrow. If that is so, then we are in some cases leading our natives to believe that they can commit crime with impunity. There is no doubt about it that they do commit them with impunity in cases where farmers do not take the law into their own hands, which is deplorable. I do submit, Sir, that that is a most tragic interpretation to put on the term native trusteeship, to allow an unsophisticated native to believe that he can with impunity commit petty crime, which means a step to major crimes. How does he know the difference?

I wish now, Sir, to refer to the reduction of the police posts, and I am afraid that for the purposes of illustration I must take my own rural area. This is not a special plea, but merely for purposes of illustration. Up to two years ago, we had a police post established in my own area of Njoro. We also had a very curtailed telephone service. Up to two years ago those of us able to be wealthy enough subscribed to that telephone service, and we were able in the evenings to be switched on to the police station. Just recently, within the last two years, that post has been abolished, and with it has gone the privilege of having an all-night telephonic connection with the police station. That was a material aid in allaying any sense of uneasiness felt in that district, so that I hope the Commissioner of Police when he does submit this matter of statistics will take this into consideration. I understand, Sir, that Government will accept this motion. It has, as you are aware, been put up by the hon. Member for Nairobi North acting as our leader, and who is fully alive as any man can be in this country to the paramount necessity of economy in Government expenditure. With all due humility I am alive to that necessity, but being alive to the necessity of economy in Government expenditure and realizing that an increase in the Police Force will necessitate expenditure of more Government money, I still believe that an inquiry will show it must be done. I have endeavoured, Sir, not in any way to over-emphasize the sense of uneasiness existing in the Colony, and have refrained from bringing in any question about our women-folk, but in my constituency there has been, as you know, Sir, a most unfortunate outrage. Consequent upon that outrage, the settlers after they had had time to cool off called a

public meeting and passed resolutions, including one to the effect that the Police Force should be increased. The women of the Colony, through their own organization, passed a similar resolution, a copy of which, I understand, was sent to the hon. Colonial Secretary. In the light of these facts, I feel that Your Excellency will not in any way prevent an inquiry of this nature taking place. I support the motion, Sir.

THE HON. J. B. DANYA: Your Excellency, restricted as the motion is, because it restricts the inquiry to the outside districts, I should like to support it, from this point of view, that we are all equally affected, and the recent murders at Thika and Ol'Kalou of Indian store-keepers were instances which really show that we require an inquiry into the situation. I do consider, however, Sir, that it would be fair if at the same time the towns were also included in the inquiry, because I do not wish it to be believed that the people in the towns have nothing to grumble about at this increased crime. If I can speak for Mombasa, I should like to say that we had very recently a material increase in crimes and thefts. I would not attribute that to the inadequate police or anything of the kind, but I do feel that it does at the same time require attention, and it would be a very good thing indeed if the Commissioner of Police would take this opportunity to report on the towns as well. This inquiry is restricted in these present instances to the finding out of the police inadequacy and protection, but I feel it must lead to a consideration of the vast issues involved, as to the reasons for such crimes. One of those reasons, as the hon. Member has said, is naturally the economic effect on the natives of the depression. I think, Sir, if we really wish to solve the question we have to look further into the reasons and to find out in which way we could ameliorate that situation.

The hon. Member for the Rift Valley said that the statistics submitted by the Commissioner of Police did not convey the real situation or the number of crimes in our country. I entirely support that statement, and from my own experience I should say that that is very much the case in settlements such as Mombasa. I was up to now under the impression that it was only the Indian community who were not reporting these small crimes, but I find myself in good company when the hon. Member says that it does equally apply to the settler community in outside districts.

I feel, Sir, I would not agree with him that the commission with impunity of small crimes by natives in this country is a very serious or grave issue, because I do feel that in almost every country these small crimes are just passed by in the same manner and I do not think they constitute a danger to the security of this country; but I think every facility that

possibly can be given in tracing the people who commit these small crimes should certainly be given by the police and that the police should give every facility for the reporting of these crimes and investigate those crimes.

I think this motion will serve a very good purpose in bringing out the reasons and the delinquencies or otherwise of the Police Force and for these reasons, Sir, I support this motion.

THE HON. THE COLONIAL SECRETARY: Your Excellency, as it is the case that the Government does propose to accept this motion, I do not think it is necessary for me to delay the House very long, but there are just one or two points that have arisen in the debate which I think it would be well if I were to refer to.

In the first place, I should like to make it clear that the Government is aware that there is a feeling of anxiety in certain sections of the Colony. That anxiety is natural, we admit. How far that anxiety is really based on the fact that the recent reductions in the Police Force have really given rise to solid ground for apprehension is another matter and it is in the Government's view, therefore, very desirable both that this debate should take place and that a report should be tabled by the Commissioner of Police so that the public at large may realize the Government is alive to the situation and that all of us may endeavour to obtain full facts so far as they are ascertainable before arriving at any too hasty conclusions. I should like to say at once that despite the fact that I am a town liver, as so many of us here are, I believe, I think those of us who live in towns are not so lacking in imagination as not to realize how very distressing conditions may be on certain outlying farms, and I would like Members from rural districts to realize that it is not from any lack of sympathy for the situation that the Government desires more information before taking any decision on this matter.

Then I should like to associate myself at once with the statements made by the hon. Member for the Rift Valley that the real and underlying causes of the present increase in crime are due to economic factors and are not due primarily to any reduction in the police. I feel quite sure that the real facts of the case are that the native, like every other inhabitant of this Colony, has been feeling the economic depression, and when those sorts of conditions arise it is a commonplace in all countries that crime rises too. The only point for consideration therefore is whether at a time when that depression was prevalent the Government were wise in making the drastic reductions in the Police Force which have been made. In that

respect I should like to say at once—and I am sure that the hon. Member who moved this motion will appreciate that in anything I say I am not in the least attacking him as a member of the Expenditure Advisory Committee, because the Government, in accepting the recommendations of that Expenditure Advisory Committee, are associated in the final decision that was made. But I would remind hon. Members that the depression was already on us at the time when the Expenditure Advisory Committee was sitting. It was increasing, and it was because of our difficulties in balancing our Budget generally that we had to look for all reductions that could be made; and I feel perfectly certain that so responsible a body as that committee was must have taken very fully into account as that committee was in a situation of crime at a time when we knew the possibility of an increase in crime at a time when we knew the general economic situation of the Colony was serious, and indeed, if I may be excused from quoting from their Report, it was perfectly clear that they had that in mind, for they say in their published Report, after recommending the reductions that should be made:—

"31B. The total net decrease recommended in the European Establishment is 23 posts. It involves the retrenchment of the Court's Prosecutors in Eldoret and Nakuru, and of a European officer at each of the following police stations:—

Ravine,
Mojibei,
C.I.D., Nairobi,
Ruiru,
Solai,
Tigoni,
Njoro,
Cherangani,
Lessos,
Kiminini,
and the Mombasa Traffic Branch.

We are informed that these reductions necessitate the closing of the Police Stations at Solai, Njoro, Lessos, and Mojibei, and placing those at Ruiru, Tigoni, Cherangani, Kiminini, and the Mombasa Traffic Branch under the charge of Indian Sub-Inspectors to be withdrawn from Nanyuki, Malindi and Lamu Police Stations, and from Nairobi units. We are satisfied, in view of the improvements in communications which have taken place of recent years, that the above-mentioned Police Stations can be closed without undue risk."

We can all be wise after the event, and if the Expenditure Advisory Committee were wrong, we were equally wrong in agreeing to those closures, but I do suggest to hon. Members that this very drastic retrenchment was done—and I feel sure hon. Members will confirm me in this—only after the very fullest consideration with regard to the necessity for maintaining law and order to which I have referred; and if I may I will quote just one further thing to show that that was the case. I should like to read a short extract from the Commissioner of Police's letter when he was dealing with those retrenchments, because now it has been suggested—I think I have seen it in the public Press—that the Commissioner of Police was prepared to retrench, retrench, retrench, and in fact went further than he ought to have done. The Commissioner of Police, like every other head of department at that time, came forward very loyally to the assistance of the Committee and of Government in trying to reduce in every possible way, but in putting up his recommendations for reductions he put all his cards on the table. What he said was this:—

"I enclose a schedule indicating five successive stages of curtailment of police expenditure on a five per cent basis as between the amount of the 1933 Draft Estimates of £143,640 and the figures mentioned by the Committee as representing possibly maximum provision which might be available of £119,000."

"I should just like to mention that generally at that time the Committee quite properly thought their effort should be to reduce expenditure in every possible way. At that time we were endeavouring to get the costs of the Police Force of this Colony down to £100,000 a year. The Committee found that that figure could not be reached and, as you will see again from their table at the end of their Report, the figure which they considered should be aimed at in the case of the police in the year 1936—and I would remind hon. Members that in 1936 we shall be all a little older and those of us who are earning increments will be earning a little more; and the cost of annual increments each year is quite a good figure on the basis figure for 1933—the figure for 1933 is £123,354. That is considerably lower than the sum just quoted by the hon. Member provided in the current year. Well, the Commissioner of Police, in making these recommendations, went on to say as follows:—

"It will be seen that the first two stages of curtailment reduce police expenditure to approximately £130,000, a saving of about £14,000 on the 1933 Draft Estimates. To achieve this I am prepared to resort at once either in part or whole to the measures of retrenchment, re-distribution and re-organization outlined in the schedule. It is realized that some at any rate of these

measures will result in an appreciable sacrifice of efficiency though it is not considered that the general organization of the force will be seriously impaired, while the expenditure provided for will still allow a reasonably efficient Government machine to be kept in being."

The Expenditure Advisory Committee and the Government accepted those economies because, you will remember, one of the terms of reference of that Committee was to maintain a reasonably efficient machine in being, and as far as possible the Committee dealt with department after department in turn and gave the basic figure which each department should have. Finally the Commissioner of Police went on to say:—

"The third and succeeding stages in the reduction of expenditure cannot, I consider, be adopted without incurring a grave risk of sacrificing law and order and public security in the country, the danger of which will increase proportionately with the reduction of the authorized departmental expenditure below the figure of £130,000. I need not, however, assure the Committee that should Government direct that our expenditure be brought below this figure I will exert myself to ensure that every possible precaution is taken to guard against such risks."

The Committee, and I think Government and Members generally will agree, quite properly, in view of that statement, did not go below that figure. I should like to make that clear because it was suggested, I think, by the mover of this motion that these reductions were made to meet a special emergency, and perhaps now the time has come when that emergency has passed. That Committee understood it was preparing as it were a financial programme for a period of years, but so far as the Government is concerned at the moment it is the financial position. We have got the police estimates down to round about £130,000. It may be that special circumstances have arisen to alter the position, but I would like hon. Members to understand that it is not fair on the 32 European officers who have been retrenched and put out of a job to say this was an emergency measure, and then, within eighteen months, to bring up other fellows and probably put others in their posts. I would, therefore, urge on the general financial side of the question that we must be very careful how, if at all, we add to our police expenditure at the present time.

Let me turn, Sir, with some diffidence to a few figures which the Commissioner of Police has given me. Of course, if I am to be told at once that directly the police are reduced crime increases—nobody reports to the police and therefore all statistics are valueless—it is not of much use my quoting them, but I have some figures here for the last half-year, some of

which I think hon. Members will be only too anxious to accept, because they do show a definite rise in cases of house-breaking and burglary. I will not go into great details, Sir, but they are interesting when examined. One thing of particular interest is to know that, despite the fact that we have heard so much about stock theft recently, the figures for the first half of 1934 as compared with the same period of 1933 show that stock theft has decreased. There were 230 cases in the first six months of 1933 and 170 in the first six months of 1934. Another figure which is of interest, because we have all rather got the Lumbwa on the brain at the moment, I think, is this, that actually the offences against property in the Lumbwa Reserve are less this year than last. There were 166 cases last year and 103 this year. I do not place very great importance on those figures. It may be that perhaps the Lumbwa are now doing this business outside their reserve, but at least the figures are interesting. On the other hand, it is undeniable that there has been an increase in cases against property, house-breaking and burglary, which show a rise of about 45 per cent above the total in 1933. That, I think, we must all regard as serious, but it is, I believe, largely due to economic causes. When we come to examine the incidence of those cases it will be found that they are by no means most prevalent in the outlying farm areas, as might be supposed. I should like at once to assure the hon. Member Mr. Pandya that in any report prepared by the Commissioner of Police he will deal as fully with Mombasa and Nairobi as with the outlying districts. The half-yearly figures for housebreaking and burglaries are these:—

	1933	1934
Eldoret	43	80
Kisumu	52	45
Kisumu	1	9
Kitulo	11	14
Lumbwa	20	7
Machakos	1	8
Mombasa	52	100
Nairobi	87	161
Naivasha	14	22
Nakuru	41	60
Nyeri	18	25
Railway Police	14	18
Thika	12	28

Those figures definitely show that that form of crime is prevalent, but by no means confirm the suggestion that if we have to increase the force at all it will necessarily be in the outlying districts.

Finally, Sir, I would just like to refer to one point made by the hon. Member for the Rift Valley who referred to the recent terrible outrage in the Naivasha district, which we on all sides of the House deplore. I should like to inform him that I do not think that could in any way be put down to a reduction in the Police Force because actually the Naivasha district escaped the Geddes axe of the Expenditure Advisory Committee, and the force there, with the exception of one African, I believe, has not been reduced at all.

Before I sit down I would like to remind hon. Members that the Government throughout has been alive to the situation and indeed, as a result of a question asked in the former Council, when figures were given, we have already increased the Police Force this year. We have increased it by three additional Assistant Inspectors—one for the Nakuru district and four there, one for Kakamega and one for the goldfields—and we have also recently written home to get a finger print expert to strengthen the Criminal Investigation Department work here in Nairobi. That was done with the knowledge of this House, and it was suggested to Government at the time that with those additions, so far as additional expenditure was concerned, the situation would probably be met; and I would just close my remarks by saying it was that point which led the Government very largely not to accept the suggestion that there should be a committee of inquiry into the present organization of the force, which was the original wording of this motion. I have endeavoured to make it clear that in 1933 the whole organization of the force was overhauled drastically by the Expenditure Advisory Committee, who presumably went very carefully into the requirements of the various districts before they recommended that very formidable list of police stations to be closed. We have heard from the hon. mover of this motion that he has nothing but praise for the manner in which the force has been carrying on under difficult conditions and therefore it seemed to us that an inquiry into the organization of the force was unnecessary and might be construed as casting a reflection upon the Commissioner. If, as some of the speeches I have heard to-day indicate, all that is required is for some more money to be spent, I have no hesitation in telling you, as I have spoken to the Commissioner of Police on the subject, that he can let you to-morrow where he can best put his men if he can get the money. But the difficulty is that in times like these it is idle to suppose that there are large sums of money available to be spent.

The Council adjourned for the usual interval.

On resuming.

SELECT COMMITTEE REPORT ON THE NATIVE LANDS TRUST
(AMENDMENT) BILL.
(*Debate adjourned.*)

HIS EXCELLENCY: We have had a consultation during the interval, on the amendment to the report of the Select Committee on the Native Lands Trust (Amendment) Bill. I propose to adjourn the debate on this until to-morrow, and we will now proceed with the debate on the motion of the hon. Member, Major Cavendish-Bentinck, with regard to the police.

MOTIONS.

PUBLIC SECURITY.

The debate was resumed.

THE HON. ISHER DASS: Your Excellency, in view of the statement made by the hon. the Colonial Secretary, may I ask if the hon. the Mover wishes to withdraw his motion?

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: No, I am afraid I do not wish to, Sir.

THE HON. ISHER DASS: Your Excellency, in that case I would like to express my views. About two or three months ago in this House another hon. Member gave notice of a motion to appoint a Select Committee, and Government did not accept it. Now, after a short period, this motion has been brought forward, and the Government has accepted it. The motion is only to ask that the Commissioner of Police forward a report. In view of the most admirable statement made by the hon. the Colonial Secretary I do not see any reason why the Commissioner should submit a report, because the statement of the hon. the Colonial Secretary contains all the figures and information which the Commissioner of Police will be in a position to furnish this House. Since the hon. the mover insists on putting the motion and has advanced certain arguments in favour of it, I think I am entitled to speak against it. Your Excellency, in the first place there is one country, that is England, which has got the most efficient and wonderful police organization in the whole world. This statement cannot be contradicted. Unfortunately, there is one place in India, the Punjab, which has the worst police organization. But, comparing the two, crimes are still committed in England as in Punjab. If we were to bring the whole Police Force and organization from England to this country, I do not believe that crimes would cease. It is human nature all over the world just the same. There will be crimes and crimes. But

we have got to go to the root causes of them, and if we are to believe, as certain hon. Members have said, that depression is the only cause of crime, and in the course of depression Government though fit to reduce the police, and that the reduction of the police brought the idea of infamy among natives, I say very strongly that that is absolutely no argument. I admit that depression has a good deal of effect on human beings, that those who have no means of existence resort to crimes, but I know that in times of prosperity gambling, drinking and all the other vices that are not encouraged go on and they do lead to crimes, for in gambling there is evil, and in drinking also. Depression is not the only reason for increased crime; I should say also that even prosperity is a cause of increased crime. Then, Your Excellency, would I specially most strongly oppose this report being asked for, because instead of doing good it will cause more panic among people that certain crimes are going to be committed out in the country, and Government have appointed this inquiry.

Another point made by the hon. the Mover was that Government might consider afterwards an increase in the Police Force. The Hon. the Colonial Secretary has already suggested, and I agree with him, that if in a year it was put forward by Government that they should increase the Police Force by the number by which it had been reduced, what would be the position of Government in the eyes of the public outside? All those people who have been retrenched have probably found some other jobs in life, so that new people must be engaged. I do not see the necessity for increasing the department, and if the police are increased to any extent, are there to be no crimes at all? There will be. Government, in my opinion, Sir, having given a most satisfactory statement to the hon. the Mover of this motion, he should not now put his motion. The Commissioner of Police cannot give any more information than has been furnished by the hon. the Colonial Secretary. There were one or two points raised, Sir, that there is unfortunately insecurity among the settlers, and somewhat suggested also that people were likely to take the law into their own hands. I may point out here, Sir, that the settler in the outside districts has got the law in his hands, for everyone I understand possesses an arm, while every other section of the community have no arms at all. They thus have the means of protection for themselves in addition to the police. Again, it was stated in the course of argument that the report of the police did not give the correct position. With that I certainly disagree. After all, these reports as far as crimes are concerned are compiled from the actual cases brought to court. I do not know what reason the hon. Member had for saying the reports furnished by the Commissioner did not give the true position, but I do not think it suited his

purpose, because it was not in his favour. One of the most important causes that he suggested, Sir, for this crime was the depression, but yet if we read table B on page 25, the total number of crimes in 1932 was 5,686, and in 1931, 4,993. I can also say safely that in 1933 there was serious depression, more than in 1932. Without actually going into details we find that offences against persons were 548 in 1932, and 541 in 1933; house breaking decreased from 998 in 1932 to 629 in 1933. In the more serious period of depression there were less crimes. Theft, including stock thefts, numbered 2,065 . . .

THE HON. J. B. PANDYA: Your Excellency, on a point of order, the figures given were for 1933 and 1934, and scarcely proved there was an increase.

THE HON. ISHER DASS: I was referring to 1932 and 1933 and showing the increase of crime was not due to depression but that there was a decrease . . .

THE HON. J. B. PANDYA: I am sorry to interrupt, but what I said was the the decrease . . .

HIS EXCELLENCY: There is no point of order involved. A member is entitled to bring what figures he has available on the subject.

THE HON. ISHER DASS: Theft, Your Excellency, including stock thefts, in the out-districts, if this depression only caused an increase in crime I am really surprised, for in 1933 there was a more serious outbreak than in 1932. The figures are: in 1932, 2,065; in 1933, 2,407, a decrease of nearly 530. As I have suggested, no case of any kind has been made out by the hon. the Mover of this motion. I would not have criticized the arguments advanced by anyone but I am assured, in my own view, that a most satisfactory statement from the Commissioner of Police has been furnished by the hon. the Colonial Secretary, so that the hon. the Mover would have better withdrawn his motion.

There is one thing that I wish to say personally, that requires the very careful consideration of Government and that, Your Excellency, is with regard to the Criminal Investigation Department. The hon. the Mover mentioned it, and I say that unfortunately I feel that there is something lacking in the organization of the Criminal Investigation Department here. That is, that in my opinion the Criminal Investigation Department with a headquarters only in Nairobi is unable to carry out the duties of a Criminal Investigation Department all over the country. Police stations outside with

a little staff are expected to do all kinds of duties including the duties of the Criminal Investigation Department, and they are unable to do every job. In my opinion, Sir, Government should reconsider the re-organization of the Criminal Investigation Department by which that department could have one man attached to every district, who should be under the direct control of the Criminal Investigation Department in Nairobi, and who will in all cases provide direct information and be in direct touch with the Criminal Investigation Department. It would be of great importance so far as the detection of crime is concerned. That is the only item with which I agree something should be done. At the moment, I feel that whenever there is serious crime committed outside, the Criminal Investigation Department of Nairobi have to go out; they do not know the circumstances, and they have to take assistance from the police, and when the police give their help there is no one left to perform the other duties.

THE REV. CANON THE HON. G. BURSA: Your Excellency, I am not going to prolong the debate, nor am I going to add very many words, but I cannot sit still as one who has been in the closest touch with the police in Nairobi for 26 years, from the time the raw native is brought into the Training Depot down yonder until he is turned out a finished article in a short space of time. One has no words in which to express the admiration one feels for the splendid body of men we have in Kenya representing the Police Force. It is perfectly amazing to me how European officers can take these raw recruits and in a short space of six or eight or nine months turn out men of the type which we have in the public force at the present time. It is a matter for which we in Kenya Colony should be thankful and very proud.

The Commissioner's report to this House should reveal to the whole people concerned how very difficult his position is as Commissioner of Police seeing that his money has been cut down so much; and yet he has maintained through his organization the efficiency of his men and the protection of the people throughout the whole of this vast and wide Colony. That is all I should like to say—just a word of appreciation of the men who constitute our force in the Colony.

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

MAJOR THE HON. F. W. CAVENDISH-BENTON: Your Excellency, I have but very little to say in reply in view of the gratifying statement made by the hon. Colonial Secretary to the effect that Government does appreciate that there may be definite grounds for anxiety on the question of public

security and that Government has welcomed this debate as a means of obtaining a report to see whether those fears are really founded or otherwise. I would like to mention one thing in reply to what the hon. Mr. Pandya said and to assure him that it was far from my intention to restrict the Commissioner's report to up-country districts. In his report he will, I am sure, give us the fullest information both on urban areas and on the rural areas.

Now, Sir, it has been suggested that the Expenditure Advisory Committee went into these matters very fully indeed and as one of that body I would again like to say that we did, and only last night I looked at that letter which was read in Council to-day by the Colonial Secretary and I read it again with the greatest of care. But, as I said in moving this motion, no man is infallible. We had very great responsibilities and we made very definite recommendations with regard to the police and in the main I still think those recommendations were wise, and probably it was a very good thing that they were implemented. At the same time, in the light of experience, one sometimes wants to amend one's recommendations, and in the light of experience I think we possibly went too far, and therefore it is only right that we should at this stage make up our minds definitely whether we did make a slight mistake or whether those recommendations in the light of experience were entirely justifiable. I used the words "temporary emergency" in my reference to the recommendations put up by the Commissioner of Police to the Expenditure Advisory Committee and the hon. the Colonial Secretary has rather taken me to task over that phrase. I admit, Sir, the Expenditure Advisory Committee did submit a programme to Government covering four years, but under the terms of reference of that committee we had to make a report to Government on the then existing basis of taxation and the report to Government which we did make showed that there would be very definite deficits over that period and I think we all hoped, both those who sat on that Expenditure Advisory Committee and those Heads of Departments who made recommendations to it, that before that period of four years had elapsed we should see daylight and we should have a better time in front of us; and in that sense I used the words "temporary emergency." I think we made that quite clear in our minority report, that further cuts or something would have to be done in the future if we did not get better days.

I do not think there is any other point, Sir, which needs comment. I only trust Government will see its way, as I believe it will, to accept this motion, and that Government

will give the Commissioner of Police the fullest possible freedom in making his report in the way he thinks best because we on this side of the House have put this motion with the idea of helping him and not in the way of obstructing the Government.

His EXCELLENCY: The question is:—

"That in view of the anxiety felt in certain Districts in the Colony with regard to public security the Commissioner of Police should prepare for the information of this Council a report showing the prevalence of crime and to what extent, if any, its incidence has been affected by the recent reductions in the Police Force."

The question was put and carried.

REPORT OF COMMITTEE ON LIQUOR LICENSING LAWS OF COLONY.

The hon. the Attorney General, having moved that the Report of the committee appointed to consider and report on the Liquor Licensing Laws of the Colony be adopted.

The hon. the Treasurer having seconded. The debate having been adjourned.

The debate continued.

THE HON. W. G. LILLYWHITE: Your Excellency, I beg to move the following amendment: to add the words "as soon as the special case of Mombasa and the Coast has been considered."

In the debate which stood adjourned last week, Sir, it was rather forced on me that very little consideration, in fact, if any at all, was given to the special conditions which exist in Mombasa and on the Coast. I do not know how far out of Mombasa the £50 licences are claimed, but I have in mind a particular instance, the Port Reitz Hotel, which is situated some five or six miles from the centre of Mombasa. This hotel is essentially a tourist hotel. In Mombasa several young men have formed themselves into a kind of hiking or walking club, and after their religious duties on a Sunday, early in the morning, they make up their minds to go for a stroll on to the mainland or around Mombasa. Oftentimes, this leads to them to this hotel. On arrival, usually about 10 o'clock or thereabouts, naturally being a little bit on the thirsty side, they find they cannot get a drink until 12 noon. This does seem rather hard, Sir, that unless they carry their drinks with them they cannot get a drink. What we really want, of course, is that the hours shall be altered, so that on Sundays the opening hours shall be from 10 a.m. to 2 p.m., instead

of the present time from 12 noon to 3 or 3.30 p.m. I feel sure if these special conditions are further considered, and the opening hours altered, to meet these requirements of the case, the report will have the full support of the people in Mombasa and at the Coast.

HIS EXCELLENCY: What the hon. Member wishes to move is an amendment that the words "as soon as the special case of Mombasa and the Coast has been considered" are added to the motion for the adoption of the Report.

THE HON. F. A. BEMISTER: I formally record.

HIS EXCELLENCY: The question is, that the amendment just moved be adopted.

THE HON. CONWAY HARVEY: Your Excellency, I shall not vote either for or against this amendment, and I should like to give my reasons. I think, Sir, it is very unfortunate in the first place that as we have an Elected Members' Organization, which is designed for the specific purpose of co-ordinating ideas on such subjects as are introduced to this House, it is very unfortunate indeed that a matter such as this should be suddenly sprung on us. That is one reason why I cannot support the amendment. But there is another, Sir. After a great deal of careful consideration and thought to this important subject, this House recommended Your Excellency to appoint a committee to go into the matter of the Liquor Licensing Laws. Now, Sir, anybody who reads the papers was made familiar with the activities of this very representative body appointed with the approval of this House, and we have been told—in fact the report states it—that very special efforts were made to ascertain the opinion of Mombasa, and I think it very unfortunate, and I think there is danger of creating a highly undesirable precedent, if a unanimous report is to be rejected for the flimsy reasons given by the hon. the Mover of the amendment. What is going to happen to our procedure if that becomes the practice? It will lead to inordinate delays in transacting business and a grave danger if any serious recognition is given to eleven hour proposals on which we may easily do the wrong thing.

THE HON. F. A. BEMISTER: Your Excellency, I think the hon. Member for Nyanza has used the word unfortunate. The only unfortunate thing is that he started his remarks before he read the minutes of the Elected Members' Organization, where the whole question was debated and permission given to discuss this very point. Now, Sir, I definitely support this amendment, and I recorded it very proudly too, because, Sir, and it is quite wrong to say it is an eleven hour proposal

and quite wrong to say that the pretext is flimsy. When one listened to the reply yesterday of the hon. the Treasurer to the question that I put as to how much duty had been collected in the past from the consumption of liquor on ships, when the reply was nil, to tell you the truth, Sir, I was absolutely staggered, because I have only asked, when I spoke on the original motion, that the law as established should be capable of interpretation. The allowance to the ships, to the passengers, officers, and adults, of an ounce of tobacco, a quart of wine, a quart of beer, and five tots of spirits should be considered, according to the written law, for the service of a ship. How can it be contended that that allowance to the ship should be a source of revenue to the shipping companies, and, remember, Sir, paid for by the purchasers with no return to the Kenya revenue. Here is a question, Sir, that hits at the basis of all contract law. We all know that entertainments are given on the ships, and I have had the honour of being invited to them. I can assure you that although I could not see the other end of the table (laughter) that my end of the table was not all non-alcoholic. (Laughter.) Is it not absolutely wrong, in a poor Colony like this, to know that a privilege granted—which I think is not granted on any other part of this Coast—which I think is not granted on any other officers on a ship, should be the means of losing the Colony certain revenue? I do ask for your consideration on that point, Sir, and a further one is that in view of this actual competition by the ships that Mombasa has reason to ask Your Excellency for special consideration in the question of the rates of their licences.

It is a very strange thing, Sir, that people have the idea that Mombasa is a suburb of Nairobi. It is nothing of the kind. Its mode of thought is different, its type of life is different, and whereas Nairobi only has the lawful competition of other hotels who pay the same tax, Mombasa has the competition of ships who pay neither duty nor licence nor for extension of hours, or rates and taxes, not even electric light bills. Do you not think that unfair competition? Remember, as I have said before, the ships are a great attraction to Mombasa, and people use them more extensively than they would the hotels, and I do think there is a question for consideration. Remember, I am only asking for the reduction of about £45 in the revenue, but what am I giving you? I am giving you the revenue, the duty, on the amount of liquor consumed and sold to people going on the ships, who are neither passengers nor officers of those ships. Is that not a fair, is it an unreasonable request? I am willing to suggest a method, Sir, but I am pretty well sure that the hon. the Commissioner of Customs does not want my assistance in securing revenue. I should be very glad if this could be kindly considered, and I

of the present time from 12 noon to 3 or 3.30 p.m. I feel sure if these special conditions are further considered, and the opening hours altered, to meet these requirements of the case, the report will have the full support of the people in Mombasa and at the Coast.

HIS EXCELLENCY: What the hon. Member wishes to move is an amendment that the words "as soon as the special case of Mombasa and the Coast has been considered" are added to the motion for the adoption of the Report.

THE HON. F. A. BEMISTER: I formally second.

HIS EXCELLENCY: The question is, that the amendment just moved be adopted.

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would then refer to the unanimous report, and tell you that the gentleman representing the Mombasa interest on the Committee definitely wished to sign a minority report. The other members of the Committee admitted that he was one of the cleverest men they have ever had on a committee, but in order to get an agreement he, being an Indian and not feeling the inconvenience that the Europeans do with regard to people going on ships, agreed and signed the report in accordance with the general view of the Committee. There was no intention of quarrelling or making any distinction, but he knew very well that it was not particularly interesting to him as it would be to Europeans, and he therefore agreed. It is no flimsy pretext, Sir, or an eleventh hour amendment, it is a just claim.

THE HON. CAJON THE HON. G. BURNS: Your Excellency, I only want to ask for your ruling: if I speak on this amendment, does it interfere with me speaking on the general question later on?

HIS EXCELLENCY: You can speak to the amendment now, and then to the general question, so that you can speak twice.

THE HON. CAJON THE HON. G. BURNS: Your Excellency, I will oppose the amendment as it has been proposed now. One has heard two or three times of religious observances, and very shortly after these religious observances young men go for a trip to the mainland or some other place and want to be in a position to get drinks at 11 o'clock instead of 12 o'clock. In every other country I have been in, Australia, for instance, the hotels close until 12 noon on Sundays, and open to 3 o'clock and then from 6 to 9 p.m., and why in a young country like this we should give greater facilities I do not know, opening the door to temptations to young men who may have an inclination for this sort of thing. I do hope that Government will take that into consideration, Sir, and that the hours on Sunday, I am not speaking so much of weekdays, but Sundays, will not be longer than they are under the present law. I shall certainly oppose this amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I feel that this debate is drifting somewhat. The House has before it a Report from a representative Committee consisting of all Members on both sides of the House, and also those particularly able to give advice on this subject from outside the House. Sitings have been held in public. Everyone was invited to give evidence, and we even tried to invite ourselves down to Mombasa in order to hear evidence from the people there and, quite rightly, the Mombasa people in order

to save Government money, no doubt, agreed to special terms of their own, which they sent up to us. We accepted them in toto. If there was one thing I did not think we would have to debate to-day it would be what Mombasa thought, because that was the only recommendation accepted in toto by the Committee. At the same time, I must point out to hon. Members that this is merely a Report, and that there will be every opportunity of discussing this question in detail when the Bill which will have to implement this Report, if it is accepted, is presented to the House.

As the amendment reads, I do not quite understand what the position would be, Sir—that the Report should be accepted as soon as the special case of Mombasa and the Coast has been considered. The Committee has considered its Report, finished its sittings—who is going to do this considering, who can alter the Report? The question is, will the House accept the Report or not? By accepting the Report, it does not mean that the hon. Member for the Coast and the hon. Member for Mombasa will be unable to get up, when the Bill is before the House, and move amendments to specific clauses which affect them. It may be true or it may not be what the hon. Members have told us. All we can say, and what I am speaking for the Committee, is that no evidence to that effect was given by the people of Mombasa, and I have yet to be satisfied that the hon. Members are in fact speaking for the people of Mombasa. We have had before us the signed report from everyone interested in the liquor trade and shipping companies, and the result has been reflected in the Report of the Committee. There was no other evidence given whatever, and the hon. Members stand up and tell you to-day that that is not what the people of Mombasa think. I ask this House, Sir, to reject the amendment, and in due course I will reply with regard to the whole debate on the original motion.

MAJOR THE HON. F. W. CAVENDISH-BENTING: Your Excellency, speaking to the amendment, Sir, I rather deplore in a sense this amendment being put forward, but at the same time there are certain matters which I think, coming from the two Members representing the Coastal interests, they felt it was their duty to bring before this House. Spirituous liquor is always a highly contentious subject. It makes people contentious when they absorb it, and it also makes them contentious when they are not allowed to do what they want. (Laughter.) That being the case, and no very great principle being embodied in this Report, I consider myself that any Member of this House should be allowed to vote as he thinks fit and propose any amendment he thinks fit in order to bring

his particular point of view before the Members of the House. As far as I can see, Sir, the object of bringing this amendment forward was first of all to draw the attention of Government to the fact that it was possible to secure very considerable revenue from ships which were lying alongside the port in the harbour at Kilindini. If that is the case and that particular subject was not properly aired in committee, I have no doubt that before the legislation to which the hon. and learned Attorney General refers is drawn up that that point will receive the attention of the hon. the Treasurer. The other point which I think the hon. Member for the Coast wished to bring up was the question of hours at Mombasa, and I think everybody here will admit that in a hot tropical town such as Mombasa often is, the same hours do not apply as do here, so that there is something to be said for the amendment in order to put forward those views. That having been done, I also see the point of the hon. the Attorney General. It is ridiculous to suppose that one can lay a report on the table, carefully compiled and printed, and accept that report subject to something happening in the future. We have either to accept or reject it, and I submit, Sir, in view of the fact that we shall have ample opportunity at a future date to debate all these points when the legislation implementing the recommendations of the Report is produced, it will probably be wise on the part of the hon. Member for the Coast and everybody if he were to withdraw his amendment now.

THE HON. SHAMBU-DEEN: On a point of order, after hearing the Attorney General, I really think it should be left to the hon. Mover of the amendment to withdraw it. The amendment seems to be *ultra vires*. Here is a report before the House which should be either accepted or rejected and the only course open to hon. Members is to express their views either in favour or against the Report.

HIS EXCELLENCY: Any hon. Member is entitled to move an amendment to a motion.

If no other hon. Member wishes to speak I will put the question that the amendment proposed by the hon. Member for the Coast be approved.

THE HON. W. G. LILLWHITE: Your Excellency, I should like to ask leave to withdraw the amendment.

HIS EXCELLENCY: With the leave of the House the hon. Member has withdrawn his amendment. The debate will now continue on the original motion that the Report be adopted.

THE REV. CANON THE HON. G. BURNS: Your Excellency, the explanation of the hon. the Attorney General throws an entirely new light on the whole situation, and of course, an opportunity will arise later on when the Bill which embodies these recommendations will, I understand, come up for debate in this House, but if we accept this Report and vote for it, does it not mean that we accept every recommendation within the Report and that we shall not be in a position later on, when the Bill comes up, to make amendments to it? because there are several things, Your Excellency, which I would like to speak about, but on which I do not want to detain the House now. First of all, native barnen—I shall have something to say about that; also making the hours of Sundays and holidays longer and extension of time for cinemas and theatres after eleven o'clock at night—on all these things I shall have something to say if the opportunity is given later on to debate these things and make recommendations.

THE HON. A. C. TANNHILL: Your Excellency, all I want to do is to rise and support what the hon. the Attorney General has said, that when this report is implemented by a Bill, then every item of that Bill can be discussed in this House. I understand, from an experience I have lately had in Select Committee, which the hon. the Attorney General referred to a short while ago, that it does not necessarily follow that a Bill adheres strictly to a report that has been adopted. I refer to the Restriction of Mortgages Bill, and therefore I understand it is possible that a Bill can be drafted which does not follow meticulously every recommendation contained in a report, and have got in subjects which possibly have not been dealt with in the report. I would like to conclude by saying that in my opinion it is essential as early as possible to implement this Report by a Bill. I have had some years experience of the licensing courts of Nairobi and the old Bill, dated back I think to 1909, is definitely out of date and needs to be put into shape as quickly as possible.

HIS EXCELLENCY: If no other Member wishes to speak I will ask the hon. the Mover to reply.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I can only repeat my assurance to the hon. and reverend Member that every recommendation of this Report which is reflected in the Bill will be given full opportunity for discussion in this House in due course. I can also assure the hon. Member for Nairobi South that it is the intention of Government, if this Report is adopted, to implement the Report in due course with a Bill. That Bill must of necessity be introduced before the end of the year in order that the new provisions may come into force by the 1st January of next year.

There are very few points remaining for me to reply to. The hon. Member for Kiambu before he left this House some days ago asked the House to reject the Report as a whole, so far as I could gather, for two reasons. His first reason was that it made no provision for free licences in the outposts of the Empire. He gave a graphic picture of people going out into the "blue" and not being able to get a drink, and therefore he said the tourist traffic would suffer. All I can say in regard to that, is that the question of the tourist traffic was gone into by a Royal Commission at home and they came to the conclusion, which was followed by the Committee of which I had the honour to be the chairman, that whether you can get a drink or not at a specific place has no effect whatever on the tourist traffic of that area. If any of us want to go to one of these wild places and see the view he will take his drinks with him! and if a sufficient number of people want to go to such a place you will soon find a tavern being set up there.

On the point with regard to the statistics at the end of the Report, to which he alluded, being not correct, I am happy to be able to say that the Treasury have checked them all and as far as they go they are correct. But whether they are correct or not, none of the recommendations of the Committee have been based on any of the alleged incorrect figures. It does not seem to me that they affect the Report in any way whatever. An attempt was made later on to attack the Report from the point of view of Mombasa. Well, I think we have dealt with that question. We have now aired our opinions with regard to Mombasa and I can only say this; that the Committee realized, as the hon. Member for Mombasa realizes, that the ships of Mombasa are a great attraction and that therefore perhaps was the reason no recommendation is made in the Report which would make those ships in any way less attractive. If, however, it is felt by the people of Mombasa that these ships should in fact be made to pay duty or some form of licence—we have gone into the whole question very thoroughly and it is by no means an easy matter, but I can assure you that the hon. the Treasurer will be only too glad to go into it when he is considering raising revenue; and if he also knows that he has the backing of Mombasa behind him I feel that he will be more than satisfied with the recommendations.

HIS EXCELLENCY: The question is:—

"That the Report of the Committee appointed to consider and report on the Liquor Licensing Laws of the Colony be adopted."

The question was put and carried.

THIRD READINGS.

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

The Laibons Removal Bill.

The Agricultural Mortgagees' Relief Bill.

THE HON. T. D. H. BRUCE: I beg to second the motion.

The question was put and carried.

The Laibons Removal Bill and the Agricultural Mortgagees' Relief Bill were each read a third time and passed.

The Council adjourned till 10 a.m. on Thursday,
2nd August, 1934.

THURSDAY, 2nd AUGUST, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 2nd August, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 1st August, 1934, were confirmed.

COMMUNICATION FROM THE CHAIR.

LICENSING ORDINANCE, 1933.

His Excellency: It will be remembered that Government promised to appoint a committee to consider the Licensing Ordinance, and steps are now being taken to appoint that committee. The terms of reference will be as follows:—
"To examine the provisions of the Licensing Ordinance, 1933, in the light of experience gained and to suggest such amendments as may be considered advisable, due regard being had to the necessity for maintaining or increasing the revenue from this source". The personnel of the committee will be announced later. Naturally the commercial interests will have to be strongly represented, and it is proposed to ask the Nairobi Chamber of Commerce, the Mombasa Chamber of Commerce, and the Indian Federation of Chambers with regard to representation. As I have said, the personnel will be announced later.

QUESTION.

TOWNSHIP PLOTS IN KISUMU.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order, when may I expect an answer to my question sent in some time ago on the subject of township plots in Kisumu?

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I hope to be able to give a written answer to the hon. Member during the next few days.

MOTIONS.

APPOINTMENT OF SELECT COMMITTEE ON TOWNSHIP PLOTS—PREMIA AND RENTS.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the motion standing in my name:—

"That a Select Committee of this Council be appointed to examine the operation of the present formula employed

by Government in fixing stand premia and rents in respect of the sale of township plots, and to make recommendations as to any variation of the formula which may appear to them to be desirable, such Select Committee to consist of the following personnel:—

Myself as Chairman.

The Hon. the Treasurer.

The Hon. the Postmaster General.

The Hon. Member for Nairobi North.

The Hon. Member for Nairobi South.

The Hon. Shamsud-Deen."

Members will remember, Sir, that during the last session of the Council the question was asked whether Government would approve of the appointment of a Committee of this sort, and I trust that all Members will agree with this motion and that I should do nothing more than formally move the appointment of the Committee with the personnel stated.

THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGEN): Your Excellency, I beg to second the motion.

The question was put and carried.

SELECT COMMITTEE REPORT ON NATIVE LANDS TRUST
(AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL having moved that the Report of the Select Committee on the Native Lands Trust (Amendment) Bill be adopted.

THE HON. T. D. H. BRUCH having seconded.

THE HON. R. W. HEMSTED having moved as an amendment that clause 32 be deleted.

THE REV. CANON THE HON. G. BURNS having seconded.

The debate having been adjourned, was continued.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with the leave of the House I will explain the position which has arisen with regard to this amendment. You will remember that yesterday an amendment was simply moved that clause 32 be deleted, and it was agreed to adjourn the matter until this morning in order that I might go into the matter and see if any further amendments were necessary. I have passed around just before the meeting this morning a list of the amendments that will be necessary if clause 32 is to be deleted.

They are merely consequential, and I now suggest that in order that it should appear on the minutes, if the hon. Member Mr. Hemsted would withdraw his original motion and substitute this written one in its place, the matter would then be correctly before the Council.

THE HON. R. W. HEMSTED: With your permission, Your Excellency, I will withdraw the amendment which I submitted yesterday, and also, with your permission and that of my seconder, submit another amendment in substitution thereof.

The amendment was by leave withdrawn.

THE HON. R. W. HEMSTED: Your Excellency, I move:—

"That the Report be amended in the following respects:—

1. That paragraph 3 of the Report be amended:—

(a) by substituting the figures '33' for the figures '35' which occur in the tenth line of sub-section (3) of the proposed new section 15A; and

(b) by substituting the figures '34' for the figures '36' which occur twice in sub-section (3) of the proposed new section 15A.

2. That sub-paragraphs (i) and (ii) of paragraph 4 of the Report be deleted.

3. That the following sub-paragraphs be added to paragraph 4 of the Report.

(x) by substituting the figures and word '33, 34 and 37' for the figures and word '35, 36 and 39' which occur in the fifth line of the proposed new section 30;

(xi) by adding at the end of the proposed new section 31 the following:—

"The provisions of this section shall be in addition to and not in derogation of the provisions of the Mining Ordinance, 1933."

(xii) by deleting the proposed new sections 32 and 33;

(xiii) by substituting the figures '34' for the figures '36' which occur in the second line of sub-section (2) of the proposed new section 35;

(xiv) by substituting the figures '39' for the figures '41' which occur in the sixth line of sub-section (2) of the proposed new section 36;

- (xv) by substituting the figures '34' for the figures '36' which occur in the third line of sub-section (1) of the proposed new section 39;
- (xvi) by substituting the figures '37' for the figures '39' which occur in the sixth line of sub-section (2) of the proposed new section 40;
- (xvii) by substituting the figures '34' for the figures '36' which occur in the first line of the proposed new section 41;
- (xviii) by renumbering the proposed new sections 34, 35, 36, 37, 38, 39, 40, 41 and 42 as 32, 33, 34, 35, 36, 37, 38, 39 and 40 respectively."

THE HON. CASON THE HON. O. BEREA: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the amendment now put forward by the hon. Member Mr. Hemsted be approved.

MAJOR THE HON. F. W. CAVENDISH-BESTICK: Your Excellency, I apologise for the delay in getting up to speak, but it is rather difficult to speak on an amendment thrust at one in a complicated form when one has worked on the amendment proposed yesterday. I gather that in substance, Sir, the amendment is exactly the same, and that is that on page 5 of the Native Lands Trust (Amendment) Bill, section 32 is to be deleted, the whole of the section.

In the first place I should like to say that it is a little astonishing that when one sits on a select committee and imagines one has reached unanimity, that on the motion for the adoption of the report of the select committee one of the members of that committee should propose a very material amendment to the report. Of course, he has the right to do so, but it does make it a little bit difficult for the other members of the committee when that happens. In principle, Sir, I regret very much that this amendment has been suggested, because I feel sure we all agree that it is for the benefit of everybody, including the natives, and perhaps more for them than anybody else, that we should encourage the biggish companies to come into this country and develop the mining industry, if such is going to exist. It will bring good times, it will raise the circulation of money, it will help everybody, and in order to do that we must make it as easy as possible, subject always, of course, to fair play to the natives, for these mining companies to come here and carry out their work. This section was introduced in order to make it comparatively simple for any person or company

which has obtained a subterranean lease enabling them to look for minerals, to have on the surface the right to get underground in order to look for minerals, and to carry out necessary work. When this amending Ordinance went to select committee, we were particularly anxious to make quite sure that it would not be within the power of the Provincial Commissioner to have too much latitude in the matter of granting surface rights. We therefore put in the words "not exceeding ten acres in the aggregate". Before those words were inserted, I think I am right in saying, the Provincial Commissioner would have had considerable latitude. I do not propose, Sir, at any length to go into the procedure which has to be adopted. I think we all know that when a man has a subterranean lease, in order first of all to obtain a surface right to work he has to go through the procedure laid down in the first part of this amending Ordinance. After that it was considered that naturally as he developed his work underground he would on occasions have to have the right to sink shafts and adits, and come to the surface to carry out the necessary work. I think, wisely, it was considered we should make this process as simple as possible.

The hon. Member representing Native Interests has objected to these powers. I think, Sir, that we must always, that as much as we sympathise with his point of view, it is up to us all to maintain our sense of proportion and to realize that we all have the same object in view—that we want to do our best, the best we can for the natives, to protect their interests, and consequently we do not want to put any obstacles in the way of developing this country. I do not propose, Sir, and I do not think any of the Elected Members propose, to oppose this amendment, because we consider that it would be very unwise and undesirable to give the impression that we in any way fail to appreciate the absolute necessity for maintaining native rights and treating with the greatest possible fairness those who may be displaced by the mining activities. But I do wish to record, Sir, that we must maintain our sense of proportion in dealing with these rather difficult matters. I am unable to speak on the details of this amendment. It is rather complicated, but I take it that practically all it entails are necessary consequential amendments to complete the deletion on page 5 and at the top of page 6 in this amending Bill. I should like to be quite satisfied on this point when the hon. the Attorney General replies.

THE HON. CONWAY HARVEY: Your Excellency, I should like, Sir, quite briefly to support the views expressed by the hon. and gallant Member who has just sat down, and to add that I do foresee that if repudiating the signatures to Select

Committee reports becomes a habit, the work of this Council will be greatly complicated and prolonged. I am quite sure, Sir, the mining companies will be very greatly disappointed that this amendment has been introduced. In my opinion, Sir, section 32 as drafted has met with the approval of everyone concerned, including the natives, for it provides a simple and efficient method by which certain types of mining enterprise could be pursued. The alternative, Sir, I suggest is unnecessarily tedious and cumbersome, and will lead to delays which must prove inimical to the best interests of this very important industry of mining. There is just one other matter, Your Excellency. I am, Sir, greatly surprised that a former Provincial Commissioner with such a long record of distinguished service as my hon. friend the lay Member representing Native Interests should imply that he cannot trust those very, very able gentlemen who now occupy the important position of Provincial Commissioners fairly and justly and efficiently to carry out the functions with which they were to be endowed in the terms of section 32 as originally drafted!

THE REV. CANON THE HON. G. BURNS: Your Excellency, during the last session of the Legislative Council the question of surface rights over an area where mining operations were taking place underground was brought up and it will be remembered that I asked a question of the Commissioner of Mines as to the procedure to be followed where extra land, other than the portion of land first of all allotted to the mining authorities, was being dealt with. I was then given an assurance by the Commissioner of Mines that any such land granted for the purpose of air shafts or other necessary operations in connection with the underground work would be brought before the Native Councils in exactly the same way that the other concessions were brought before them. I am sure it is the desire of every Member of this House, as it is the desire of my colleague and myself, that the mining operations in Kakamega should be carried out with the minimum amount of disturbance and the minimum amount, as far as possible, of suspicion on the part of the natives with regard to the land that is taken from them. We all desire that peace and quietness should reign and the native be given to understand that in any land taken from him he is first of all consulted and what is being done definitely made known to him. That anyone should doubt the integrity of the Provincial Commissioner, as laid down here in dealing with such matters, is a thought that never entered the minds of those responsible for native affairs, but we feel that for the peaceful working of this Ordinance and the mining operations in the Kavirondo country the more the native is given to understand and is taken into account in these matters the easier and

quieter the whole operation will be. The difficulty of making application, as laid down here, is not very great, but the difficulty of making a native believe that we are acting in good faith towards him if he once gets suspicious will be greater than doing this sort of thing. Certainly, I myself, in seconding this motion, do not for one moment cast any slur on the officers responsible, as laid down in section 32, but we feel that for the quiet and peaceful working of the whole Ordinance it is better that this procedure should be followed.

THE HON. THE ATTORNEY GENERAL: I have Your Excellency's permission to say that Government will accept this amendment, but in doing so I would like to associate myself with many of the remarks that have come from the hon. Member from Nairobi North. As chairman of this Committee, on which the hon. Member also sat, I would like to assure this House that clause 32 did not pass by unnoticed in the scramble of committee, that it was most carefully considered, and that, as a result, we came to the conclusion which the hon. Member has told you, and it is a little disappointing for all of us, I think, when we suddenly had this amendment moved at the last minute. But I think, in fairness to the hon. Member who moved it, I should say that I realized the whole time that committee was sitting that he was a little diligent about section 32, and it was only in the feeling of give and take that, when we decided to put in the restriction of ten acres, he gave way and agreed that he would be satisfied. I say that because I feel it might be thought it was some new matter that he had just got into his head after he left the committee, and it is only fair to him to say that all along he was not quite satisfied that section 32 was, in fact, necessary; so that I think we may take this amendment as an exceptional case, and I hope it will not be necessary for it to happen very often in this House after a Member has signed a Select Committee report.

With regard to the other point made by the hon. and gallant Member for Nairobi North, I can assure him that this long list of amendments contain only consequential amendments on the abolition of section 32. If you glance at section 33 you will see that section 33 goes as well, but it is re-enbodied in section 31, where I have put in the following proviso:—

"The provisions of this section shall be in addition to and not in derogation of the provisions of the Mining Ordinance, 1933."

With regard to the acceptance of this amendment, Sir, I feel that there may be a misunderstanding with regard to why section 32 was ever put in, and I think the Commissioner of

Mines and myself must accept entire responsibility for ever having inserted it. You all realize it refers to the surface workings above a subterranean lease. Under the Mining Ordinance, when you are dealing with ordinary Crown Land, there is always a right immediately above a subterranean lease for the miner to come up for shafts, tailings, or whatever may be necessary, and we thought it would be wise to put in a similar provision in regard to subterranean leases in native reserves. But if there is the slightest suspicion about the clause, if it is thought we are endeavouring in any way to short cut or do away with the rights of natives, I am only too glad this opportunity has come in order that we may cut it out. It was merely put in because we thought the result would be exactly the same in the long run and that it would save time; but if the hon. Members who represent native affairs tell us this clause is going to arouse suspicion in the minds of the natives and that they think there is something behind it that they cannot see there, then Government is only too anxious and willing that the clause should, in fact, be taken out. I am sure every Member of this House knows, in fact, everybody who studies the Ordinance will see, there was nothing really that one could be suspicious of. We were just doing a little short cutting because it is obvious to everybody that where a mining company, that you have allowed to mine in a native reserve, has a subterranean lease, you cannot close down that mine by refusing to allow the company to come up for an outlet on an acre or two of land. However, as we are perfectly satisfied that the same result will happen when it goes through the Local Boards, and so on, Government is only too willing to meet the hon. Member who moved this amendment.

HIS EXCELLENCY: If no other hon. Member wishes to speak I will put the amendment.

The question was put and carried.

The question that the motion as amended be approved was put and carried.

THIRD READING.

THE NATIVE LANDS TRUST (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Native Lands Trust (Amendment) Bill be read a third time and passed.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

The Native Lands Trust (Amendment) Bill was read a third time and passed.

MOTION.

REPORT OF STANDING FINANCE COMMITTEE ON SUPPLEMENTARY APPROPRIATIONS.

THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOON): Your Excellency, I beg to move that the Report of the Standing Committee on Finance on the Schedule of Additional Provision No. 2 of 1934 and the Schedule of Additional Expenditure not included in Schedule of Additional Provision No. 2 of 1934 be approved.

The items, Sir, in this Schedule were fully examined in the Standing Committee, and I do not think it is necessary for me to say very much with reference to the Report. The larger proportion of the items were really accounting questions, slight additions on one side being met by savings on the other. As stated in our Report, Sir, the actual additional provision of new money not covered by savings amounts to a sum of £3,535 on the additional provision schedule, while the really large item of additional expenditure is incurred under the heading of Pensions and Gratuities, £15,000. That, unfortunately, is a commitment which must be met, and therefore there does not seem much point in making very great reference to it this morning. As my hon. friend the Treasurer explained to the Committee, an accurate estimate of these pensions and gratuities which will fall due in the course of a year is always difficult to make, particularly in the case of transferred officers who may retire from some other Colony; we cannot possibly have any knowledge they are going to do so until we are notified that our share of the bill has got to be met. An additional obligation at the present time and be met. The heavy accounts largely for the very big increase, is the re-trenchments that have been taking place and the heavy gratuities they have entailed.

Under "Famine Relief", there is a small additional item of £750, which is made up of various small items in different districts where famine condition are operative. In particular, the one which has not been stressed in this House before is the very bad condition, I am sorry to say, that exists in Turkana, and where the aridity in that area has been quite phenomenal, and the resultant condition of some of the pastoral people deplorable. Everything is being done by the Provincial Commissioner. Certain cases have been fed with posho, and he is doing his best to encourage fishing on the Lake and assisting them to grow crops in that very small area around the Lake where anything at all can be grown. I beg, Sir, to move this motion.

THE HON. THE TREASURER (MR. G. WALSH): Your Excellency, I beg to second.

MR. THE HON. F. W. CAVENDISH-BENTON: Your Excellency, I do feel that it is a little alarming to us on this side of the House to notice that the pensions and gratuities for this year have been under-estimated by no less a sum than £15,000. I think, Sir, it is my duty to point that out. We have had an explanation from the hon. the Colonial Secretary, and as a member of this Committee, I would like to say we also had an explanation from the hon. the Treasurer. I cannot say, Sir, however, that their explanation is altogether satisfactory. We have endeavoured this year to estimate revenue and expenditure and to bring them together by a very narrow margin of about £10,000. During the course of the year, we suddenly find that there has been under-estimated by £15,000 the vote for pensions and gratuities. We are told that retrenchments have taken place and of the impossibility of knowing when people retire. I agree it is difficult to estimate this accurately, but after all, retrenchments have been occurring for the last two years and it has been known what is taking place, and I suggest that it is a little unreasonable to have so large an under-estimate as this suddenly thrust on one at this time. (Hear, hear.)

The question was put and carried.

SELECT COMMITTEE REPORT ON NATIVE HUT AND POLL TAX BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. S. H. LA POSTOLLE): Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Native Hut and Poll Tax Bill.

The Bill, Sir, as previously stated, is a consolidating Bill, and the amendments that have been recommended are intended to clarify the meaning of the Bill, and are not concerned with affecting any amendments of principle. The whole of clause 6 is revoked and the text as suggested in the Report is substituted therefore. The effect of this is to put the date of the liability of natives for payment of the tax on all fours with the date at which non-natives are liable to pay their taxes. It makes the tax payable between the 1st and the 31st of January, whereas formerly it was due on the first. Actually, in practice, the tax is usually collected from natives about the middle of the year.

The second provision in this amendment is to alter the wording of the imprisonment clauses to make it quite clear that the intention is to impose imprisonment only in cases in which the defaulter is unable to indicate the property on which distress is to be levied or is clearly trying to evade his responsibility. The text as originally worded in the Bill was open

to the construction that a prisoner without any means to pay the tax and therefore destitute could be imprisoned without the towing of a distress. This is contrary to the intention of the Bill, and the suggested amendment is designed to make it clear. Destitute persons can, of course, be exempted under another clause of the Bill. Thirdly, the alternative of detention is added to the clause. Under the Detention Camps Ordinance, detention is almost invariably given to hut tax defaulters. The alternative of imprisonment is, however, retained in the present Bill to provide for the case of a hardened criminal being sentenced for failure to pay his tax and being therefore put with detainees in a detention camp. Such an association is obviously undesirable.

The amendment to clause 8 specifies more exactly the powers of the exemption contemplated under the clause, which may be partial or total. The rest of the amendments are of very minor importance, and invite no comment, Sir.

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

The question was put and carried.

THIRD READING.

THE NATIVE LANDS TRUST (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to Amend the Native Lands Trust Ordinance, 1930, be read the third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

SELECT COMMITTEE REPORT ON TRAFFIC (AMENDMENT) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Traffic (Amendment) Bill.

The most important section in this Report is the second one, which recommends that clause 4 of the Bill as presented to the Council be amended. Hon. Members will remember that when moving the second reading of the Bill I made it clear that the intention underlying clause 4 was to improve the method of the collection of vehicle licences, and will

also recollect the position taken up on that clause by the hon. Member for Nyanza. In Select Committee that hon. Member repeated his representations and was supported on behalf of the European population by the hon. Member for Nairobi North and also by the Indian Member. In view of those representations the official Members of the Committee felt that the object of this Bill was not commensurate with the hardships adduced as likely to be entailed if the clause stood as part of the Bill. We are therefore unanimous in recommending that the present procedure should continue, and that quarterly and half-yearly licences of vehicles may still be taken out in respect of carts and vehicles as they may be in respect of motor vehicles.

Clauses 4 and 5 of the Report recommend the insertion of provisions to deal with the case upon which I touched in moving the second reading of the Bill, to exempt a person who hires a public service vehicle to drive himself from the regulations applying to taxi drivers. As a result of the deletion of clause 4, certain other sub-sections no longer become necessary, and in order to clarify the provisions in the schedule we have recommended the re-arrangement of the subparagraphs which deal with the fees for licensing.

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

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE ELECTRIC POWER (AMENDMENT) BILL.

THE HON. T. FITZGERALD: Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Bill to Amend the Electric Power Ordinance, subject to an amendment which I shall move a little later on, an amendment of a purely drafting character.

Hon. Members will remember that in moving the second reading of the Bill I mentioned that representations had been received from the Nakuru, Eldoret and Mombasa Municipalities in regard to the proposed amendment of section 19 of the Principal Ordinance, an amendment which affected the position and to some extent the rights of these municipalities *vis-à-vis* the Power Company operating in their areas. Hon. Members will also remember that on these representations it was agreed to refer the Bill to a Select Committee. It may possibly be of some assistance to the House in considering this Report if I briefly state the position in regard to this amendment. As the laws stand at present municipal authorities have the right to apply at any time to the Governor in

2nd August, 1931

Council to transfer to them any power undertakings operating in their areas, subject, of course, to purchase considerations. The effect of the amendment now stands will be to restrict those rights to the extent that the application to transfer the undertaking can only be made after the expiration of a fixed period during which the licensee will be in undisturbed enjoyment of the licence. The amendment also proposed that this restriction should apply not merely to future licensees but also to existing licensees and it is in regard to the latter that the Councils to which I have referred made representations. The Councils concerned, Sir, sent representatives to appear before the Committee and briefly their position was that they attached very considerable importance to their existing rights and considered that those rights should not be modified in any way. The Eldoret and Nakuru representatives stated further that in respect of licensees which were recently granted in those areas the Councils did not object to the granting of these licenses as they relied on the continuance of existing conditions and they suggested that in the circumstances any interference with those rights would be something in the nature of a breach of faith. The Committee also had the advantage of hearing the chairman of the local board of the Power Company concerned and after a very full consideration of all the facts the Committee, Sir, felt that it would not be justified in recommending that the representations of the local councils concerned should be over-riden. The position now is, Sir, that the amendment as it appears in the draft Bill will apply to future licensees, but the position of municipal councils in regard to existing licensees is safeguarded by the proviso recommended in Recommendation No. 1.

Recommendation No. 2, Sir, refers to the amount of security which the Power Company might reasonably demand in the case of charges for the supply of power and light. While the sum suggested in the Bill of Sh. 20 might be regarded as reasonable in respect of domestic quarters, there is on the other hand quite a number of large consumers who use power to the extent of about £100 a month, and it is felt that it would be better to leave the question of the amount of security open, because there is a safeguard in another section of the Ordinance which enables a consumer if he feels that an unjustifiable demand has been made upon him to apply to the Governor to fix a fair amount as between himself and the company.

The amendment itself which I have to propose is rather a long one, but it is, as I explained at the beginning, merely a drafting amendment. It is as follows:—

also recollect the position taken up on that clause by the hon. Member for Nyanza. In Select Committee that hon. Member repeated his representations and was supported on behalf of the European population by the hon. Member for Nairobi North and also by the Indian Member. In view of those representations the official Members of the Committee felt that the object of this Bill was not commensurate with the hardships adduced as likely to be entailed if the clause stood as part of the Bill. We are therefore unanimous in recommending that the present procedure should continue, and that quarterly and half-yearly licences of vehicles may still be taken out in respect of carts and vehicles as they may be in respect of motor vehicles.

Cluses 4 and 5 of the Report recommend the insertion of provisions to deal with the case upon which I touched in moving the second reading of the Bill, to exempt a person who hires a public service vehicle to drive himself from the regulations applying to taxi drivers. As a result of the deletion of clause 4, certain other sub-sections no longer become necessary, and in order to clarify the provisions in the schedule we have recommended the re-arrangement of the subparagraphs which deal with the fees for licensing.

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

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE ELECTRIC POWER (AMENDMENT) BILL.

THE HON. T. FITZGERALD: Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Bill to Amend the Electric Power Ordinance, subject to an amendment which I shall move a little later on, an amendment of a purely drafting character.

Hon. Members will remember that in moving the second reading of the Bill I mentioned that representations had been received from the Nakuru, Eldoret and Mombasa Municipalities in regard to the proposed amendment of section 10 of the Principal Ordinance, an amendment which affected the position and to some extent the rights of these municipalities *vis-à-vis* the Power Company operating in their areas. Hon. Members will also remember that on these representations it was agreed to refer the Bill to a Select Committee. It may possibly be of some assistance to the House in considering this Report if I briefly state the position in regard to this amendment. As the laws stand at present municipal authorities have the right to apply at any time to the Governor in

Council to transfer to them any power undertaking that may be operating in their areas, subject, of course, to suitable purchase considerations. The effect of the amendment as it now stands will be to restrict those rights to the extent that the application to transfer the undertaking can only be made after the expiration of a fixed period during which the licensee will be in undisputed enjoyment of the licence. The amendment also proposed that this restriction should apply not merely to future licensees but also to existing licensees and it is in regard to the latter that the Councils to which I have referred made representations. The Councils concerned, Sir, sent representatives to appear before the Committee and briefly their position was that they attached very considerable importance to their existing rights and considered that those rights should not be modified in any way. The Eldoret and Nakuru representatives stated further that in respect of licensees which were recently granted in those areas the Councils did not object to the granting of these licenses as they relied on the continuance of existing conditions and they suggested that in the circumstances any interference with those rights would be something in the nature of a breach of faith. The Committee also had the advantage of hearing the Chairman of the local board of the Power Company concerned and after a very full consideration of all the facts the Committee, Sir, felt that it would not be justified in recommending that the representations of the local councils concerned should be over-riden. The position now is, Sir, that the amendment as it appears in the draft Bill will apply to future licensees, but the position of municipal councils in regard to existing licensees is safeguarded by the proviso recommended in Recommendation No. 1.

Recommendation No. 2, Sir, refers to the amount of security which the Power Company might reasonably demand in the case of charges for the supply of power and light. While the sum suggested in the Bill of Sh. 20 might be regarded as reasonable in respect of domestic quarters, there is on the other hand quite a number of large consumers who use power to the extent of about £100 a month, and it is felt that it would be better to leave the question of the amount of the security open, because there is a safeguard in another section of the Ordinance which enables a consumer if he feels that an unjustifiable demand has been made upon him to apply to the Governor to fix a fair amount as between himself and the company.

The amendment itself which I have to propose is rather a long one, but it is, as I explained at the beginning, merely a drafting amendment. It is as follows:—

That Recommendation No. 1 of the Report be replaced by the following:—

That clause 3 be amended—

(a) by deleting the first twenty-three lines thereof and substituting therefor the following:—

3. (1) Paragraph (a) of section 19 of the Principal Ordinance is, subject to the proviso contained in this sub-section, hereby repealed and the following is substituted therefor—

(a) within six months after the expiration of a period of forty-two years from the date of the distributing licence, or such shorter period as is specified in that behalf in the distributing licence, or within six months after the expiration of every subsequent period of seven years, or such other period as is specified in that behalf in the distributing licence, such local authority shall make an application to the Governor in Council for the revocation of the existing distributing licence as to the whole or part of the area of supply, and for the issue to them of a distributing licence for such area or part thereof. In addition to any notices required to be given by this Ordinance, the applicant shall serve copies of such applications upon the authorized distributor, together with such further particulars as the Governor in Council may direct:

Provided that the provisions of this sub-section shall not apply to any distributing licence granted before the commencement of this Ordinance, but the provisions of paragraph (a) of section 19 of the Principal Ordinance, as the same appeared in that Ordinance before the coming into operation of this Ordinance, shall continue to apply to any such distributing licence.

and (b) by deleting the twenty-fourth and twenty-fifth lines thereof and substituting therefor the following:—

(2) Paragraph (i) of section 19 of the Principal Ordinance is hereby repealed and the following paragraph is substituted therefor:—

I hope hon. Members will understand what all that is about! I can give the House an assurance that it is merely a drafting alteration and that it does not affect in the slightest what appears in the Bill.

HIS EXCELLENCY: Is this an amendment of the Report?

THE HON. T. FITZGERALD: Yes, Sir. I move that the Report be adopted subject to this amendment.

THE HON. THE ATTORNEY GENERAL: I beg to second, Sir, and instead of formally seconding I feel that an apology is due to the House. As you may imagine, I was responsible for this new amendment which the hon. the Postmaster General has moved to-day. When I saw the Report of the Committee, Sir, and referred to the Bill, while it was perfectly clear what it meant and that anyone who had been in this House during the debate would know what it meant, from the point of view of drafting I was afraid that one of our learned judges sitting in future would say he was not prepared to say where the proviso went. If hon. Members will refer to the Bill they will see the strange anomaly that section 3, amending section 19, has two small (a) paragraphs. You have section 3, small (a), and just below it another small (a), and that being so, it would have been possible for anyone who wanted to be difficult—not that I suggest any learned judge does wish to be difficult, but counsel for the defence shall we say—to claim that the proviso should come after one (a) and not after the other. It was therefore necessary, small as that may have been, to recast the whole thing on the lines that the Postmaster General has read out to you. I can assure you that there is no difference whatever in effect between the proviso as intended by the draftsman of the Committee Report and my new proviso to-day.

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE POLICE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with your leave and the leave of the House, I beg to refer to the motion standing in the name of the Solicitor General.

Since the Select Committee sat certain new points have been brought to light by an hon. Member of this House, Mr. Mangat, who unfortunately was not on the original Select Committee, and it was thought wise not to hurry this measure through until further consideration could be given to the points which he wishes to raise. Therefore, with the leave of this House, I will postpone reporting this Bill till next session.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Traffic (Amendment) Bill and the Electric Power (Amendment) Bill be each read a third time and passed.

THE HON. THE TREASURER: I beg to second the motion. The question was put and carried.

The Traffic (Amendment) Bill and the Electric Power (Amendment) Bill were each read a third time and passed.

VALEDICTORY: MR. H. M.-M. MOORE.

HIS EXCELLENCY: Honourable Members of Legislative Council: This is, I regret to say, the last time we shall see Mr. Moore in the seat which, as Colonial Secretary, he has occupied for the past five years.

They have probably been some of the most difficult years in the history of the Colony, not only in regard to the major problems which arose during that period, but also in regard to the enormous amount of administrative and secretarial work involved.

The tactful and able manner in which Mr. Moore—both as Colonial Secretary and often as Acting Governor—has helped to deal with these problems is deserving of the highest praise. In fact, this praise has mistakenly been given last week by the Noble Lord, the Member for the Rift Valley, in a charmingly worded speech, and the tribute he then paid to Mr. Moore was whole-heartedly endorsed by the Indian Members, by the Rev. Canon Burns and by other speakers on the unofficial side of the House.

As Governor I am probably in a better position than others to appreciate the Colonial Secretary's ability and untiring energy and I can truthfully say that in my lengthy experience I have never had a more loyal or helpful colleague.

I take this opportunity, therefore, on behalf of myself and of my officials to add our tribute and our good wishes to those already expressed by the hon. the unofficial Members. I should like also to include Mrs. Moore in our good wishes: she has made numerous friends in Kenya and she has taken a leading part in the various organizations formed to promote charitable and other worthy objects.

If it is almost seven years ago since I myself became Governor of Sierra Leone and I feel that Mr. Moore will like that country and its people. It will, for him, I am sure merely prove to be a stepping stone to a more important Governorship—perhaps—who can tell—to Kenya.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I should like to thank you, Sir, very much indeed for the very kind words you have spoken, and also hon. Members of this House for the very kind manner in which they have received your remarks, Sir. I shall be leaving, as I have already said, this Colony and also this Council with real regret and, when in another place to which you have referred, Sir, I am relegated to that life of suspended articulation which is always associated with the presidential chair, I feel sure that I shall often regret the more active part which it has been my lot to play in the debates, and I do sincerely hope that the very high standards of debating procedure which have always characterized the work of this House will be maintained in the future as they have been observed in the past.

The Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1934

FOURTH SESSION

TUESDAY, 16th OCTOBER, 1934

The Council assembled at 11 a.m. on Tuesday, 16th October, 1934, at the Memorial Hall, Nairobi, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Ex-Officio Member :

ARMIGEL DE VINS WADE.

Nominated Official Member :

SYDNEY HUBERT LA FONTAINE.

COMMUNICATION FROM THE CHAIR.

His Excellency made the following Communication from the Chair:—

HONOURABLE MEMBERS OF COUNCIL :

I should like to begin by saying—and I feel sure you will all join me in doing so—how glad I am to welcome Mr. Wade in his capacity as our new Colonial Secretary. I am indeed thankful that one of our officers has been chosen, for knowledge of this country and its people is not quickly

gained, Mr. Wade during his many years' service in Kenya has earned the respect and confidence of all classes; his sane and reasonable outlook on the difficult problems which confront us will be of the utmost value not only to the Government but to the Colony as a whole.

Hon. Members, as you are no doubt aware, this sitting of Council was called at the request of the European Elected Members for the purpose of expressing their views on the report of the Land Commission. The Government gladly granted their request for it saw every advantage in having before it the representations made, in the course of the debate, by the Unofficial Members of Council.

It will be realized, however, that generally speaking we will not be in a position to give definite replies to these representations: they will be carefully considered by this Government and will be forwarded to the Secretary of State.

It may appear to some that we are rather dilatory in giving effect to the various recommendations of the Commission. This is not so as the Honourable Commissioner for Town Government, Lands and Settlement will explain to you when he speaks to the motion: An immense amount of preliminary work has been and is being done and before long we shall be able to show tangible progress. There are some recommendations in the Report which can be put into effect administratively without necessarily awaiting the enactment of the amending Native Lands Trust Ordinance, but we thought it desirable, especially in regard to matters which might prove to be controversial, to hold our hands until the representations of the unofficial community had been heard and considered. Where finance is involved we have also to await the approval of Parliament to the grant referred to in the White Paper.

I have myself during the past few months travelled extensively through the country, and during my travels I have again closely studied the Commission's Report and I have discussed its terms with senior officials and others with whom I have come in contact. I should, therefore, once more like to pay tribute to the Commission and to their Secretary for the invaluable work they have performed in Kenya. Not only do I refer to the recommendations but to the mine of information contained in the Report and in the evidence. For many, many years to come these volumes will be books of reference to which Administrative Officers would be well advised continually to refer.

So far as the finances of the Colony are concerned, I propose to defer making a detailed statement until the Budget sitting, when I shall do my utmost to put the situation

before you. I may say, however, that expenditure is within the proportionate amount provided and continues to be kept under close scrutiny. Revenue from Customs and Trades Licences is disappointing and the collection of Native Hut and Poll Tax is somewhat in arrear, but yields from other sources are satisfactory, the net result for the first half of the year being an excess of actual revenue over actual expenditure of approximately £19,000.

Negotiations between this Government and a London syndicate interested in the manufacture of paper pulp from bamboo have reached a stage when it seems safe to prophesy a successful conclusion. If these hopes are realized, a company will shortly be floated in England to exploit a concession of 85,000 acres in the Kikuyu Bearpinn Forest Reserve. The bamboo extracted from this concession will be turned into pulp at a factory to be erected at Tesvo, with a capacity of 100,000 tons per annum. I need hardly emphasize the value to the Colony of the establishment of such an industry which, apart from direct revenue to Government, will put into circulation a large amount of money and also provide a great volume of freight for the Railway. I regard the successful launching of this enterprise as of the greatest importance to the future prosperity of the Colony.

Reports of the mining industry continue to be satisfactory, especially in No. 2 Area in Central Kavirondo, which is now being closely prospected in the open field. Interesting discoveries have been made in that area and extensive prospecting should repay both individual prospectors and the larger companies for some time to come.

I had the pleasure last month of opening the new mill at Risks, Limited, the first plant of any magnitude in the Kakamega Goldfield. I trust that this company will now reap their reward from the extensive and generous efforts they have made in Kenya.

The prospects in other areas of the Nyanza Goldfields, now being investigated under Exclusive Prospecting Licence, are equally hopeful, while the attention of reliable companies is, in addition, being attracted to the great mineralised belt in the Coast Province.

Machinery on a considerable scale has been ordered by several firms operating in Lolgorien, in the concession areas and at Kakamega, and we should soon pass from a prospecting stage to that of active development.

I much regret to have to report that we are losing the services of Mr. Murray-Hughes, the Government Geologist and Mining Engineer who has done so much to guide the

industry along sound lines of prospecting and development. I am glad to learn that his knowledge and experience will not be lost to our mining industry. He proposes, I understand, to become a consultant and as such will, I hope, frequently visit the Colony. His faith in the use of aerial survey has been shared by progressive companies and the Colony is obtaining the benefit of some excellent maps of large areas which will be of use, not only to the operating companies themselves, but to all departments of Government and the public generally.

The question of communications in the goldfields is exercising the attention of Government, as certain roads will have to be put in a condition to bear heavy traffic far beyond that which is usual here. We are, however, fortunate in having in Lake Victoria and its littoral an asset shared by few other goldfields.

As regards agriculture, I have little to say at the present time: hon. Members are as well aware of the uncertain position as I am. Overseas prices of some commodities of importance have registered an appreciable advance during the last two or three months. Against this, however, the dry, hot weather of the past few weeks following the severe drought has rendered the coffee prospects and the maize prospects of certain areas less favourable. As these drought conditions have prevailed over a large part of the world one must hope that a return to normal will not long be delayed.

Rapid progress is being made with essential oils and pyrethrum, and I am glad to hear that the latter, owing to its superior quality, enjoys a decided premium on the London market.

On the native side particular efforts are being made in regard to cotton, and there is every prospect that within a few years this commodity will bear an important share of our exports.

The overstocking of Native Reserves continues to receive the close attention of Government. An application is being made for financial assistance from the Colonial Development Fund for the erection of a fertilizing plant which it is proposed to place at Vosoi Hult, near Hongzi Station, for the reception of culled stock from the reserves of the Rift Valley Province.

Hon. Members, you will, during this sitting be asked to consider four Bills dealing with agriculture. These are:—

(a) A Bill to consolidate the law relating to the Advancement and Control of the Coffee Industry. This Bill consolidates and amends previous legislation dealing

with the same subject. Important amendments relate to the composition of the Coffee Board consequent upon the formation of a separate Coffee Trade Association and the withdrawal of the trade members from the Board.

(b) A Bill to provide for the control of the Production of Tea in the Colony, designed to carry out the principle of the participation by the East African Territories, including Nymsaland, in the Inter-Territorial Tea Restriction Scheme. The chief object is to prevent, for a period, further planting of tea, but it is considered just and reasonable to allow estates in process of development to extend their planting to an economic acreage and for this purpose an acreage of 1,000 acres has been allotted to Kenya, as agreed upon at a conference of producers of the East African Territories concerned.

(c) A Bill to Amend the Cotton Tax Ordinance, providing powers to fix different rates for the various Provinces and Districts. This measure is desirable in order that the Cotton Tax in each cotton-growing area can be assessed at a suitable rate, taking into consideration the probable price of cotton in the selling season, local conditions and the stage of development in each area.

(d) A Bill to Amend the Diseases of Animals Ordinance, enabling disease control over bees and certain varieties of domestic birds.

A Bill dealing with the rationalization of the Sugar Industry has been circulated. It has not been found possible, however, to obtain complete agreement between the Governments and the interests concerned, and it has been decided to postpone proceeding with the proposed legislation until further investigations have taken place.

I am informed by the Director of Medical Services that whilst the smallpox epidemic appears to be over, sporadic cases continue to occur, more particularly in the Digo and Kilifi Districts. The vaccination campaign has been intensified in these districts and is being continued in adjoining areas.

The adequate control of public health and sanitation in the gold mining area is becoming increasingly difficult with the staff available, more particularly in the Central Kavirondo District, where considerable development is taking place. In the sleeping sickness areas gold mining development must be carefully controlled, and to make this possible the existing medical staff must be augmented to some small extent in 1935.

During the past few months malaria has appeared in epidemic form in a number of different areas. The epidemic now appears to be waning, and whilst there is no cause for alarm, the position must be closely watched.

Overcrowding continues to occur at almost every native hospital in the Colony. The position is becoming serious at a number of centres, and, as and when the financial position improves, serious consideration must be given to the provision of extra accommodation.

Two other Bills which will be submitted for your consideration during the course of the sitting and which, if you agree, I propose referring to Select Committee, are:—

(a) A Bill to consolidate and simplify the law relating to archaeological and palaeontological sites and objects of interest, in which this Colony has proved to be exceptionally rich.

(b) The Telegraphic Press Messages Bill, which is a Bill to prevent piracy of Reuter's messages.

The remaining Bills are of a more or less formal character and will be fully explained in the speeches moving the second readings.

Hon. Members, I trust that with the help of Almighty God, your deliberations during this sitting may lead to the further peace, prosperity and welfare of Kenya.

MINUTES.

The minutes of the meeting of 2nd August, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

By THE HON. THE ACTING COLONIAL SECRETARY (MR. A. DE V. WADDE) :

Standing Rules and Orders of Legislative Council as amended by motion of Council on 25th July, 1934.

By THE HON. THE ATTORNEY GENERAL (MR. W. HARRAGIN) :
Report of Commission of Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters and Correspondence arising out of the Report; Minutes of Evidence and Memoranda submitted to the Commission.

By THE HON. THE TREASURER (MR. G. WALSH) :
Colonial Audit Department Annual Report, 1933.

By THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT) :
Education Department Annual Report, 1933.

By THE HON. THE COMMISSIONER OF MINES (MR. E. B. HOSKING) :
Mining and Geological Department Annual Report, 1933.

By THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN) :
Return of Land Grants under the Crown Lands Ordinance, from 1st April to 30th June, 1934.

BILLS.

FIRST READINGS.

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

The Coffee Industry Bill.

The Native Tribunals (Amendment) Bill.

The Tea Bill.

The Assignment of Life Policies Bill.

The Telegraphic Press Messages Bill.

The Bankruptcy (Amendment) Bill.

The Diseases of Animals (Amendment) Bill.

The Non-European Officers Pensions (Amendment) Bill.

The German Missions (Revesting) Bill.

Notice was given to move the second reading of each of these Bills at a later stage of the session.

The Council adjourned till 10 a.m. on Wednesday,
17th October, 1934.

WEDNESDAY, 17th OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 17th October, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.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 October, 1934; were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

BY THE HON. THE ACTING COLONIAL SECRETARY:

Report on Prevalence of Crime in Settled and Urban Areas in Relation to Decrease in Police Strength.

BY THE HON. THE CONSERVATOR OF FORESTS (MR. H. M. GARDNER):

Forest Department Annual Report, 1933.

BY THE HON. THE COMMISSIONER OF MINES:

Report of Select Committee appointed to consider and report upon the provisions of a Bill to amend the Mining Ordinance, 1933.

NOTICE OF MOTION.

BY THE HON. THE COMMISSIONER OF MINES:

That the Report of the Select Committee on the Bill to amend the Mining Ordinance, 1933, be adopted.

ORAL ANSWERS TO QUESTIONS.

PROTRACTED TRIALS IN CRIMINAL CASES.

No. 82.—THE HON. J. B. PANDYA asked:—

"Has the attention of Government been drawn to the complaints made by the Mombasa Law Society in regard to protracted trials in criminal cases and, if so, what steps the Government proposes to take to speed up disposal of criminal cases?"

THE HON. THE ATTORNEY GENERAL: The attention of Government has been drawn by the Law Society, Mombasa, to certain criminal cases where it was alleged that undue delay had occurred in bringing an accused person to trial after the termination of committal proceedings.

These cases have been investigated and Government is not satisfied that there was in fact undue delay having regard to the particular circumstances in each case.

TRADING LICENCES.

No. 84.—THE HON. J. B. PANDYA asked:—

"What was the number of trading licences taken out under Items Nos. 1; (a) and (b) of No. 1; 2; 3; and 4 appearing in Schedule No. 1 to Chapter No. 58 of the Revised Edition of the Laws of Kenya (repealed last year) during the years 1931, 1932 and 1933?"

Will Government also state the amounts received as licence fees from each of the said items?"

THE HON. THE TREASURER: Before the establishment of the Central Revenue Registry a detailed analysis of the licences collected under Chapter 58 of the Revised Edition of the Laws was not undertaken and particulars required by the hon. Member in respect of the years 1931 and 1932 cannot therefore be given.

The following details covering the year 1933 are available:—

Schedule 1	Licence Fee	No. Issued	Amount Collected
1	300/-	900	£ 13 500
(a)	30/-	3,290	4,935
(b)	10/-	547	273
2	300/-	22	330
			19,038

Total collections under this Ordinance in 1933 amounted to approximately £19,500.

TRADING IN UNWROUGHT PRECIOUS METALS.

No. 85.—THE HON. J. B. PANDYA asked:—

"Will Government state the number of licences taken out under the Trading in Unwrought Precious Metals Ordinance, 1933, during the years 1933 and 1934 respectively by persons and firms—

- solely trading in unwrought precious metals, and
- by merchants and others,

and the amount of revenue derived therefrom or amounts allowed as set off to merchants under the Trading Licences Ordinance, No. XLI of 1933, in respect of such licences?"

THE HON. THE COMMISSIONER OF MINES: Licences under the Unwrought Precious Metals Ordinance, 1933, were issued as follows:—

In 1933 one whole-year licence to a gold buyer; two half-year licences, one to a mining company and one to a jeweller.

In 1934 two whole-year licences, one to a gold buyer, one to a jeweller; and two half-year licences to general merchants.

The revenue derived therefrom was Sh. 220 in 1933 and Sh. 360 in 1934. No amounts were allowed as set off to merchants under the Trading Licences Ordinance, No. XLI of 1933.

ESCARPMENT POLICE POST.

No. 86.—THE HON. J. B. PANDYA asked:—

"Is the Government aware of the fact that the Police post at Escarpment has been closed and even a solitary policeman kept there has also been recently withdrawn?"

In view of the defenceless position of the shopkeepers in that area will Government consider replacing a policeman there as early as possible?"

THE HON. THE ACTING COLONIAL SECRETARY: The answer to the first part of the question is in the affirmative.

The answer to the second part is in the negative. The withdrawal of the constable formerly stationed at Escarpment is consequent upon the institution of a system of patrols operating in the area, the personnel of which occupy the police building at Escarpment on five nights in every week.

BILLS.

SECOND READINGS.

THE COFFEE INDUSTRY BILL.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to move that the Bill entitled the Coffee Industry Bill be read a second time. This Bill, Sir, re-enacts the provisions of the Coffee Industry Ordinance, 1932, but certain amendments are incorporated in it. The first of these amendments relates to the composition or constitution of the Coffee Board. It is proposed to replace two members representing the trade interests by two additional coffee planters. This proposal arose on account of the formation of the Coffee Trade Association of Kenya. After protracted consideration,

the Board came to the conclusion that if the trade representatives were entirely withdrawn from the Board and if that representation was replaced by planter representation, the Board would be in a better position to serve the interests of the coffee industry provided that liaison was maintained with the trade interests. The Coffee Trade Association of Kenya also came to the same conclusion for at the first meeting of that body they said: "There can be no further need for trade representation on the Coffee Board of Kenya with the formation of a joint standing committee of the Coffee Trade Association and the Board". This proposal, that a joint standing committee should be set up consisting of three members of each body, seemed satisfactory to both parties, and accordingly the committee was formed, and it has already had its first meeting. The Board recognizes the need for securing the advice of the trade, and it considered that through the medium of this joint standing committee the Board would secure better advice from all sections of the trade interests than it could secure with its present constitution, that is the constitution of the Board. The amendments altering the constitution of the Board were considered at the Coffee Conference which was held under the parent Ordinance in July last. That Conference was representative of all interests connected with the coffee industry, and these amendments relating to the constitution of the Board were passed at that Conference unanimously. If they are approved by this House, the Coffee Board will become essentially a coffee planters' body whose functions, being the same as in the parent Ordinance, will continue to cover the same range of activities, such as exploiting new markets, advertising, and the promotion of the more economic production and preparation of coffee; in fact, all activities calculated to promote the welfare of the coffee industry. With its amended constitution I feel sure the Board will continue its good work and even more vigorously and effectively than it has done in the past.

Another amendment to the Ordinance is the addition of section 15 in this Bill. It provides for the compulsory registration of distinguishing marks used to identify and mark coffee. This amendment is to secure the orderly marking of coffee and in addition to prevent the duplication of marks. At present there is nothing to stop one estate from using, either unwittingly or otherwise, the mark of another estate, an estate mark which possibly has a reputation for high quality in the market. It is highly desirable that such a mark should be given the protection it would secure under a system of registering all distinguishing marks. There are a number of minor amendments in the Bill which with your leave, Sir, I propose to deal *seriatim*.

In section 2 the definition of coffee plantation has been extended to include the words "or contiguous areas of land under single ownership". That alteration provides in accordance with a later section that only one licence is necessary in the case of adjoining coffee plantations under single ownership. In the same section, the definition of conference has been altered. Under the existing law the delegates to the conference are appointed by farmers' associations or similar bodies in coffee-producing districts and by organizations representing trading interests. Under this Bill, the delegates will be appointed by coffee planters licensed under the provisions of the Ordinance. This change ensures that all licensed coffee planters can participate in the election of delegates to the Annual Coffee Conference, and it confines the election of delegates to the coffee planters. The definition of export has been changed by leaving out the words "the Uganda Protectorate or Tanganyika Territory". This was proposed in order to prevent the sending of Kenya coffee through neighbouring territories for export, as for example from Moshi to Tanga, with the object of escaping the Kenya levy. It is a matter for consideration whether this amendment is necessary and practicable of application. And at this stage I should mention that I have been authorized by Your Excellency to say that it is proposed that this Bill should be referred to a Select Committee.

In section 3 there is a proviso—and I should mention that two additional coffee planters were provisionally elected at the Coffee Conference in July last in anticipation of the amended constitution—and this provision at the end of section 3 (1) will enable them to take their places on the Board. In section 3 (5) (c) there is a slight alteration by the addition of the words "by rotation" in order to define the procedure more clearly when members of the Board retire. In the same section, 3 (5) (e) is a new paragraph, which states that a candidate for election shall give at least thirty days' notice and that his nomination papers must be signed by at least seven coffee planters, to remove the danger of confusion at elections and to prevent nominations being made without due thought at the last moment. Section 3 (13) is a new section, and gives the Board power to make by-laws governing the conduct of the business of the Board and by-laws for the election of delegates to the conference. Both are necessary in order that the Coffee Board may keep its house in order. Section 9 (1) has been altered slightly to ensure, with the new definition of the words "coffee plantation," that each separate estate under single ownership shall require a separate licence. Section 11 (3) (c) has been altered by the addition of certain words which would allow the Board to remunerate individual members of the Board. Services given by members

of the Board are recognized by the Board to be such as to be deserving of remuneration, and the Board desires to do so at rates to be approved by Your Excellency. That completes the amendments, except very minor matters which have occurred on account of the Bill being a consolidating measure instead of merely an amending Bill. In conclusion, Sir, I should like to take this opportunity of testifying to the good work that the Board has done since it was constituted under the existing Ordinance. Your Excellency and the Secretary of State have on more than one occasion expressed satisfaction at the way in which the planters of this Colony organized their own industries. I think you will agree, Sir, that the Coffee Board has played a large part in earning that commendable reputation. There can be no doubt as to the fundamental soundness of the parent Ordinance. The amendments I have endeavoured to explain to the House are of a comparatively minor character, and they were framed after very close consideration by the Coffee Board of the whole Ordinance. These amendments are desired by the Board. When put to the Coffee Conference in July last they were all carried unanimously, and I commend this Bill to the House as a measure which will enable the coffee planters to forge still further ahead in the organization of their own industry. I beg to move the second reading of this Bill, Sir.

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

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

THE HON. A. C. TANNAHILL: Your Excellency, the main point that I was going to express has already been met by the Hon. the Director of Agriculture stating that Your Excellency has agreed that this Bill shall go to a Select Committee. I think it is highly desirable that it should, because some doubt has arisen as to whether there is not a misunderstanding between the producers and the dealers. The Objects and Reasons of the Bill, at the end of the Bill, say: "It is proposed to change the constitution of the Board by replacing the two members representing trade interests with two additional coffee planters. This proposal is in accordance with an agreement reached between the Board and the coffee dealers." That is absolutely correct, Sir. There was an agreement reached between these two sections of the coffee-planting industry and it was, I think, very clearly laid down in the report of the Coffee Board for the period commencing 1st October, 1933, to the 30th June, 1934, on page 3, dealing with section 3 (1) (c) of the old Ordinance, that the amendment desired was to delete that sub-section appointing two

members of the trade as members of the Board. The reason given for the amendment is this. Upon the formation of the Coffee Trade Association of Kenya with effect from the 1st July, 1934, it was proposed that trade representation in coffee matters should be effected through the Coffee Trade Association and that planters' representations should be done through the Coffee Board. This is the pertinent point in this particular paragraph of the report—"that a joint standing committee consisting of three nominees of the Coffee Trade Association with a like number from the Coffee Board, to co-ordinate the various matters should be set up. It has already been agreed between the Coffee Section of Nairobi Chamber of Commerce and the Coffee Board that trade representation would be withdrawn from the Board upon the formation of the Coffee Trade Association. It will therefore be necessary to delete section 3 (1) (c) of the Ordinance". There, Sir, is the agreement. Quite definitely and clearly, that is where the misunderstanding possibly arises—the Trade Association considered that this agreement would be implemented in the Bill now under consideration. It lays down at the end of section 3 that the traders are eliminated. True, the Board has passed a resolution appointing the joint standing committee, but it is not a statutory committee; merely, one may say, a gentlemanly gesture. Section 4 of the Bill recognizes the dealers and charges them £10! Section 11 authorizes the Coffee Board from whom the dealers have been eliminated to spend this £10. I suggest, Sir, that it will be highly desirable for the producers to meet the dealers before the Select Committee and try and thrash out a method by which the agreement, or the implementation of the agreement, shall be arrived at. It appears to me that a method of implementing the agreement is to provide in the Bill that the joint standing committee shall be a statutory committee, advisory on all matters relating to trade, and possibly mandatory when it comes to any question of spending; the Board's money in marketing, advertising and other trade matters. I do not think, Sir, that there is anything further to say, merely to conclude by emphasizing how very essential in the interests of these two partners, the dealer and the producer, it is that they should meet together and come to an arrangement.

THE HON. CONWAY HARVEY: Your Excellency, I have the advantage of speaking on this subject with some authority, having been a member of the Coffee Board since its inception and having recently been elected for a further period of three years. First of all, I should like to express the very deep gratitude of the Board to my hon. friend the Director of Agriculture for his gracious reference to the work of the Board. In this hypercritical country of Kenya it is rather

remarkable, if not unique, that the Coffee Board should have won, and retained, the confidence of the coffee planters of Kenya in the way in which it has. As the hon. the mover has pointed out, the Board as originally constituted included two trade members. In order to relieve any possible misunderstanding, Sir, in regard to the withdrawal of those trade members, I should like to say that they have worked in all matters most harmoniously with the other members of the Board. There has been no difference of opinion, Your Excellency, and no friction whatever. Those two gentlemen representing the trade interests have performed work no less valuable than the work performed by the planter representation on the Board. However, for reasons best known to themselves those identified with what is called the trade side of the coffee industry decided to form their own Coffee Trade Association of Kenya, and also decided—and it was entirely their own idea—to withdraw their representation from the Board. That, of course, meant an amended Ordinance. As the hon. mover pointed out, complete agreement was achieved in conference by the coffee planters of Kenya to all the amendments proposed to the Ordinance.

I have no comments whatever to make on the Bill. It has been subjected to most intensive scrutiny and most detailed consideration by every conceivable person who has any interest in the matter whatever. I should like to say in the first instance, in respect of the recent trade representation, that from the very beginning the two trade members on the Board expressed the complete and absolute approval of every one of the proposed amendments as they came up for consideration. Then, Sir, it fell to my lot at the Coffee Conference to move the adoption by the Conference of these various amendments *seriatim*. Let me say here that the trade as such was very strongly represented at that Conference. A very large number of traders were in the room, and they also included two gentlemen who have recently made representations to Government on this matter. They, in common with everybody else, voted for all the proposed amendments, and, in actual fact, Sir, of the five amendments dealing with trade interests no less than three of them were seconded by trade members themselves. Never, from the very beginning of the discussions right up to the time the Conference approved these recommendations for the consideration of Government, was any suggestion made in any shape or form that statutory provision should be made for the joint standing committee in the Bill. Subject to the views of my learned friend, who is an authority on such matters, I should imagine that that would present very very serious difficulties and would be entirely foreign to the objects for which this Board

was established under the Coffee Industry Ordinance. I suggest with profound respect, Sir, that there is no room for any misunderstanding and that my friends the traders have no right to assume in view of what I have said—which is a mere statement of fact entirely substantiated in every detail by authentic written records before me—that any provision would be made for the joint standing committee in the personnel of the new Board to be appointed. It is true, as everyone knows, as my hon. friend the Member for Nairobi South said, coffee traders do make contributions to the funds which are expended by the Board, but they amount to a very trifling sum. This aspect of the matter has been discussed with these gentlemen, we did not overlook it, and we all understood that a little later on some arrangement might possibly be mutually agreed on which would enable the Coffee Board to pass over this trifling amount of money subscribed by the coffee traders to the Trade Association, subject always to the approval of Government.

I want to make it quite clear in conclusion, that there never has been the shadow of a suggestion that the arrangement for the establishment of the joint standing committee should be incorporated in the new Bill. It has always been understood that this was a domestic matter as between the Coffee Board and the Coffee Trade Association. As a matter of fact, as has already been pointed out, this joint committee held its first meeting on the 25th September, and I am given to understand that no mention whatever was made at that meeting that they wished to figure in some way in the Coffee Industry Ordinance.

Finally, Sir, I must with the greatest respect, deprecate these eleventh hour proposals which come as a bolt from the blue and occupy an inordinate amount of the time of this Council and of Government when we all hoped that in view of the very careful manner in which all the provisions of the amending Bill have been scrutinized by every legitimate authority that the Bill would have gone straight through without the need for a Select Committee. Nevertheless, if anyone is labouring under any sense of grievance whatever, I do support the suggestion that they should be given the opportunity of expressing their views to the Select Committee.

THE HON. J. B. PANDYA: Your Excellency, the hon. Member for Nairobi South made a point about the joint committee for traders and planters for attending to the marketing details of Kenya coffee. I personally should much prefer that activities in connection with marketing problems and the function of giving advice on these problems should be left to the representatives of the trading interests, who are

qualified to do this. It is, however, surprising that the hon. Member for Nyanza should oppose such a joint committee. I should have thought . . .

THE HON. CONWAY HARVEY: On a point of explanation, Sir, I have never opposed the appointment of the joint committee. On the contrary I approved of it.

THE HON. J. B. PANDYA: The statutory appointment of such a joint committee has been most definitely opposed by the hon. Member. I should have thought such a joint committee would have been most welcome to the planting interests because it would mean the working of the industry in harmony and co-operation. In fact, such a committee has been the part of the arrangement arrived at between trading and planting interests and if there is no objection to the appointment of such a committee in principle why should there be any objection to its appointment being made statutory? The only other point I wish to make is in regard to clause 5 (1) which says: "Every licensee under section 4 of this Ordinance shall keep on his licensed premises a register in English or Kiswahili of all purchases or sales of coffee made in pursuance of his licence". In this I should like to see added that a register in Gujarati should also be allowed to be kept for recording the transactions required under this section. I hope this will be given consideration by the Select Committee to be appointed on this Bill.

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

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, the hon. Member for Nyanza has dealt with the question raised by the hon. Member for Nairobi South with such thoroughness that there is little to add on that point. The question of making the joint standing committee a statutory body came, as has already been said, like a bombshell just before the meeting of the Council. It was quite a new idea, so far as I know, it had not occurred to anybody at all until a few days ago and, quite apart from the possibility of including it in the Bill I should imagine it is a matter for consideration as to whether it would be advisable to make such a body statutory. In any case, that question can come before the Select Committee, and if any member of the House has any views on the subject he can be supplied with chapter and verse from the beginning when this subject of the committee was discussed. The point raised by the hon. Member Mr. Pandya as to adding words to section 5 can also be considered in Select Committee.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE COFFEE INDUSTRY BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Coffee Industry Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General (Chairman).

The Hon. the Director of Agriculture.

The Hon. H. G. Pilling.

The Hon. Member for Kyanbu.

The Hon. Member for Nyanza.

The Hon. the Acting Member for Nairobi South.

The Hon. J. B. Pandya.

THE HON. T. D. H. BAUCH (Solicitor-General): I beg to second.

The question was put and carried.

THE TELEGRAPHIC PRESS MESSAGES BILL.

THE HON. THE POSTMASTER GENERAL: Your Excellency, I beg to move that the Bill to confer temporary exclusive rights in respect of telegraphic press messages be read a second time. Those hon. Members present to-day who were members of the old Council will recall that a Bill in precisely similar terms was introduced about a year ago. That Bill obtained a second reading, and was referred to a Select Committee which, however, had not concluded its task before the late Council was dissolved. It has in consequence been necessary to re-introduce the Bill, and seeing that the principle underlying it has already received the approval of the House I trust that the second reading to-day will be taken as more or less formal in character. The issue is a very simple one. It is whether a newspaper proprietor who expends money in collecting news should be protected against acts of piracy on the part of those who are not prepared, or who may not be in a position, to incur such expenditure. The answer, I think, must be in the affirmative. And that answer is embodied in the Bill now before the House. Legislation of this kind is neither new nor novel. Almost similar legislation is in force in South Africa and has been in force in that country in one form or another for a great many years. It may be asked, Sir, why the ordinary copyright law of the Colony is inadequate to cope with the abuse that this Bill is designed to put a stop to, an abuse which I may say definitely exists. The position is that the existing copyright law so far as it relates to news protects the form rather than the substance, and evasion is therefore not a very difficult matter. Certain matters of detail in this Bill can be very usefully discussed in Select Committee, and I am authorized to say that it is proposed to refer the Bill to such a committee. I should

perhaps say that one of the most important matters of detail to be considered is the period during which protection should be afforded. The proposal in section 3 of the Bill is that that period should be seventy-two hours, or three days. I beg to move the second reading, Sir.

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

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

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, the hon. the Postmaster General has informed us that this is not the first time this Bill has been before the House. He then went on to say that this Bill is couched in precisely the same terms as the last time we saw it. I am not quite sure that it can be so, as in looking at the debate on the 20th November of last year the hon. Member, in moving the second reading, stated that he would make it clear that "nothing in the Bill affects news of a general broadcast character. That is to say, any owner of a licensed wireless receiver can listen in and receive general broadcast news and publish that as news". In this Bill I see that the word telegraph includes "any apparatus for transmitting or receiving messages, whether with or without the aid of wires". To that extent it would appear at first sight at any rate that this Bill is very materially altered in character since it appeared before us last year. I think, Sir, we are all in agreement with the main principle that reasonable protection must be given newspapers who buy news. But when it comes to decide upon the extent to which that protection must be granted we then come to a great divergence of opinion, for it forms a subject on which members of the House hold different views indeed. In considering the advisability of a Bill of this sort, one naturally would first of all ask where else in the world do they have similar laws. We have already heard that the prototype or practically the same thing is the English Copyright Act, and as far as I know there are only two places in the world, in the British Empire at any rate, where a law similar to what is proposed by this Bill exists: in a rather mild form in South Africa, and a similar measure was recently introduced in Palestine. Nowhere else. Everywhere else it has been found that something similar to the English Copyright Act is sufficient. When this Bill came up last year it was referred to a Select Committee; that committee could come to no conclusion and they asked the Press to submit a memorandum. The Press, I believe, referred to Reuters, Ltd., who are really the instigators of this Bill, and during the interval that elapsed the last Council came to an end, and we have reintroduced the Bill now. I would suggest that

possibly as a result of what Reuters sent out, the Bill has been to a certain extent stiffened up. I hope the Select Committee will take into very great consideration whether it has not been made a little bit too strong for the requirements of this country. Taking the reasons for a Bill of this sort, they are quite obvious. Certain papers subscribe and pay heavily for news which, after all, is of commercial value, and we all agree they must have reasonable protection. Against this is the point that the time of seventy-two hours is probably if anything a little long. I believe there is even the suggestion of making the period of protection six days, owing to the fact that a great many people in this country do not subscribe to and read a weekly paper. Another point in this Bill is the deprivation of even the right to comment on any news received by newspapers which subscribe to Reuters. There are many items of world-wide importance, such as the recent murder of the King of Yugo-Slavia, which must be known throughout the world a very few hours after they have occurred. They are broadcast by stations which have nothing whatever to do with Reuters, and it seems rather hard if no newspaper should be allowed even to comment on what everybody in the place knows without being liable to a fine of £20. I do not think it necessary at this stage to enlarge on this subject further. All I hope is the Select Committee when it sits will pay due consideration to the public as well as the newspapers which pay for Reuters. We want to give them fair and reasonable protection, but we do not want to pass a Bill which is unreasonable in view of modern development, modern inventions, and modern stations.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, when this Bill was before the House in its original form I opposed it. If I remember rightly, I used the word piracy, a word which has already been used by the hon. Member in charge when he accuses some newspapers of being pirates. I stated they were all pirates, and it is perfectly true. The hon. Member for Nairobi North has said that this Bill has come back in a different form. The nigger in the woodpile is to be found in the last seven lines of paragraph 2. Originally all messages were sent by cable by Reuters throughout the Empire. During this last few years wireless has improved to a very large extent, and I am not aware that Reuters . . .

THE HON. THE ATTORNEY GENERAL: Your Excellency, on a point of personal explanation and to save the time of the House at this stage, I may point out that the definition is verbatim the same as in the Bill which was previously considered by this House, so that unless the time of the House is to be wasted I may point that out now.

LIEUT.-COL. THE HON. J. G. KINKWOOD: I am glad that that point has been made clear, but it does not remove my objection of last time and now. Hon. Members on this side of the House have also a duty, not only to the Press but to the public, and it is my intention to protect the public. Under the Licensing Ordinance there is the point that newspapers pay no licences, and there are two objects to a licence: first, to control; the second, protection. But they pay no licence and are not entitled to control or protection, in my opinion. It would be reasonable to give protection say for twenty-four hours, which is I believe comparable with the period under the Copyright Act which is also applicable in this Colony. It has been stated on many occasions in introducing new Ordinances to this House that the reason for the introduction of a Bill was to put the laws of Kenya on the basis of the English laws. I maintain that that is a sound argument for most Ordinances, but it has not been used to support this Bill this morning. It is going away from the twenty-four hours' protection in England to seventy-two hours in Kenya. I hope there will be strong opposition to this Bill and that it will not be allowed to pass. I fail to see why it has been re-introduced, seeing that it was dropped by Government some twelve months ago.

THE HON. E. H. WAIGHT: Your Excellency, in view of the statement of the hon. and learned Attorney General in regard to the debate last year, I should like to know how that can be reconciled with the remark in the speech made by the hon. the Postmaster General, which reads as follows: "I should perhaps also make it clear that nothing in the Bill affects news of a general broadcast character. That is to say, any owner of a licensed wireless receiver can listen in and receive general broadcast news and publish that as news".

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

THE HON. THE POSTMASTER GENERAL: Your Excellency, first of all I should like to make it clear that this Bill is in precisely the same terms as the Bill introduced last year. There seems to be a certain amount of confusion as between the words "telegraph" and "telephone". The word "telephone" is simply included in the definition of telegraph as it was in last year's Bill. A point has been made in regard to a certain portion of my speech when the Bill was originally introduced. The position is precisely the same. There is nothing whatever in this Bill to prevent any licensed wireless receiver receiving general broadcast news—I emphasize general—and publishing that news; the only restriction on matter received by broadcast is where that broadcast is copyright, for instance, news matter sent out by Empire broadcast

stations or sent out by local broadcast stations. Unless the matter is copyright matter and is merely general broadcast matter which would refer to world events of importance, the Bill under discussion does not affect the publication of that matter in the slightest. I hope the position is now perfectly clear in that regard. The hon. Member for Nairobi North mentioned that similar legislation was in force in South Africa in a mild form.—As I stated, legislation in South Africa today is in very similar form. It imposes the same penalties, same restrictions, and it gives protection for a period of seventy-two hours. The hon. Member suggested that a great many people in the Colony subscribed only to weekly newspapers, and that, Sir, is one of the difficulties of the situation. You have a daily paper published in Nairobi containing news which has been paid for, and at the end of seventy-two hours from publication that news becomes free news under the terms of the Bill. But a weekly paper might very well be published four days after, say on Friday, and in that way those interested in that paper might reap an advantage at the expense of the people who publish a weekly paper on a Saturday and who pay for the collection of their news. The problem is not so simple as it would at first appear. The hon. Member for Trans Nzoia took the attitude that newspapers because they are not licensed should have no claim to protection. I wonder what the hon. Member would say if anybody came along to his premises and took a bag of maize or took any other article of property which he had paid for without "by your leave"? The position is precisely the same. There is property in news. That property has been acquired by purchase. I do think it is a most improper thing to suggest that anybody has a right to come along and take that property any more than property of any other kind without incurring the same penalty. The proposition is so obvious that I need not discuss it further.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE TELEGRAPHIC PRESS MESSAGES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Telegraphic Messages Bill be referred to a Select Committee consisting of the following:—

- Hon. T. Fitzgerald (Chairman).
- The Hon. Director of Education.
- The Hon. T. D. H. Bruce.
- The Hon. Member for Ukamba.
- The Hon. Member for Nairobi North.
- Dr. the Hon. A. C. de Souza.

THE HON. T. D. H. BAUER: I beg to second.
The question was put and carried.

THE TEA BILL.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to move that the Tea Bill be read a second time. This Bill, Sir, seeks to regulate fresh plantings of tea so that they shall not exceed one thousand acres by the end of March, 1938. This proposal, as stated in the Objects and Reasons, is in accordance with the requirements of the international regulation scheme which controls over 80 per cent of the world's exports of tea, namely from India, Ceylon and Netherland East Indies. The East African territories, including Nyasaland, have been allotted 7,900 acres, and by agreement between these territories and in accordance with the recommendations of a meeting of tea growers at Nairobi in April last, an acreage of one thousand has been allotted to Kenya. In order to ensure that fresh planting shall not exceed a thousand acres, the Bill proposes in section 3, 7, 8 and 9, for a licenced system of fresh plantings, and it also provides in section 1 that replanting of tea can be allowed on land which has been properly maintained, and in section 6 for the control of the import of tea seed. Powers of regulation and control are vested in the Director of Agriculture, who is given authority to take certain steps when necessary for the proper carrying out of his duties under the Tea Bill. He is given power to inspect land and buildings, to require returns from licencees, and, under certain conditions, to uproot tea planted without authority. Section 5 of the Bill prohibits the export of tea seed from the Colony. This provision is necessary in order to meet the requirements of the international regulation scheme.

However much one may deplore that a policy of restriction is insisted to a colony which is endeavouring to develop and expand, it must be admitted that restriction of tea planting is in the best interests of the tea industry as a whole. The object of the international scheme is to adjust supply to demand and to secure a fair price for tea in the world's markets. The supply from India and other restricted countries of tea seeds which the tea industry of the Colony needs for in-filling and fresh planting is contingent upon the acceptance by this Colony of some sort of restriction scheme as proposed in this Bill. In conclusion, Sir, I should mention with Your Excellency's sanction that it is proposed that this Bill should be referred to a Select Committee.

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 Tea Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, it really is most distressing when the Colony is very hard put to it to pay interest on loans which have been floated for the promotion and expansion of agricultural production that we should find it necessary to introduce a restrictive measure such as this. I often wonder whether Government fully realizes the extent to which this Colony has been living on the expenditure of loan funds in recent years, and I sincerely trust that Government has completely shed the illusion that there are hitherto untaxed sources of revenue somewhere in the back-blocks of Kenya. Sir, there are none. Let us take tea! My first point is that an inaccuracy has crept into—I am sure quite unwittingly—the Objects and Reasons. I refer to paragraph 2. It is quite clear by inference that 7,900 acres were given the East African territories, including Nyasaland, by agreement or with the knowledge of those territories. This, Sir, is not the case. Nyasaland was not represented at the conference of tea growers which took place on the 21st April last, and at that conference, as Your Excellency is doubtless aware, the tea interests recommended the following allocations for extended planting: Nyasaland, 2,970 acres; Kenya, 4,000 acres; Tanganyika, 5,000 acres; Uganda, 2,900 acres; which makes a total of 14,870 acres. They asked for a good deal more than they got, and the International Tea Committee whittled that down to figures which bear no relation whatever proportionately to those figures agreed on by the East African territories: to Kenya was given 1,000 acres; Tanganyika 2,900 acres; and Uganda 2,000 acres; a total of 5,900 acres. I do not suppose we ever shall, but we should like to know how they reconciled so great an allocation as 2,000 acres to Nyasaland. However, I do not wish to unduly stress that point, and as representing the majority of the tea interests of this Colony I do support this measure because, as the hon. Member has pointed out, it is believed to be in the best interests of the tea industry. But there is one point that has not been mentioned, a very important point. I understand this legislation only holds good until 1938, and there is an impression abroad which I should like to dissipate that at the end of 1938 Kenya may be lucky enough to get a further and increased allocation. Is that likely when we bear in mind that as the immature areas come into production by the end of 1938 there will be an additional supply of tea for the world of not less than 250,000,000 lb.? There are one or two small points in the Bill itself which I should like to mention now, and hope they will be given careful consideration by the Select Committee which is to be appointed. I would like to suggest for the consideration of Government that arrangements be made for this committee

to sit next Tuesday or Wednesday and that members of the Kenya Tea Growers' Association be invited to appear before that committee and help with their technical advice. It does just happen that these gentlemen will be in Nairobi on Monday to meet the Central Roads and Traffic Board. The first point in my opinion is an important one. I refer to clause 3 which I suggest is very imperfect in one or two places. The first most important imperfection exists in the fact that no provision for the replacement of existing areas is made. I think it is clear what that means. A tea planter may easily have planted a given acreage of tea on land which is not quite suitable for tea, and it is very unfair in my opinion that such a man should not be allowed to uproot that tea and make a new planting on land proved to be suitable. There is another point of considerable importance. I think a strict interpretation of this Bill as it stands would preclude any tea planter from filling up misses in his tea garden in holes in which the plant has failed to grow.

Two other points which should be given careful consideration are whether nurseries and tea seed gardens should not be excluded from the acreages which are allowed under this quota system. I know quite well these proposals are big and difficult ones and are engaging the attention at the moment of the International Tea Committee. That does not mean we are asked to pass legislation without it being our job to make it as perfect as is reasonably possible. My next point refers to clause 5, under which the export of tea seed from the Colony is prohibited. I suggest the intention will be rendered far more effective if you also made provision for prohibiting the exportation of any other planting material. As every farmer and planter knows quite well, you can propagate bushes, trees and plants in other ways than by merely planting seeds. This point might well be gone into by the committee in consultation with the expert tea planters. My next point refers to section 8, giving the Director of Agriculture full power to issue a licence or permit. My remarks must not be taken for one moment as implying want of confidence in our Director or any Director. He has our entire confidence, Your Excellency, but I suggest that as this particular industry is very highly organized—there is the Kenya Tea Association which represents nearly 100 per cent of the million-and-a-half capital invested in the industry and nearly 100 per cent of the acreage involved—I suggest for your consideration that the Director of Agriculture might, very well, before making the decision in this matter, consult the Kenya Tea Growers' Association. I understand it is the definite policy of Government quite rightly to stimulate and encourage to the fullest possible degree industrial organization. That being so, we must make the fullest possible use of the services of these

organizations when opportunity occurs. In the same clause, any person aggrieved by a refusal may appeal in writing to the Governor. There is no provision, Sir, as I read it, for an appeal to lie in the case of a modification of an application or a partial refusal. I suggest that is a point of some importance which might also engage the attention of the Select Committee.

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

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, all the points raised by the hon. Member for Nyanza are ones which can be best considered in committee. One point which does occur to me now is his question as to whether any infilling would be allowed in existing tea estates. Section 4 says: "All such replanting shall be limited to the replacement of tea bushes which have been uprooted from such land". When a tea garden is laid down for the first time presumably the whole field is covered with tea bushes, and presumably also any gaps made are uprooted, so that I take it within the meaning of this section it will be possible.

THE HON. CONWAY HARVEY: On a point of explanation, how is it possible to uproot a dead tea plant eaten by white ants?

HIS EXCELLENCY: That is more a point for the Select Committee than the Council!

THE HON. THE DIRECTOR OF AGRICULTURE: In any case, the International Tea Committee have already said they will agree to any reasonable proposals dealing with matters of that sort.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE TEA BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Tea Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General (Chairman).

The Hon. the Director of Agriculture.

The Hon. H. G. Pilling.

The Hon. Member for Aberdare.

The Hon. Member for Nyanza.

The Hon. the Acting Member for Nairobi South.

THE HON. T. D. H. BRUCE: I beg to second.

The question was put and carried.

The Council adjourned for the usual interval.

On resuming.

MOTION.

KENYA LAND COMMISSION REPORT.

MAJOR THE HON. F. W. CAVENDISH-BENTING: Your Excellency, I beg to move the motion standing in my name:—

"Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

"Whilst noting that in general terms their Report has been substantially approved by the Imperial Government, this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations."

Before speaking to this motion I should, on behalf of the European Elected Members, like to take this opportunity of associating ourselves with the reference made yesterday by Your Excellency regarding the recent appointment of Mr. Wade as Colonial Secretary. We are especially delighted in having in him a man who knows this country and has been with us for many years past.

In speaking to this motion, I beg to crave your Excellency's indulgence with regard to Rule No. 47 of the Standing Rules and Orders of this Council. In view of the importance we attach to this debate and to the very large number of references I shall have to make to specific recommendations contained in the Carter Report, I propose—subject to Your Excellency's permission—to refer, perhaps to an undue extent, to written notes. I do not think that the sentiment expressed in the first portion of this motion requires any amplification, as I am confident that it is not only the desire of the European Elected Members, on whose behalf I am speaking, but that it must be the unanimous wish of all hon. Members of this Council to place on permanent record their sincere appreciation of the tremendously thorough and painstaking work which was performed by the Kenya Land Commission. The Commissioners must, at the outset, have been overawed by the vastness of the task which lay before them, but nevertheless with painstaking perseverance they made meticulous enquiries into the nature and extent of every possible claim and have carefully weighed the needs of the native population, present and future, with respect to land, and as a result they have compiled possibly one of the most monumental, but certainly, I think, one of the most excellent Reports, that has ever been laid on the table of this House.

Before dealing with specific recommendations contained in the Report, I must allude to the reference in the motion to which I am speaking to the fact that the Report was substantially approved—and one may say, in vague terms, accepted—on our behalf by the Imperial Government at home in a White Paper which was issued on the same day as that on which the Report was issued. Your Excellency, we on this side of the House feel that we cannot allow such a procedure to pass unchallenged. The recommendations contained in this Report vitally affect every single person who lives in this Colony. Yet the report was accepted before either the Government of Kenya or the representatives of unofficial bodies in Kenya had even had an opportunity of reading the Report, still less of expressing their views. Such action, to our mind, tends to reduce the Kenya Constitution to the somewhat farcical category of being regarded as nothing more than a moribund appendage of the Imperial Government. I am aware, Sir, that I may be told that a similar procedure is not unique and was adopted elsewhere recently, but I submit that the circumstances of that case were entirely different.

I will now endeavour to put forward the views of the European Elected Members on the Report generally, leaving individual members, who have special knowledge of certain subjects, to enlarge on the Commissioners' recommendations on such subjects in due course.

The Report is divided into three parts, and probably the most convenient and connected way of dealing with it will be to take each part separately and successively. There is, however, perhaps one preliminary point which calls for some observation as it affects all three parts of the Report; that is, the method used by the Commissioners in classifying the land. I allude to this specifically, as the same method will probably be used in the reconstructed Native Lands Trust Ordinance, and I should like to state that we consider that the way in which land is classified in the Report as Class "A", "B1" and "B2", "C", "D", and "European-Highlands" is convenient and clear.

The whole of Part I of the Report deals with recommendations affecting the Kikuyu, the Meru and the Embu, and some allusion is also made to certain Nairobi problems. I do not propose to go into any detail with regard to the recommendations made as to additions to the Kikuyu Reserve. We agree with the Commissioners that, in their efforts to provide a just settlement of all claims, they have been generous in their recommendations; and we welcome this as bringing on liberal lines finality to pretensions—often not very moderately put forward—which have been a cause of vexation amongst the Kikuyu for many years past. We trust, however, that their

recommendations contained in Chapter 14 regarding the means by which a better use could be made of the land, will not escape the notice of Government or of its Administrative Officers. The so-called "Githaka" system of land tenure appears to us to be rather more in the nature of a complete lack of system; it is not traditional nor has it been long established, and it is already shown signs of breaking down. Furthermore, it tends to encourage the uneconomic subdivision of holdings, a habit which presents a very real problem amongst the Kikuyu. In this connection we would invite Government's attention to the final portion of paragraph 535 of the Report, in which the Commissioners state that they are satisfied that there are several features of this "Githaka" system which require to be regulated without delay and where they stress their belief that in the Kikuyu Province there is real danger that the present policy of *laissez-faire* may be carried too far and will result in further uneconomic fragmentation of land and consequent depression of the standard of life and, we would add, in a steady reduction in productivity in the Kikuyu Reserve. Your Excellency, I shall refer again on several occasions in the course of this debate to what I shall term Government past policy of "benevolent *laissez-faire*".

As regards the Commission's recommendations in respect of the Meru, we note that a reversion to the boundaries, as provisionally gazetted in 1925 and approved by the Governor in Council in 1928, is recommended; that we agree to. It is, however, suggested in paragraph 570 that, as the Meru set considerable store on the acquisition of the piece of land now comprised in farm L.O. 4034, the Commissioners can see no reason why they should not be permitted to make an offer for this farm, provided the lessee is prepared to entertain an offer and provided the accredited representatives of the European Highlands agree. This, I believe, is the first occasion in the Report in which reference is made to the accredited representative of the European Highlands. Further reference to this is, of course, made in paragraph 1400, in which the Commission deals with the general question of the possible leasing of land in the European Highlands for native use. I shall therefore allude to this matter again at a later stage and will confine my remarks at the moment to expressing the hope that Government will not implement these recommendations made in paragraph 570 with regard to the Meru until the question has been settled as to how the accredited representatives of the Highlands are to be defined, and secondly, equipped with the necessary statutory powers. Before leaving the Meru we would note that a recommendation is made that the land occupied by the King's African Rifles at Meru should

be set apart and leased if the troops are to remain there. We agree with that, but are always a little bit doubtful as to the wisdom of troops remaining there.

Before concluding Part I of the Report, the Commissioners deal at considerable length with certain land and other problems connected with the Nairobi Township and Commission. Specific recommendations are made as regards the village of Pangani, the Pumwani native location and the Sudanese settlement at Kibira. With regard to Pangani, we sincerely trust that some definite attempt will immediately be made to close this village, which is an eyesore and which is definitely inimical to the health of the town. It would appear that any attempt at finding a solution to this pressing question was purposely postponed until such a time as the Commission had reported. The Commission has now reported and has made recommendations in considerable detail, and in order to stress the urgency of definite action being taken I need only quote part of one of their conclusions, which is this: "that the location at Pangani is deleterious both to the health and morals of the natives. It is badly overcrowded and has a notable preponderance of undesirable. The sanitary conditions are not such as ought to be permitted in Nairobi and are a menace to the town." With this opinion before them, we trust that Government will no longer procrastinate but will, with the co-operation of the Municipal authorities—which I am sure will be only too readily offered—ensure that immediate action is taken, although the measures adopted to close the village may have to be put into force piecemeal.

We would also invite Government's earnest consideration of the recommendations of the Land Commission with regard to the ex-Sudanese settlement at Kibira. There is no doubt that a very large proportion of the natives resident in Kibira entered the location without leave and without authority, and further they are in many cases a source of trouble and are leading disorderly lives. The situation to-day in Kibira is only another example of the dangers attendant on the past policy of "benevolent *laissez faire*." In connection with it I would draw Government's attention to the note which appears on page 178, reminding us that "the natives of this country, as being a people under tutelage, are entitled to expect that Government will direct and control. Where Government relaxes that control it must share the responsibility if irregularities occur and natives cannot be greatly blamed if they take Government's inaction as representing acquiescence". A very large proportion of the complications and difficulties which the Commissioners at this late stage have had to endeavour to solve have most undoubtedly been caused by Governmental inaction in the past.

Lastly, with regard to Nairobi, we would urge the necessity of taking steps to deal with the problem created by swarms of Somali cattle grazing on the Nairobi Commouage. This land should now either be developed as a national game park or should revert to the status of unalienated Crown land in the Highlands, in respect of which Europeans have a privileged position. I wish most earnestly to express our agreement with the opinion recorded by the Commissioners in paragraph 634, to the effect that "natives who elect to live in the town cannot expect to keep cattle". The huge numbers of half-starved cattle which are at present trespassing all over Nairobi have for a long time past been, and still are, a dangerous pest.

Dealing now, Sir, with Part II of the Report, it starts by dealing with problems connected with the Masai. The recommendations made by the Commissioners in this regard will be commented on by members who have specific knowledge of the Masai country. I will merely record that we have noted that the Commissioners have decided that the Masai have no claim of right to what is known as the "Mile Zone" or the "Chiyulu Triangle" and that, notwithstanding a temporary facility to the Masai permitting them to take out annual licences at a reasonable rent, the status of the "Mile Zone" is to remain European Highlands. We notice with approval that certain financial adjustments are recommended as between Government and the local Masai Native Council with respect to some of the land which forms part of those alienated farms south of the Mbagathi River. The Commissioners further recommend that an area totalling 14,068 acres of good grazing land on the south of the East Mau Forest Reserve be granted to the Masai in exchange for an area of 19,245 acres of forest, which latter forest in future is to be accepted as Forest Reserve. We are very pleased to note that recommendation, because we are most anxious that such forests as exist should be preserved. Certain tribal exchanges of land as between the Kikuyu and the Masai are also suggested. All the foregoing appear to us to be equitable and desirable adjustments.

After dealing with the Masai the Commissioners deal with the Wakamba. They point out that the overstocking of the Muehobes Kamba Native Reserve is particularly noticeable and that it cannot be questioned that a very large proportion of the Kamba cattle are of a low-grade uneconomic type, consisting largely of useless bulls and barren cows, besides large quantities of poor sheep and goats. The same remarks would appear to apply to the Kitui Kamba. Further reference to the general question of overstocking will be made at a later stage of this debate. The Commissioners, after considering the claims of the Wakamba, have recommended that certain

additional grazing facilities be provided for the tribe by the addition of approximately three hundred square miles on the Yatta Plateau. As a result of giving very careful thought to the reasons given by the Commissioners, we endorse this suggestion, but we feel that we should point out that if this recommendation is accepted it will mean that the whole of the Yatta Plateau, which has hitherto been regarded as unalienated Crown land and an area which might be developed in the future by a large scale non-native enterprise; will in future become native reserve in that the northern part of it is to be added to the Kikuyu Native Reserve as an extension under category "B1", three hundred square miles of it under this recommendation will go to the Wakamba as class "B1" land, and that portion between the Mwita Siano River and the Kitui Native Reserve is to become a native area class "C".

We approve the various other additions or advantageous exchanges which are also recommended with regard to the Wakamba tribe.

But before leaving the subject of this tribe, we would draw attention to their well known inclination to encroach beyond their definite boundaries, notably in a south-easterly direction. We trust that now the Commissioners have reported, that Government will implement a definite policy with regard to the use of the new "A" and "B1" additions to Wakamba territory. A very vigorous policy of bush clearing, etc., appears to us to be especially necessary in the case of the 512 square miles class "A" land which is to be given to them in lieu of the Kikumabulu location.

In Part II the Commissioners next deal with the Northern Frontier and Turkluana Provinces. They recommend—and we most thoroughly endorse their remarks—that, excepting only in the case of the West Suk and North Pokomo, no native reserves should be declared in either of these Provinces; firstly, because the areas under review are so vast in proportion to their populations that it would amount to an unjustifiable locking up of land if it were devoted in perpetuity to the exclusive use of the nomadic tribes or sections of tribes who at present make use of it; secondly, because they do not consider that the existing natives have established any claim to exclusive possession either on historical or on economic grounds; and thirdly, because the Commissioners believe that it might be in the best interests of the Colony were considerable areas to be leased to non-native individuals or to companies who have the capital to improve or develop these areas. Nor do the Commissioners consider it necessary to insist that in every case such leases should only be granted if they were directly beneficial to the natives. Priority of native interests can, however, be safeguarded by a special section which they

suggest should be inserted in the Lands Trust Ordinance. Mention is incidentally made of the fact that any attempts to cultivate these areas in the Northern Frontier Province which are suitable for agriculture are at present entirely frustrated by the very large quantities of game which exist in that part of the country. I shall again allude to the question of game in dealing with Part III of the Report.

Your Excellency, in making their recommendations with regard to the Northern Frontier and Turkhana Provinces, the Commissioners have endeavoured to deal with the question of Leroki, in respect of which they reach the conclusion that similar recommendations should apply generally to the Leroki Plateau, but they add that in the case of Leroki leases of large areas to non-natives should not be allowed except for purposes directly beneficial to natives. They stress, however, that the ultimate destination of this land is a matter with which they do not find it necessary to deal. A special chapter is devoted to the question of the Samburu in relation to the Leroki Plateau, the general gist of which chapter tends to put forward a plea to the effect that although the Samburu have only the slightest—if any—claim to Leroki, again owing to Government's past policy of "benevolent *laissez faire*", the Samburu have been driven from their former grazing grounds by more virile, and in most cases alien, tribes, and the country that is now left them is incapable of supporting more stock. It is rather curious that in spite of the fact that the Commissioners put forward these arguments they somewhat inconsistently suggest that Somalis, whom they regard in section 812 as aliens and immigrants, and in section 813 as non-natives of the Colony and foreigners, should have the same privileges as natives in a newly demarcated and neighbouring "C" area; and furthermore, it is odd that they should visualise, in spite of the alleged shortage of grazing, that a very large area of land between Mt. Marsabit, Leroki and Isiolo should be turned into a game reserve.

The question of Leroki will be dealt with in the course of this debate by other members who have specific knowledge of this country in the past, in the present, and its history. At this stage I will only say that the recommendation made by the Commissioners that the Kittermaster Line should become the southern boundary of the Northern Frontier Province is unanimously considered by the European Elected Members to be unnecessary and unjustified by the evidence adduced—or shall we perhaps more correctly say not adduced—by the Commission. The unconditional acceptance of this recommendation would, furthermore, in our opinion constitute a gross breach of faith in respect of the European settler community. The Commissioners themselves admit in paragraphs

858 to 861 that when the Masai were originally removed from Leroki, they were moved, and moreover were moved without any trouble, because it was clearly understood by all concerned, including the Masai themselves, that this move was taking place only in order to make this area available for future white settlement. This was definitely admitted by the Secretary of State in 1926. There is furthermore no doubt that the local Government has on many occasions in the past attempted—although perhaps rather half-heartedly—to find alternative accommodation for the Samburu, which is at least a tacit admission of our claim.

In the Report the Commissioners make a description of this area and make an attempt to estimate the number of Samburu stock on Leroki. I would like to add this: I have endeavoured to inspect this area myself and to try and get an idea of the number of stock on it by the adoption of what I consider was the most obvious step, which is to procure an aeroplane and fly on definite compass courses backwards and forwards over Leroki. As a result of what I have seen—and I have probably seen more than it is possible to see from the ground—in several weeks' *safari*—I can only add that with all due respect I entirely disagree with the description of the area and with the high estimates of the numbers of stock made by the Commissioners, who admit themselves that their statements are only based on what they believe and not on what they have themselves seen.

Incidentally, with regard to the recommendation that the Kittermaster Line should become the southern boundary of the Northern Province, it is rather interesting—if not tragic—it would be rather amusing—from our point of view to note that now that Government have at last realized that their policy of "benevolent *laissez faire*" and of letting things slip has resulted in the Samburu getting so obviously out of hand, that they have, since the publication of the Carter Report, been obliged to deviate from the recommendations made therein and have had to place the Leroki area for purposes of administration under the Rift Valley Provincial Commissioner.

In concluding my remarks regarding this question, I must therefore most emphatically protest against any further action being taken towards inducing a further infiltration of Samburu into the area between the Kittermaster and the Coryndon Lines and on behalf of the European Elected Representatives I must, in no unmeasured terms, press our claim that the Leroki Plateau be regarded as land which in future will still be available for white settlement.

In putting forward this claim we realize that some reasonable alternative must be made available for the Samburu. We maintain that such an alternative does exist and it will be put

forward by another member at a later stage in this debate. We would further stress that the Commissioners themselves appreciate that our claim is just, as they have been very careful to what is vulgarly termed "pass the buck" and to make no definite recommendation as regards the future of this area, and thus, in putting forward our case, we are in no way contravening the general terms of the Commissioners' recommendations.

The next portion with which I wish to deal are recommendations concerning the West Suk. Here again we must draw the attention of Government (I am sorry to harp on this question so often) to a further concrete example of the disastrous effect of their past policy regarding the results of which the Commissioners, in section 906, find it difficult to speak with moderation. I refer to the enormous numbers of stock which the Suk have been allowed to accumulate. I trust that Government have noted and are prepared to adopt the measures which in this section of the Report the Commissioners urge must be taken forthwith. We further appreciate that a proposal for the addition of six unalienated farms for the West Suk Reserve has not been approved. The Commissioners, however, do consider that a possible alteration, by agreement, between the Kenya and Uganda Governments, to the Suk-Karamojong boundary was worthy of further investigation. Perhaps during this debate Government could inform us whether the temporary agreement mentioned in paragraph 911 has led to any more permanent arrangement as between the two Governments.

The Commission next deals with the problems of the Rift Valley Province in respect of the East Suk, the Njemps and the Kamasia Native Reserves; in other words, that area which stretches from north of Lake Baringo southwards to Lake Solai and Eldama Ravine. There is no doubt that all these reserves are grossly overstocked. All have been allowed to accumulate enormous numbers of bad quality stock, far in excess of their needs and far in excess of the capacity of the land to carry. The result is complete ruination of the land, which for all practical purposes in some places is no longer capable of supporting life. We would therefore stress that in section 914 the Commissioners very rightly make the opportunity of stating emphatically that in their view there is no obligation, either moral or otherwise, upon Government to attempt to provide at varying intervals unlimited grazing for stockowners of any race, and that the practical remedy for overstocking does not lie in perpetual attempted piecemeal extensions of land, which in turn are by mismanagement converted into desert, but rather in the provision of outlets, the culling of uneconomic stock and the control and reconditioning

of the pasture available. It is further pointed out that much of the damage done to these reserves—and to all reserves—is due to goats, to which we shall make further reference. We are aware that a certain amount of reclamation work is being done in the Kamasia Reserve, and we trust that further measures to endeavour to regenerate these reserves will be taken in hand at once before it is too late. Before leaving the Kamasia, we note that there is a proposal that Government should open negotiations for leasing certain farms on the Esagari River. We do not object to this, but we do consider that on a point of principle we must again remind Government of the recommendations contained in paragraph 1406 regarding the rights of the accredited representatives of the European Highlands. We therefore trust nothing will be done until some solution is found as to who are the representatives and what power they have got. We wish also to point out that the addition to the Kamasia Native Reserves and to the Njemps Native Reserves made in section 941, 942 and 969 will entail a tongue of native reserves penetrating a long way into a European farming area. I merely mention this fact because I should like to draw Government's attention to our belief that boundaries of this nature are not very desirable if they can possibly be avoided.

The next recommendations of any importance made by the Commissioners concern the Elgeyo, Cherangani and Marakwet, the chief being to the effect that the Elgeyo should give up 4,034 acres of dense forest and should receive in exchange 3,850 acres of gazetted forest reserve, which in point of fact is not forest at all, and 1,120 acres of unalienated Crown land—making a total of 4,970 acres of good grazing land; and further that an addition should be made as Class "B1" land of certain up to now unalienated farms in the Cherangani farm area. We agree with all these suggestions, notably the forest one, because as I have already said, we feel it is important that the forest reserves of the country should be preserved, and incidentally they will if implemented go a long way towards protecting the source of the Eldoret water supply, which we regard as a rather important matter.

We should like to endorse very strongly the opinion of the Commissioners that the creation of an infinity of small mutually exclusive native reserves is a mistake and should be avoided in all cases where the customs of contiguous tribes are not very divergent, and we trust that both the land at present held by, and the extensions recommended with regard to such kindred peoples as the Elgeyo, Marakwet, East Suk, West Suk, Njemps and the Kamasia will be gazetted as one reserve and not as five or six.

As regards the Nandi recommendations, I am leaving it to another hon. Member who has personal knowledge of the facts to comment on the recommendations regarding both the suggested payment of £5,000 and the suggested modifications of the Cogle Line. There are, however, two small points to which I would like to draw attention, the first being that there are 154 square miles of forest which is now contained in the Nandi Reserve. We consider that this forest should be gazetted a native forest reserve as otherwise it might and certainly will be destroyed, which would be a calamity, not only for the native reserve, but for the country as a whole. The second point I wish to make refers really to Part III of the Report but it is perhaps more convenient to mention it at this stage. I therefore beg to draw the attention of Government to the recommendation made in section 1973 to the effect that, although the area in which the Kipkarren and Kaimosi farm blocks are situated is native reserve and therefore in a territorial sense cannot be said to be European Highlands, the Commissioners nevertheless recommend that Europeans should have the same privileges, both in respect of initial grants and transfers of land in these two blocks, as they have in the Highlands proper.

I will now pass on to the recommendations in respect of the three Kavirondo Reserves. Roughly, the recommendations are that 40,000 acres of land in the neighbourhood of Mt. Elgon should be given to the Kavirondo Native Reserve for the use of the El Gonyi; that 1,380 acres which now form part of the Kisumu township should also be added to the reserve; and that 900 acres at present in use at Maseno as a social service centre should in future be regarded also as forming part of the reserve; and that, should farm No. L.O. 653 come into the market, natives should be allowed to bid for it either tribally or privately. We note with satisfaction how few were the claims or complaints put forward by the Kavirondo, but we cannot avoid expressing some astonishment that, whilst the Commissioners found it necessary to recommend additions of land for the use of this tribe, additions which we cordially endorse, Government nevertheless since the publication of this Report, were able to find room in the Kavirondo Reserve for the recently expatriated Lumbwa Laibons together with their families and stock.

I will now pass on to the claims of the Lumbwa and will only say that we note that the Commissioners recommend that approximately 148 square miles of the Chipalungu Forest should now be added to the Lumbwa Native Reserve as native land Class "A", but that Government should reserve in this area such locations as may be considered advisable for the use of the few Dorobo who are to be moved into Chipalungu

from the Mau area. We do, most expressly desire to draw Government's attention to the request made by the European farmers at Botik that an area at Chemagel should be excised from the reserve for township purposes, and to the Commissioners' recommendation in regard to this request that approximately two square miles should be provided for this purpose, though not necessarily excised from the reserve.

I do not propose to deal at any length with the recommendations regarding the Pokomo, Nyika, Digo, Taveta and the Bagalla Reserves. We trust, however, that any settlement regarding water rights in the neighbourhood of Taveta will not be allowed at this late stage to rest unfairly on the few big estates which are operating in the Coast Province. We also heartily reiterate our endorsement of the recommendation that all these native reserves, many of them very small, should be proclaimed collectively as one reserve, to be known in future as the Coast Province Native Reserve.

On the subject of the Coast Belt and the Ten Mile Strip I am not qualified to say very much. There are, however, innumerable private claims in this area which must be adjudicated upon without further delay. Any attempted perpetuation of tribal conditions at the Coast is neither workable nor desirable and the provisions of the present Land Titles Ordinance do not appear to apply satisfactorily in the Coastal area. Some solution of the urgent question of ascertaining once and for all what lands are at the disposal of the Crown and what lands are private is therefore very long overdue. We thoroughly agree with the Commissioners that this work of adjudication must be immediately proceeded with energetically and that it is most probably desirable that the office of Recorder of Titles should be reconstituted. Incidentally, we believe that a Coast Lands Titles Committee is supposed to be sitting with the object of clarifying this position. Perhaps in intervening in this debate Government will inform this House whether this particular committee has yet sat or made any interim or other report, as some of us feel that this committee at present constituted may not prove altogether what is wanted.

I have now, Sir, dealt with Part I and II of the Report, which deal with specific conditions in individual native reserves.

We come to Part III of the Report, which, from the point of view of the European Elected Members, is probably the most important section of the whole report, as in it not only do the Commissioners make their recommendations with regard to the European Highlands, but they also endeavour at some length to make a general survey on a wider plane of many of the great difficulties which we have to overcome

if Kenya is to progress and if their recommendations, made with a view to some final solution of the many vexatious problems which have existed in the past, can be successfully implemented.

Dealing firstly with the most important subject of the general conditions obtaining in the native reserves, we note the Commissioners stress that there are two main issues which must be faced; the first being the maldistribution of the population, and with that are connected the problems which arise in respect of tenure of land; the second being the hopelessly uneconomic manner in which the land is at present being utilized and the attempts which must be made forthwith to prevent further denudation and erosion.

As regards the first, the Commissioners have gone into the question of maldistribution in some detail and have pointed out that, in the interest of elasticity and in order that peaceful inter-penetration between tribes can be facilitated and a more economic distribution of the population secured, they have recommended the general classification of land into "A", or permanent native reserves; "B1", as land to be added to a native reserve; probably required permanently; "B2" as land to be added to a native reserve but possibly not required by that particular tribe for all time; Classes "C" and "D", and European Highlands, with which I have already dealt; recently they have also recommended a most radical departure from the present system hitherto adopted of demarcating innumerable small rigidly self-contained tribal reserves by suggesting that in future there should only be in the whole country nine main units of native reserves. We wish again strongly to endorse in general terms the opinion put forward by the Commissioners to the effect that a notable degree of maldistribution does exist to-day and unless steps are taken to counteract this tendency the problem will become far more acute in the near future.

Many detailed recommendations are made whereby some reasonable readjustment can be brought about and we have no doubt that these recommendations will also be endorsed and acted upon by Administrative Officers. With reference to these recommendations, however, an important point arises with regard to readjustments which might become necessary in the future in connection with leases, and leases to a tribe of land in the European Highlands. This latter eventually rises from our point of view a very vital question and, much as we wish to ensure for all time to natives, a sufficiency of land for their legitimate requirements, subject to such land being reasonably economically used, we must nevertheless naturally insist absolutely that adequate security of tenure be accorded to the European community. To our mind, the

recommendations dealing with the possibilities of leases to a tribe of land which is in the European Highlands are vague and insufficient. It is, for instance, admitted that when an application is made for land situated in the European Highlands the European community will have to be consulted, but the only recommendation made with regard to this is a very vague and unsatisfactory one to the effect that practical means of doing this will have to be devised. In the very next sentence it is, however, suggested that in all cases agreement should be sought between Government, as representing the Colony as a whole, and the accredited representatives of the European community, and yet in section 1400 the Commissioners visualise the possibility of leases to natives of land in the white Highlands being forced through against the wishes of the owner of the land, possibly by the application of the Land Acquisition Act, or even against the wishes of the local district council, but never in the face of any objection by the accredited representatives of the whole of the European Highlands. I have referred to this subject as it came up earlier on in the course of my remarks and would repeat that I can see no definite recommendations in the Kenya Land Commission Report as to who are to be regarded as the accredited representatives of the Highlands (I can only presume that the Commissioners visualised the European Elected Members), nor is there any recommendation as to how such representatives are going to be definitely defined and equipped with any statutory powers that may be necessary. We regard this as a vital question and one to which some solution must be sought forthwith, as it is on a satisfactory solution the adequacy or otherwise of the security in the European Highlands which the recommendations of the Kenya Land Commission are supposed to accord to the European community depend, and we do not believe that such adequate security can be afforded unless some satisfactory form of European Lands Trust Board be established by statute and given precisely the same powers within the boundaries of the European Highlands as are accorded to the Native Lands Trust Board in regard to native lands. I shall refer to this matter again when dealing with the delineation of the boundaries of the European Highlands.

Having dealt with the Commission's recommendations with regard to maldistribution, we now come to the second main issue, as regards native reserves—the question of the economic or uneconomic use of land, or perhaps the question of how to put a stop to the wanton destruction of land which is at present taking place. The Commissioners in their Report devote much space to dealing with this vitally important problem and they rightly point out that when considering the future needs of natives as regards land, the question of the use and conservation of such land is at least as important as

the extent of the areas allotted to them, the amount of land required being mainly dependent upon the manner in which it is used: They further stress, in no measured terms, that a most definite obligation falls upon Government to face the existing desperate situation and to devise adequate remedies. It is not a problem which anywhere in the world can be solved by an increase in land. If the present system of lack of control is permitted to continue in this territory, then the whole of Africa would not be sufficient to satisfy the needs of the natives of Kenya in the future. The primary cause of the tremendous amount of denudation and erosion which are taking place to-day is a complete lack of any rational method in agricultural or pastoral practice of the natives. As regards agriculture, the Commissioners suggest that they had divergent evidence. On the whole, however, the vast majority of the evidence was to the effect that soil erosion and the considerable destruction of cultivable areas which have taken place during the last twenty years or less are entirely caused by the unfortunate methods still employed by the native population. The late Director of Agriculture attempted to rebut this contention. It was, however, on the other hand, definitely supported by the Acting Director of Agriculture and has also, I see, been supported in unequivocal terms by another experienced and very able member of our Agricultural Department in a recent article which appeared in an African periodical, from which I am going to quote in dealing with this subject.

We can, I think, at all events accept the fact that so long as natives were able to roam about at will, extending their cultivation, erosion did not worry them, but since a cessation of tribal wars and increased population has made it necessary to cultivate land for long periods—as has been customary in all other parts of the world for centuries—the structure of the soil in Kenya has altered and tremendous damage has already been done. When this land is eventually allowed to go fallow the development of vegetable cover is very slow—if, indeed, the goat ever allows any development to take place. Although we realize that steps have been taken by Government lately to try and effect some improvement in this regard, we are nevertheless definitely of the opinion that the time has arrived when it has become necessary to take very much stronger action in order to instil soil cultivation methods into the native agriculturalist, if necessary by resorting to compulsion.

Leaving for the moment the subject of agricultural tribes and turning to that of the pastoral native, we wish by every means in our power to endorse every criticism made by the Commissioners as to the lamentable state of affairs which now exists in the pastoral areas in the reserves. They state that in

many parts where there used to be grass there is to-day nothing but bare earth and in section 1088 they go as far as to express the view that at the present moment a preposterous state of affairs exists in the Colony. The trouble is, of course, largely due to overstocking. We realize fully on this side of the House that the problem is a difficult one for the Administration in that the native of Kenya looks on his stock as currency—and not as a productive asset. Mere numbers count far more than quality, and furthermore the stock question is interwoven in every direction with native habits and customs. Furthermore, when Government does show any inclination towards facing the position by trying to ascertain what amount of stock is being kept by any particular tribe, we feel that Chief Koinange's statement is correct, to the effect that counts made of sheep, goats and stock by the Agricultural Department are purely imaginary, because, for fear that they are going to be told that they have got too many, the native lies about and hides the real numbers of stock that he has.

We also realize that radical and drastic attacks on deep-rooted customs are repugnant to the general principles of British Administration, and may even lead to temporary unrest amongst the natives concerned. Nevertheless, the choice appears to us to lie between taking firm and drastic measures and the complete ruination of this country, which is already in certain reserves rapidly turning into a sort of Sahara Desert. The areas of practically all native pastoral tribes are overstocked. Overgrazing is denuding the soil of cover, and the goat destroys all the young growth it can, with the result that the soil remains bare and the rapid run off of rainfall is increasing.

It may be claimed that three main factors are concerned in this denudation—overstocking, drought and locusts—but of these overstocking is by far the most devastating. The damage already done is immense, but luckily is not as yet everywhere irreparable. Some areas closed against stock have, in the course of a year, regenerated a good pasture; but in other areas, even after a year's rest, only very careful search will discover any grass roots, let alone green grass. In such areas after rain a sporadic growth of useless weeds takes place and gives a green flush to the countryside, but is perfectly valueless.

The European Elected Members wish to stress that the reclamation of land in such a condition is well-nigh impossible and that in their opinion only legal compulsion can help, and even so, much of what is saved will be damaged land of low carrying capacity. The only salvation both for the people and for the land is a complete change of outlook on the part of the native.

The dangers so clearly set out in the Commissioners' Report in the article from which I have just quoted are quite peculiar to Kenya; they are common to the whole of Africa. The evils, however, are probably accentuated in this country, again owing to a past policy of lacking in control. Incidentally, we often talk of the damage caused by visitations from pests peculiar to the tropics—namely of droughts, locusts, etc. Admittedly, drought and locusts are two of our greatest trials or plagues, but they at least are periodic. By far the greatest pest in Africa is permanently with us. I am referring to the goat, and would urge on Government that the interests of the natives themselves steps must be taken to control the numbers of these destructive parasites.

I have dealt with erosion at greater length than I meant to, but I am sure Government will realize how serious and how urgent the problem of overstocking is. We, the European Elected Members, cannot sufficiently stress how terribly serious we consider the present state of affairs. Proposals of the Commissioners to remedy this position will be found set out in paragraph 2040. Amongst them are suggested the principle of compulsion in reducing the numbers of stock in areas in which the land has been devastated be adopted, and further that the provisions of the Crop Protection and Live Stock Ordinance be put into force in such areas as soon as is practicable. They also suggest that the imposition of a Stock Tax, not so much as a means of revenue but as a means of control, be considered at the earliest possible moment and that steps should be taken forthwith, either through a public utility company or directly by Government, for the establishment of fertilizer factories; and lastly that a committee be appointed to consider these matters in detail. On behalf of the European Elected Members I can say that we whole heartedly endorse all these recommendations and we trust that such a committee will be appointed at the earliest possible moment, as, in our opinion, the urgency of the problem brooks of no further delay.

I must add that the lamentable state of affairs which exists in the reserves was forcibly pointed out by the Agricultural Commission which sat under the chairmanship of Sir Daniel Hall in 1929. The Carter Land Commissioners allude to this most valuable report in paragraph 1996. On behalf of the European Elected Members I will only add that we trust a little more attention will be paid in 1934 by Government to the Carter Report on this subject than was paid to Sir Daniel Hall's Report in 1929. Five years' procrastination has neither been beneficial to the natives nor to Kenya.

I have endeavoured, Your Excellency—I am afraid at inordinate length, but it is impossible to curtail a discussion on a Report of this size and of this importance—to comment

on that major portion of the Report which deals with individual native reserves and the conditions existing in those reserves. I now wish to say something with regard to the Commissioners' recommendations regarding aid and the criticisms of present methods of protection and control and the existing Native Lands Trust Ordinance. We thoroughly agree that the existing Ordinance is so complicated and its intentions are so lost in the tangle of its own checks and counterchecks that, not only does it not provide the security that it should provide for the native, but as it exists to-day it constitutes a serious hindrance to the progress and to efficient control of the reserves. The present provisions concerning any alteration to tribal boundaries are exceedingly rigid, far too rigid in view of the fact that we are of the opinion (already expressed) that there is no reason to suppose that the present grouping of tribes will last forever, and that in view of probable future variations of population more elasticity is eminently desirable in the interests of the natives themselves. For these reasons we thoroughly agree with the arguments put forward and the recommendations made in Chapters V and VI of Part III of the Kenya Land Commission Report with, however, two notable exceptions of some importance. The first exception is the recommendation as regards the constitution of Local Land Board, which it is now proposed should be composed in future of natives only under a District Commissioner. We feel very strongly that, as these Boards will in future have important problems to deal with, it would be a great mistake to deprive the District Commissioners, or the natives, of the benefit of the advice when available of local settlers or missionaries who, in many cases, have great practical experience of the very problems the Board are trying to solve.

The second suggestion with which we entirely disagree is that the members of the Lands Trust Board should be resident in, and the Board established in England. We admit in principle that the main function of the Native Lands Trust Board is to protect and that questions of development and administration and control in the native reserves is the business and concern of the local Government, but we definitely do not agree that, whilst members of such a Board are resident in Kenya, the position is either embarrassing to Government or hard for the natives to understand; and we emphatically contend that trusted and impartial men can be found in Kenya to undertake the serious responsibilities which service on this Board entails, and men, furthermore, who have the additional advantage of having a lifetime's experience and knowledge of the problems of this country. We note, however, with satisfaction from paragraphs 25 and 26 of the White Paper that the recommendation that the Native Lands Trust Board should be a London Board has been turned down by the

Imperial Government. We should, however, like to know what the future composition of this Board is likely to be. Perhaps Government would enlighten us on this point during the course of this debate?

Before leaving this section of the report, we wish to stress one of the recommendations contained there and that is that steps should be taken forthwith to render section 65 of the Crown Lands Ordinance, 1902, and section 31 of the Crown Lands Ordinance, 1932, inoperative, both in existing and in future leases. We look upon this recommendation as one of considerable importance and we trust that steps will be taken to deal with this matter without delay.

Finally, we need hardly say how whole heartedly we endorse the recommendation contained in section 1658 to the effect that the boundaries of the reserves and of Class "C" land—native leasehold areas—should be declared and finally settled by Order-in-Council.

We now, Sir, turn to that part of the Report which deals with the definition of the European Highlands, in connection with which it will be recollected that the sixth term of reference given to the Commission is as follows:—

"To define the area generally known as the Highlands within which persons of European descent are to have a privileged position in accordance with the White Paper of 1923."

It is an accepted fact that although it has, at any rate since 1906, been agreed that there was an area within which European privilege obtained, nevertheless the exact boundaries of that area have never yet been defined. Various declarations on this question were made, both by the Land Commission which sat in 1905, by Sir Frederick Jackson, by Lord Elgin, as Secretary of State, and in the White Paper of 1923; and subsequently precise boundaries of this area have been proposed by the Commissioner of Lands in 1924 (proposals which were modified in 1925), by His Excellency the Governor in 1928, and by a special Sub-Committee of Executive Council which submitted two reports in 1928. In the opinion of the Commissioners the proposals as regards exact delineation of boundaries which give the fairest interpretation as to what might justifiably be regarded as European Highlands were the recommendations of the 1928 Sub-Committee of Executive Council. The Kenya Land Commissioners have, however, recommended considerable modifications to this Sub-Committee's proposals, notably by suggesting the exclusion of the Leroki Plateau, to which I have already referred; also by making specific recommendations with regard to a small block

of farms to the east of Muhoroni, and by recommending certain readjustments of the Kenya and Elgon boundaries, the Milo Zone and the Kapmato block of farms. In addition, the Commissioners make a number of other minor exceptions and qualifications and in a Schedule on page 490, section 956, they set out a kind of profit and loss account in detail. The Elected Members have studied these recommendations with great care and with the definite exception of the somewhat vague recommendation made with regard to Leroki we are prepared to accept the recommendations in their entirety, in spite of the fact, which is admitted by the Commissioners themselves in section 1978, that acceptance does entail very considerable sacrifices on the part of the European community—sacrifices which are all the more notable in view of the fact that we were led to believe that the gazettement of the native reserves boundaries in 1926 would settle the question of the requirements of natives in respect of land for very many years to come, and here we are already in 1934, substantial alterations have yet to be made. We realize, however, that at no time has any such thorough and meticulous inquiry into the whole position been made, and in order to achieve finality we are prepared to subscribe to the Commissioner's recommendations on the assumption that in accordance with paragraph 9 of the White Paper it is the intention of His Majesty's present Government definitely to accept once and for all the Commissioners' definition of the boundaries of the European Highlands, and we trust that such acceptance will be binding on successive or future Governments.

It is only fair to add that apprehension does still exist amongst Europeans that the extent of the Highlands may again be diminished, either by the Government of Kenya or possibly, should another Party come into power, by the Imperial Government in England. We have always understood—and our wholehearted acceptance and support of the recommendations contained in this Report entirely hinges on this one understanding—that the main object of the Commission has been to frame recommendations which would instil a sense of absolute and permanent security in the minds both of the natives and of the Europeans, and we therefore demand—and I think on this occasion we have a right to demand—that the boundaries of the European Highlands should be firmly safeguarded by a suitable Order-in-Council so that we, the European community, who after all have been encouraged to come out, colonise and make our homes in Kenya, may in common justice at least be given the same measure of security in regard to land as is given to the natives. I must, however, add quite definitely that in our opinion not even an Order in Council can furnish that security unless such Order in Council specifically

provides for the grant to a statutory body comprised of the representatives of the whole of the European Highlands (as recommended by the Commissioners in paragraph 1406 of their Report) absolute power of veto over all land transactions whatsoever within the boundaries of the European Highlands on similar lines to the power accorded to the Native Lands Trust Board in regard to transactions in native lands.

Without this security, Your Excellency, we consider the whole work of the Commission as pointed out by themselves will have been a waste of time.

Before leaving the subject of European Highlands I wish to make some allusion to squatters, or as they are now termed in legal parlance, resident native labourers. This subject and the problems that arise therefrom will be dealt with later by another honourable Member. Speaking generally, however, we consider that a greater control of squatters will have to be exercised in the future, or from their very numbers they may become a serious problem. We would like to endorse the view expressed by the Commissioners that steps should, when possible, always be taken to ensure that the essence of any contract as between the employer and the squatter must be that it is a labour contract, the employee being allowed, for his greater comfort, to keep the number of cattle required for himself and his family. If, however, he is allowed to keep more than that number the character of the contract changes in effect until it is predominantly a tenancy contract, which, in our opinion, ought to be prevented as being contrary to the purposes for which the European Highlands have been reserved.

We attach also some importance to the question of how Government intends to handle the problem of townships in the native reserves, as we are not in complete agreement with the basic principle recommended in section 1544 that townships should remain in reserves and grow progressively out of plots as need arises. We feel that each case should be treated on its merits and that should a small township show a tendency to grow into a big town, the procedure recommended by the Commissioners would be found to be neither equitable nor feasible.

A minor point which would seem to require further elucidation is the question of how requirements of future public utility companies are to be met. Section 1539, with which we have already dealt in this House at a previous session, recommends the setting apart for all purposes of land for all services, including public purposes, trade and industry. Roads and railways are treated separately, a special form of setting

apart being designed. The question as regards public utility companies is: are the purposes of a public utility company legally "public purposes"? It would seem that the procedure with regard to any area in the reserves that might be required by some future public utility undertaking is still somewhat indefinite but as this is a somewhat complicated subject it might be better to postpone detailed discussion until such time as the appropriate legislation comes before this House.

In Chapter III of Part III the Commissioners deal at some length with mining leases and various other matters relating to mining, including prospecting rights and alluvial mining. The question of the "setting apart" as regards mining leases has already been before this House. I will only venture to express the hope that in view of the very promising prospects which the mining industry holds out, Government, in accordance with the recommendations of the Commissioners, will do all in their power, subject always of course to scrupulously fair treatment of the natives concerned, to encourage in every way possible further prospecting and the development of what in the future may be a most important industry.

HON. SHAMSUD-DEEN: Your Excellency, on a point of order, how many more pages has the hon. Member to read? It is one o'clock now.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Two more, Sir.

HIS EXCELLENCY: I will pay attention to that. There is no point of order involved.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: There is one small question which I think requires stressing, although it has nothing to do with mining. In section 1607 the Commissioners point out that a tendency has been lately evinced in certain districts for natives to treat the presence of Europeans in the reserves as if it were a trespass. This attitude should be sternly discouraged. Whilst natives are naturally entitled to protection, under the ordinary law of trespass, against trespass on fenced land, obviously any person should be allowed to proceed along any road, track or footpath or any uncultivated land and to camp on any land not planted, provided any damage done is afterwards made good and that non-natives should not be allowed to camp in any one place for any unreasonable period. We consider it is high time that this position should be clearly defined by statute or by rules under some existing Ordinance, and that the position should be made perfectly clear to the natives in all reserves.

In the Report there is allusion made to the establishment of two game parks—one in the Nairobi cominonago and the other in the neighbourhood of Mt. Marsabit. These recommendations Elected Members can only support with limitations, as we consider that enough land should first be made available for natives and their stock before we rush into the creation of game parks on a large scale.

In conclusion, Your Excellency, we trust that in the course of this debate Government will be able to give us some information as to what action they propose taking with regard to the more pressing recommendations made and what expenditure such action is likely to entail. We note that in paragraph 27 of the White Paper the Imperial Government regret that the Commissioners should have expressed their views with regard to the claim which has been continuously put forward from this country for many years past for the unclaimed balances of pay due to the Military Labour Corps. We feel that we cannot in any way endorse this expression of regret. On the contrary we congratulate the Commissioners on again putting forward this claim so forcibly, and the justification of their having done so is demonstrated by the fact that the Imperial Government have, after a lapse of nearly fifteen years, agreed to make a belated settlement of this liability in the form of an *ex gratia* grant of £50,000, which will go some way towards meeting the immediate non-recurrent expenditure suggested in paragraph 2041 of Chapter XI and in Appendix XIII. Chapter XI, however, gives us but little, if any, idea of what future commitments are envisaged, and I may add, very little idea indeed of the total amount of expenditure which implementation of this Report will necessitate. Although, Sir, the Imperial Government has evidently only given the most superficial and cursory consideration to this most important problem, merely making the somewhat obvious remark in the White Paper that the recommendations of the Commission "will entail considerable expenditure", we trust that the Kenya Government, in view of the financial position of the Colony, has been a little more thorough in its examination of this very vital question, and that before this debate is terminated we shall be given more precise information as to the financial implications of the implementation of the Commission's recommendations, as neither the Imperial Government nor the Commissioners give us any idea of how—beyond the £50,000—the necessary money is going to be found.

Your Excellency, I have now completed my attempt to express the views of the European Elected Members on the Report of the Kenya Land Commission. I trust that in the

terms of the motion full consideration will be given to such views both by the Imperial Government and by the Kenya Government. I beg, Sir, to move the motion which stands in my name.

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

HIS EXCELLENCY:—The question is, that the motion just moved by the hon. Member for Nairobi North be approved. I propose to adjourn Council now, and to continue the debate to-morrow morning.

*The Council adjourned till 10 a.m. on Thursday,
18th October, 1934.*

THURSDAY, 18th OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 18th October, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 17th October were confirmed.

ORAL ANSWERS TO QUESTIONS.

FEES PAID UNDER THE LICENSING ORDINANCE, 1933.

No. 86.—THE HON. J. B. PANDYA asked :

“What is the number of licences taken out during the current year under items (a) to (q) of sub-section No. 1 of Section No. 7 of Ordinance No. XLI of 1933, and the amounts received as licence fees under the respective items?”

THE HON. THE TREASURER (MR. G. WALSH) : Particulars of fees collected to 30th September, 1934, under the Licensing Ordinance, 1933, are given in a statement which has been circulated to hon. Members.

STATEMENT.

EXTRACT FROM REVENUE OFFICE RECORDS AT 30TH SEPTEMBER, 1934.

Section 7(1)		No. of Licences	Amount	No. of Licences	Amount
			£		£
A.	600 Wholesale	256	8,127	167	4,822
A.	300 Wholesale, Branch			89	1,305
B.	300 Wholesale	4,429	16,555	52	713
C.	450 Retail			496	10,960
C.	30 Retail			3,933	5,495
D.	4,000 Banker	17	950	3	600
D.	500 Banker			14	350
E.	1,000 Shipping Company			9	425
F.	300 Commercial Traveller			5	75
G.	500 Turf Accountant			7	167
H.	600 Manufacturer			6	180
I.	4,000 Oil Company			4	800
J.	200 Insurance, Life	90	1,100	11	105
J.	200 Insurance, Fire			32	320
J.	100 Insurance, Marine			6	50
J.	200 Insurance, Accident			25	245
J.	500 Insurance, General			16	400
K.	4,000 Electric Light Company	4	275	1	200
K.	500 Electric Light Company			3	75
L.	15 Boarding House			21	149
M.	300 Assayer			1	15
N.	600 Exchange Banker			1	30
O.	300 Manufacturers' Agent			65	778
P.	100 Any other Business			321	1,378
Q.	300 Professional			154	2,131
				5,442	31,768
Hawkers				513	257
Transfers and Duplicates				42	10
1933				91	197
				646	464
Total Number of Licences				6,088	
Total Revenue				£32,212	

MOTION.

KENYA LAND COMMISSION.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK having moved:

"Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

Whilst noting that in general terms their Report has been substantially approved by the Imperial Government, this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations."

THE HON. CONWAY HARVEY having seconded.

The debate was resumed.

THE HON. CONWAY HARVEY: Your Excellency, in seconding the motion I should like to express my unqualified agreement with all that has been so well and truly said by the hon. and gallant mover of the motion, and to add a few comments on matters of general interest and on one or two items of particular concern to those I specially represent in this House. Having regard to the distinguished personnel of this Commission perhaps, Sir, it is not surprising that the overwhelming majority of their recommendations merely represent and support representations which have been made by European Elected Members over a very long period of years. The first dealing with the question of cattle in townships. As the hon. and gallant mover said yesterday, we quite unanimously agree with the Commissioners when they state that urban dwellers cannot reasonably expect to follow pastoral activities in townships. I think it was before Your Excellency arrived that this first sight, formed the subject of a lengthy debate in this House. It must be fairly obvious that for a great many reasons other than those mentioned in this Report cattle in townships are a very definite menace to the health of township dwellers. They render the proper administration of veterinary regulations extremely difficult. They stimulate theft of cattle; they can so much more easily be hidden in townships than they can on farms. What perhaps is of greater importance in many areas of the Colony to farmers who rely on their pastoral activities for a livelihood is that they feel they are called upon to suffer unfair competition from those who keep

bovines in townships under no semblance of control or regulation. This subject occupied the attention of a committee which was appointed by Your Excellency at the request of this House some years ago, and we do feel very strongly, Sir, that it is grossly unfair that such a subject which this House agreed should be inquired into and investigated, the Governor of the Colony having appointed a committee, we feel we are entitled to have some account of that committee's activities, more especially as a good deal of public money was spent—and no doubt quite rightly spent—in touring the country and collecting first hand evidence dealing with this matter. We think it is wrong from every point of view that the valuable work of that committee should be relegated to the limbo of forgotten things. I sincerely trust that Government, in implementing to any extent the recommendations of his Commission on his subject, will make use of the valuable data collected by the committee to which I have referred.

I should like to express some surprise that the Commissioners dealt with Nairobi Commonage only and not sufficiently generally, in my opinion, with this problem. I would remind Government that the problem extends to practically every township in the Colony. It arises in a very acute form, I am given to understand, at Naivasha, Kitale, Nyeri, Lumbwa, Londiani; in fact, in practically every township in the Colony.

Every fair-minded person who has studied the history of what is called the Mile Zone will agree with the Commissioners that the Masai have no claim whatever to this strip of land, which was quite definitely excluded from the enormous area dedicated to their use under the Masai Treaty. But I would suggest, Sir, that the recommendation that the Masai should be permitted to lease certain portions of this area should be applied with very great caution. In my opinion, the right policy to aim at is the maximum utilization of this land in the best interests of the Colony as a whole, and it would be the height of folly to prejudice the utilization of other portions of the land were water holes and limited areas to be leased separately. I understand that certain European farmers have already made proposals for using some of this land in connection with sisal planting. I sincerely trust we shall at last get an end to the vacillating policy of Government in this matter. As everyone knows, for years and years the Masai have had the impression that Government is afraid of them. Without let or hindrance they have been wandering over this Mile Zone, and watering their stock every day for six months at the Simba waterhole which is in prohibited territory. Occasionally courageous District Commissioners in charge have kept them back: that is why I use the phrase "vacillating policy". I believe it is a fact that a

few years ago in an unusual burst of enthusiasm Government gave orders for this line to be surveyed. A survey party went out from Nairobi with the usual mob of Kikuyu porters and pitched their camp. Three or four Masai men appeared on the horizon with their spears. The Kikuyu dropped their loads and fled to Nairobi, closely followed by the survey officer entrusted with this work. He stoutly refused to endanger his health by tackling the job a second time! I suggest that it is high time Government surveyed the line and made a job of it once and for all. There is one practical suggestion to make, Sir. I think it impractical and uneconomical for the line to be surveyed parallel to the railway line adhering strictly to the distance of one mile from the permanent way in each case. It would be very much better for everybody if a fair give and take line was surveyed providing for the proper people the correct area.

My next comment refers to Nandi. I have lived very near the Nandi for twenty-five years, consequently this is a subject of which I know a little about. I notice that the Commissioners turned a ready ear to the alleged grievances of the Nandi. They produce some very interesting statistics in relation to the human and bovine population. At first sight this area would appear to be somewhat congested, but such is not the case as any practical farmer will bear me out when one bears in mind the superlative richness of the soil in this area or the favourable climatic conditions, factors which permit very close settlement, and clearly demonstrating that the Nandi have all the land they require for many years to come. Nevertheless, taking the Report as a whole and for reasons given yesterday, we do not civil at the Commissioners' recommendations and under all the circumstances, Sir, perhaps a grant of £5,000 to the Nandi is not altogether unreasonable. But I suggest for the serious consideration of Government that a portion at least of this £5,000 in the interests of the Nandi and Kipkaren farms should be expended in erecting a fence between the new native boundary and the Kipkaren farms whose vested interests will be prejudicially affected by bringing the Nandi check by jowl with European farmers who have hitherto been at some slight distance.

I should like now to make a very brief reference to Kisumu. Paragraph 1113 of the Report clearly sets out the situation in regard to the township area. Originally, no less than 12,565 acres were dedicated to township purposes at Kisumu; that was reduced to 6,980 acres, and a further reduction brought it to 4,780 acres, and a further reduction brought the use of two small pieces of land within the township area. I understand, however, that the Commission recommendation merely ratifies the action which was taken

many years ago by my hon. friend the Chief Native Commissioner. It is, however, rather remarkable that the Native Lands Trust Ordinance entirely omitted to provide legal machinery for additions of this character to be made to native reserves. My point that I should like to make here is that there should be no further whittling down of Kisumu township. Kisumu, as you know, is growing in importance every day. The fact that it is an air junction has made an enormous difference to the commercial activities and the population. Apart from the fact that it is the most important administrative centre in this Colony, the development of the mining industry—of which Kisumu is undoubtedly the centre and must always be the centre—calls for the largest possible area of land to be dedicated to township purposes with a view to the future, so long as everybody's interests are properly safeguarded. Those who are closely identified with mining are particularly gratified that the Secretary of State appreciated the importance of assisting the development of this valuable industry, which has meant so much to Kenya and which will mean so much more as time goes on, as to ask the Commissioners to make it the subject of an interim report so far as mining leases at Kakamega were concerned, in March, 1933, and I think that here perhaps I may be allowed to express to Your Excellency the very great appreciation of the mining industry for your personal interest in this matter, which we all feel has done so much to assist in the development of Kenya's goldfields. Difficulties that have arisen in connection with the granting of mining leases show how well-founded were the criticisms of the European Elected Members when the Native Lands Trust Ordinance was under discussion in 1930, and my elected colleagues pointed out on more than one occasion the practical absurdity of giving natives land equal in value of area to any area, however small, it might be desired to excise from native reserves for any purposes whatever. Belatedly Government admitted its mistake by introducing, and passing the Native Lands Trust (Amendment) Ordinance, 1932, which provides for excisions without additions, as everybody knows who was in the House at the time or cares to consult Hansard. This wonderful Ordinance, in connection with which the views of the men on the spot were almost entirely disregarded, has been found unworkable, as no one knows better than senior Government officials, in many directions. Although permanent exclusion is possible, the measure is silent as to temporary exclusion, and those who have the chief welfare of the native at heart just as much as the permanent prosperity of Kenya can think of many cases in which temporary exclusion would be in the best interests of the natives and of the Colony as a whole. Of course, arrangements should be made for temporary exclusion during the currency of mining leases.

In paragraph 1559 the Report makes a very wise recommendation which has the support of every right-minded person. In my humble opinion, it constitutes a most admirable solution of a very complicated and difficult problem. This is, that the land should be "set apart" in the first instance and followed by a mining lease over surface area so far as native interests are concerned. Dispossessed natives if they wish can acquire land fairly near their homes in what is now native reserve, forest reserve, the necessary addition to the native reserve as a whole being made by incorporating an appropriate area of Mount Elgon forest reserve. We believe this method to be far preferable to the alternative one which is described as temporary exclusion. Here again I wish to point out a serious defect in the Native Lands Trust Ordinance which makes no provision whatever for temporary additions to native reserves. We understood that the Commission's recommendations were translated into action the other day by the Native Lands Trust (Amendment) Bill which was passed by this House, I think at our last session. In the ordinary way it was sent home, having received the unanimous blessing of this House, to the Secretary of State for formal sanction. That gentleman appears to be sitting on it, Sir, and I trust he will not sit so long that this beautiful egg full of promise will emerge in an unpalatable added condition! I definitely ask Government to ascertain what has been the fate of this measure, if there is real reason for this inordinate delay, and if they will do everything humanly possible to expedite formal assent to a measure which we have every reason to believe meets with universal approval. Mining capitalists must have the security of leases, and I am quite sure that our very efficient Mines Department has everything ready to go full steam ahead the moment they receive the proper signal. Government ineptitude and un-official apathy have combined to frustrate absolutely the intentions of the legislature in regard to squatters, sometimes termed resident native labourers. Administrative officers, police, and officials under the Resident Native Labourers Ordinance. The latter class, Your Excellency, I charge with being guilty of that inelegant physical contortion known as straining at a gnat and swallowing a camel, inasmuch as they have on numerous occasions brought vexatious prosecutions on matters of petty detail on technical points of no interest to anyone, while utterly and absolutely ignoring the more important matters of seeing that cattle are properly branded and the Government ineptitude in this matter has been a direct encouragement to Kaffir farming, which does take place in Kenya, I am sorry to say, with the connivance of Government, and it is one of the very worst possible things in any Colony

which should be suppressed by every legitimate means owing to the numerous evils it brings in its train. I know quite well that the legislation on this subject is not quite perfect, but a great deal more could be done than has been done. Representations have been made to Government times without number by accredited representatives of the European community in this matter, including the Elected Members, the Convention of Associations, Farmers Associations, and other bodies. A committee was appointed to go into this matter many months ago, and I should welcome an assurance from my learned friend the hon. the Attorney General that the work of this committee will not be lost sight of in the mists of antiquity! and that such an important matter as this will elicit the sympathy of Government and reasonable, prompt executive action.

THE HON. SHAMSUD-DEEN: On a point of order, Your Excellency, are we discussing the Land Commission Report or not?

HIS EXCELLENCY: It is a very wide Report and it is difficult to define too strictly the rules of relevancy. But I am not quite sure whether the hon. Member is discussing a matter which was actually before the Commission.

THE HON. CONWAY HARVEY: Our Leader has expressed our agreement with the recommendations contained in paragraph 1976 of the Report which I suggest deals with the subject of squatters and resident native labourers, and I am producing arguments and reasons in support of that view. We all agree, Your Excellency, with the Commissioners that the numbers of squatters' stock, if any, allowed on farms should bear some relation to the domestic requirements of the natives concerned. I think those are the words of the Commissioners in one section of the Report which I am unable to quote. But we go further, and suggest that the number of resident native labourers should also be very closely related to the economic industrial requirements of the farm on which they are domiciled, and no man should be allowed to have native resident labourers or squatters on his farm in excess of the number that can fairly be permanently employed. I regard a permanent labour force as absolutely essential to efficient and economical agricultural production. That applies all the world over, and I sincerely trust that in implementing the recommendations of the Commissioners under this head that Government will pay very great heed to the report which I am quite sure will be issued in due course by the committee I mentioned a moment ago, the chairmanship of which has been inherited by my learned friend. There is a lot of loose talk about resident native labourers and squatters. Many people imagine a picturesque old patriarch coming out of the pastoral reserves with unlimited wives and vast herds of stock, both large and small. We

Elected Members do not visualize that sort of thing at all. We consider that you must have a permanent force of labour if you are to work your farms properly, and you can only get that by allowing them to bring wives and families under some such scheme that is suggested in this Report.

My name having been mentioned in paragraph 1952 as one of the members of a sub-committee of Executive Council whose efforts to evolve a definition of the White Highlands appear to have been approved by the distinguished gentlemen who compiled the Report, I should like to make one or two explanations. Of course, the Commission is quite right when it surmises that it never was intended to exclude the Kapungu Farms which, situated as they are at the top of the Nandi Escarpment, are in no way different to other farms in that area. It was merely a clerical error in drafting the Report. So far as Leroki Plateau is concerned, it is incorrect to say that this area was rightly excluded because of the extent of the native interests involved. I, as a member of the committee, rightly or wrongly understood at the time that as unalienated Crown land Leroki Plateau came under the control of the officer administering the Laikipia district and thus was definitely included in the White Highlands.

In conclusion, while in complete agreement with what the hon. and gallant mover has said on the subject of the White Highlands, I wish to emphasise paragraph 2152, which reads as follows: "We consider that it would be invidious if the native reserves were to be protected in this manner and no similar security be given to the European Highlands. We recommend therefore that the external boundaries of the European Highlands be defined under the Order-in-Council, and be subject to analogous safeguards as to exclusions, additions and exchanges." Command Paper 4560 states in paragraph 9: "The Commission have defined the boundaries of the European Highlands, and His Majesty's Government propose to accept their recommendations in regard to this." That we regard a solemn pledge to which we join our faith!

THE HON. E. H. WRIGHT: Your Excellency, the hon. Member for Nairobi North in submitting his motion to the House has, in his masterly analysis and very comprehensive one of the whole Land Commission Report, indicated in certain detailed respects other members on this side of the House will take up the tale. So I have the honour to put forward the case for the retention of Leroki for our White Highlands. Before doing so, I would like to congratulate you on having made a recent visit to see that attractive district for yourself, Sir. That I take as a good augury that you will bring to the deliberations here your own unbiased views and knowledge that will be of enormous help. I should also like

to say that I notice with pleasure and considerable hopefulness for our case that, when asked by the Samburu during your visit there for a decision in respect of Leroki grazing, you indicated that the matter was under the consideration of Government. That again I take as a most hopeful sign. Before going on to the Report itself, it seems necessary to give a brief account of the history of Leroki. That can fairly be stated to begin for all practical purposes in this discussion at the time the Masai were moved in 1911. At that time, Sir Percy Girouard, the then Governor, achieved a distinction I should think almost unique in the annals of East African history, first by contriving complete agreement between the Masai and settlers, and above all by imparting the blessing of Government to the whole scheme. The hon. Member for Kynulu, who has a very intimate knowledge not only of the Treaty but the whole history leading up to that, will deal more fully with this later on. Certain it is, and it is crystal clear, to those of us who know the facts that the Masai on their part would never have left what was then Northern Masai Reserve which comprised not only Loroki of 870 square miles and also the further northern area called Maarte of 680 square miles as defined by proclamation in 1906, they would never have relinquished it, and the settlers occupying the Southern Masai Reserve would not have relinquished their holdings had they thought the purpose for which the exchange was made would ever be diverted for any other reason. The great object was to get all the Masai together in one extended area, and that was wise and was accepted, and we have always claimed that we established a right which cannot reasonably be questioned to have not only Leroki area between the Kittermaster and Coryndon Lines but the area beyond as belonging to the White Highlands. I feel, I must, even at the risk of boring the House, read a few extracts from the evidence, Volume II, to establish some of the chronological incidents that have a real bearing on the situation.

I would first quote Sir Edward Northey, the then Governor. In 1910 writing to the Provincial Commissioner, Nyanza, he said: "Steps must be taken to warn the Samburu at once that they will not be allowed to keep their stock south of the Uaso Nyiro, and on no account must they be allowed to build villages. As soon as we have driven, as we must do, the Turkannan invaders back into their own country, tell the Samburu that the last-named will be forcibly ejected from south of the river. Limits must be put on the nomadic tribes." Jumping to 1924, in answer to the Hon. Berkeley Cole, a meeting was held at the Secretariat when the Colonial Secretary, the Chief Native Commissioner, Lord Delamere, Captain Coney, Colonel Muirhead, the Director of Land Surveys, and Mr. W. M. Logan were present: "The meeting

had before it an application on behalf of the Samburu tribe for a part of the country in the Laikipia district, and also Mr. Cole's proposal for an alteration of the boundary. The meeting agreed: (a) That the Samburu should not be given the land for which application had been made. (b) That it should be the definite policy of Government to recover for the Samburu their old grazing grounds, and that Colonel Mirrhead should submit proposals for gradually evacuating the old Masai lands. As a result of this meeting, the Colonial Secretary ordered: "The Samburu are not to be forced back or their grazing interfered with until alternative pasturage is found for them."

The old Masai land was then Leroki, Sir. In 1924 a Committee appointed by the Governor recommended the removal of the Samburu "north of the position now known as the Coryndon Line (i.e. the evacuation of Leroki)." In 1926 the Governor ordered Mr. Hope to make a personal investigation: to meet the Samburu and arrange for land to be set aside sufficient for their needs, so that any land not required for the use and expansion of the tribe might be alienated conveniently. On the recommendation of the Chief Native Commissioner, it was decided that an agricultural officer rather than a Provincial Commissioner would be suitable for the task, but the Director of Agriculture reported that in his opinion no further investigation was necessary, and suggested that the question be settled on the following lines: (1) Recognize as Samburu Reserve the area 4,050,000 shown on the map. (2) Allow the Samburu the use of the area known as Maarte (531,00 acres) shown on the map at the pleasure of Government. (3) Inform the Samburu that Government reserves the right to establish a quarantine station of say 100,000 acres in extent—in either or both of the reserves—a quarantine station which may be necessary and will certainly be of assistance to the Samburu for the marketing of their stock. The Director of Agriculture pointed out that the "issue should be faced that they do own cattle, and if they were removed to country almost entirely bush in character their cattle will surely die of poverty". The Director of Agriculture was supported by the Chief Native Commissioner and the Commissioner of Lands in his recommendations. A full discussion followed in August, when the Governor saw the Chief Native Commissioner, the Commissioner of Lands, the Acting Colonial Secretary, and Mr. Glenday. The Chief Native Commissioner and the Commissioner of Lands opposed the Samburu having access to the Leroki Plateau." In 1927 the Governor received a deputation of Elected Members of Legislative Council "consisting of Lord Delamere, Mr. O'Shea, Captain Kenealy, Captain F. O'B. Wilson, Admiral Crumpton, Colonel Durham. Present at the meeting were the following officials: The

Colonial Secretary, Director of Agriculture, Chief Native Commissioner, and the Commissioner of Lands. Lord Delamere represented to the Governor the anxiety of the European settlers in this country as to what were the intentions of Government regarding the disposal of the land which was formerly contained in the Northern Masai Reserve. The Samburu were still occupying the Leroki area, which the settlers felt should be made available for Europeans. It was hoped that the Samburu would be removed from this area. The Governor explained the existing position. The Governor met the Samburu on 19th November at Barisaloj. The Governor informed them, amongst other things, that Leroki did not belong to them. Headman Lelerok, in replying to various questions, stated the people did not want to be driven from Leroki, to which the Governor replied that he had made up his mind that the Samburu could not keep Leroki."

Of interest about that minute is the fact that one of the Commissioners whose signature is appended to the Report was one of the delegates particularly anxious that Samburu should be retained for white settlement. That was in 1927. One finds it difficult to reconcile the several changes that take place in the minds of men. There may be good reasons, but the Report itself is singularly illogical in explaining it. I must say that the hon. the Commissioner for Local Government should be expressly excluded from any reflections in that particular as he alone in 1927 stood out and required an assurance from the veterinary officers and the administration that sufficient grazing was available before he would consent to that move. That is fair to note, in that the hon. the Commissioner is well known for his solicitude for natives, and he must be excepted from any charges I am making against officials at that time. Then Mr. Hemstead, now one of the members representing native interests in this House, submitted one of the most interesting and instructive reports we have read. In point of fact, so good and so sound was it that Elected Members have adopted it unanimously. I am coming to the matter of alternative areas presently, because there are other matters to be dealt with here. But while dealing with these, I want to say that I personally still nurse the hope that the hon. member, himself one of the Commissioners, may yet have occasion to change his mind in respect of his share in the chapter about the Leroki. We all know him to be courageous enough to change his mind, and in point of fact those of us who attended last session will recall with interest that when the Select Committee report concerning the Laibons Removal Bill came before the House he, a signatory the day before, appeared in Council to read and ruthlessly to amend it to his own satisfaction. That that one could hardly pay higher tribute, but from that we still have hope that we may get his

support in the matter of alternative areas that he himself recommended. In the whole of this Report, and I will not quote any more, there is no chapter so ineffectual, so weak, so inconsistent as that dealing with Leroki. The Commissioners accept and lay stress on the fact of the cogency of the European claims, and then go on to say that on economic grounds there is a case for the Samburu having the use and occupation of that grazing for such time as may be necessary. An interesting comparison of that is to be found in their excellent chapter 10 on overstocking. There again it is difficult to reconcile their conclusion that that problem is "a very grave and urgent" one with their recommendations in respect of the Samburu at Leroki. Here I should like to quote an important extract from the Ormsby-Gore Commission of 1925: "Because, owing to the cessation of tribal raids, native stock are no longer subject to the old wastage, we do not consider that this fact alone entitles tribes to extensions of boundaries." I have yet to find any other reason for the addition, even temporarily, of so many thousands of acres to the Samburu Reserve. The Commissioners find it difficult to speak with moderation about the West Suk, who, agriculturists are very poor ones, and whose activities agriculturally are described as semi-moribund, and where the Commissioners found the overstocking desperate. They analyse the figures, and find, taking a family of five for an average, that there are no less than forty-five head of cattle per family, which they think grossly excessive. And I agree. In respect of the Samburu I find, and it can easily be verified, that the average stock wealth is fifty head per family of five. There is something wrong. They go on to applaud as we all do the excellent report submitted by Sir Daniel Hall in 1920 when, in dealing with the Kamba and Masai Reserves, he said that unless those areas were de-stocked they would become unfit for habitation. The Commissioners castigate the Masai and Kamba, and emphasize and approve this decision, and use the word "compulsion" even towards the end of their Report. Yet when dealing with the Samburu, which is precisely the same question, they find a totally different answer to the problem.

I think the economic grounds can never be upheld. It is abundantly clear that what applies to the Kamba or Masai must in reason be also applied to the Samburu. The evidence shows quite clearly that the Samburu are gradually being driven south by the more virile tribes, notably the Turkana, and the hon. Member for Kyambu, whose knowledge of the Northern Frontier is very great, has a great deal of interesting detail to communicate to the House about these movements. Of notable interest is that we have seen in 1926 the Secretary of State conceded the point that the rightful European claim to Leroki in 1911 consequent on the Masai move was the only

justification for that move, in answer to a question by Sir Robert Hamilton, formerly a judge in this Colony. The whole point about the Leroki chapter is the Commission leave the decision more or less in the air. They avoid including Leroki in any of their land categories. It was a notable exception, and one is forced to the conclusion that, not feeling quite sure of their ground, with an attitude fairly characteristic of our race, they have followed the line of least resistance. In other words, they deem it expedient to arrange this temporary lease or cession of grazing but leave it delightfully vague; that which in terms of expediency may be useful to-day may in the near future become actively vicious. That will be its effect on white settlement if we are to take the long view of our race prospects in this fair Colony of ours. A little later, the Commissioners say how hard put to it they are to deal with the immigration of alien natives. They admit that some of these, notably Somalis, are foreigners, and while describing themselves as impressed with the District Commissioners' objections to allowing these as foreigners to reside permanently in Kenya they later on solemnly propose that these Somalis should not only be allowed to make use of land in D areas—with which some of us might agree as already some of their kinsmen are there—but also strangely enough in C areas where they say they may fairly be regarded as natives of Kenya. This proposal seems to me as utterly inconsistent as it is illogical.

We now come to the alternative areas. By use and acceptance of the Commission's own evidence along with the figures of stock-carrying capacity adduced, without quarrelling with any of that evidence or figures it is quite clear that an area adequate to the needs of the Samburus exists. That area, and I may be a little wrong in facts, speaking from memory, is roughly what was proposed by Mr. Hemsted and we support it to-day. This is the Isiolo quarantine area, 540 square miles of Crown land, plus 60 miles on which are four farms in the North Nyeri district—the latter area I would expressly exclude from consideration of this exchange, for the special reason that the Whitehouse Committee sent to investigate that area never inspected those farms, and for purposes of stock argument they should be excluded from any scheme of exchange at all. The position in regard to that is these combined areas of approximately 1,000 square miles, these combined areas on the carrying capacity given in the Report could carry 41,000 head of cattle. The veterinary officer at Isiolo deputed to make a cattle count at Leroki found a count of 33,591. With a marvellous degree of accuracy he submitted the figure, but apparently terrified at the discrepancy between his count and the administration estimates, which were obviously fantastic, he made a desperate effort to please by saying that he might have

overlooked another 10,000 or 20,000 head! We are bound, however, to accept the veterinary officer's count to the last beast, as it had been made from *bona to bona* by one who knew about cattle. So therefore we have got the comparison of 1,000 square miles with a carrying capacity of 41,000 head of cattle, in exchange for Leroki an area of 870 square miles with a carrying capacity of 38,501 head of cattle. The Commission, having given themselves that case, begin to answer their own questions, and they avoid the issue by saying there are difficulties in the way because the quarantine area is required or may be required for other purposes. We want to find out what these mysterious "other-purposes" are, because the veterinary people have said, and it is in their report, that 30 square miles out of 450 is ample for quarantine requirements. No other reason being forthcoming, one speculates; there may have been an idea in the minds of the Commission that this vast area would be required to accommodate a meat products factory or a fertiliser factory. The last suggestions must be ruled out as thoroughly impracticable. Others will bear me out because it is entirely uneconomic to have a meat products factory, no matter how capacious, anywhere than on a railway line or at a seaport. We are unanimously agreed on this side of the House that by the use of the Commission's evidence and figures alone they have established for us the fact that an alternative area adequate to the needs of the Samburu exists in fact. There are other aspects of this Leroki chapter, and that is that a great many wrong inferences are drawn from very sketchy evidence. The knowledge the Commissioners gained was very partial, as I know, because I was there before them as well as while they were there. They describe the north-west portion of the Plateau as consisting of some 440 square miles of precipitous lava rocks, which is palpably incorrect, as the hon. Member for Nairobi North found by means of his flight. He told me, and he will concede the point in his reply if challenged, and other people have found it so, that some of the best grazing is on that north-west side. The opinion of the Commissioners may be disregarded, for they never saw it at all. It seems in this matter eternal difference between mere opinion coming from very ill-informed quarters and actual knowledge. I want to say that I attended the baraza, while the Commission was there, and thoroughly enjoyed it. It had a delightful element of humour, and nothing was more impressive than to see those patriarchal old Samburu one after the other stand up and proclaim the same palpably, probably inspired, lie that the Samburu had been there from time immemorial. By way of splendid contrast it was fine to hear stalwart Masai scorn the pretensions of these Samburu for whom as you know the Masai have a supreme

contempt and always have had. He said that for a considerable time after 1913 when the last Masai left that region there was nothing but lions and hyaenas there. I think it is clear that only the war period allowed the Samburu to get in where they had never dared to appear before, and aided and abetted and admittedly protected by the Administration unknown to the rest of the Colony (they got established in a country where they had no right to be, and still have no right to be). At that baraza there was another good indication of the native mind as showing, so far as cattle go, quantity is everything. In answer to a question as to whether a witness would rather have 300 head of cattle in good condition or 500 head in a state of starvation, without any hesitation the native said 500 as then, he explained, if God sent rain the grass would grow and he would be well off, if not, he could always go south. I remember that perfectly well, but it is a notable omission—not deliberate I am sure—from the evidence, the indication that he could go south. They have done it before. If Leroki were inadequate there is no doubt in my mind that south they would go; Government it seems to me are notoriously supine in stopping them. It seems hard to doubt this chapter, because the Report as a whole is one of the most remarkable documents, and I agree entirely with the tribute to the Commissioners paid by our Leader in his excellent speech yesterday. But it defeats my mind when you realize, dealing especially with this chapter, that here is a distinguished judge, of distinction in East Africa, as Chairman, who judicially minded as he is, for the same reasons, on the same case and similar arguments pro and con, finds adversely against the Masai, against the Kamba and West Suk, and then on the same grounds finds favourably for the Samburu, a tribe to whom the whole of the Commissioners were absurdly generous, who deserve the least, as I shall show, of any land allocation, but on economic grounds they have given to this tribe a greater area for grazing than to any other tribe. That I find difficult to adjust in my mind. Any dispassionate reader of this Report will find a definite bias against the stock owned by the Masai, Kamba, and West Suk, and a praiseworthy glorification of it when the Commission comes to deal with the Samburu. One wants to analyse the causes of this. While it was no part of the intention, and I say it quite frankly, of any of the Elected Members to argue the case for the retention of Leroki on grounds other than cogent, economic and equitable, there is no question that the very fact that the Commission have laid such special stress on the evidence submitted to them, "that the Samburu were one of two tribes who have never caused Government any harm", must be answered in the light of that tribe's behaviour subsequent to the Commission's Report. It seems unnecessary to give the tally, a long one, Sir, of the

murders committed by them, or to emphasise that Government in its wisdom had to impose a collective punishment fine. It need hardly, perhaps, be said, that after three years of distress and great difficulty it would appear that the murder of Mr. Powys is on the eve of being brought home to that tribe. Doubtless Your Excellency will be sympathetic to my plea in that coincident with your own visit and without a short time after you had given proper warning to the *moran* of that tribe they committed a murder on a European farm; incidentally, Sir, the ninth committed on that farm since June of last year. In view of these circumstances, can Government continue to condone these offences? Can it maintain its attitude of compassion to that tribe, and can it really say that there is justification for the belief, the statement, credited so generously by the Commissioners, that this is one tribe which have never caused Government trouble? Can disregard of your own warning by members of the tribe, whose truculence goes beyond all bounds, be longer condoned by Government? I do say it cannot. If Government finds it necessary to impose collective punishment on the tribe, it would be inconsistent and wrong that the same tribe should be awarded vast acres of grazing. Following this matter, which it is deplorable to touch on, to a logical conclusion, the effect on the tribe is that they must inevitably consider their access to Leroki a complete condonation by Government of that tally of murders. And we should look on it as virtually a reward for murder! A great many people, and some people on the other side of the House have given it credit, have stated that the agitation in respect of Leroki has been got up by a handful of settlers in the Tumuruti district with selfish motives. I at once state that the feeling about Leroki is far wider. Apart from the feelings expressed at Thomson's Falls and Rumuruti, which may be called local, but definitely not selfish, I have resolutions from Nyeri, Nanyuki, Solai, Njoro and elsewhere all expressing the same sentiments: determination by people taking the long range view of the white problems of this our Colony that they will do everything to protest legitimately against the cession of land, notably Leroki, to any other than our own race. I want to stress that, because selfish motives have been imputed. They always are in these cases. I would add that there is a little group of people who have unselfishly fought this issue for the last two or three years, and they have done so definitely unselfishly, for I have their pledges, individually and severally, that when this area is happily earmarked where it rightly belongs—within the White Highlands boundaries—they will not apply for a single acre. Coming to the Profit and Loss Account, many of us imagined that the committee to which the hon. Member for Nyanza referred, a few years ago determined the boundaries as between native reserves and our

White Highlands. We felt, foolishly perhaps, that that demarcation was a finality, was something definite, which was going to last as long as one could reasonably foresee. However, within a few years this new Commission gets to work, and they have lopped off our White Highlands, exclusive of the forest reserves, 430,000 acres of our land. This Commission has done that, and we are accepting it; we are being fair. But that is exclusive altogether of the consideration of the Leroki and Marle areas which do not come into the picture but with which we are threatened as a loss extending to 1,087,000 acres. So in the matter of profit and loss, it seems as if the interests of the white race have been sacrificed, and we get a little tired when we see whole counties lopped off our cherished possessions. The important point, frequently overlooked, is the problem of young Kenya. We have in our schools to-day some 1,200 youngsters who presently, in the ordinary way of things, will be let loose in a hard workaday world to fend for themselves. We do not give these young people very many advantages. Without ascribing the blame to anyone, economic conditions have made it so that we cannot give them the best educational equipment so that we have only one asset left that I can see. And that is land. In defending every acre of land that was ever pledged to our race, I like to think and view it this way: that our birthright as a race in terms of land is first, the exclusive birthright of these youngsters towards whom we of an older generation have a definite obligation and for whom we can do very little more than to ensure that the best of all assets, land, is available for them to keep on with the high tradition and maintenance of the prestige of our race in this Colony. So, Sir, I want in conclusion simply to say that while we are unanimous on this issue of Leroki on this side of the House—and that itself must impress Government, that eleven Elected Members from all over the Colony are unanimous on this issue—we can have no sense of security until the question is settled favourably to ourselves. Whether the Bambaru behave as apes or angels we are resolved that the alternative areas are well adequate to the needs of the tribe, that the Bambaru shall be removed there forthwith, and that the Leroki Plateau shall be reserved as was originally intended for our race, and for our race alone.

Council adjourned for the usual interval.

On resuming.

THE HON. J. B. PANDYA: Your Excellency, I beg to oppose the motion moved by the hon. Member for Nairobi North, and I am very glad of the opportunity for the discussion of this Land Commission Report. I should like to

refer to and make certain criticisms in regard to the recommendation about the Highlands. On page 493, paragraph 1970, the Commissioners recommend:

"The boundaries of the European Highlands should be safeguarded by an Order in Council, so that the European community may have the same measure of security in regard to land as we have recommended for the natives."

The hon. Members for Nairobi North and Nyanza made very pointed references to this particular question, and in regard to the security, which they stressed was very necessary from the point of view of the European community. Before I go into the discussion of that question I should like to observe if I may that one can quite understand the security required for the natives in this country, because of their primary stage of civilization and the fear that they might one day find themselves landless in this country. But I really could not understand why the highly civilized and highly organized, most advanced race and powerful race in this country should demand such a security for themselves. On this question of security I am a little amused at such a great point made by the hon. Members, because if we see the history we find that not even the White Paper of 1923, not even the declaration of the administrative convenience by the Secretary of State, but only the intention of the Commission at that time was quite enough to give security and to reserve this land as European Highland, so that I fail also to understand now why it arises or how it becomes such a big question. Looking at the evidence which was presented to the Commission by the representatives of the European community, I do not find anywhere a demand for such security in the form it is desired now.

At this stage I should briefly like to say a few words in regard to the reservation of these Highlands and to look at the history—the most unfortunate history I should say—of that reservation. It begins when Sir Charles Elliot in 1903 simply made a declaration that in order to avoid friction it was necessary that certain lands should be reserved for Europeans. I should like to discuss this question of friction, because it is pointedly made in the evidence. No doubt in those days, on account of the experiences in South Africa, it was felt that to a certain extent the settling of the two races together was not advisable, but looking to the experience we have had in this country I should say that that friction borey has already been explained, because we find in the Nyanza Province Indian farmers next door neighbours to European farmers and in the Kiambu district the Mtwani Sugar Estate is in the middle of an Indian-owned area, and we have not had a single instance

of friction between anyone. To even go a little further. Before 1923, when the question of segregation in townships was being discussed, I remember hearing arguments of all sorts of things which were likely to happen if Europeans and Indians races were allowed to live together. As a result of 10 years experience in this country, I should say as a result of the wise decision of the Imperial Government to do away with segregation in townships, we find to-day in Nairobi, in the Parklands area and other places, both races living together and in no single instance has there been any question of friction. There is another aspect of this question, as I said before, for is it not far more desirable to allow the various races to work together and to live together, and not to segregate them as is desired by this recommendation? In this connection I should like to quote the Right Hon. Mr. Sastri, who expressed his views in 1920 in South Africa before the Indo-European Council. He said:

"We say that eternal barriers must be erected between one race and other, the progress of this race must be blocked at this point, we can allow them to progress only so far, and no further. We do not say this as individuals but under the cloak of unselfishness, under the cloak of communal feeling which for some reason or the other, seems allowable, we permit this pernicious doctrine to be freely preached, and for wouler, we permit them even to be acted upon.

"Now could that I ask, speaking from larger view of things be right? We cannot afford to see such conditions of things eating into the vitals of the collective population of a kingdom. For, nothing is clearer in the words of history than this, that either a whole people rise together or fall together: no one part thereof can rise much above the other. One poor degraded and despised community inevitably drags the race to its own level. You may try such a policy for 50 years or even 100 years and you will surely discover at a tremendous cost to yourselves that you have gone wrong during the whole of that time."

That aptly describes what we in this country are doing; that we are taking a step for which we might be very sorry afterwards.

Turning to the history of this reservation again, in 1905 the local Government appointed a Land Commission which reported in favour of such a reservation, but before that recommendation was accepted by the Secretary of State, Sir Frederick Jackson actually decided that no large grants of land should be given out to Indians between Kibwezi and Fort Ternan. Here also at this stage I should like to draw the

attention of the House that the decision was more or less in a fluid state. It was not actually prohibited to grant any land, it was only restricted from the point of view of size. After that, in 1906, the then Secretary of State, Lord Elgin, made his famous declaration under the plea of administrative convenience in which he expressed his approval of the practice of reserving the Highlands between Kiw and Fort Ternau without definitely assigning the boundaries of those Highlands. At this stage I should like to draw the attention of the House again to the fact that the Indian community was not properly treated, and the grand-motherly and step-motherly policy in regard to giving them grants of land, even in the lowlands, where they were restricted to 50 or 100 acres, was continued. After this, the 1923 White Paper clearly laid it down and reserved this area for the European Highlands without defining it. The last stage is reached where this Commission recommends that this land should now be definitely and legally demarcated and declared by an Order in Council as a permanent measure. In paragraph 486 the Commission says:

"We would point out that mere enlargement and gazetting of the boundaries will not secure finality. They were gazetted in 1926 but that did not prevent Kikuyus from laying claims outside them, nor the Attorney General from holding that possibly the claim might prove to be good. In our view nothing short of an Order in Council can secure finality."

I want to stress that this Order in Council is finality, after which nothing further locally can be done. The Commission also looked very deeply into the question and in various places have expressed the viewpoint that in regard to land finality in a country like this must be greatly deplored. One of the quotations which the Commission gives in their own Report is taken, 530, from a minute by Sir Thomas Munro on the land question in Madras: "It is a dangerous system of Government in a country of which our knowledge is very imperfect to be constantly urged by the desire of settling everything permanently, to do everything in a hurry, and in consequence wrong, and in our zeal for permanency to put the end of reach." These are equitable views expressed by Sir Thomas Munro, and are copied by this Commission. They apply these views to a certain extent to native land; but I cannot understand why these views, so honestly expressed, thirty years' occupation of this country we cannot say we can finally register my protest and to say that this reservation suggested by the Commission should not be accepted by Government. Apart from that point of view, Sir, it seems to me that the reservation of such a large area is bound to have

an adverse effect on production ultimately, because although these views have been expressed in regard to Masai land, Mr. S. F. Deek, Provincial Commissioner, while giving evidence on this matter made it perfectly clear it was his point of view. He said:—

"I cannot see how Government without the power of compulsory acquisition can possibly assure that land, the greatest asset, the country possesses is utilized to the best advantage. The principle of reserving certain areas for certain tribes is unassailable, but the grant of large areas in perpetual freehold to a community which may never be in a position to utilize beneficially the land so granted is to my mind definitely contrary to the interests of native communities generally."

These views are meant specifically for native land, but they apply equally to the Highlands, because we find that that land, after thirty years' occupation, is not more than 11 per cent beneficially occupied. If those views apply to native land, they apply equally to the Highlands, and the Commission themselves in paragraph 30 of the Report generally accepted that principle:—

"If therefore the possession of large undeveloped tracts of land by any person, tribe or class is prejudicial to the welfare and development of a country, it would be a proper exercise of the functions of Government when it has armed itself with the necessary powers to intervene and adjust the matter."

The Commission expresses this point of view, and therefore I plead as far as this is concerned that the Government ought to consider that if this land is not to be beneficially occupied for a considerable period then other races or people should be allowed to contribute towards the development of agriculture in that particular area. It has been said, Sir, in regard to this land that the question is a more or less sentimental one from the point of view of the Indian community. I should like definitely to say that argument is not the correct one. I should like to oppose that argument, because the question of land as far as Indians in this country are concerned is a most vital one. It is also said that they do not take any interest in the agricultural development of the country, nor would they be in a position to buy up large tracts of land. One instance recently happened on the Coast, where an Indian has bought 30,000 acres of land. If opportunity was given to Indians to contribute towards the agricultural development of the country I am quite sure that similar large tracts would also be bought up in the Highlands and developed. In addition, Sir, this is a question of great Imperial importance. I would not like to stress that point, because it is so obvious,

but it is regrettable that in the same Empire you have this kind of discrimination against one lot of British subjects. Apart from that, it is also a question of considerable constitutional importance because as far as I can see this sort of discrimination is not cognizable in England, or the United Kingdom. This Colony is under the British Crown, administered as a British Colony, and the responsibility for that administration rests on the Secretary of State, who is under the instructions of Parliament. If such discrimination is not cognizable in England, why should it be imposed in this Colony? It may be argued and it is argued that Dominions have such a differentiation, but I should like to reply that there is a tremendous difference in the powers enjoyed by Dominions and by Crown Colonies. On this issue I should like to quote from Dicey's Law of Constitution, Chapters 36 and 37, which lay down absolute equality in regard to acquisition of land in England:—

“Speaking broadly, every British subject has in England at the present day the same political rights as every natural born Englishman, e.g. an Englishman born in England and the son of English settled in England. Thus a British subject whatever be the place of his birth, or the race to which he belongs, or I may now add the religion which he professes has, with the rarest possible exceptions, the same right to settle or to trade in England which is possessed by a natural born Englishman. He has further exactly the same political rights. He can, if he satisfies the requirements of the English electoral law, vote for a member of Parliament; he can if he commends himself to an English constituency take his seat as a member of Parliament. There is no law which forbids any British subject, wherever he be born or whatever race he belongs to, to become a member of the English cabinet or a Prime Minister. Of course it will be said that it is extremely improbable that the offices I have mentioned will, in fact, be filled by men who are not in reality Englishmen by race. This remark to a certain extent is true, though it is not wholly true. But the possession of, theoretically equal political, rights does certainly give in England, or rather to be strictly accurate, in the United Kingdom, to every British subject, an equality.”

That, Sir, is the constitutional point of view, that every British subject in the United Kingdom has an absolute equality. In this country, which is directly administered by the British Crown, we find discrimination, in that the Indian community cannot obtain land in certain areas. That cannot be supported by any Government. To a certain extent one can understand the feelings that a certain race does desire certain privileges.

We have had that in India. It is quite reasonable to say that the desire of the white Britishers might be for certain privileges, but here the thing goes much further. It allows a white foreign citizen a greater privilege than a British citizen. That is really the crux of the situation. It does not stop at giving preferential treatment to Britishers, to His Majesty's British subjects, but it goes further. Foreign subjects of a foreign country can get preference in these Highlands over British subjects. On this point I should like to quote the Rt. Hon. Mr. Sastrī again because he is a very well known and respected statesman of the Empire. Read what he says, and it will make the position of the feelings of the Indians on this matter of the Highlands quite clear. Speaking at a meeting in England in 1923, Mr. Sastrī said:—

“Outside India our belonging to the British Empire has brought us only humiliation and tribulations at every step. The Greeks, the Italians, and to-morrow when things are auspicious the Germans, and Austrians, are all welcome alike, because of their white skin, but we British citizens who have fought alongside the Britishers, and have given freely of our lives, and of our money in the defence of the liberties of the world in general, are told that our skin is of somewhat different complexion and that our civilization is inferior and therefore the privileges which the British Government will freely give to white nations will be denied to us. It has been so in South Africa. It is so to-day in Kenya.”

It is difficult, Sir, for Britishers to meet this home thrust by an Indian, a responsible man as Mr. Sastrī is, and his remarks show the extent of the feeling in this matter. This is not the feeling of the Indian community alone, it is the feeling of great statesmen of the British Empire, and I shall now quote Mr. Sastrī a little further. He was present throughout the negotiations in England in 1923 when it was being seriously considered whether it would not be more advisable to reserve the Highlands in Kenya for British European subjects only. Mr. Sastrī, who had access to confidential information, speaking in the Council of State at Delhi on March 10th, 1924, said:—

“The other day in the debate in the House of Lords a remarkable incident happened which perhaps has failed to attract the public attention. Lord Chelmsford, Lord Hardings, and our late Secretary of State, Lord Peel, all alike drew attention to the strange anomaly. They said ‘the Highlands in Kenya are open to immigration to the Greek, to the Bulgar, to the Italian—and they will be open to-morrow to the Germans and to the Austrians, whom the Indian has fought for our sake, but the Highlands are not open to the Indian and yet the Indian is a

British citizen while these people are not'. They said: 'if we found it necessary to accord to the white subjects of His Majesty concessions and privileges denied to the Indian land that be so' and some of them did really approve of it but let not Indians be placed lower than non-British whites. And should I go too far if I take this Council into confidence and say that three days before the white paper was issued and the Cabinet announced their decisions, when I went to the India Office people were exultant over the victory they had won; for they told me we have won this for you that though a white settler belonging to His British Majesty's Dominions will be preferred to you, no non-British white will be preferred to you. We have secured that they said. No—but the white paper did not contain this victory and that is why these noble lords whose names I have dragged before you to-day thought it necessary to protest against that."

That quotation does show to what extent the feeling is there even in the minds of British statesmen whose names I have mentioned. It has been argued after this that after reserving this area for the Europeans, the Imperial Government in 1923 went further and said that a certain portion in the lowlands would be equally reserved for Indians. Naturally the question will be asked, why up to now the Indians have not taken advantage of the offer? At that time it was mentioned in the White Paper that the Government of India would depute an able agricultural officer to inquire into the question of the suitability of these lands. I mention this because one always feels when the question of land in this country is discussed it is either native or European land, but in this particular instance it definitely proves the interest Indians have in land in this country. It was decided that an officer from the Government of India should be sent here to make inquiries into the matter. Why he was not sent is because the feeling of the Indian community was that they did not like this reservation of land as applied to them, and Mr. Sastri aptly describes it in a few words. In a speech made during 1923 he said:—

"To compensate those who are excluded from High-lands it is proposed to constitute under limitations an Indian Reserve in the lowlands. The Indian community looks upon the offer as a trap which must be avoided and a bribe which must be rejected. If they ask for equality, it is for an equality of privilege and not for equality in disability."

That in a nutshell gives the reasons why in 1923 the Indians were unable to take any interest in that reservation or the development of land. I now come to the point of the

definition of the Highlands and the boundary earmarked in the Commission's Report. When these Highlands were reserved first the area for European occupation was from Kiu to Fort Ternan. In 1919 the soldier-settlement farms were earmarked beyond these two boundaries. When that scheme failed, Indians acquired some of the plots when they were put up for sale, to which no objection was taken on the ground of that land being included in the Highlands, either by Government or the settlers. That naturally implied that there was no intention of extending the boundary of the Highlands beyond the two points mentioned. According to the Report of the Commission, it is now recommended that the boundaries should begin at Emali, 27 miles lower than Kiu, and to end at Chemill, 23 miles below Fort Ternan. I could not find in the Report any information as to the area in square miles which this change makes; I can only say it is 50 miles on the railway line, so that it must be a tremendous area. But it does not stop there. In paragraph 782 the Commission recommends that from Emali to Simba, about 100 square miles should be reserved as grazing area and for a blood and bone fertilizer factory, so that really speaking as far as the Indians are concerned the Highlands begin from Simba. So that I do feel it is a great injustice, because it goes beyond the original intention of the Secretary of State or the people who originally reserved the Highlands. I therefore definitely oppose the demarcation of this particular boundary. Another argument for the inclusion of this area was that it was suitable for occupation by Europeans. I should like to quote here the evidence of Mr. H. R. Montgomery, Provincial Commissioner, Nyanza, who is now in this House as Acting Chief Native Commissioner. Giving evidence before the Commission he said:—

"What is required in Highlands? Country which is suitable not only for European occupation but one in which European can live and bring up families without the necessity for changes to Europe. I will rule out of the Highlands any area on the railway east of Lumbwa and west of Ulu. People in Kori would not agree that the district is unhealthy but that would not change my opinion. Muhoroni, Songhor, and Chemill are definitely unhealthy. Anywhere west of Ulu cannot be called a white man's country."

That is evidence which has been completely ignored by the Commission, although it said that these areas were not good enough for white occupation or for the permanent living therein by the white race. In paragraph 1057 of the Report, the Commission state that:—

"There is however a comparatively small block of farms immediately to the east of Muhoroni, which was alienated to Indians in 1906. We recommend (a) That

this block should be deemed for the present to be excluded from the European Highlands: (b) That if any plot comes into the market it should be permissible for either a European or an Asiatic to buy it: (c) That when any such plot has been bought by a European, it should thereafter be included in the European Highlands."

Could there be any more glaring injustice than this, for the Commission goes further and restricts Indians in acquiring land. Indians acquired these plots in 1906, and still the Commission recommends that once a particular plot has been bought by a European it shall become part of the European Highlands. Can one by any stretch of imagination support this glaring injustice which is definitely against the interests of Indians? In paragraph 1406 the Commission discusses the question of leases between the European Highlands and the native reserves. They say that it would be cognisable to give leases to Europeans in native reserves, and in the same way to natives in the European reserves. I feel that this is bound to go adversely against the native interests because so far as I see from past experience there is not the slightest possibility of any land being leased to natives by accredited representatives of the European communities, but on the other hand there is every possibility that tracts of native land will certainly be alienated by lease to Europeans. I presume that although leases are to be allowed between Europeans and natives, they are not to be allowed between natives and Indians or Indians and Europeans, because certain areas are reserved for certain races. I do register my protest against this, because it is another instance of injustice, because if the principle of leasing in a reserved area is accepted, it should be open to everyone with no disability of race or colour to acquire a lease. This, Sir, is a question which should be looked into by Government, and I am sure something would be done to meet the point of view of the Indian community. It has always been argued every time this question comes up for discussion that Indians are not agriculturists, and it is one of the main arguments. I wish most definitely to contradict that argument. I say that India is primarily an agricultural country; 95 per cent of the population of India make a living from the land. They live on the land. It is a libel on the Indian community to suggest that all those Indians who come to this country do not come from the agricultural class. Because they have taken to commerce it does not prove that they have come from the commercial class. Definitely there is a large number of Indians in this country who come from the agricultural class. I should like to ask how many Europeans in this country come from the agricultural class? England is really an industrial country, and to assume that everyone coming from England is necessarily qualified for

agriculture seems to me to be absolutely ridiculous. In this country we have settlers who are retired Government pensioners, retired military officers, and those gentlemen after passing their lives at that sort of vocation consider at the end of their lives that they are absolutely qualified to be agriculturists in a country like this, and are not only qualified but can acquire large tracts of land without having any regard as to whether they can develop them. Then how on earth can an Indian be held to have no claim to land because he does not come from the agricultural classes? Of the Indians who come here 95 per cent are agriculturists, and they have a higher claim for living on the land than anyone else who does not claim for such a class. Then it is further argued that this land should be reserved for the future generations, and the hon. Member for Aberdare made pointed references to the coming generations of Kenya; of course he meant the whites. I should like to show you what interest the so-called young generation of Europeans in this country has in the land. The Acting Headmaster of the Princes of Wales School, Mr. Twells-Grosse, as reported in this *East African Standard* on June 2nd, 1934, said:—

"In 1933 an agricultural class has been started but owing to there not being sufficient pupils interested in this, it did not exist for any great length of time. It had been arranged in co-operation with the Director of Agriculture and Mr. Twells-Grosse hoped that at some future date the class will be recommenced in order that the school might bring its activities into line with the fundamental activities of the Colony."

When hon. Members talk about the coming generations of white people settling on the land, my reply is that in 1934 the acting headmaster of the Princes of Wales School has had to confess that he has had to close the agricultural classes. There are reserved for the white races 16,700 square miles, and the generation coming does not take the slightest interest in the land. They do not wish to qualify themselves in agriculture, but for something else. Is that any justification to reserve such a big area for the white races at the expense or even to the detriment of other races in this Colony? In India, which should like to comment on the manner in which Indians, with their limited opportunities, have been successful in agriculture. We have in the Nyanza Province a small block of 24,000 acres occupied by Indians. No one of them has more than 100 or 200 acres, with certain exceptions. That area has been fully developed; despite the difficulties experienced from time to time they have proved to be successful farmers. Only the other day I travelled through that area on what were called roads, but despite thirty years' of occupation by Indian farmers in that area Government has not given them a single road. I

realize that this is not the time to make complaint, but I would point out that despite all these difficulties the Indians have been successful. Therefore I cannot see why they are debarred from taking up land adjacent. If these Indians had not experimented on that land in the planting of sugar cane, I am sure that to-day we would not have had the sugar industry in that area. It is really a great service which the Indian farmers have rendered the country, and I am quite sure that if given further opportunities they would render equally meritorious services in other directions of agriculture.

The hon. Member for Aberdare has referred to the rising generation of Europeans. I should also like to say a word about the rising generation of Indians in this country. We find ourselves to-day cramped up. In the commercial field there is no more room, in the services they do not get ahead. For the permanent population of Indians in this country there is nothing left except the land, so that what is going to happen to the future generations of Indians unless Government takes this point of view and considers it most carefully? because in this country the Indians are not a floating population. That should be definitely recognized. In this country there are families who for the last hundred years have never seen India. They cannot go anywhere else, this is their country, and therefore it must be recognized by Government that there must be opportunities given them for land settlement. I hope, Sir, this question will receive the consideration of Government.

I should like to repeat briefly one or two points on the question of native lands. The Commission has recommended in regard to the Northern Frontier Province that the lands should not be declared as native reserves. In paragraphs 800 to 805 the Commission has summarized its reasons, and says: "The land should not be proclaimed native reserves nor be regarded as wholly devoted to native purposes, but it should be recognized as land in which the natives have a prior interest." I am not quite convinced about this decision of the Commissioners, who have lengthily discussed the whole question in the paragraphs quoted. One of the arguments advanced by the Commissioners is that "There may be undiscovered sources of wealth and it would be wrong to put unnecessary obstacles in the way of development of such possibilities as the land may possess in minerals or otherwise." I have nothing to say against this mineral wealth being developed, but as far as experience goes in this country I have not come across any special difficulty in regard to developing the mineral resources of Kakamega. It does not seem to me a very conclusive argument for not allowing the natives of the Northern Frontier Province the same sort of security which the natives of other districts possess. I should like to congratulate the Commissioners on the great courage they have shown in their

recommendations about the Leroki Plateau. The hon. Member for Nairobi North considered their recommendations to be a gross breach of faith on the evidence, and mentioned yesterday in his speech that with a view to satisfying himself as regards the stock in that particular area he flew over it. The hon. Member for Aberdare made quite a big speech on the question and quoted a lot of evidence. I do not want to go into the details of the question, but I would like to say that I have given a lot of time to considering the problem from the Report and have carefully gone through the evidence, including the very bombastic evidence of Mr. Bamber. I feel that there is an equally strong case in opposition to what the hon. Members have said. With regard to stock, I cannot possibly agree that by flying over the whole area for half an hour or an hour that one could have more knowledge about the numbers than the members of the Commission, who have taken a great deal of care in studying the whole problem. I think it is obvious that one could not count the number of cattle from an aeroplane, and it is equally obvious that that evidence could not be considered to be very satisfactory. This Commission, on the other hand, has heard witnesses and the evidence of administrative officers who have during the course of their duty visited the area and counted the cattle, and I am not prepared to believe that that evidence should be disregarded. It would be from my point of view very oppressive and inhuman if we were to ask the natives to leave the place for the settlers. Taking the facts as they are, the Leroki Plateau is 870 square miles, of which hardly 800 are suitable for occupation. As the Commissioners say, it would only do for ten or twenty European settlers. On the other hand, there are 6,000 Africans with their herds and flocks. Would there be any justification for driving away 6,000 Africans for the benefit of ten or twenty settlers? The facts have to be faced, and those are the facts in this particular case. I cannot agree that on this question of the Plateau the Commission has failed in its duty in making the recommendation that it did. But the Commission has not gone far enough as far as I can see. The land has only been declared for native occupation at the present moment, not definitely as a native reserve, so that there is every possibility of it being taken for inclusion in the future into the Highlands. The natives are thus not definitely secured, but I think this land ought to be included in native reserves. A question which has some resemblance to that of the Plateau is that of Kaimosi and Kipkarren blocks in the Nandi Reserve. In paragraphs 1047, 1074, and 1078 it is quite clear that Government made the same mistake as they are supposed to have made in the Leroki Plateau, in leasing land to Europeans when it had been kept for native reserves. The hon. Member for Nairobi North spoke of the *laissez-faire* policy of Government. If on

the one hand that policy has been disadvantageous to the Europeans, in this instance it has proved advantageous to them, but they have said nothing of taking the land reserved for natives because it is beneficial to them, but whatever is not beneficial like the Leroki Plateau then they do something. This is an instance in which the one squares up the other. There is only one other point that I should like to make, Sir, and that is to strongly support the hon. Member for Nyanza in regard to Kisumu Township. If the area is restricted much more it will be a definite hardship to the people of Kisumu. In fact, as the future gold town, or as the hon. Member said the Jo'burg of Kenya will be Kisumu, I think

THE HON. CONWAY HARVEY: On a point of explanation. Sir, I did not go so far as that because I happen to know Johannesburg very well. (Laughter.)

THE HON. J. B. PANDYA: When the hon. Member described the area the feeling was that Kisumu would be just like Johannesburg! But I support him on that point, that further area should be added if necessary to the township. The only other point with which I should like to deal briefly, Sir, is with regard to the Coast lands. Paragraphs 1316 and 1317 and 1341 and 1342 relate to the matter, but the recommendations in regard to land titles at the Coast do not go quite far enough. I do not wish to take up the time of the House because I know the hon. Member Sir Ali bin Salim, who is well qualified to express an opinion, is going to speak, and I am sure that his knowledge of the Coast lands, even prior to British occupation, will tell us what is actually wanted. I am in sympathy with the views he is going to express, and shall support what he is going to say about the Coast lands.

THE HON. THE ATTORNEY GENERAL: Your Excellency, if I may be permitted to intervene in the debate, not to take part in the debate but as a matter of personal explanation to explain to the House the position with regard to the committee of which I have the honour to be chairman. The hon. Member for Nyanza in his very able speech this morning took the committee to task—and myself as chairman in particular—for the apparent ineptitude of that committee in dealing with the problem before it. I should like to inform the House that on the 13th September the hon. Member was forwarded a very comprehensive Bill which was drafted by me and was asked for his comments thereon, and I am still waiting for them!

THE HON. CONWAY HARVEY: On a point of explanation. Your Excellency, I did not decry in any degree the work of that committee. My point was that in view of the urgency

of the matter I trusted that the work of the committee would be expedited. I have not yet received the document to which the hon. and learned gentleman refers. Doubtless that is my fault, Sir.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, the Acting Leader of the European Elected Members has covered the whole ground of the Carter Commission Report, and I record that I am in agreement with what he said. I only rise to deal with certain particulars of which colleagues on this side of the House consider I have certain qualifications to speak.

My speech therefore falls mainly under three headings: (1) Northern Frontier Province in relation to its nomadic tribes; (2) Leroghi; and (3) overstocking.

As regards the nomadic tribes of the Northern Frontier Province, I propose to speak at greater length than the importance of the subject appears to warrant, and if hon. Members will bear with me, the detail into which I propose to enter, the historical remarks, will be found applicable to what I shall have to say under my second heading regarding Leroghi, and also to some extent the third part. My primary object in the short historical sketch I propose to give is to impress upon the House the highly nomadic nature of all frontier tribes as traced in their migrations and tribal movements during the last fifty years, and explained in sections 718 and 98 of the Report, with which I am in agreement. The first mention we have of the Northern Frontier tribes comes from two German missionaries in the sixties or seventies of the last century—Krapf and Rehmman, the discoverers of Mt. Kenya. They were sent from Germany as missionaries to the Gallas. In those days the Gallas were the most important tribe of the Coast hinterland between Mogadishu and the Tana Estuary. What do we ever hear of the Gallas now? There are scattered Galla all over the country, but they have been replaced to a large degree by successive waves of emigration from the North Juba raiding into the Galla country, killing out the men; capturing the women and, incorporating them in new tribes, thereby creating the Anllian, Mohamed Zubeir, Merihan Galti and other Jubaland tribes, and their infiltration south is still continuing from the lately ceded territory of Italian Somaliland into the Tana region still in our possession. Along the Kenya northern border during the last 25 years there has been a big migration south, I understand, of Girre, Girriha, and Gubra tribes, sections of the Oromo or Boran tribes (themselves akin to Gallas). In pre-Government days these tribes were confined to the Boran Highlands almost entirely and are therefore Abyssinian by nationality. Their migration south and their establishment of settlements on Marsabit is

accounted for by two factors. (1) The ferocity of their administration at the hands of Amharan Abyssinian Rins or Governors, especially as regards collection of taxes. We chastise them with whips; they chastise them with scorpions. (2) The peace and security they could secure under benevolent British rule. On the west within recent times there has been and still continues to be a strong stream of eastern migration from Turkiana into the Horr Valley and country to the south and east of Rudolph, driving the Rendille and Samburu (always the weakest and most defenceless tribe) ever east and south and justifying their Masai name "Samburambur", the butterfly tribe, a term of contempt.

The Samburu and Rendille are entitled to more detailed notice, because the Samburu question is acutely before us. This pet tribe of the administration is acutely before us. They had their headquarters at Marsabit. I think I may claim to know the exact history of the Samburu which may be said to commence (without being unduly egotistical) with myself and the devoted band of Englishmen associated with me from 1906 to 1909. Of course other Europeans had passed through Samburu long before my time—notably Lord Delamere and Doctor Atkinson. It is with great regret that I record in passing that the voluminous diaries of Lord Delamere concerning the amazing journeys he accomplished at the commencement of this century are lost, and the Commission seems to have ignored entirely the evidence of his invariable com-panion. Doctor Atkinson, who was one of the first, if not the Winston Churchill, when Under-Secretary of State for the Colonies, laured British East Africa, Uganda and the Sudan. In 1906, Mr. Hayes-Sadler, then the then Governor, Sir T. Haynes-Sadler, I received permission to form a Trading Company to open up trade routes between British East Africa and Uganda and Abyssinia. I had the right to go into the closed man territories of the North Frontier and nominate any Englishman to accompany me, to arm ourselves for protection. I had a contra agreement with the Colonial Office in that my reports and maps were at their disposal and £1,000 in cash was deposited by me in the Colonial Office as a guarantee of my good faith. I therefore speak of the Northern Frontier between 1906 and 1909 with authority. When we arrived at Marsabit in 1906 it was uninhabited. There was a raiding party of Tigre on the Northern Water, which departed on our advent, and otherwise it was the home of the buffalo and the nomadic tribes) the headquarters of two tribes who, although of totally different stock, lived together and shared the same grazing grounds, namely the Rendille and Samburu. When I say the headquarters, I mean that both tribes used the Lake

at Marsabit to water in times of drought (perennial in that land) bringing enormous herds of cattle, goats and sheep and other live stock to what could be described as the only usable permanent water in this vast territory. I wish to impress on this House that those were pre-Government days. There was no Government station north of Nyeri; Meru had not been taken over by a late member of this House, Mr. Horne. Our tenure was only possible by the goodwill of the people. We therefore made treaties, agreements (call them what you will) with the chiefs of both tribes. The paramount chief of the Rendille "Luba", and the three Samburu laibons "Lelilik", "Lamarug", and "Lanaguosi", undertook to give us and our caravans safe conduct, food on payment, and information in case of attack from raiders from Abyssinia, and they threw out a cordon of scouts to watch. In return we held for them the water at Marsabit safe and gave them some security thereto which they considered to be of the greatest advantage. Now Mr. Glenday in his evidence in Vol. II, page 1642, lays great stress on the fact that the Samburu had always been our friends; during the war they produced transport and they were a tribe to rely on. It is a half truth which is wholly misleading in point of fact. I could add my testimony that during the years from 1906 to 1909 I had when on Marsabit to draw food supplies from Meru 200 and more miles away through the whole length of Samburu country. I have no record of any spear bleeding murders during all those years for this reason, that they knew we were strong enough and capable of administering chastisement for any breach of our treaty. Now under the Glenday-Cornell type of administration they are out of hand and the result is deplorable as regards spear-bleeding murders which are simply shocking, a disgrace to any administration. Marsabit then I assert was the headquarters of both tribes. The Samburu stretched down to the Northern Guaso Nyiro, occasionally crossed it (chancing raids by the Meru) into the Mara Isiolo-Lekiundu River area, now known as the "quarantine area" as described by the hon. Member for Aberdare. They were in permanent occupation of all the country between, and their three paramount chiefs named above were all handy to Marsabit at either Lasanis, Marille, Turonog, Sirral, Encarre, Langi, or Encarre Loli. all waterholes to the south of Marsabit. How far west they stretched I do not know, neither was I over on Leroghi, but there is relevant evidence from Captain Stigand in the Report in that respect.

This brings me to the second part of my speech, that part which deals with Leroghi. As a start, may I crave the permission of the House to correct an academical error in the Report which is getting perpetuated in all Government offices. I refer to the name "Leroki". The proper name is "Leroghi".

It is good Masai word, and it was a good Masai territory. I therefore beg that the proper spelling and pronunciation will be noted and that the Administration will no longer copy the example of their office boys and spell it with a "k".

Secondly, before I enter on the main arguments for the retention of Leroghi to white settlement, I should like to give reasons why in my opinion my evidence was not taken by the Commission. It was offered. I had a long unofficial talk at Ngong with Sir Morris Carter and Captain F. O'B. Wilson after they had been to Leroghi and collected evidence there. As a result of this talk I was asked whether I would hold myself in readiness to give evidence either at Ngong or Kiambu. My answer was yes, but I was never called, and the explanation to me obviously lies in paragraph 867 of the Report, from which I dissent, and which later I shall crave permission to quote in full.

As the hon. Member for Aberdare said, in order to come to a proper understanding of the grounds on which we claim Leroghi for white settlement, it is necessary to go back to the years 1910 and 1911. Sir Percy Girouard was then Governor, and after examination of all the evidence, and mainly at the instigation of Lenana, paramount chief of the Masai, he decided if he could do so to shift the Masai from their scattered colonies in Laikipia, Kinangop and elsewhere to one reserve south of the railway line, the reserve they now occupy. Before he started he consulted the Masai chiefs, representatives of mission societies, settlers representatives, and the administration, and got all to agree to the value of the move. In passing it may be of interest to Council to state that there were then and are still very few outstanding questions in which complete unanimity could be obtained from a native tribe, the less it is from a historical fact that that move was the subject of bitter attacks in England, now represented by such an McGregor Ross. Sir Percy had two main difficulties to overcome in the accomplishment of this move of the Masai. First of all opposition from the sub-chiefs of the Masai in Laikipia, notably Legalishu, the country where he wished to put the Masai. The Leader of the Elected Members in the course of his remarks pointed out, undoubtedly with truth, that the Masai would never have consented to evacuate the Laikipia or northern reserve to hand it over to Samburu. I say quite definitely that this equally applies to the established white settlement then in the present southern reserve, that they would not have moved to make room for the Samburu. Previous to 1911 I and my partners had taken up 15,000 acres of land at Meliti on the southern

slopes of the Mau and in the heart of what is now Masai Reserve. Major Robert Carnegie was in occupation of a very large tract of land on the borders of the Limik Plains, also in the reserve, and there was a line of farms in occupation along the Southern Gusso Nyiro River. All those settlers had to be moved before the proposed move of the Masai could take place. I first heard of the proposed move from Sir Percy himself and he asked me to attend the meeting on the Southern Gusso Nyiro in which he put the question of a move to the settlers in that area, and I did so. At that meeting Sir Percy made it quite clear to everybody concerned that we had the right of remaining where we were, that we had our deeds and titles. He also explained the advantages that would accrue to the Masai tribe if they were put in one reserve. He also stressed the value it would be from an administrative point of view and he went on to make a direct appeal to the patriotism and public mindedness of his audience. Sir Percy said that as compensation for moving he would give each landholder 50 per cent more land elsewhere to the north, that they would have first pick of any land they chose to select in the north, which included Leroghi. I am quite satisfied in my own mind, and stress it that had any of us chosen Leroghi that area would have been allotted to us. The hon. the acting Member for Nairobi South was then survey officer in the Land Office and I am sure will corroborate this whole statement of fact as regards this move of settlers from the southern reserve to the north. I claim therefore that the proposal to allot Leroghi to the Samburu constitutes a complete breach of faith on the part of Government to white settlement in this country in terms of Sir Percy's promises in 1911. Turning now to another aspect of the Leroghi question, the relevant section is 867 of the Report. With my permission I will read the whole of it, because in my opinion it is the crux of the whole case:

"The question of the Samburu claim to Leroghi has been discussed in sections 832-837 above, and we agree that on historical grounds their claim is not a very strong one. Whatever claim they may have had dates back before the time of the European administration. However logical it may seem to say to the Samburu: 'You did not occupy this land when we came, but you did occupy Marsabit, and therefore you must go back there', such a course would be impossible, because that area is now occupied by other tribes and no Government would contemplate the continual moving of tribes for such reasons."

This section appears to me to be the weakest part of the whole Report and there is not a single argument therein with which Elected Members can agree. The statement starts with

the tacit admission that Marsabit was in fact Samburu country when the administration came. It goes on to say without any attempt at justification or explanation that Marsabit has since been occupied by other tribes and therefore is forfeit to Samburu. But why? Who are these other tribes, whence did they come, by what right do they usurp Samburu territory? Are they even inhabitants of Kenya, are they not Abyssinian by origin? The whole argument contained in this section 807 is preposterous, and read in conjunction with section 298, in which the Commissioners themselves stress the nomadic nature of all the Northern Frontier tribes, is both inconsistent and absurd. I am aware, although I have not seen it with my own eyes, that there has been a considerable immigration of Abyssinian tribes into our territory. I am not going to offer any suggestion as to the value of that, but I claim that it should have been examined by the Commission.

This completes what I have to say as regards Leroghi, and I now propose to turn to the third part of my speech and deal with the question of overstocking in the native reserves. This is a huge question, and I do not propose to go into details. It is quite impossible in a speech here to cover all the ground, and it has repercussions in every branch and phase of native life. The relevant section in the Report is section 2040, and I propose therefore to confine my remarks to the recommendations contained in this section. When the present Council was elected on the 31st March of this year, at the first meeting of Elected Members held after the election it agreed we should try and come to a unanimous conclusion as to our policy on broad lines on various fundamental things. One of course was finance, the result of which was given you by Lord Francis in May. Another was our policy as regards the native reserves and overstocking. It is with great pleasure that I am able to record that we came to full agreement between the eleven of us as regards the principles we should adopt to deal with this question of overstocking, an agreement which was put into a memorandum and sent to the Economic Development Committee appointed by Your Excellency before the Carter Commission Report came out. We had no knowledge of what was in that Report, but our policy in that memorandum follows very closely indeed and differs in no important detail from the chapter devoted to overstocking in the Report. In section 2040 the main recommendation is to the effect that a "Committee be appointed to consider this matter in detail" under the headings (a) and (b) of this section. Elected Members ask Your Excellency to act on that and appoint this Committee without delay with terms of reference as laid down in section 2040 by the Commission. May I add my own earnest desire that no delay will take place in dealing with these urgent matters.

I presume that in pre-European days the overstocking question was never acute by reason of the constant tribal wars and epidemics of disease. In the last 25 years the situation has altered. First of all British administration has brought order where before there was war and chaos, and secondly when epidemic disease breaks out, notably rinderpest, we have a very highly efficient veterinary department to cope with it, so we find overstocking now acute. It is no new thing to any of us who have studied the question. It cropped up in the days when Dr. Atkinson was a member of the Council. We fought then, and I was behind the fighting all the time, to get stock routes open, to try and get facilities for tribes to trade live stock and thus try and escape the evil which we saw ahead of us. They sent out in 1930 a really expert agriculturist in Sir Daniel Hall. His report was on exactly the same lines, and of course it was pigeon-holed. The snag to this, and the reason why the matter has always been suppressed, hidden away, call it what you like, by the administration lies in that one word used in the Carter Commission Report—compulsion. I say to you here without any argument that you must use compulsion to eliminate this overstocking, and you must use it for the benefit of the tribes themselves. It is not the fault of any native who holds enormous areas of pastoral land that he overstocks. It is the fault of the administration, which has to bear the responsibility. The native owns the land communally, and the stock more or less individually. If a man owns a thousand head of stock and his next door neighbour owns 500 with a land-capacity for 1,000 do you imagine for a moment that the man who owns 1,000 will reduce that number of 500 for the benefit of the other man? It is not thinkable. You will have to use compulsion in the interests of the tribes, and if Government does not realize there is only this one way, compulsion in the interests of the tribes themselves, anything that anybody says or any ruling any committee comes to will simply be null and void. Your Excellency, I have finished with my remarks under the three heads of my speech. I have only one further point. Everything I have said and the evidence I have offered to this Council is meaningless to me and I cancel it, unless we are given under this Report the full security of the White Highlands in a form which is acceptable to ourselves.

The debate was adjourned.

Council adjourned till 10 a.m. on Friday,
October 19th, 1934.

FRIDAY, 19th OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Friday, 10th October, 1934, His Excellency The Governor (BRIGADIER-GENERAL, SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 18th October, 1934, were confirmed.

ORAL ANSWERS TO QUESTIONS.

KENYA LAND COMMISSION REPORT.

No. 90.—THE REV. CANON THE HON. G. BURNS asked :

"1. Will the Government please state what steps have been taken to make known to the natives in the reserves the contents of the Carter Land Commission Report in as far as it concerns them?

(a) How many special meetings have been held?

(b) What were the methods adopted?

2. Will the Government give an opportunity to those natives whose interests are involved of expressing their views and of putting forward any recommendation which they may think well to make?"

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. H. R. MONTGOMERY) : The steps taken by Government to make known to the natives in the reserves the contents of the Land Commission Report are as follow :—

(1) By discussion in the regular Local Native Council meetings of the district concerned.

(2) By advantage being taken of tours of His Excellency the Governor, the Acting Colonial Secretary, Acting Chief Native Commissioner and Provincial Commissioners, to hold special meetings in certain districts.

(3) By the distribution of copies of the Report in certain districts.

(4) By the explanations of District Officers in reply to questions put to them by interested persons when on tour in their districts.

2. I know of approximately fifteen special meetings but naturally this matter has ordinarily been discussed at the regular meetings of Local Native Councils.

3. Every opportunity is given to natives to express their views and make recommendations to their District Officers who report on them in their diaries to the Provincial Commissioners.

MOTION.

KENYA LAND COMMISSION REPORT.

MAJOR THUR HON. F. W. CAVENDISH-BENTINCK having moved:—

"Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

Whilst noting that in general terms their Report has been substantially approved by the Imperial Government, this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations".

THE HON. CONWAY HARVEY having seconded.

The debate was resumed.

HON. ISHER DASS: Your Excellency, in to-day's debate I assume two roles when speaking against the motion. First, as everyone knows, I have devoted my life to the cause of the oppressed people, not only here but in Europe, America, everywhere. Secondly, I shall speak as an Indian, because I have been honoured by being elected by the Indian community to represent their interests in this Council. When speaking on behalf of the oppressed people, if I take up the time of the House a little longer than usual I trust that I may be pardoned. I heard on Wednesday, and on Thursday too, the Highlands orchestra being played here under that beautiful conductor, the Acting-Leader of the European Elected Members, and the music played I personally believe should be treated as an "In Memoriam" of the Commission, because that Commission's Report is not in keeping with British traditions, and is a most unstatesmanlike Report. But I will go further, and say that so far as the Africans are concerned it does not give them any rights at all. It does not touch their interests at all. It stands only as a document for the advantage and benefit of the European settler community in Kenya. In the year 1929, after the Kikuyu and other natives had asked for security of their land tenure by means of memoranda, appeals, and deputations sent to England, I can inform the House that in that year I took the initiative on my own of taking a member of the Kikuyu Central Association to England to represent their cause. Prior to that they had never been represented by one of their own kith and kin, although they had been asking all along for the safety and safeguarding of their interests in their land. And what happens in the end? The same thing that always happens in all

parts of the world when oppressed people ask for their rights. I think, if I am not wrong, people asked in France some years ago for the same thing, and in Russia also . . .

HIS EXCELLENCY: I think the hon. Member might keep to Kenya, because this Report has to do with Kenya. France and Russia do not concern us very much.

HON. ISHER DASS: I was simply saying that when oppressed people ask for the safeguarding of their rights and privileges the answer is given as in this case—they got this Commission. I told the natives then that it was no use asking for a Commission to visit this country, because they would be worse off than they were before; but they insisted. They asked for the Commission to inquire into their land problems. Now they agree with me that I was right and that they were wrong, because they had got what they asked for, and that is this Report. I have no words for the Four Horsemen of the Apocalypse who submitted the Report, with the exception of one, the Secretary, who has my congratulations and greatest sympathy for the work he has put into it in compiling such an appallingly big document of about 2,500 paragraphs. Having said this, I would like to deal in detail with what the hon. Member for Nairobi North has said; later on, to deal with the remarks of the hon. Members for Nyanza and Aberdare, and then with those of the hon. the Indian Member on this side of the House.

To begin with, the hon. Member for Nairobi North mentioned one fact that should have been mentioned in the beginning when he said they were asked to come to Kenya to colonise it for the benefit of the country as a whole and of the natives. The statement that they have been asked to come here as settlers to colonise is absolutely a misstatement. I will quote a few words from a book published in Bombay, "Indians Abroad, Bulletin No. 22", on the East African problem. This article was more or less written by me personally, after my studies in England and India, and after ten years' hard labour! Well, I am very glad that I have succeeded in at least breaking the monotony of the House by making the members smile! That article was written in England and in this country, and published in book form, and I am glad that none of the gentlemen interested to-day have seen fit to criticize it. I contend that not one of us was ever asked to come to Kenya and colonise it, and to show how the European happened to come in contact with British East Africa I will read one or two paragraphs from this book:—

"Now I come to the historical part of my inquiry, namely, the European connection with Africa. Up to the fifteenth century there seems to be no European connection whatsoever. In 1447 the Portuguese started the

horrible traffic in human beings in West and East Africa, being joined later by every member of the then existing family of European nations. A plunge into details of the horrors of this barbarity and soulless inhumanities of those dark ages would serve us no useful purpose here, though an intelligent research into its sombre history with a view to glean some useful information may be a guide to those who are seriously contemplating the permanent peace of the world. The question is, who were really, in the last resort, responsible for the sad and most regrettable state of affairs during this period? I submit here that the Jurists and the Theologians of the thirteenth to the fifteenth centuries should be held responsible, and should be indicted, for the crime of the slave trade, as principals in the first degree, the merchants and the trading companies being principals in the second degree jointly with the different government of the family of nations who subscribed their names to the gruesome offence. The Theologians and Jurists of these centuries stand pre-eminently first to blame because it was they who taught that lands inhabited by infidels were open to acquisition by Christians, and that lands in Africa belonged to no man. Their pernicious doctrine was at once acted upon by the powers in Europe as well as by traders. Who does not remember the grant of Pope Nicholas V to King Alphonso of Portugal in 1482, which was a grant of a misnamed right—*in ardens, conquirendi, erpungendi, debellandi et subjugandi*—that is 'to invade, conquer, storm, attack, and subjugate' the Saracens and pagans, and to reduce them to perpetual helotism? Also in the Bull Inter Caetera of Pope Alexander VI of the same century the King and Queen of Spain were supposed to have the exclusive right of subduing alien lands and islands together with their inhabitants and dwellers. Next, there were the letters patent granted by Henry VII in 1495 to John Cabot authorizing him to discover any infidels in any part of the world and to subdue, occupy and possess them for the King. The letters patent of Francis I of France to de Roberval, granted in 1540, were directed to the same end."

HIS EXCELLENCY: I do not want to interrupt the hon. Member, but this is rather remote from the subject under discussion. I want to give full latitude in this debate, but it seems rather remote to go back to those ancient times. However, I will not interfere with you.

THE HON. ISHER DASS: Your Excellency, the statement has been made by European Elected Members that they had been asked to come here. But this is the last paragraph from the book I am quoting—

"Let us pass on to the historical document called the 'Berlin Decree of 1885' whereby Africa was partitioned among the European nations. The method of acquiring lands adopted in some part was by means of concluding unintelligible treaties with the native chiefs, through the trading companies; the chiefs were said to cede all sovereign rights, and all other rights including the rights to have their own laws and administration, to levy customs and taxes, to maintain unarmed forces permanently in the country. This period also brought in the Popular Doctrine of Trusteeship of the Africans under which the Africans are being tactfully dispossessed of their ancestral rights to their lands; hence Europeans were at once able to acquire land from the Crown for no value or a nominal one and the original rights and titles of Africans are swept away. Native Africans could not hold any enforceable title to lands nor have they been granted up to the present day. In Kenya acquisition of land was by occupation and ceasion. The popular 'native reserves' are just a novel nomenclature for Crown lands, the effect and consequences being symmetrically the same in both cases."

No one has been asked to come here, Sir, to colonise; no one was asked to come and dispossess the natives of their lands, and exploiters cannot be said to work in the interests of the sons of the soil.

Another point raised by the hon. Member the Acting Leader of the European Elected Members Organization is with regard to the lands around Nairobi and other places. Your Excellency, naturally I have no objection to the removal of Pangani or Pumwani from the residential area to a certain spot, but when expressions are used that the basis for removal is the unhealthy conditions of those people, the uneconomic standards of living of those people, I have an objection to the use of those words, because they do not reflect the good administration of the town, because Government and the Municipality have done their best in that area. Probably in the interests of a town planning scheme a removal might be justified, but not on the basis of the expressions used here. The hon. Member also referred to the question of overstocking. If we refer to paragraph 994 of the Report, it says they do not see that unlimited grazing land should be provided for the grazing of cattle. That is what is recommended in the Commission's Report. They have gone a little further to suggest that there would probably not be sufficient land for

grazing, or that they could not recommend unlimited grazing for the cattle belonging to the Masai and other tribes. But it is surprising that in one phrase they say this thing, that there is no more land available for grazing, and in another to say there is plenty of land still available for alienation to the European Highlands. For instance, in paragraphs 856 to 858 they have suggested the addition of Leroki, although in doing so they have gone beyond their terms of reference. The Commission was never asked to recommend an extension of the Highlands area but to define it. In connection with the overstocking question, I would quote from a report which the Masai submitted on 27th October, 1932. In paragraph 18 it says:—

"Mr. Deck (the Provincial Commissioner) expressed his satisfaction at the slaughtering price at which we are compelled to sell our stock because this process is calculated to reduce what he considers our 'surplus' cattle and 'overstocking'."

The next paragraph says:—

"We respectfully beg to submit that the natural outcome of our alliance with the honourable nation and the protection and advantages accruing from such peaceful and beneficial relationships should have been prosperous expansion of our tribe with the increasing number of our cattle and our population, but instead of giving us increased space for expansion, the increase of our stock becomes a matter of some anxiety to the Government and ways and means are sought to reduce it. But assuming that a solution of our 'surplus' stock is found by the force of circumstances which compel us to sell our stock at sacrifice price in the falling markets, we cannot conceive that the authorities would look for a similar solution by similar calamitous conditions for preventing the increase in our 'surplus' population, which surplus is bound to result from the peaceful life we are living under the protection of a peaceful Government."

I say to-day that the Commission, instead of finding some means to solve this problem, have thought fit to recommend to the local Government that they shall appoint a committee to inquire into the matter. They have gone out of their way, I suggest, when they make this recommendation, that there shall be a tax also. I am surprised that the Commission should have gone out of its way to recommend this solution, but unfortunately they have closed their eyes to the fact that there are in the possession of European settlers to-day miles and miles of grazing land, and that after thirty years' of occupation that land has only been developed to the extent of 11 per cent; unfortunately too they could not say regarding the balance

of 70 or 80 per cent, or whatever it is—the hon. the Director of Agriculture has informed the House many times—they do not care to say that this pernicious system of keeping land is wrong, nor do they suggest any kind of tax in the interests of the Colony. How long are these settlers going to keep that land undeveloped? but here is a question of a little overstocking, and only that has perturbed their mind. The Masai have suggested and the hon. Member for Kyambu also, compulsion—I thought he was going to suggest birth control instead of compulsion! There is one thing why the Commission have not actually suggested any solution to this 80 per cent of undeveloped land. Why have they not done so? This land in Kenya is not being kept with a view to future development. It is kept by the settlers for one reason alone, and that is for speculation purposes. They know perfectly well that military officers, Civil officers retired from the Indian Government and other colonies believe that this Colony with no income tax and that sort of thing is a fine place for them to come to. They buy land and they live on it with their pensions, and they know in their heart of hearts that they are not agriculturalists. It may be said that the ruling class has the qualifications of all; in other words, a "jack of all trades and a master of none"! On the 24th July, 1930, I issued this statement when there was some alienation of land from the reserves, a statement that has not been challenged. It was written to the business men of Kenya and Eastern Africa and had to do with the reservation of the Highlands. I will read some paragraphs:—

"*Reservation of Highlands.*—This is, as you know, one of the pet demands of the Conventionists. I hope you will agree that Kenya, even the Highland area, is not climatically suited for white colonisation in the strict sense of the term, i.e. a white man cannot perform manual labour in this climate as he does, for instance, in Canada or Australia. When the Conventionists glibly talk of making Kenya a white man's country, they overlook this fundamental fact. What is the earthly use, I ask you, of clamouring for possession of agricultural land for the development of which you must perforce depend and depend for all time, on native labour? Whether you wish to civilize the native or not, civilized he will most assuredly become in course of time, through sheer contact with the immigrant races, and the inevitable result of this would be that the European farmers would experience more and more difficulty in securing farm labourers as the native emerges more and more from savagery. The present system of excessive taxation, the taboing of economic crops, and the various other forms of direct and indirect pressure brought to bear on the natives to 'induce' them

to seek work on European plantations, will have to cease sooner or later. The history and colonisation of the world ranging over thousands of years has conclusively shown that it is not possible to enslave or exploit a whole people for all time. After a decade or two, when the natives begin to understand the genesis of the whole matter, they would naturally kick up a row and would refuse point blank to work on white plantations on any terms or wages. The present policy of the Government in regard to the supply of native labour to European farms is in the nature of spoon-feeding the farmers which, obviously, cannot last for ever. I can, therefore, safely predict that the white farmers in Kenya will, in the course of a decade or two, find themselves on the horns of a great dilemma. The Government will not be able to 'induce' the natives to work for them, nor, for many reasons, could they permit the farmers to import Chinese or any other foreign labour. But even assuming for the sake of argument that a thousand or so white farmers will be able to flourish in Kenya for all time, how could this possibly benefit the country as a whole or even the immigrant community as a whole? On the other hand, a contented and flourishing native peasantry does help all round. The increased purchasing power of the native will afford employment to hundreds of thousands of people in Great Britain and in Europe in the manufacture of various trade goods suited for native use and consumption and this, in turn, would afford employment to thousands of immigrants locally as brokers, clerks, traders and distributors. Therefore, the circumstance of the Native remaining a wage slave for all time is, in the first place, an impossible proposition, and even if it could be perpetuated through diplomacy or at the point of the bayonets, it could only mean the prosperity of a very small fraction of the immigrant European community, and it will most certainly operate to the detriment of not only 90 per cent of the European immigrants of mill-hands and factory workers in Great Britain and in Europe. If the Imperial Government have got to choose between the questionable prosperity of a handful of white farmers here and the assured occupation for a large number of people at home as well as the promise of a competent living for thousands of local immigrants themselves, common sense dictates that they shall choose the latter policy. They have got to consider the greatest good of the greatest number. I would ask the European traders and merchants not to forget the fact they cannot possibly thrive so long as the great bulk of the indigenous natives remain wage slaves, merely capable of purchasing

a little salt and mufi now and then, and a cheap blanket and a small supply of beads once a year. In countries possessing a prosperous native peasantry, such as Uganda or the West Coast of Africa, you can sell, not salt and cheap blankets, but motor cycles and motor cars in their thousands, besides dinner suits and dress suits, building materials, footwear, headwear and all the other paraphernalia of modern civilization. Just imagine how much employment such a vast volume of trade would provide both to the immigrants and to the working classes at home. It is common knowledge that most of these so-called 'pioneers' have possessed themselves of vast tracts of land in the good old days, for a mere song, so to speak. Some of their holdings run into thousands and tens of thousands of acres. As I have said, this land has practically cost them nothing, and if these protagonists of a white Kenya are sincere in their protestations, if they are really overflowing with the milk of patriotism, they would have thought of splitting up their holdings into small sections, and would have encouraged white men with small means to develop the land. That would have helped white settlement. Did they do this? Not they. They are just sitting tight on their holdings in the hope of being able to palm them off some day on a syndicate or on some new rich arrivals in the Colony at a fabulous price. And to achieve this object they have been boasting Kenya for all they are worth for over a decade—its wonderful climate, its fertile soil, its social amenities and the other attractions such as big game shooting, etc. They have been doing all this interested boasting with the money subscribed by the man in the street who has been fooled into the belief that his civilization, his material welfare and the very existence of himself and his progeny in Kenya are at stake! As a matter of fact, what is really at stake is whether or not Messrs. Delamere & Co. shall get rich quickly, whether or not they shall be able to induce intending settlers from overseas, rich folk, to buy up their huge holdings at fancy prices. It must be still fresh in your memory what hubbub they created on the occasion of the recent visit of His Royal Highness the Prince of Wales, just because His Royal Highness expressed his opinion that steps should be taken to combat and minimise the havoc played by the dread scourge of malaria. The Convention crowd and their mouthpiece, the *East African Standard*, went into hysteria over the pronouncement of His Royal Highness. They said it was most unfortunate and inopportune. They opined that it would frighten intending settlers away from this wonderful Kenya! His

Royal Highness had no business to expose the skeleton in the Kenya cupboard. I think it is needless for me to add that our Convention worthies got into such a panic over His Royal Highness' reference to the existence of malaria in Kenya, because they thought it would frighten away prospective Rothschilds and Rockfellers from Kenya. Of course the small white man, the man with small means who can be assured of a competent living in Kenya is not at all likely to be frightened away at the mention of malaria or man-eating lions. But as I have said, Messrs. Delamere & Co. have absolutely no use whatever for the small man, be he white, black or brown. Capitalism and syndicalism knows no colour or creed. I may mention in passing that most of these big-bugs are what are known as 'absentee landlords', and the evils which this system leads to are well instanced in the history of Ireland and other countries."

That is the reason for these settlers being here, and after thirty years land to the extent of 80 per cent is still undeveloped. Well, the Commission went out of its way to say that no land was to be given for grazing purposes, and if therefore there was overstocking the cattle must be destroyed. The hon. Member for Kyambu went to the extent of suggesting compulsion. The hon. Member the Acting Leader of the European Elected Members also suggested that a European Lands Trust Board might be made a statutory body. If there are any people in this country who are entitled to have security, whose interests must be safeguarded, and above all who have exclusive right and privileges and whose birthright it is to have these exclusive birthrights, they are the natives of Africa and not Europeans. If these people were to ask for exclusive birthrights they would be justified and would have the support of every man of common sense, and I am sure of Your Excellency and of Government. But when an immigrant community stands up in this House and asks for these exclusive birthrights talking about. They do not know themselves what they are talking about. The suggestion of the European Lands Trust to express their love for the sons of the soil, and here I may aptly quote a letter from the *Manchester Guardian* of the 26th April, 1933:—

"Authority in Kenya rests with the Governor, who must carry out the policy of the Colonial Secretary, who in turn is responsible to Parliament. The Archbishop's letter implies that authority, on the contrary rests with the Europeans who own land and do business in Kenya. In a sense he is right."

I will not take up the time of the House but will simply read the last paragraph:—

"In a nutshell, the situation is this. A tiny oligarchy of Europeans has in half a generation reduced the population by a quarter, crushed out native industries, and reduced the survivors to serfdom in order to make them labour for their profit."

That is written by a European gentleman of the same race, and that is the love that all along has been expressed by them. Therefore, in all earnestness, with all the force at my command, I would say that under no circumstances your Government, you Your Excellency, or the Imperial Government in days to come should think of preposterous suggestions coming from European settlers to make that Board a statutory body. It has also been suggested that the Africans are asking for some land for the need of their future generations, and an hon. Member said that if that were acceded to probably the whole of Africa would not be sufficient for them. The Commission has also suggested in most of its paragraphs that from the evidence in their possession they have been unable to find that these people have actually any claim to this land. If the Masai have not come from lands near Nairobi, Naivasha or anywhere, the Lamelwa in their territory, the Kikuyu in their districts, and other tribes from the Northern Frontier, there must be some doubt as to the claim of the Africans at all. But whether it is or that land belongs to the Masai or the Kikuyu, it belongs to the sons of the soil, which means natives. It does not belong to the Indian or the European settlers.

There is one word more about the hon. Member for Nairobi North. In his eloquence, in his well-thought-out speech, as suggested by the hon. Member for Kyambu, and as the Members have agreed among themselves, he has said one thing—that he was demanding an exclusive privileged position for the European community. If he had suggested only Britishers—the English, Scotch, Welsh and Irish—I personally would have raised no objection. After all, these four countries combined make Great Britain. If the hon. Member in his love for other European races or the western side of civilization and Christianity had suggested the French and Belgians I would have thought there was a love which would last for a few centuries. But the hon. Member has asked for a privileged position for the people of all European nations in Europe, as against the interests of British subjects who form part and parcel of the commonwealth. That is nothing but the greatest insult ever offered to the Indian community in Kenya on the floor of this House, and I should be failing in my duty if I did not remind the hon. Member

for Nairobi North that by making such a statement he has not only shown his ignorance but his ingratitude to a race which has tradition, which has done its best in the interests of the British Empire, and has done all it possibly could and what no other nation would do! What was said on the 7th October, 1926, by the late Lord Birkenhead, then Secretary of State for India? I respectfully ask your indulgence, Your Excellency, because there could not be a more serious insult offered to India. Had he confined his remarks to the four countries which comprise Great Britain no one would have minded, but when he goes out of his way to ask the same privileges for enemies who were not slow to destroy the peace of the world and exclude the Indians, then I have something to say, and I hope I shall be excused for that. In October, 1926, the late Lord Birkenhead performing the unveiling ceremony at Neuve Chapelle, delivered a striking speech in memory of my countrymen who died in France during the war, and I want hon. Members on this side of the House never to lose sight of the fact that it expresses gratefulness, the greatest asset of all; ungratefulness is the greatest curse! Lord Birkenhead said:—

"In three matters, while all who fought suffered greatly and wrought nobly, the endurance of the Indians was remarkable in a special manner. First, they fought thousands of miles away from their homes in strange unfamiliar surroundings among peoples whose tongues they did not know, whose ways were not their ways, whose civilization was not theirs. Secondly, they fought in a climate to which their bodies were not inured. Most of them met swift exchange of the scorching heat of India for the weeping skies of Flanders. I saw them, can see them now, standing in foul water, their bodies were often broken by the elements but their souls were never conquered. Thirdly, these men who died fought in a quarrel of which their understanding was less perfect than was that of those by whose side they contended. Belgium remembered a happy and innocent country which she had almost lost. The French saw all around them the cruel sight of local destruction and in the vivid eyes of imagination the incomparable and the spread of that menacing invasion into yet further areas; they fought near to their homes and in quarrel with known dangers. It would be an insincerity to pretend that in this sense the objects with which the war was waged could have been known or were known to the majority of the Indian army. It is in these circumstances the special soldierly virtue of these Indians that they met with steadfast eyes the clash of novel and horrible war, certainly, without the clear, perhaps without

the discernible stimulus of a danger to their own homes or to their own wives and children. Whence then came the spirit of endurance, of high endeavour? It came from the twin sources of an inborn and simple loyalty, of an instructed and very perfect discipline. Like the Roman legionary, they were faithful unto death."

I want hon. Members on this side of the House to remember we were faithful unto death, and when it comes to a question of right in the British Empire you will have no business to ask for privileges for those enemies who were absolutely ready to destroy you, your homes, and families. You will always stand by us, and if you do not we shall see that you do so stand! On this question, Your Excellency, the late Lord Hardinge, in a speech in the House of Lords on the 26th July, 1923, on the subject of these Highlands and special privileges, said:—

"There is still the question of the Highlands of Kenya. Lord Elgin, in 1908, for reasons of administration, announced various restrictions of Crown grants in the Highlands to British settlers, but at the same time declared that there should be no statutory restrictions of a racial character imposed upon any community. Obviously this would apply to the transfer of land. However, in 1915, under martial law, the transfer of land to Indians in the Highlands was prohibited by statute, but this prohibition does not apply to aliens. Is it right or just that in a British Protectorate our own fellow-subjects should be denied a right which aliens are permitted to exercise?"

I think he was a great statesman.

Having dealt with what has been said by the hon. Member the Acting Leader of the European Elected Members, I shall deal with one or two points raised by the hon. Member for Nyanza. The hon. Member, to begin with, told us that he was in a position, or had authority to speak, because he had lived twenty-five years in Kenya. I am sorry that the hon. Member is not in the House now, and that I shall have to offer my criticisms in his absence. He said he could speak because he had the greatest authority, of living for twenty-five years in Kenya. If the hon. Member can believe that is the only authority required, or the only qualification, then I say that those born in this country, who have lived here all their lives, have claims of greater consideration. He also suggested that Government, by their lenient attitude, had caused the Masai to think that Government was afraid of them. That is not so. In fact, on the other hand, what the Masai think

of Government's lenient attitude I shall quote here. I have been asked by these people to refer to certain official correspondence. They do not think anything of the kind suggested by the hon. Member that Government is afraid of them, but in fact they think they have got their only hope for their future prosperity in the British officials, or the administration of the country, and not in European settlers. In 1933 they submitted a memorandum through official channels to the Provincial Commissioner at Ngong, and afterwards to the Chief Native Commissioner, in which they set out certain grievances and hardships suffered by the Masai of Narok-Kajiado:—

"It happens to be a strange coincidence that just at the time when a very important Commission of Inquiry appointed by the British Parliament is sitting in the Colony and the whole of the question of land, native reserves and forests, a decision of vital importance should be arrived at in respect of the Ngong Forest in the Masai Reserve. The decision by which the forest at Ngong has been placed under the Forest Department and presumably declared a forest reserve arbitrarily without any consultation with the Native Council or Elders has not only put our tribe to a great inconvenience but has upset the equilibrium of the economical life of all those living in the vicinity. The introduction of various restrictions upon the supply of daily necessities of life, e.g. wood fuel and timber for hut building is distinctly a departure from the just one-third of a century and has involved us in a great hardship attended in a number of cases of individuals being forcibly divested of their huts and cultivation which came within the arbitrary boundaries of the new forest reserve. The surprise of our having to buy wood fuel for our daily requirement by payment of Sh. 3 per month has come as a shock to an already overtaxed community. Numerous prosecutions were launched under the forest regulation against persons who had not the remotest idea of contravening any laws of the Government. The summons issued under such prosecutions were not even entered up in any register and most of these have been either withdrawn or dropped."

All they have asked me to say I will say when I quote the memorandum:—

"Our tribe may be under a misapprehension but they consider the handing over the forest to the Forest Department is a definite encroachment upon our reserve inasmuch as it gives the authority to the Forest Department to deal with the forest in whatever manner they

think best, including the procedure by which the concession for cutting fuel and timber may be given to any European or Indian by tenders or otherwise. Instead of making our lives easy it entails the immediate hardship of our having to buy our fuel, etc., from our own forest, the proceeds of sale, presumably going to the general revenue. The agricultural land at our disposal is already extremely limited and the introduction of the forest regulation has taken away from us a considerable area of the land which had been cultivated and planted with trees by us, and some of us have been forced to remove our huts where they had been built for a long time. We request therefore that (a) either the forest be made to revert to the tribe and be looked after by Native Council under the supervision of the District Commissioner under whose guidance the re-forestation can be carried out with the advice of the Forest Department if and when necessary, (b) that in the event of this request being acceded to the matter should be left *status quo* till after the result of the inquiry of the Land Commission."

They submitted this memorandum, and what did they get in return from the Government? The impression that no action will be taken on the memorandum until the Native Affairs Department is furnished with "a copy of the accounts of your Association showing the money received and names of subscribers and full details of the items on which expenditure has been incurred, and also of a record of meetings held." This is the answer from Government. The poor people do not think for a moment that Government is afraid of them. They have clamoured for some redress for a year, and time after time have submitted memoranda, and appealed to the Chief Native Commissioner, and they were always told that unless they disclosed the amount of money collected and the names of their members, no action would be taken. What do the Kikuyu Central Association and the Loyal Kikuyu Patriots think of the whole thing? They are law-abiding subjects, but when men are dispossessed of their land they do feel something about it. On the 13th October, 1934, they sent a memorandum to the Secretary of State for the Colonies, in England, and submitted a copy to the Colonial Secretary here in Nairobi, and to a few friends whom they think will help them in their distress. One or two paragraphs will interest the gentlemen on this side of the House when they ask for exclusive birthrights:—

"We, the Kikuyu Central Association, Loyal Kikuyu Patriots and the Progressive Kikuyu Party representing Wakikuyu, do not appreciate the Report of the Kenya

of Government's lenient attitude I shall quote here. I have been asked by these people to refer to certain official correspondence. They do not think anything of the kind suggested by the hon. Member that Government is afraid of them, but in fact they think they have got their only hope for their future prosperity in the British officials, or the administration of the country, and not in European settlers. In 1933 they submitted a memorandum through official channels to the Provincial Commissioner at Ngong, and afterwards to the Chief Native Commissioner, in which they set out certain grievances and hardships suffered by the Masai of Narok-Kajiado:—

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"We, the Kikuyu Central Association, Loyal Kikuyu Patriots and the Progressive Kikuyu Party representing Wakikuyu, do not appreciate the Report of the Kenya

Land Commission, and therefore we approach His Majesty's Government with a request that it may not be a final decision and that the King may not be asked for approval and enactment, because we are making an appeal, and if H.M. the King approves and signs it we shall not have any right to appeal. For this reason we humbly beseech H.E. the Governor of Kenya and the Home Government to have this matter left outstanding until Government give us a chance of sending out our delegates to go and make inquiries again of particular things on our behalf.

1. Please look up K.L.C.'s evidence given by Nyoro, son of Gicini, on page 156. Near the close of his evidence he requested that the Government may permit two of our elders to be present when recommendations will be put forward.

2. Please look up the Report of the Kenya Land Commission, paragraphs 522-523, re Land Tenures.

We do not want white men to conceive in mind that our lands had no individual owners, because it is wrong to think that and to have that conception in mind, for the lands were not properties of community at all. They were belonging either to a clan or to an individual person. See *Journal of the African Society*, page 46. The story of Mervyn H. Beech is true.

We do not want a self-Government to be born in Kenya, because we have no representatives to speak for us in the Legislative Council in whom we can fully confide. Those who are considered as our pleaders do not help us or speak for us as they ought to. For example, one of the two members of the K.L. Commission once was a distributor of Kikuyu lands to the other white men, and the other one is among those to whom lands were distributed. For this reason we do not hesitate to say that the whole problem was not treated and resolved justly because there is nobody who can bring a charge or claim against himself. They were there to protect what they had done in the past. Furthermore, the opening words of Sir Morris Carter in each of his addresses were that we should not claim for the restoration of the lands now in the hands of the Europeans, but we may make inquiries regarding the lands outside the European settlement spheres or ask for recompensation, therefore we realized that he followed only what the Secretary of the Commission had planned three years beforehand and that his or the Commission's Report was not born by his own observation.

We are surprised to see that Mr. Hemsted, who was a District Commissioner at Kiambu when the lands in question were taken away from us, and who distributed them to the other Europeans from 1902 to 1911, is chosen by the Government to be a speaker for the African. When we understood that he had been chosen to be a speaker for us, we went to him to ask him what we can do with the particulars of the K.L.C.'s Report. He answered that he cannot say anything else except what he had already said to the K.L.C. and had left it with the Government to accomplish what they had proposed in the K.L.C.

The Secretary of the Commission when he was a D.C. at Kiambu, he told us frankly that he would consult the Commission and cause them to decide that there is no land belongs to an individual person, though when he was in the District Commissioner's office he used to see people bringing in claims towards recovery of certain pieces of land as named below:—

1. Mang'u.
2. British East Africa Wattle Estate, Kikuyu.
3. Dagoretti Boma.
4. Riani Tongue, Njuuu.
5. Murigo's, Nyeri.

There are many others similar to the above. He had consented and agreed that the Government may give back the above mentioned lands. When the Commission began the work it recommended the recovery of these pieces of land to be recovered by the owners. Therefore we find that the Commission itself did not do anything new, but followed what its Secretary had planned. If you compare the Minority Report made in 1929 with his evidence to the Commission you will come to the conclusion that what the Commission decided was planned by its Secretary beforehand.

Those who were called to give evidence to the Commission are those who have shared the lands in question when they were being distributed.

If the Commission was treating this matter justly, the European plantations dotted in the native reserve should not be continued to be cultivated by the settlers. The native reserve should be considered as all one area for them, without European farms within the spheres of

the native reserves. The following farms or settlements should be considered as the sources of disturbance to the success of the native reserves.

1. Dr. Doedoker's farm.
2. Anna's Estate.
3. Mr. Drink's farm.
4. Miss Collyer's farm.
5. South Mackenzie's farm.
6. Mr. Day's farm, Kismara, Kiambu.
7. Roman Catholic Mission's farm, Riara.
8. Roman Catholic Mission's farm, Tang'ang'a.
9. Roman Catholic Mission's farm, Mang'u.
10. Roman Catholic Mission's farm, Getanga, Fort Hall.
11. Roman Catholic Mission's farm, Mogoiri, Fort Hall.
12. Gospel Mission Society farm, Kambugu.

The reason of our suggesting this is because we understand that the natives at Tigon and Githirion are intended to be removed from their habitations for the fact that they are in the midst of the European settlements. The Europeans say that they only take those pieces of land which are not inhabited; Tigon was a habitation of natives before the white man came. Through this presumed removal we learn that it is the thin end of the wedge, that in future many others will be treated in a similar way. Please see paragraphs 532-535 of the K.L.C.'s Report, that P.C.'s Court may remain as it is now and that it is the final Court, and that he may be the only supervisor of all land affairs, that no one will be permitted to get the assistance of a lawyer, that will merely be as a Court which would strangle a person without a reason. The P.C. will not go into the cases carefully if he knows that there is not another Court for appeal. He can easily judge roughly in hurry without listening properly what people concerned are complaining about. Therefore our objections will continue."

That is what the Kikuyu have said. One thing, and the last thing, that the hon. Member for Nyanza suggested was that the means of most of the development of this country was by forced labour. As far as forced labour is concerned, I want to say one word, because we all know that neither your Government nor any other Government has ever agreed to the principle of supplying or implementing the principle of forced labour for the benefit of the European community.

HON. F. A. BEMISTER: On a point of explanation, Sir, my recollection was that the hon. Member for Nyanza said a "labour force", not forced labour.

HIS EXCELLENCY: My recollection is much the same.

HON. ISHER DASS: Your Excellency, coming to the remarks made by the hon. Member for Aberdare, there are three things which I have noted down which require criticism or comment. The first one is that in his excitement probably, or in his sense of patriotism, he very unfortunately suggested that some murders have been committed by the natives. There is no one in this House who does not deplore such incidents, whether they are done by ourselves, Europeans or Africans, but the suggestion that because some ignorant or criminal-minded people among natives have committed a few murders therefore the whole race should be subjected to punishment or be dispossessed of land is no argument. If I may be permitted to say this for the information of the hon. Member, I will say that in Kenya we have had instances of these poor natives being whipped to death by your people, and if that was the only disqualification I can say that more crimes have been committed against natives by settlers than by natives against the Somalis. The Commission in its recommendations suggested that the Somalis be treated as foreigners. Of course, they have been given certain rights, but more or less the recommendation is that they be treated as foreigners. If they are foreign to this land, then we are all foreign, and hon. Members are asking for special and exclusive privileges although foreigners. I will go a little further, and suggest that at least the Somalis have more in common with the natives, the sons of the soil, than the Europeans have. If they are to be given no rights in Kenya, then hon. Members on this side of the House have nothing in common with Africans and should not ask for such rights.

The last thing that the hon. Member suggested was that of the exclusive birthright, and the hon. the Indian Member on this side of the House has answered him. I really feel I should reinforce his argument by giving one explanation. If in this world nature has produced two kinds of society, one in which special privileges and one without them, then God help society and nature and all. I am sorry that I do not understand who has created such a classification or distinction among society that there should be two kinds of people living on one earth—one with an exclusive birthright, and the other for whom the only birthright is to be treated as helots or slaves, and who lead a life as labourers for the maintenance of the higher standard of life. I have only now to point out

with regard to the Indian Member one or two things. I will very strongly support what he said and will suggest one thing more—that if the Commission has done no good, if they have absolutely ignored the existence of Indians in Kenya and have dealt only with the privileges and birthright of the European community, at least they have done of the greatest justices unintentionally: they have given cause or reason to my countrymen in Kenya that they must always remember it is no use asking for rights. They will never be obtained by asking this Commission. It is an eye-opener to those people who always believe they can get things from commissions. That is the service, in opening our eyes and the eyes of all Africans too, and for that they deserve sincerest congratulations from me. Nothing more has been said that I will deal with or comment on, except that as I suggested in the beginning this Report is absolutely unworthy of the British tradition. It is an absolutely unstatesmanlike document, and as far as the Indian community is concerned we feel that this Commission was never appointed and has never submitted any Report, not only because they have totally ignored us, but they have not even remembered for a moment that we are members of the British Empire, peacefully residing here; that we are not fit people to be taken any notice of. I will, Your Excellency, simply ask one question in conclusion, a question of your Government, and I hope in all earnestness you and your Government when replying will give us a definite answer. The question is this: Have we any right in this Colony or not?

The Council adjourned for the usual interval.

On resuming.

THE HON. SIR ALI BIN SALAM: Your Excellency, I am rising to speak not on the subject of the land in the Highlands, but on the question of land at the Coast, with particular reference to the land in the Malindi District and the land belonging to the Digo.

The Digo people put in their claims regarding land and the Government accepted such claims and charged them a fee of Rs. 2 per claim and gave them receipts for the amount. Later, however, the Government changed their original idea of giving them the certificates and asked them to withdraw their claims, which they refused to do. Then the Government asked me to talk to the Digo. I accordingly told them that it would not be good for them to take the certificates. I drew attention to what had happened to the Arab and Swahili land-owners on the Island, who could not resist the temptation of selling their lands as soon as they saw the bags of rupees.

I pointed out to them that if they got the certificates, the same thing would happen to them also, as the people would come to them offering to buy their land. They agreed to this advice. Then Mr. Maclean, the Recorder, came with the claims and money. Everyone withdrew his claim and Rs. 2 was refunded to everyone. We then began to cut the boundary. Likoni itself has two patches of coconuts and the waste land lies in the middle of these two patches. We surveyed the land for each person for his shamba and gave them grazing land to be used as a "common" for grazing their cattle. They agreed to give the rest of the land to the Government on the express condition that in view of the Government taking the waste land lying between the two coconut patches, the boundary of the Likoni people shall not be altered, but shall remain as before. The Government agreed to this. But when the dispute with the Digo people took place afterwards, I came to know that the Government Surveyor had made a mistake in fixing the boundary. The Government, without making any reference to me, forwarded a report of that mistake to the Colonial Office. Although the boundary was put right here, I think the Government did not apprise the Colonial Office of the correction, but left the old boundary as it was. Then the people of Malindi refused to put in their claims to the Government and refused to surrender their title deeds. I was instructed by the Government to go to Malindi along with Mr. Isaac, the then District Commissioner of Mombasa, in order to talk to them. I did this and persuaded them to put in their claims and surrender their title deeds. They did this at my persuasion. The Government, at the same time, gave a distinct promise that they were going to give better title deeds. I am sorry to say that this promise has not been fulfilled by the Government. The people were given the certificates, but the names of the owners of the neighbouring holdings were not inserted in these certificates which could enable them to locate their plots as heretofore. The only way in which the owners could easily trace their plots and locate them is by reference to the names of the neighbouring owners. This information was omitted from the certificates. The Government kept the names of the neighbouring owners in a book in which they are keeping in the Registration Office. This is one of the complaints of the people. If the names of the neighbouring owners are not necessary to be mentioned in the certificates, why then the Government have got these names written in the book kept in the Registration Office? If a plot holder wants to know the position of his plot, he must necessarily go to the Registration Office to ascertain the names of the neighbours and pay a fee of Sh. 2 each time for searching. I think this is entirely wrong, as the names of the neighbours

were mentioned in the Arabic documents, which the Government took away with a promise to replace them by better ones. These certificates are not at all better than the old Arabic documents, which I may say were comprehensive.

A second hardship involved in this system is that, after the Government surveyed the land and gave the certificates together with the plans, the holders could not deal with their land. It cannot be sub-divided for purposes of inheritance or sale unless one gets a licensed surveyor to survey the land and prepare sub-division plans. The people thus lost the use of their land, as they could not comply with the requirements of the law owing to the heavy expense involved. This expense is about three times the value of the land itself. These are unfair hardships which the Government have brought on the owners. I would, at this stage, like to mention a case which happened at Lamu. A shamba outside Lamu was surveyed by the Government for Acting Livali Ahmed bin Sood, the total acreage thereof being 150 acres. The Government demanded from him a sum of about Sh. 400 for survey and registration fees, which he could not pay at the time. The Government noted the fact of the non-payment of the fees on the certificate. After some years Ahmed bin Sood died. The Government demanded the aforesaid amount from the estate. The shamba was sold by public auction and one Mohamed Moawiya bought it for Sh. 20. The Government still, however, insisted in their demand for the balance of about Sh. 380 from his estate. Is it then a wonder if the people are discontented with the certificate system? I cannot see personally any other object of this cumbersome system than merely getting revenue by putting the people to great and unnecessary inconvenience. The recommendation of the Commission, to my mind, is a fair one, provided the Government removes this restriction about sub-divisions. If this restriction is not going to be removed, then the recommendation of the Commission is of no use, because the people definitely do not want the certificates.

Your Excellency, this land question should be dealt with in such a way that it should be perfectly fair and square. There are Europeans who are ready to take up this matter and help the people in fighting the Government for them. There is one thing which may interest Your Excellency and the hon. Members of the House. A few years ago an Englishman had settled with the leader of the Mazrui family to fight the Government regarding their land and an agreement was entered into between them to the effect that if the Englishman succeeded, they would divide the land between them, and if he failed in his efforts, then the leader of the Mazrui should not be under any obligation to pay him anything. The Mazrui

leader brought the agreement to me and asked for my opinion about it. I told him that he was not going to gain anything by the agreement whether he succeeded or not. It meant that if the Englishman succeeded he would take away half the land, and if he failed nothing was to be gained except the displeasure of the Government. He took my advice and tore up the agreement and that was the end of the matter. At that time those people advised the Governor, Sir Percy Girouard, to make a law to prohibit the Mazrui leader from having anything to do with the Mazrui. The Governor called a meeting of about fifteen or sixteen Europeans, including myself, and began to ask every one's opinion turn by turn about the proposed law. Every one gave his opinion and at last he asked me for mine. Before expressing my opinion; I asked him the Governor as to what his real desire was. I asked him whether it was his desire to settle the matter amicably with the Mazrui as a settlement, or to use his power in the matter. I told him that I would give my opinion on learning his real intention. The Governor said he wanted to settle the matter amicably with the Mazrui family. Thereupon I told him that he would succeed in settling with the Mazrui only through their leader Rashid and in no other way whatever. He accepted my views.

Now, Sir, I have told you about the Digo that I have settled with them on the instructions of the Government to withdraw their claims, and now something very bad has been done to the Digo, and I feel that I would be failing in my duty after I talked to them, if I do not help them in this matter. I have told Your Excellency that it is a very bad thing and I do not wish to talk publicly here unless Your Excellency wants me to do so. I can talk to Your Excellency privately on the subject, because if this matter reaches the ears of the public in England, I can very well imagine what will happen.

HIS EXCELLENCY: Perhaps it will be more convenient if you send in to Government what you propose to say.

THE HON. SIR ALI BIN SALIM: Thank you, Your Excellency.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, rising at this stage I think I can give hon. Members the assurance that I will not unduly occupy their time. It will be necessary for me to rise if only to add my tribute to that of others to the most able analysis of the whole matter given by the hon. Member for Nairobi North and hope that we shall appreciate the great service he has rendered this House

by so doing. It is only necessary for me to say that I give my most unqualified support to everything he has said, before going on to one or two points of my own. Your Excellency will remember—we all do—that immediately prior to the issue of this Report and since much speculation arose as to what would be the spirit in which the settlers of Kenya would accept that Report? Would they accept it in a broad-minded spirit, taken as a whole, and control any emotion they might feel in regard to small matters, and not lose the substance for the sake of the shadow? Those speculations were of little value, because it was a foregone conclusion that if we got a sensible Report it would be accepted in a sensible and broad-minded manner. I think we may congratulate ourselves to a large extent on much that has been accomplished. I mention that particularly because of the real interest to us on this side of the House and what we are waiting for is to see what is the spirit in which Government is going to accept this Report. Our experience of the manner in which reports have been accepted has not always been satisfactory. What we want to know is whether Government is now going to wake up and take really energetic action regarding the matter of these recommendations. Government cannot complain that it is a rude awakening, because as the hon. Member for Nyanza explained to us, nearly all the principles included in the Report have been gently murmured into the ears of Government for years past by Elected Members and others. One might almost say that there never has been a more gentle awakening since the legendary awakening of the Sleeping Princess to the kiss of Prince Charming. Our Prince Charming has presented his kiss, a substantial one it is true! What we want to know is whether the response is going to be according to tradition or whether our local Sleeping Princess will turn over on her other side and give another long snore. I hope, Sir, it will not be so.

In order to stress a point that I consider of great importance, I will briefly refer to the recommendations directly affecting the constituency I have the honour to represent, and that is the grant of an area of 300 square miles of "B1" land to the Wakamba. Although that is an area which has always been regarded in the past as available for white settlement, I may safely say there is a general and complete acquiescence in that recommendation. When evidence was given, and also since, that acquiescence was given on one distinct condition. That was that such extension of land should be for the benefit of the people and they should not be allowed to play "Old Harry" with it as with the rest of the reserve. The Commissioners have endeavoured to meet this condition by this arrangement and classification of the

land, and this is the point I wish to stress. The proper concentration and use of the land is the point that is needed to be stressed, and I want to quote briefly from the Report. Paragraphs 1453 and 1454 say:—

"There must be no suggestion that, because an area of land is given to a native reserve as Class "B" land to satisfy an economic need, it is of necessity to be devoted to the use and benefit of the tribe forever, but the permanency of the allocation should depend upon the duration of the need. There is another reason why the Crown should not divest itself irrevocably of its rights over such land. We cannot too strongly emphasize the need for making all such grants subject to conditions which will prevent the land against misuse, and in particular, over-stocking should be prevented by a limitation of the number of stock which the area is authorized to carry."

As far as the Commissioners go they have discharged their duty in this matter entirely. What I want to suggest is that in view of this recommendation and of the fact that this is the method by which the Commissioners endeavoured to carry out their first term of reference as it related to land for natives, possibly the most important part of their work, the duty of Government regarding "B" areas is a duty which must be carried out at once. First, the natives concerned must be informed of the contents of the paragraphs that I have just read. If we do not do that we shall never be able to do it, and we must not send our Administrative Officers to that with their hands tied, because the natives would laugh at them; it is only fair to our administrators that they should have that necessary tact and authority in this matter. The other thing that is necessary. We have all been in this country for a point, Sir, is this. We have all been in this country longer than good many years now; most of my colleagues longer than myself, but even in my time I have seen many occasions of able and enthusiastic officers going to a district and endeavouring to take up this work of development, reconditioning, and so on, and have been there for six months or a year before a general post takes place so that somebody could go on leave. Another officer comes, takes up the work, but with a different set of ideas, and we have never succeeded in getting continuity of policy in this development work. I submit that it is owing to that lack of continuity that many reserves are as they are to-day. Humanly speaking, that must happen again in this area unless from the start Government lays down a clear, broad, and rough programme of work for the economic development of these "B" areas. Just to explain what I mean I will refer to one or two things; I do not want to suggest a detailed programme but one or two things which have been proved by experience. There are dry areas in this

country of which thirty or forty years ago travellers and visitors used to say what a pity it was that such beautiful land could not carry a permanent population because it was waterless. Such lands have been taken up by settlers, whose first task inevitably has been to establish water by recognized methods such as damming, well sinking, opening up springs and by sinking boreholes. The result is that this land is carrying now a permanent population of Europeans, natives and cattle. The same can be done with the "B" areas which to-day can only be described as dry. I am perfectly certain that if a definite programme of water conservation for this area is drawn up now by Government for the guidance of Provincial and District Commissioners and that work is carried out continuously perhaps for five or ten years that land will become permanently water-established and capable of carrying a permanent population of real benefit to the Wakamba. I may perhaps be pardoned stressing such matters at some length from this side of the House since they are chiefly administrative matters, but at the same time I have good reason, I think, and I will refer to the speech of the hon. Member for Nairobi North when he said that in order to achieve a satisfactory settlement and accomplishment of the many valuable recommendations of the Report we were being asked to make considerable sacrifices, and the hon. Member for Aberdare gave some remarkable figures. Well, Sir, this particular area happens to be one of these sacrifices, and with all due respect we do not propose that that sacrifice should be in vain. The next matter to which I would refer is the question of the Lerogi Plateau. I do not care what responsible statesmen may have said or meant to say or said they meant, the fact remains that the Masai were removed from Lerogi on the definite understanding that that area was to be used for white settlement. That was twenty years or more ago, and the Commissioners still recommend that it should be for white settlement. The Masai, I may perhaps be pardoned for using a vulgar but not unparliamentary expression, were quite definitely "sold a pup". We have no intention at this late date of purchasing such a pup!

That brings me to the Lerogi Plateau question. The hon. Members for Aberdare and Kyauhu have set before you at great detail and clarity the facts and figures relating to this disputed question, so I do not intend to go into them, but I do want to draw one or two conclusions from them. The first one is this. A committee, I think it is generally known as the Whitehouse Committee, reported in 1930 that this area was inadequate for the Lerogi and Samburu. They were calculating, so the Commissioners gave us to understand, on a cattle estimate made by a district officer in 1928 or 1929 of 63,000 head on Lerogi Plateau. Since they estimated the

carrying capacity of the alternative area was about 40,000 head or so, they were possibly justified in saying the area was inadequate. To-day the number of Samburu cattle is estimated by the Veterinary Department to be moved from Lerogi at under 40,000 head, so that the inadequacy of the alternative area no longer holds good. Another matter largely ignored is the fact that the Samburu have on two or three occasions abrogated that area to themselves and have been flung out by Government at once. In paragraph 807 of the Report it is suggested that Government cannot move the tribe for the mere reason that we can assume they would like to go there if they can and that the area is adequate for them.

The other point to which attention is directed by the hon. Member for Aberdare was to find out for what other purposes this area would be required, but one fails to find out from the Report. There are quite trifling reasons to these other purposes. The Commission mentions the quarantine area. We have been told that it occupies fifteen times the area necessary; they also suggest a fertilizer factory, which we can discard without further argument. And there is the question of Somalis. The evidence of the Provincial Commissioner of the Northern Frontier was very clear, that Kenya Administration considers itself under no obligation whatsoever towards the Somalis but they they were there and had better stay there. So we must see a valuable area of land which we could use for a Kenya tribe and to clear up a twenty-year-old dispute preserved for the use of these Somali aliens towards whom we are under no obligations whatsoever. The whole recommendation I think one is justified in describing as fantastic. We have in fact been given no reason why the Samburu should not be moved and we are asked to make another large sacrifice of our aspirations without being given any adequate reasons. Furthermore, if you sum up the recommendations such as they are, in Chapter 6, on Lerogi, they amount in fact to nothing. The Samburu drifted into Lerogi and have no right there. The Isiolo area is used for veterinary purposes, the Samburu also live there. They are merely recommending that you should continue the policy of drift obtaining in the past regarding this matter instead of recommending Government definitely to remove the Samburu. Indeed, the Commission suggests that we should have a permanent policy of drift. I suggest that no Government within the meaning of the term could possibly accept such a recommendation.

With regard to the Report in general—these are only matters in addition to what have been brought out by other hon. Members I wish to refer to—I cannot sit down without endorsing the remarks made by the hon. the Acting Leader on the subject of security. For the first time, if the question

of the boundaries of the European Highlands is to reach finally by an Order of Council and if finally is established by constitutional methods, it will probably be satisfactory. But there is more in it than that. The settlement of the Colony is no longer a haphazard, hand-to-mouth system. We are now a definitely settled community, rooted in this land, and the time has quite definitely come when our rights having been established our power to protect these rights should now be vested in our own accredited representatives, and while very desirable in the past but no longer in accordance with the growing needs of the country, that power should be vested no longer in the Governor-in-Council. As in the case of the native peoples, a Board of some kind can be and should be established of our accredited representatives who can be constituted and empowered to protect our rights and interests. From the Government point of view it would take a load off their shoulders and be a load that we could carry ourselves. I cannot stress this too strongly, Sir. Deny us that security, and inevitably the value of this Report becomes very much less to us. Grant us that security, and we go forward together, Sir, to the great future which this Colony has in front of it to-day.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, before proceeding to my remarks on a few of the items in the Report, I too should like to pay tribute to the Commission for the very valuable Report they have produced. It is quite obvious to us all that it has been a very arduous undertaking and conscientiously carried out. I do believe that they have been over-generous to the natives, but I feel sure whoever sat on that Commission would have followed that line rather than take an opposite one. I also wish to thank the hon. Member for Nairobi North, the Acting Leader of the Elected Members, for the excellent speech he made on this subject. He has clarified most points on behalf of the European Elected Members, and I will restrict myself to three or four items, more in the nature of advice to Government than severe criticism, with the exception of the decision of the Commission as to the Lerogi Plateau. On reading that Report very carefully I came to the conclusion that they have given a verdict not in accordance with the evidence placed before them. I do not wish to go into details, the ground has been covered by other speakers, but their decision regarding the Plateau was not based on the evidence available and placed before them. I also am exercised in my mind indeed about the Leroghi Plateau inasmuch as I believe after my forty years' experience in Africa, that the Samburu will be of the opinion, if not of it already, that the Lerogi Plateau has been granted to them for the numerous murders they have committed. In other words, they will "put the wind up"

Government and will go on murdering. We had an example quite recently by the morans. I do not think for one moment that these murders will stop, and knowing the natives as well as I do we shall not escape the idea that we have farked the issue and that they are to have the Plateau because they have frightened the Government. But that I will leave. In paragraph 1148 is a reference to some 1,500 acres on Mt. Elgon which it is proposed to add to the native reserves. I have no objection to the proposal, but I hope that the recommendation of the Commission will be carried out and that where land is taken to make room for natives dispossessed at Kakamega or will be in the future, that as the Kakamega mining leases are temporary these leases will be temporary to the natives.

The other recommendation that affects my area is contained in paragraph 1076, where it is proposed to turn some 40,000 acres of Mt. Elgon into the native reserve. The Commission have recommended that against the advice of the Conservator of Forests. At the moment there are some 142 El Gonyi Masai living in that area, on the moorlands above the forest belt. They have written permits from the forest officer concerned to live there, and all their cattle are branded. It is stated that this area is now up to its full carrying capacity and that no more natives or cattle can be accommodated, and I do not see why it is necessary to turn it into native reserve. I maintain that under the present arrangements there is much better control over the natives by keeping the cattle branded and by giving permits, than by turning this area into native reserve when it is not necessary. There is also the question of how to control the damage to the forests. The land they are occupying at the moment is really land denuded of forest, and I am very much afraid that unless careful observation is kept over these natives the area of cleared land will spread and the forest itself will diminish. It is in the interests of the natives below the forest slopes of Mt. Elgon and the European settlement to see that the slopes are protected and the forest not allowed to be cut down. It has a wonderful value now, but immediately it ceases to be a forest the whole of the Trans Nzoia area and over fifty miles around will lose its agricultural value. There is no question about it. The trees do affect the rainfall, and after fifteen years' experience of living in that district I am certain that without the Cherangani ranges and the forests of Mt. Elgon on the east it will be impossible to prevent a serious drought in that area, and you will get a serious drought for at least a portion of the year if you allow conditions to alter very much. I do hope Government will consider this question. I am not suggesting that the natives should be deprived of that land, but that Government should consider

how they should acquire that land and continue it as it is, for if conditions alter it will be to the detriment not only of the natives but the Colony in general. In paragraph 1644 the Commission have dealt with townships in the reserves, and recommend that "the basic principle should be that they remain in the reserve and grow progressively out of plots set apart as need arises." That is one recommendation which I hope Government will seriously consider. My experience has been quite the opposite. As a New Zealander, and knowing the system of townships, I quite disagree with that recommendation. I maintain that townships should be taken out of the reserves and become Crown land, directly under an administrative officer of Government. I would also point out that we have had more than one experience in the last year, of a private township at Kitale, which eventually, owing to administrative difficulties, such as water, conservancy rights, etc., Government decided to acquire. This was the Bahati Estate, and Government did acquire it. No doubt it was a very wise decision. I was also under the impression, and still am, that Government in the future would not allow any private-owned townships whether collectively or individually owned. If Government is wise, they will keep to that decision, and excise all townships from the reserves. It would be in the interests of natives themselves, as well as in the interests of a township, and the latter should be well considered. It will supply a market for natives, for a market centre is of very great value to them. But unless townships are excised and controlled you will find very great administrative difficulties cropping up in the future to the disadvantage of natives and Europeans. Paragraph 625 deals with the Nairobi Commonage, and I wish to confine my remarks to the Somalis. There is a further reference to this Commonage in paragraph 812. It is admitted that the Somalis filtered through the Northern Province from Aden and Somaliland, and by no means all were born in this Colony. They form a very disturbing element in many ways. You have your difficulty here with the Somalis as well as other native cattle on Nairobi Commonage; you have it at Gilgil, Kitale, and other places. A committee was set up some time ago to go into this question, but as far as I know nothing has as yet emanated from that committee. To consider the question of native and Somali cattle on township lands, apart from any other question, it does seem very unfair to charge a European 20 cents an acre for land adjoining his township, which he pays, and then allow Somalis for a few shillings a year to rent Crown lands, for in Nairobi, Gilgil, Kitale and other places the European has a higher standard of care and hygienic methods which they have to adopt, while the Somalis get land for nothing, apart from the nuisances they create.

There is also a recommendation that Somalis should have equal rights with natives in certain instances. It is an astounding recommendation. In Paragraph 814 the Commission says:—

"On this subject we are impressed by the comment made by the District Commissioner, Isiolo, at a District Commissioners' meeting of the Northern Frontier Province in August 1929. He was speaking of the probable consequences of gazettement a Somali Reserve, and the minute reads as follows: 'He pointed out that Kenya is regarded as an El Dorado, and that there could be a further infiltration from Northern Somaliland, and that within ten or fifteen years the problem would have reappeared in a graver form. The area set apart for Somalis would have proved insufficient, and the Somalis, having obtained political rights and powers, would again then demand consideration of their claims'."

In paragraph 815 the Commission says:—

"With these observations we entirely agree. We consider that all legitimate claims of the Somalis will be met if it is provided (a) that any Somali may apply, on equal terms with other races, for a lease of land in any area where no special privilege of race exists, i.e. a 'D' area; this facility already exists, but the Somalis have made little or no use of it; (b) that in respect of 'C' areas, which are areas in which natives would, according to our recommendations, have prior rights of taking up land on lease, Somalis should have the same privileges as natives."

The last two lines seem to me to be somewhat ambiguous. I do not see where the privilege of the native comes in at all as the Somalis stand "fifty-fifty". Aliens such as Somalis peacefully penetrate the country, and to set aside areas which they can take up on an equality with any other race, including the native tribes, is an invitation to these people to come down from their own country, which is nothing to Kenya, and stay here to the disadvantage of the natives in the Colony. We have found great difficulty in finding land to adjust their claims, but they have been settled now, and in "C" and "D" areas the native is going to get competition from the Somali, so that I should not be greatly surprised if the latter does not enter the Colony in large numbers in the next few years.

Paragraph 117 of the Agricultural Commission, referred to in paragraph 1996 of this Report, I should like to quote and emphasize. Apart from the fact that I had the pleasure of sitting on the former Commission in 1929, I consider its Report a very valuable document, and a great deal of time was

given to native agriculture both by Sir Daniel Hall and an old experienced colonist in Kenya. I believe that to read the Kenya Land Commission Report intelligently you have also got to read it in conjunction with the Agricultural Commission Report. Paragraph 117 says:—

"Of the native live stock, the goats constitute probably the greatest danger. They not only graze closer but they attack shrubs and trees on the higher land, and so destroy the scrub and forest which should regulate the retention of water by the soil and prevent the starting of dangerous erosion. It will be remembered that to the goat more than anything else may be attributed the deforestation of Greece and other Mediterranean districts, where the former soil has been completely washed away; creating on the one hand a bare hillside, and on the other swamps in the valleys."

The next paragraph goes on to say: "This process is going on in Kenya." There are several paragraphs which should be read in conjunction with paragraph 1006 of this Report. The one that I have just read wants to be thoroughly absorbed when you consider the hundreds and thousands of goats in Kenya and the damage they are doing. They are one of the most serious problems of overstocking. Eliminate the goat and you would eliminate 50 per cent of overstocking. The Wakamba Reserve is practically turned into a desert. Erosion sets in, for the cattle graze down, there is drought, and finally the goat. It is the last to come; and it will live where any other animal would starve, and that is the curse of the goat. It eats the roots out of the ground, not only the plant itself; by means of its forelegs it can reach high up a tree and eat the branches, and when it cannot reach any further it eats the bark off the tree, which dies. One of the greatest influences for turning agricultural land into desert is the little animal called the goat. As is pointed out here and it may be visualised by everyone in this Council, those who have travelled through the Mediterranean may often have wondered why the islands are bare rock. It is erosion, assisted by the goat, until it has got to such a stage that even the goats themselves cannot live. I would ask Government seriously to consider this problem and the extermination of goats. If I were Dictator, I would have everyone exterminated tomorrow. It would be to the advantage of the reserves, to the Colony as a whole. But, a constructive suggestion that I would put up is castration. Destroy the fertility of all male goats, and it would be one of the greatest benefits we have ever done ourselves in this Colony. I am thoroughly convinced of that. Until some means are taken for preventing the propagation of the species, you are not conscientiously and seriously doing anything on behalf of the natives.

In paragraph 2040, Your Excellency, the Commission recommend the appointment of a Committee, and I hope it will be appointed. It would follow on the lines of what I have been discussing this morning, and of the Report, to clarify the situation in future and to get something done. As is quite obvious from my fifteen years' experience of the Colony, we get nothing done until we get a Commission or a Committee; we are ruled by them nearly! It is a sad thing to say, but it is true, and the sooner we get this Committee the sooner we shall get something done. In paragraph 1979 the Commission speaks of security, the denaturation of the European Highlands. It is also appropriate if I quote the terms of reference:—

"(6) To define the area, generally known as the Highlands, within which persons of European descent are to have a privileged position in accordance with the White Paper of 1929."

They propose in paragraph 1979 that the European Highlands shall be denaturated, and that Europeans should have the same security there as the natives in the reserves. I am agreeing to the implementation of these recommendations on the understanding that that paragraph will be implemented also and that it will not be a one-sided affair as has been the case on many occasions in the past. There would be very serious opposition to this Report if such a recommendation had not been included.

THE HON. A. C. HOBY: Your Excellency, in supporting the motion before the House I wish first of all to associate myself with the speech made by the hon. the mover. Most of the salient points in this Report have already been dealt with by hon. Members on this side of the House, so that I will not take up time in covering dead ground. Generally speaking, I support the recommendations of the Commissioners with the exception of that part of the Report which deals with Lerogi Plateau, and I trust that in view of what has been said in this debate and the new facts brought to light, the Government will take no further steps to implement the recommendations until a fresh inquiry is made into this subject.

To deal first of all with that part of the Report which concerns my constituency, inasmuch as various additions and exchanges are suggested to the Nandi Reserve. Elgeyo, Marakwet and Cherangani Reserves. Regarding the Nandi Reserve, I will reinforce the suggestion or the request made by the hon. Member for Nyanza yesterday, when he referred to the readjustment of the Nandi boundary as affecting the

Kipkaren farms. This was an area set aside for closer settlement, and when farmers took up their land they had reason to believe the Nandi boundary was some distance away. By the recommendations of the Commission that boundary will be brought alongside of the farms, and anyone who has any knowledge of the conditions of a European farm adjoining a native reserve will at once agree and appreciate that one of the biggest problems always to be dealt with is that of trespass. It is only fair to these farmers whose position is now so materially altered that it should receive the attention of Government, and I trust Government will see their way to fence this new area, and not only to fence but to maintain the fence. The next point I wish to refer to is the recommendation concerning the Cherangani and Elgeyo Reserves, and in paragraph 1028 the Commissioners recommend that a number of these small reserves should be consolidated into one unit. I am in agreement with that principle, Sir, but when it comes to giving effect to that principle I think the greatest caution is necessary, because I have already seen signs of a number of natives leaving an area of their reserves which is devastated by overstocking and erosion and moving into more favoured parts of their reserve. If this movement is not carefully watched, it will be the means of defeating the end aimed at. In this connection I am glad to see that Government have already taken steps to check this movement, but it is a movement which has got to be watched. I do not wish to labour the question of destocking, so fully dealt with in the Report and also by hon. Members on this side of the House, but I would like to say one or two words on the question of this committee which, it is suggested by the Commissioners should deal with this very important subject. I do hope Government will move quickly towards appointing this committee, and when it is constituted that it will consist of men who have had long experience in the country, who thoroughly understand the native mentality, and, above all, who have knowledge of the stock problems of the country, because I think the functions of the committee are going to be very difficult and will require a great deal of tact and patience in carrying out the policy which is recommended.

I would like to refer to paragraph 1067 of the Report which deals with the control and internal management of native reserves. Half-way down that paragraph we see the expression of the Commissioners, who say: "The need for caution and the need for energy are equally obvious, and above all, the need for authority." I regard that as a most important statement which affects the whole position of the control and management of these reserves. On many occasions I have been rather sorry for administrative officers in charge of reserves, because I believe their position has been very

hampered by lack of authority. When one looks around some reserves in this country, I think it is clearly evident there is need for a real economic policy as applying to the reserves. Any policy up to the present has rested entirely on the initiative of the district officers concerned, and if this country is to get the benefit from this very noble Report the time has come now when Government has got to definitely define a policy. I also say, Sir, that that policy cannot be efficient unless it contains the principle of compulsion. That is an obnoxious principle I agree, but I will try and give some slight illustration as to why I think it is imperative that this principle should be agreed to. I also have been acquainted with native reserves for twenty-five years, with the Elgeyo and Marakwet, and I have watched conditions in them, and to-day they vary very little from twenty-five years ago, except perhaps the natives pay a little more hut tax. What is the position of the natives there? Those occupying reserves are partly pastoralists and partly agriculturists. As regards the agricultural side of it, they occupy their time in growing wembe, and the moment it is ripe it is harvested and turned into beer straight away. It is a very nice occupation, but it results in the whole reserve being denuded of food, and I believe if the records were examined it would be found that a considerable sum of Government money is spent on these reserves in famine relief. It also means a continual demand for the remission of the hut tax, which records show has been granted fairly often. It is not the natives' fault, it is Government's fault. There is no policy, that is creating the economic development of these reserves. The only reserve I have seen in which progress is extraordinary good is Tambuct. But there is something far more to be done. There has to be a live policy introduced into the reserves so that they can proceed more rapidly in their economic development. Above all, I believe one of the greatest requirements of the reserves is proper marketing facilities, and not only does that apply to the reserves but to a good many other parts of the Colony. I do hope this question is going to receive the earnest consideration of Government. I did understand we were going to have a Native Marketing Bill this session in order that this matter could be attended to, but for some obscure reason the Bill seems held up, and although I may be ruled out of order I would welcome a reply from the other side of the House when this debate is being wound up, as to why this Bill has not been produced. As regards giving further assistance, I believe that a great deal more can be done to help the natives in these reserves towards economic progress by assisting the administration with further agricultural assistance by way of taking on some of the settlers in this country who are in need of employment, who probably

have failed through excessive loan and interest charges, locusts, drought, but I believe suitable men could be found to assist the administrative officers as against the very expensive agricultural officers who are, however, limited in numbers. I would throw that out as a suggestion towards getting ahead with a real live policy to deal with the economic progress of the native reserves. On reading through the Report one cannot help being struck by the continual recommendations for excision of land from the European areas in order to add to the native reserves. Although that is so, I believe we are right to be generous over this, because I am one of those who believe that the welfare of this Colony depends almost entirely upon that spirit of goodwill and understanding which is so necessary between the European population and the native races. The one race is dependent on the other, and the greater understanding we can get over this matter the better. Therefore let us be generous, and support the Commission's recommendations in that respect.

Now we come to the last and final important part of the Report, and that is the question of the security of the White Highlands. Sir, I endorse entirely the remarks of the hon. Member for Nairobi North on this subject and welcome the decision of the Commissioners to recommend that by an Order in Council the same sense of security be afforded the Europeans within the boundaries of the White Highlands as has been afforded natives within the reserves. We stand fast on this issue. We not only suggest but demand that some such statutory body as a European Lands Trust Board shall be established without delay in order to ensure the setting up of the necessary machinery as is required, which will safeguard once and for all the privileged position which Europeans are to enjoy within the boundaries of the Highlands.

The debate was adjourned.

The Council adjourned till 10 a.m. on Tuesday,
23rd October, 1934.

TUESDAY, 23rd OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, 23rd October, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

OATH OF ALLEGIANCE.

The Oath of Allegiance was administered to:—

Ex-Officio Member:

HOWARD LEBRY SIKES.

MINUTES.

The minutes of the meeting of 10th October, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

BY THE HON. THE ATTORNEY GENERAL:

The Report of the Select Committee appointed to consider and report upon the provisions of a Bill to Amend the Police Ordinance, 1930, in substitution for the Report of the Select Committee appointed to consider and report upon the provisions of a Bill to amend the Police Ordinance, 1930, laid on the table on the 1st of August, 1934.

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT:

Annual Report of the Commissioner for Local Government, Lands and Settlement, 1933.

NOTICE OF MOTION.

BY THE HON. THE ATTORNEY GENERAL:

"That the Report of the Select Committee on the Police (Amendment) Bill be adopted."

ORAL ANSWERS TO QUESTIONS.

ALLIDINA VISRAM HIGH SCHOOL.

No. 87.—HON. J. B. PANDYA asked:—

"(i) Has the attention of Government been drawn to the necessity of whitewashing, painting and effecting other necessary repairs to the building in which the Allidina Visram High School is housed at present?"

(ii) Will Government also state when the building was whitewashed last and total amounts spent by the Government in repairs and whitewashing, etc., from the time it was presented to the Government by the late Mr. Abdulrasul A. A. Visram?

(iii) In view of the appearance of the building which shows neglect, will Government take the necessary steps to get the building whitewashed and painted?"

THE HON. THE DIRECTOR OF PUBLIC WORKS :

(i) A request was received from the Principal of the School on the 10th of September of this year asking that the whole School be redecorated early in 1935.

(ii) The building was completely redecorated and repaired in the year 1930 at a cost of £395. Approximately £1,000 has been expended in maintenance and repairs between the years 1925 and 1934. There is no record of expenditure between the years 1922, when the building was handed over to Government, and the year 1924.

(iii) The question of redecoration and repairs of the building early in 1935 is receiving consideration.

MOTION.

KENYA LAND COMMISSION REPORT.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK having moved:—

"Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

Whilst noting that in general terms their Report has been substantially approved by the Imperial Government, this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations."

THE HON. CONWAY HARVEY having seconded.

The debate having been adjourned.

The debate was continued.

* THE HON. F. A. BRUNSTEN: Your Excellency, there is an old Yorkshire saying: "Get up, speak up, and shut up." I have no doubt that before I have finished you will think that

I ought to have put the third part first. But I have something to say, and although parts of it may be out of order I ask your indulgence, because the terms of reference of the Commissioners apparently left out the Coast strip—what we call the Protectorate. However, the Commissioners did report on that particular area, and I would ask your permission, Sir, to speak especially on it. I have only studied, and I only understand, the part of the Report which refers to the chapter called "The Coast Province", or in other words the Coast Protectorate, which is an area round about 3,000 miles, and on three of those miles is the greatest investment of public funds of the Colony. On listening with the greatest attention to the eloquent speakers, the greatest point which has impressed itself upon me is: how very different are the problems of the Coast as against those of the Highlands. I would hasten first to assure Your Excellency that my admiration for the Commissioners and their work is unbounded, as I am of the opinion that this Report is the first of its kind that I have read and that I have seen which breathes those great essentials of British justice and fair play. At the same time, the Report so far as the Coast is concerned is bang full of the most excellent good intentions. In fact, a celebrated lawyer at the Coast told me that he considered it would make a very good paving stone for Hell because it was so full of good intentions! But before I deal with the contents of the Coast Province portion, I would like to mention a few facts about the history of the Report. So far as I can gather, this Report was issued in accordance with the consistent and insistent demands of the Elected Members and others, and I think it is regrettable to find that before they had a chance of seeing it or considering it—I see from a report in a paper of sworn evidence that the Report was issued to the Press. Again, Sir, it seems to me very regrettable that the man in the street must consider that the home authorities who appointed the Commission were not exactly sure of what they were going to report, as before they allowed this Report to be put into the hands of Elected Members they thoroughly and carefully examined it and the public was put off so late that rumours went around that the contents of the Report were very different to what they are. I do not wonder at the Home authorities, because they knew that these Commissioners, the three men whom they chose, were absolutely free, frank, and fearless. This is proved to the hilt by the recommendations in the Report. It cannot be denied, however, that the Report cuts right across or into the administration of the land laws of the Coast. This is why we consider it so full of good intentions that we prefer the historic saying of "We'll wait and see" as to how much

and when Government will put them into effect and implement this excellent Report. I would ask you to turn to paragraph 1317 wherein it is stated:—

"We recommend therefore that, as opportunity occurs, an equitable scheme should be formulated by which the land should, in process of time, pass into private ownership. It may be found necessary at first, for protective reasons, to restrict the issues of titles and the transfer of holdings to Wassin Arabs and Begeju only, but in course of time the need for this restriction should disappear and transfer be permitted without restriction of race or tribe."

This to my mind, Sir, and that of a great many people at the Coast, is a direct contradiction of the methods and practices of the Land Department of the Coast. We have for years known that practically the greatest crime one can commit at the Coast is to own land, to be a landowner. We have known that. Take, for example, the way in which the land has been filched from the landlords on Mombasa Island where the roads are 100 feet wide, all cut out of private lands; yet on the Government lands the roads are only 50 feet wide. If one goes for compensation one is met at once with the suggestion of betterment, which as you all know cannot be proved. I notice particularly that the Commissioners deal very little with Mombasa Island, yet they did have the goodness to mention how Mombasa Island had dealt with the housing of natives. But, Sir, I was very, very sorry to see or to note that they did not say anything about the facts, that all these improvements have been made by private endeavour and enterprise, always with a loss of 20 to 30 per cent of the landlords' holdings, without the slightest chance of any compensation or relief.

Paragraph 1341 suggests that the office of the Recorder of Titles should be resumed and that "the work of adjudication should proceed energetically". I certainly agree with the last, "and that the work of adjudication should proceed energetically", but I certainly do not think it is reasonable for another officer to be appointed at the Coast. These things can easily be arranged by the present staff calling into consultation merely two men—one representing the Arab and the native landowners, and the other the Government; and if there is any dispute it can easily be settled by their electing an umpire. But the phrase "Recorder of Titles" raises in my mind the question of titles, and titles at the Coast are one thing, from what I can see, that Government ignore. It may surprise you, Sir, and this House, to know that the Government have actually leased—leased!—an area at the Coast for seventy or

eighty years, and while they are paying ground rent for that land under a lease they have cut it up and issued freehold titles—for the very land that they themselves only own on lease! I can also show you other areas which have been given to the Government for certain tribal purposes, given free, and the Government have handed that land over to a missionary society for different purposes than were contained in the original donation, without requesting the consent or granting the knowledge to the original donor. What is the use of title to us? Had the Commissioners been able to report on this paltry piece of Coast, I feel sure that we should have had another chapter of good intentions!

Will you now let me refer to paragraph 1314 which quotes Mr. Justice Dickinson's judgment? It reads:—

"It appears to me that, if the communal reserve is preserved for the whole area, and the individual properties of the Arabs, which are adjudicated in their favour, are delimited out of it, no injury will occur to the Arabs' neighbours, whilst at the same time the Arab rights which they have acquired will be protected by registration."

Let us examine the intention, or the spirit, of that judgment. It is obvious that the intention of that just and good man Judge Dickinson was that the land cultivated by and recognized by everybody as the property of the individual user to be lands belonging to the owner. What do we find in practice, Sir? We find the surveyors are sent out to demarcate this land, and what they do is unbelievable—I have it on the best authority: they measure and demarcate the cultivated portions, namely, in most cases, permanent crops—coconuts. They put a line around that and say: "That is your land"; leaving nothing for his maize, his cattle or for general purposes, which from time immemorial has been recognized as that man's or family's property. I say it is unbelievable, and almost unbelievable to me, but after other instances perhaps it will not be unbelievable to Government. The object apparently is that the pieces which are left over are considered communal land. We at the Coast have experienced the uses by Government of communal land. If a sugar company requires a nice little titbit, a little land is declared not cultivated and a title is given to the sugar company. I have studied it very carefully, and all I can find is the fact: the company gets the land, Government gets the "kudos", and the native gets the experience! In this Report, private ownership is intended to be encouraged. But what I would have liked to see was that the provincial administration experiment referred to in paragraph 1316 should be scrapped immediately and the principles

underlying British justice and fair play which the Commissioners obviously believe in should be put into operation forthwith. What is this paragraph 1316? The Commissioners write as follows:—

"We do not wish to make any criticism of the general policy of the Arab and African communal reserve. The experiment was made on the recommendation of the provincial administration and must be given a chance of success, however slender it may appear."

What right, Sir, has the provincial administration to make experiments? The Government through the provincial administration formulate laws for the welfare of the people under their charge, and it is for the provincial administration to carry out those laws with a sense of justice and fairness to the people. Therefore I say, how dare Government servants make experiments which in this case, and I daresay in many other cases, have proved hopeless failures? To show you how foreign we are at the Coast. It was mentioned by the hon. and gallant Member for Nairobi North that the natives up-country objected to the white man going on their land. It would be very interesting, I am sure, to you, Sir, to know how different this is at the Coast. Some time ago the natives petitioned Mr. Alexander Morrison—who is now at Dar es Salaam—to take up land and live among them, because they recognized, and always have known, that unless there is a white man among them the Government pay no heed to their wishes. I am, and we all are, convinced that the backwardness of the Coast is almost entirely due to the lack of European planters, just as the advance of the Highlands is attributable to the better numbers of these people in that area. I say it without fear of contradiction or cavil, the advance of Kenya is due to and is in the hands of the western races, and whatever curb you put on that policy will be to our discredit and towards the downfall of Kenya.

THE HON. SIKURIFF ABDULLA: Your Excellency, I do not think there is very much left for me to say with respect to the Coast, for most of the points have been covered by the hon. Member for Mombasa, but I want to make some comments in connection with the suggested appointment of Recorder of Titles, dealt with by the hon. Member Mr. Bemister in connection with paragraph 1341. We at the Coast regret that this appointment has been suggested by the Commission, and would prefer that in its place an Arbitration Board be appointed. When Mr. A. J. Maclean was the Recorder of Titles, the Ordinance under which he operated functioned fairly well, but too much advantage was taken by Government of the provisions which enabled them to lay claims to land not in present cultivation. Particularly bad

instances of this kind have occurred in the case of the Arabs of the Wasini Peninsular and Island and of the communal lands claimed by the Arabs in Lamu. It is possible that had the resources of the Government been sufficient to have the land surveyed within a reasonable time after the application of the Ordinance the situation that has arisen might never have been, but the effect has been that in the case of the Wasini Arabs an attempt has been made by the Government to establish a Christian and pagan native reserve on land which undoubtedly is that of the Arab community concerned.

In the case of the Lamu Arabs the position appears to be that the Government claims the whole of the land on the mainland held in community by the Arabs of that place. It must be remembered that Lamu is an island not rather a barren one and that the supplies of the foodstuffs in the days when slavery was still in existence, whether those foodstuffs were for actual support of the community or for export, had to be obtained by the cultivation of the mainland, and it is also not to be forgotten that under Mohammedan law the person who cultivates virgin land has a title to it as long as he remains in possession of it by himself or his representatives or by the establishment of permanent crops. We are afraid that if you appoint a Recorder of Titles, the same advantage taken in 1908 will be taken again, and that will mean an oppression on these unfortunate people.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I think that this Report has been very fully debated by hon. Members on this side of the House. A gentleman told me a few days ago that it was quite useless for the Elected Members to be continually making suggestions and criticising Government, as very little notice was taken of them. This I do not entirely agree with. I believe that the constant dripping of water wears away the stone, and constantly putting forward suggestions and criticisms may have effect on Government.

With reference to this Report, there are two or three points that I wish to make. The first is with reference to the Taita Concessions with special reference to the tribe called Kasigao. I was mainly instrumental in getting the Crown land for this company. The Kasigao as we know were a tribe moved from the Kasigao country to the Malindi district as they were suspected of treachery with the Germans during the war. I do not think there was any intention of moving these people permanently from their own country, and although representations have been made for them to be sent back—they have asked themselves—I understand the reason given for not sending them is that their country is rather hard to get

to for administrative purposes. I cannot believe that in these days. I asked a question two years ago as to the number of people that were on Government and concession land, and was told approximately 400, and that another 1,000 were on other land. For the benefit of those 400 the Commission now recommend that an area of eleven square miles should be taken out of the Concession and given those natives. It was fully understood at the time that the Concession applied, that any native rights would be taken into consideration, but from this reference to the Kasigo I think that had the Concession at the time asked that these natives be removed, it would have been done, therefore there would have been no concession for any matter of this kind to come up before the Commission. I fail to see what it has to do with the Commission what the future of the tribe is—it is surely a matter purely for the Administration—in the giving of eleven square miles to these 400 people who cannot cultivate what they have, for they have done little at present, and there is any amount of land for them; it seems hard that the Concession should lose this. However much one may deprecate the granting of concession land, it is absolutely necessary that obligations incurred at the time must be carried out by both sides. It is not fair that any kind of stumbling block should be put in the way of a concession which has already spent large sums of money and is prepared to go a good deal further.

With reference to the land titles mentioned in the Report, I asked a question last year, or this, as to whether a committee should not be appointed to go into the matter of these land titles at the Coast, and was told that a committee already existed for this purpose. What work it has done I do not know, but I hope it has done a lot, though I was very glad to hear to-day from the Provincial Commissioner that a gentleman is coming here to go into the question of titles. I agree with the hon. Member for Mombasa that I cannot see the necessity for the appointment again of a Recorder of Titles, when the work can be done by the staff existing at present.

I trust that in the near future Your Excellency will be able to give us some announcement with reference to the Tana, concerning a report from the gentlemen who came out to inspect the area. If more land is required for natives and the suggestion is put forward to develop this country, there will be a large area there available for natives. There are at present very few there, and a large tract of country could be opened up for any other natives whom it was considered suitable to put in that place.

Hon. CANON THE HON. G. BURNS: Your Excellency, in rising to speak to this motion I do so with a certain amount of trepidation, as I find myself at variance with many of

the things that the hon. Members who have already spoken to the motion have said. But I am in entire agreement on one point, and that is in paying tribute to the members of the Commission for the monumental work they have produced, for the painstaking sifting of evidence, and for the recommendations deduced therefrom. The Colony of Kenya is under a deep debt of gratitude to these gentlemen for what they have done. I should also, with your permission, Sir, like to pay a tribute to the hon. Member for Nairobi North for his very, very able digest of the whole Report on the first morning of this debate.

In turning to the Report, there are one or two things I should like to comment upon. The first thing I should like to draw the attention of the House to is that which is known as the Profit and Loss Account as given us in Chapter 6. I look upon that, Sir, as a very clever bit of mathematical manipulation, very cleverly done, but not, in my opinion, very convincing to those who look upon it purely from a native point of view. In paragraph 190 we find that in the Ngewa-Chania block there are 17.10 square miles of land which were "unequivocal Kikuyu country" in 1895. "It was about that time that the great famine occurred that swept throughout the whole of this country, devastating large areas of land, leaving whole sides of the country without an inhabitant in them." It was during that time that the Akikuyu of these districts abandoned their shambas and made their way to the north to find sustenance for themselves and their families. But between 1903 and 1904, which was the time the effects of the famine were beginning not to be so keenly felt, the majority of these people came back to the places from which they had gone to find food and to sustain life, and found that that area of 32.73 square miles had been alienated to non-natives, and that non-natives were in occupation of that land. The Commission, in a very ingenious way, to meet the situation, started doing a little sum in arithmetic. They divided the block into two parts—sixteen square miles and sixteen square miles. They said that sixteen square miles of that block had been permanently abandoned, and the other sixteen square miles was where the people, or most of them, who originally occupied that land had returned. So in this wonderful Profit and Loss Account we have it laid down by the Commissioners that we had to recognize the fact that that land in 1895 really and truly belonged to the Akikuyu, but now, seeing that it had been alienated and given to people who were not Africans the Commissioners, being in a difficulty, proposed to do the following sum. If we turn to section 217 in our Profit and Loss Account we then find this very clever sum worked out: "Legitimate Kikuyu territory (as defined

below, Note D, 1,704.05 square miles (we need not bother about going into the categories)". This they say legitimately belonged to the Akikuyu. Then we have a sum in addition. The Commissioners tell us that "added by Government" were three blocks of land: under Category IV, 12.25; under Category VII, 218.00; under Category VIII, 35.25, or 265.50 square miles, or a total of 2,039.50. If we turn to page 76 we get the explanation of this addition: "Land which ranks as given comprises, 1. the lower part of Mwea, 143.00 square miles." I do not think there can be the least shadow of doubt that this area of 143 square miles which is supposed to have been given back by Government to the Akikuyu belonged to the Akikuyu for many, many years. The people of the Mwea and the adjacent tribes herded their cattle over this area for years. It was not until a prospective company which wanted to start a sugar industry on the lower reaches of that land made application to Government that this question had been brought to the fore. The Northcote Line was laid down, and the natives deprived of land which for years and years they had fed their cattle over, but so persistent was their demand, so just were their demands, if I may say so, that Government at last gave way on the question and the land was restored to the Akikuyu. This is one grant given by Government in this Profit and Loss Account and to bring out the balance on the right side that the Akikuyu had been gainers instead of losers. I do not want to press that point, but I think any person who seriously looks into the matter will find it rather difficult to believe that first of all Government can take from a people a tract of land over which they have grazed their cattle for years and years, take it from them for a given number of years, and then, when pressure by natives is brought to bear it is returned to them as a gift from Government! It is hard to see exactly where the gift comes in.

Turning to the next part of this sum, we come to the place called Ndeiya, the tract of land running from the Kikuyu station right up beyond Limuru station. It was given to them as a tribe in place of land which had been alienated where they might feed their stock, but if that gift is to be of any permanent use to the tribe and to the people whose stock is there it is necessary, Sir, for Government to see that an adequate water supply for the numerous stock feeding on that common at the present time is provided. They have not at the present time sufficient supply of water without going a long distance off, linking their cattle long distances to get water. One other point regarding this gift of Government is the fact, I understand, that natives have been prohibited from any cultivation rights whatsoever on that land. Government may have very

good reasons for that restriction, but I would urge, unless there are very good reasons for that restriction, that the matter be reconsidered and the people given opportunities for cultivation in certain parts of the land. The point I want to press more particularly regarding this area is the necessity of supplying, in any way that Government can work out, a supply of water for the cattle, because the land was given to them as a communal grazing ground in lieu of the land taken from them. We now turn to what is known as the githaka land system, and here of course we are up against a snag. I do not know that there is any man in this House who understands what the Kikuyu githaka system is. I have read considerably about it, and the Report of the Commission appointed to go into the land tenure system, and the more I read and investigate the more hopelessly confused I become about the whole thing. But whether the system, as stated by one hon. Member during the last week, has broken down, is a question which Government has to face, and to face very quickly, Sir. And one element in regard to deciding that question more quickly is the fact that in an area where 283 people are trying to eke out an existence to the square mile, there will be within a short time returned into that area as many as 110,000 natives, squatters who are to-day living on European estates and who, if the Resident Native Labourers Ordinance comes into existence, will be sent back to the reserves with all the cattle in their possession on such farms. I sympathise with all my heart with the Administration when they have to face such a situation as that, but I sympathise more with the African who will find himself in such a situation that he has neither land nor home nor pasture for his cattle. That being so, I say it is an urgent thing, a thing Government must take into account as 'speedily as it can, and see that some system is worked out by which such people may have an outlet, whether into neighbouring tribes' reserves or what remains for those who have to work out this system. The Commission were not unmindful of this situation, for, in paragraph 498 they laid down this ruling:—

"The survey expressly excluded from its scope the problem which may be created by the return of squatters from the European area together with their cattle. It is represented that there are about 110,000 Kikuyu now resident outside the reserves, most of whom are squatters."

So that the Commission realizes the difficulties they are up against with regard to this point.

Turning to Nairobi and its needs, and concerning the two villages and the communal land—about which I shall not have much to say because there are others more able to speak than I am—I do claim to speak with some authority with

regard to Nairobi and its needs, because I have worked in Nairobi for twenty-six years, and I know some of the conditions that exist in Nairobi and the villages surrounding it at the present time, or at least until I left my work in Nairobi. If we take Pangani, what is to be said about it? What can we say for it? Pangani has just come to be. I remember about twenty-four years ago there was a village known as Old Mombasa. In that village the porters who in the old days brought the caravans from the Coast up to Uganda and other places came back to Nairobi and made their homes in that village, and so gave it its name. That was on the tract of land now being used by the Indians for their residential quarters. When the village was demolished, many of the people then living in Old Mombasa moved across the way into what is now known as Pangani, and some of them built their homes there. It makes one smile when you hear people speak about building their homes for £5 and that sort of thing. I say without hesitation, there is not a hut in Pangani to-day—no matter how mean, how rough it may be—that has not cost at least twice that figure, and as for the homes that the Swahili and others have built in Pangani, four times that figure would be nearer the mark. But the point I want to make regarding Pangani is this. It is their home, and these people and their children know no other. Whether it should remain there, the Administration is the best judge. I know something of what Pangani means. I know something of what it means to the whole native life of Nairobi. It is, with very few exceptions, a cesspool of iniquity, and that Pangani should be dealt with there is not the slightest hesitation. The statement I have made cannot be taken as a general statement, for there are very many respectable, law-abiding people in Pangani. We have heard about undesirables from the hon. Member for Nairobi North. They are there, and in large numbers, but together with that there are people living their lives under the most tremendous difficulties, a life I believe that is clean and pure and healthy, doing work in Nairobi as domestic servants, ayahs and so on. If Pangani is to be moved, there are one or two things I should like to suggest. First of all, we have in Nairobi at the present time a large number of men serving Government, serving on the Uganda Railway, serving in commercial houses throughout the whole town, who have brought their womenfolk from the reserves to live here in Nairobi. When these men leave their homes in the morning to go to their work, some of them do not return until the evening. They leave their womenfolk there in Pangani or Pumwani, and these have nothing to do. They have no land to cultivate, they have no land they can go to and cultivate for extra food, and the old proverb holds good,

that "Batan finds some mischief still for idle hands to do." The result is that those who are labouring, and labouring under very difficult conditions, to build up a home life in Nairobi, are hampered at every possible turn. If Pangani is shifted and new arrangements are made, I would beg Government or the municipality or whatever authority is responsible to see that there is provided for these people a tract of land where they could have small gardens given them and where the women could spend their time in their husbands' absence in cultivating their gardens and getting food for their homes. There is one other thing that I would like to suggest, and that is this. We have in Nairobi to-day a large number—and the number is increasing yearly—of men who are filling responsible positions in the Government especially, the Railway, and other places, men who want to lead decent lives in Nairobi, and the only place where they can secure a tract of land to build a decent house is either in Pangani or Pumwani. I should like further to suggest a suburb—call it by what name you like—set apart where these men can go and purchase a plot or lease a plot, not for one year but twenty-five or fifty years as the case may be, where they can build decent homes and have their wives and children with them, and live a life which I know these men and these women are most anxious to live. When the position of Pangani and Pumwani is under discussion, I should like this point to be brought before those who are responsible.

We heard during the debate last week a suggestion by an hon. Member that some of the smaller tribes should be merged into one unit: some of the Coastal tribes were mentioned. It might be possible, but I see tremendous difficulties in doing such a thing as that. We must not forget that these people have to live their own lives, and are living their own lives in their own way. They have their own tribal customs, languages, and they have their own family life. To take, for instance, the Wagiriana, the Pokomo, and the Wadijo, and other tribes around the Coast, and unite them into one whole, seems to me to be an impossible proposition. I hold that every man who is being governed under the British flag has the right to be able to go to his district officer when the necessity arises. To imagine a man living on the Sabaki River having to journey from his home say to Samburu or some place where Government has decided to establish a central station—to have to go all that way, or to come up from Mombasa or the German border to find his administrative officer and place the matters he wants to before him, seems to me an impossible proposition, apart from any question of native customs and laws, which are of course very real to those people.

We also had mentioned during last week's debate the Taita Concession, and the Government was urged to see that a sufficiency of water for the needs of this Concession was supplied. I feel very strongly on this point, and I take it when men, no matter who they are or where they come from, come into a country like this and go and investigate an area of land, and tell Government they want to take it, so many hundreds of square miles, that before doing so those people should have investigated the possibilities of the water necessary for the industries they are going to work at and for whatever needs they may have in the future. Further, I should like to see it Government's duty to warn them: "Remember, if you take up this large concession for the purpose you want to take it up, you must see that you have on your land enough water to meet the needs in connection with the industry that you want to establish." In those places water means everything to natives. I know people in those hills at Taita who have to walk five miles every morning down to the lake or swamp around the edge of which they cultivate, for it is the granary for those living on the hills. For those people who walk ten miles or so to and from their gardens to get their necessary food to be deprived of the water which enables them to do that would be, I think, beyond all question a hardship which no words are strong enough to express. After all, Your Excellency, human life is more than dividends, no matter what company it is, and those dividends must not be made at the expense of human life and effort.

With regard to the question of the Masai Reserve, there are only two points that I wish to make. This question of course, has been on the tapis for a very long time. The first point I should like to make is this: in my opinion, Your Excellency, the Masai are entitled to have access to what is known as the Simba water-hole. I take it the very fact that these people have been given this area by Government over which they graze their cattle, and until such time as Government can provide them with sufficient water in that reserve; they are entitled to water their cattle there or to get water at that place. The second point I with hesitation dare to mention is the One-mile Zone. I know that I am treading on thin ice. I know that well. But I am so convinced as it is possible to be that had that land belonged to Government in 1911 or 1912 when the treaty with the Masai was signed, had that land been in the hands of Government instead of belonging to the Kenya and Uganda Railway, it would have been included in the Southern Masai Reserve. But it was not so. It belonged then to the Uganda Railway and later on of course it was excluded from the southern reserve. That is all I have to say regarding the Masai. People who know their needs better than I do have dealt with this question.

I turn for a moment with your permission to the Kavirondo and the mining areas. It was stated by one hon. Member during the debate last week that the idea of giving land for land was an absurdity, or some such words; it might not have been that word. It may be looked upon as an absurdity when the African is in question, but if a European was in question and his land or estate, or a certain amount of land was being excised for any purpose whatever, I think the general public and those who speak now about absurdity would change their minds. If we turn to section 1148 we get there what the Commission has to say with regard to this matter:—

"Soon after beginning to give this subject detailed consideration, we came to the conclusion that, as prospecting had begun in the Kakamega area before our Commission had been appointed, and as it was taking place in a well populated part of the North Kavirondo Reserve, any land taken for mining purposes should as far as possible be taken strictly in accordance with any principle, major or minor, of the Native Lands Trust Ordinance, 1930; which could conceivably be held on any reasonable grounds to underlie or be embodied in that Ordinance; in that category we must place the provision that, if land is excluded from a reserve, an area in land equal to the extent and as far as possible equal in value be added to that reserve."

Two paragraphs lower we find their recommendation:—

"There is in the reserve close to the North Kavirondo mining area a native forest of approximately 68,000 acres, and after consultation with the Conservator of Forests we recommend that a portion of this land be taken out of that reserve and made available for any natives in the North Kavirondo area who may be dispossessed by mining leases, and that in lieu thereof a portion of the Elgon Forest Reserve, which is a Crown forest, be added to the North Kavirondo Reserve."

With that I am in entire and absolute agreement. I think it would take away all possibility of cavil from anyone who, not understanding conditions under which mining is taking place in the Kavirondo district, might criticize Government or the miners regarding native rights. Here I would pay a tribute, if I may be allowed to do so, to the wonderful way in which that mining industry has been carried on during the past two years, that so little friction between Europeans and Africans into whose country the former have penetrated, has occurred. Turning from that I come to two questions in connection with this debate: I refer to the Samburu tribe and to the Lerogi Plateau. I should like here and now to say

that I take my stand absolutely and without apology on the recommendations of the Commission as laid down with regard to the Samburu and the Lerogi Plateau. If we turn to paragraph 869 we find that the Commissioners have given us their reasons for what they have done:—

"On economic grounds, we agree generally that Europeans would be able to use the land to better advantage than the natives in their present state of development, but Lerogi is somewhat remote for mixed farming, and if surveyed for sheep farms as seems to be contemplated, the area would in the early days of settlement suffice only for twenty farms at the most. Under native occupation it can and does support some 6,000 Africans with their flocks and herds, and the Samburu do well considerable number of sheep; the district has been long in quarantine for cattle."

In 869 they say:—

"We do not feel we can support an argument that because one community is able to make better use of land than another, the former must necessarily have it, however essential it may be for the latter."

In section 884 we have laid down the Commission's recommendations:—

"That the Kittermaster Line be kept as one of the boundaries of the Northern Frontier Province subject to any minor adjustments which Government may consider necessary, and that all the land to the north and east of it, including the Lerogi Plateau, be reserved for native use and occupation for such a time as may be necessary. We do not at present recommend that the area be declared native reserve for reasons which we state in Chapter V on the subject of the Northern Frontier Province generally."

"That the Samburu have a right to the grazing that they are enjoying on that plateau, in my opinion cannot be gained. They have been there for twenty-four years, and if twenty-four years' occupancy of an area of land does not give to a people some right to that land then I do not understand how right can be acquired. But even if they have not a historical right, which is not at all proved, or if they—as stated in the evidence—belonged to the Makai tribe in the latter and driven north, and were defeated by the heard their enemies of old had moved from the district, they should again turn their faces towards their old habitat with their cattle, their sheep and their women? There they are to-day,

over 6,000 of them with over 50,000 head of cattle. We are told that these figures are not dependable. I depend on the accuracy of those figures from men with no axe to grind who live and work among those people, who administer to them, and have taken the pains to ascertain how many stock they had in those places. I base what I am saying now on their figures, rather than on the fact—and I hope I shall be forgiven if I say this—of a man getting into an aeroplane and flying over the area, even though he goes hither and thither over it; their figures are the more reliable than figures which might be ascertained in the other way. Let us imagine for a moment that the Samburu are driven off from that plateau and this area is given to European occupation. The area is not very large, and it is divided into sheep farms. At the very most twenty sheep farms could occupy that area. Twenty farms say with ten people, ten European inhabitants—men, women and children—at each farm, and we should get something like two hundred people on the Plateau. After a few years there may be a few thousand sheep there owned by Europeans into whose possession the land has been given. But instead of that we turn to the other side of the picture, and we ask ourselves the question, as every well-thinking man would: what has become of the 6,000 people who have been driven off that plateau with their 50,000 cattle; where are they gone; what is happening to them? It has been stated that there is land on which they could be placed, but those who are best qualified to judge, men who again I say have no axe to grind, have declared that apart from certain seasons, during the beginning of the rains, the land on which we propose to place them is a waterless, grassless, fly-infested area, where both cattle and sheep, men and women, would lose their lives. I know that my statement will be questioned, and I am quite prepared to have it questioned. We have been hearing quite recently both in the public Press and in speeches, about the deplorable murders taking place in the Northern Frontier district within the last year or so. I say, Sir, that there is no member in this House who deplores more than I do the taking of human life, and I think those people who do those deeds—and I here pay tribute to the excellent work of the police in that district in tracing down those who have done those deeds—should not be allowed to escape unpunished. But let us think for a moment of something else. These people, who two or three years ago have been moved from that plateau, and the deaths that have taken place are not one, or two, or three; the deaths that have taken place have been by the dozen, by the score, by the hundred, because of the position and of the conditions under which those people are living. When one comes to think of that, does a few thousand sheep and the welfare and happiness of two hundred Europeans

justify Government—Sir, I know your sense of justice, which has always been apparent since you took office in this land, would revolt against such a thing happening, and to know that these people were to be put into a place where life could not be sustained is to me intolerable. If I have used strong expressions with regard to this matter, it is because I feel most intensely on this question, and I do hope that Government will be strong enough to resist any pressure that may be brought to bear to deprive these people of the land which they are now enjoying, and to which they have unquestionably some right, and to drive them into a place where death and devastation would meet them and their flocks.

The debate was adjourned.

Council adjourned for the usual interval.

On resuming.

BILLS.

FIRST READING.

THE HON. THE ATTORNEY GENERAL: I beg to move that the following Bills be read a first time:—

The Cotton (Tax) Amendment Bill.

The Preservation of Objects of Archaeological and Palaeontological Interest Bill.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The question was put and carried.

Notice was given to move the second reading of each Bill at a later stage of the session.

MOTION.

KENYA LAND COMMISSION REPORT.

The debate was resumed.

THE HON. R. W. HIRSTED: Your Excellency, I have listened to the debate with great interest, and as one of the members of the Kenya Land Commission I should like in the first place to express my appreciation of the generous tribute which you, Sir, paid the Commission in your opening speech on the value of its work, and I appreciate the generally complimentary manner in which hon. Members on this side of the House have spoken of it, that is the European members. I think I may express that appreciation on behalf of the other members of the Commission, and on behalf of the Secretary also. I would like to congratulate the hon. Member for Nairobi North on his very interesting review of the whole

Report, which must have involved weeks of careful study on his part. I was very glad to hear from him and the hon. Members on this side of the House, the European members, that there are comparatively few points of disagreement with the recommendations of the Report. In fact, it would appear that the recommendations relating to Lerogi Plateau are the only really serious exceptions. The hon. Member Mr. Pandyn has ably represented the point of view of the Indian community, but the question of Indian claims were not dealt with by the Commission because they did not appear to come within the terms of reference.

As regards the point of view of the natives, I have had little opportunity of hearing them, but they have been ably represented by my hon. and reverend friend Canon Burns; I was very glad to have the assurance of the Hon. the Chief Native Commissioner, in answer to a question, that the Report has been explained to the natives generally and that they have had an opportunity of expressing their views.

With regard to the various questions raised by hon. Members in debate, I will only say this. As one of the signatories of the Report I feel it would be improper for me to put forward arguments other than those contained in the Report in support of the recommendations. The Report has dealt very fully and comprehensively with all the questions that could be said to come within the terms of reference, and I do not think it is incumbent upon me to say anything in support of the Report or in defence of the Report, or to enlarge upon it. European Elected Members have maintained that the recommendations will involve some sacrifice of the area which may be regarded as European Highlands. I venture to hope that the other recommendations concerning finality and security and the freedom from the encumbrance of the reservation of native rights in all leases will be considered as fair compensation for those sacrifices. That is all I have to say, Sir.

THE HON. A. C. TANNAHILL: Your Excellency, I desire to speak on three subjects: land trust boards, townships, and the question of public utility companies. The second and third items depend entirely on the conditions contained in a lands trust. In Chapter VI of Part 3 of the Report, the Commissioners analyse the Native Lands Trust Ordinance section by section, and they sum up their analysis in paragraph 1700 where they say:—

"We find a general consensus of opinion among the witnesses whom we have consulted that the amendments required in the Ordinance are so numerous that nothing but a complete reconstruction will suffice."

The Imperial Government in the White Paper of May, 14th devotes twelve out of the twenty-eight sections to the Native Lands Trust Ordinance, and section 16 of the White Paper says:—

"The close examination which the Commission have made of the working of the Native Lands Trust Ordinance shows that it is administratively inconvenient in many ways; that its inelasticity has operated to the detriment of natives; that it ignores native private rights, which are becoming increasingly important; that it tends to cramp initiative and development;" and so on.

Section 20 authorizes the preparation of an amending Ordinance and we may take it that the Native Lands Trust Ordinance will again be in the melting pot, with as before that essential amalgam that it shall truly and faithfully protect the native but shall not unduly cramp his initiative and hinder his development. One of the methods of development is provision of facility for trade. The hon. Member for Uasin Gishu dealt very lucidly with the trade in stock and the necessity for the provision of access by natives to markets. I propose to deal very shortly with the marketing of produce and native wares. The sequence from time immemorial has been this. Firstly, and nearly always on some plot or space near a track, a common meeting place is arranged where goods on the ground and endeavours to barter. Secondly, by communal effort generally, the erection of a more permanent market place has come into existence. Thirdly, someone keeps his stock, where he can sell his goods over his own counter, and he has to bargain for some permanent form of tenure, and the township has started. This is not unique to native reserves to-day the first step, the open native market, is established throughout practically the whole of the reserves. In many places the second stage has arrived, the permanent market, and is quite definitely established. The provision of a permanent tenure for that permanent market is either provided for or should be provided for. The third stage is knocking at the door, and by this I mean the provision of a permanent tenure for a native trader, as distinguished from the alien trader, to open his own shop to deal with natives, and included in part of the third stage, the intrusion of the alien trader, like the Phoenicians into Cornwall, and the ultimate town, with perhaps the ultimate city. These three stages are an inevitable law of progress and development which in purely native reserves subject to inter-tribal warfare rarely get beyond

that second stage; and take centuries even to arrive there, but under the *pax Britannica* the evolution is amazingly rapid. The Commission visualises this, as in fact our legislation has, when Rules 9 and 10 were drafted and which are referred to in section 1533 of the Report; but, in my opinion, the amending Native Lands Trust Ordinance must make more ample provision than is contemplated in the existing Rules or even than the Commissioners contemplate. In paragraph 1544 the Commissioners say:—

"In respect of the creation and development of social service centres, trading centres and townships, we recommend that the basic principle should be that they remain in the reserve and grow progressively out of plots set apart as need arises."

To all intents and purposes they leave it at that, but I think and believe, and everybody who has studied town planning must also think, we cannot leave it at that. The trustees of the land, whether native or European, must in very deed and trust be called upon to think ahead, firstly when they are called to give permanent tenure to a native market, and again when called on to issue the first plot of a new township. Firstly, the permanent plot for building a permanent market must be in the right place, not necessarily the place where the market has previously been held, but more important still is the selection of the first plot or the first block of plots. Before the first plot is set aside, acquired and alienated, the general scheme for a township must be sketched out. I agree this township must grow progressively, and plots be set apart as needs arise. Progress, however, must not be haphazard but on a predetermined scheme. Then arises the questions of tenure and term, on which the Report is curiously silent. The deed of trust must enable the trustees to provide for any sort of tenure and any sort of term from a monthly license to a ninety-nine-year lease, and quite possibly for freehold or a grant in perpetuity. That brings us to the method of acquisition and compensation. Certain circumstances must inevitably arise where land must be acquired in spite of the reluctance of the owner to part with it. The Commissioners without any hesitation recommend recourse to the Land Acquisition Act as a last resource. Subject to well considered safeguards, that is a right and proper ultimate recourse, but I cannot believe the Commissioners intended this Acquisition Act to be the Applied Indian Act of 1894. I believe that particular Act has been repealed in India years ago. Throughout the Act the procedure quoted is obsolete or repealed. It quotes the Indian Companies Act of 1863, the Indian Code of Civil Procedure, the Indian Post Office Act of 1860, the Indian Penal Code, and so on and so on. It is essential that this Indian

Applied Act must be superseded by a proper Ordinance. Very shortly, in regard to compensation, the principle that any land excised from the trust must be replaced by land elsewhere should be done away with: The fallacy that land for land is fair compensation is coeval with the old law of an eye for an eye and a tooth for a tooth, and is of course absurd. In the majority of cases it is not fair compensation. The clause should not be mandatory. The Commissioners themselves set out that in a large number of cases it is unsatisfactory.

That brings me to land required for public purposes and what exactly "public purposes" embraces. In my opinion it should mean any purpose whatsoever which an impartial tribunal, after searching enquiry, considers is a useful purpose. Rule 9 of the Native Lands Trust Rules, 1930, contains the words "any other purpose . . . which is likely to benefit the natives resident in the reserve." The Commissioners also refer to this restriction of "benefit", and it is a very dangerous restriction. It would perhaps prohibit the erection of a telegraph line through a native reserve. If similarly applied in the European area it might prevent the native from obtaining that stock route advocated by the hon. Member for Usain (Githu), so essential to get to the place where he can dispose of his surplus stock. It would prohibit water pipes for a town water supply being taken through a native reserve for the benefit of Europeans, and vice versa, taken through a European reserve for the benefit of natives. The "benefit" condition must be deleted as has already been done to all intents and purposes in the mining area. The existing Land Acquisition Act provides for public companies acquiring for utility purposes, and similar provisions must be maintained in any new local Ordinance.

Lastly, the elaborate precautions essential to safeguard and maintain the integrity of the native land must be similarly embodied in the trust for the European Highlands. There must be a trust and the functions, powers, and limitations of the trustees for the European Highlands must be clearly laid down so that the security of the European Highlands is as absolute as is the security of the native reserves.

DR. THE HON. A. C. J. DE SOUSA: Your Excellency, I hope you will forgive me if I say how sorry I was the other morning when you announced that this debate has been called at the request of the European Elected Members. As you know Hon. the Colonial Secretary declared with your authority that the Government were going to give the opportunity to this House for a debate on this Report, and perhaps you have been acquainted with certain information in the local papers long

ago that as far back as the 6th of June the Secretary of State for the Colonies declared in Parliament, in answer to a question, that an opportunity would be given in this country for the Council to have a debate on this Report. It seems to me it is very unfortunate that the position has changed and that we are called upon to discuss the Report on the initiative of one section of the community which is very much interested in the Report, instead of on the initiative of Government themselves. However that may be, I am very glad, as are my fellow Indians on this side of the House, to have an opportunity of laying our protest against the implementation of what we have always considered a grave injustice to His Majesty's Indian subjects. In opening the session, Sir, you said a lot of preliminary work has been and is being done in connection with the Report. It amounts to this, that the country generally and your advisers—we who are the members of this Council—and the people who are interested, have not yet had an opportunity of expressing themselves fully on the implications of this Report. To that extent, I think it is very unfortunate that both your Government and the Imperial Government should have hurried through the implementing of any recommendations whatsoever without the whole country being heard. This is a protest that we make as representing the present generation of Indians in this country, and we do so again because we consider ourselves as custodians of the rights of the future generations of Indians in this country. And we are not in bad company, Sir! In 1923, when the famous White Paper was published, the Indian Government made it clear that they would not be agreeable to the recommendations made therein as affecting His Majesty's Indian subjects. And when I say the Government of India I mean also the whole Indian nation. And to show we are not in bad company I will quote what Mr. Lunn, a former Under-Secretary of State for the Colonies in the Labour Government, said in June last when this Report was before Parliament:—

"We do not regard as final the Report on the subject of the Kenya land question. We shall reserve our right when we are in power to alter what may be done as a result of this Report. We are satisfied that in many respects it is not in the interests of the natives."

This means that there is quite a large body of opinion in the greater part of the British Empire, as well as in England, that does not agree with the findings of this Commission. I would like first of all to refer, before I actually speak on native affairs, to some of the statements made by the Commission in connection with the European claims for exclusive rights in the Highlands. It has been contended that the Commission never had before it any terms of reference to deal

with Indian claims. I notice, on page 483, the paragraphs 1041, 1042, 1043, 1044 and 1045. On the one hand a member of this Commission, who recently spoke in this debate, not exactly on behalf of the Commission but perhaps generally on their behalf, mentioned that there were no terms of reference before them. Yet here in these paragraphs is given the history of the matter :—

"In May, 1905, a Land Commission, consisting of Mr. Justice (now Sir Robert) Hamilton, Mr. J. W. Barth (now Sir Jacob Barth), Lord Delamere, and Mr. Frank Watkins, reported in favour of the maintenance of a European Reserve, and accepted Kiu to Fort Ternan as a suitable definition 'without wishing to bind themselves too closely to that area or to restrict its limits'."

Then again, in September of the same year, Sir F. J. Jackson (then Commissioner) wrote to the Land Office :—

"I am not aware if a definite ruling was laid down or not, but it has always been understood that no large grants of land between Kibwezi and Fort Ternan could be taken up by Indians, and you can act on this understanding."

It is perhaps too late for any member of the Commission to make an addendum to the Report, but I think the records of this House should contain a little more of the history than the Commission have been able to give us. That is what the Commission want to give us about the history of the Highlands question. I will give you a little more history as it should have been and what the Commission did not want to say. The Imperial British East Africa Company, from whom the Crown took over the land, did not contemplate exclusive reserves of land for any race. That is not mentioned in the Report, though it would be valuable. Lord Goschen, the then Chancellor of the Exchequer, discouraged land speculators from taking large tracts of land for the floating of joint companies or claiming land on the line. He was Chancellor of the Exchequer, and a member of the British Cabinet. That was in 1892 that the climate and soil of East Africa were admirably adapted for the requirements of Indian agriculture. That is a piece of uncomfortable history. In 1891 Sir Francis de Winton, the company's administrator, issued a proclamation forbidding, outside Zanzibar dominions, all dealings in land between Europeans of whatever nationality and natives. In 1894 the company published regulations which allowed all leases of land for agricultural and grazing purposes, and no racial distinction was inserted in those regulations. That is the first time that the company allowed grants of

land to non-natives. That is where the history of the alienation of the land to immigrant races starts; but at the start no differences were made. After the Company was taken over by the Foreign Office in 1895, regulations were issued by that Office in respect of grants to any persons of land for residential and other purposes without any racial distinctions. We come to 1905, from where the Commission starts. I admit that it is very uncomfortable history to be recorded in a Report of this kind, because it shows up the whole game, and the game has been the means, as the hon. the Indian members said, the means of depriving His Majesty's Indian subjects of the fair opportunity that they should be given in any part of the British Empire. As you know, the British Government first became interested in this part of Africa on account of the Indian settlement which was here; in fact, it was the Indian Government which was the more interested, and through them the British Government. I will quote you a very interesting passage from the Royal Instructions of the 11th September, 1920, which were issued when the then Protectorate was declared a colony. There it is said, and the Commission have not inserted it in their Report :—

"The Governor shall not (except in cases hereunder mentioned) assent in Our Name to any Bill of any of the following classes :—0. Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disability or restriction to which persons of European birth or descent are not also subjected or made liable."

You will admit that the foundations of the Colony, as far as the constitutional issue goes, are based on the Order in Council by which this colony was declared a Colony; and that whatever happens subsequent to that, like the White Paper of 1923, is in flagrant violation of His Majesty's solemn declaration. I did not intend to deal with this question of the Highlands at all but I am doing so for two reasons. It seems there is a lot of difficulty in the definition of what the Highlands means. I will say it is within my own knowledge, after a few years in this country, that the definition of the Highlands is a very simple matter. The definition should be: anywhere where the land is good and plentiful from the European point of view. That, Your Excellency, is the real definition.

My second reason for speaking on this subject is that, in defining the Highlands the Commission saw fit to recommend the preservation of these lands by an Order in Council. I do not think the Commission itself could have found out that the main boundary is, perhaps a mathematical boundary, would be the Uganda Railway from Kibwezi to Fort Ternan,

but there has never been a definition except mine—where land is good and plentiful from the European point of view. The reservation of that land for eternity as the Commission recommend, is I think one of the most inconsistent principles. If you read section 39 of this Report, and the agreed principles laid down therein—they do not come within the actual terms of reference—they say:—

“If therefore the possession of large undeveloped tracts of land by any tribe, person or class is prejudicial to the welfare and development of a country, it would be a proper exercise of the function of Government to intervene and adjust the matter.”

They go a little further and say:—

“But the greater the margin by which the population falls short of this requirement, the greater is the justification of Government for regarding unoccupied land as waste land of which it had the right and duty to make disposal in the way which it deemed best for the country at large.”

That is a very sound principle, Sir, I would ask you to turn to page 380, section 1505. There again the Commission climb down and say:—

“We can conceive a tribe so decreasing in numbers that the land would no longer be economically necessary for them, and, in that case, facilities should be available to permit of its development by other people.”

I should have expected the Commission to use their principles all round, for the main principle they recommend—the Order in Council—is to protect forever the land suitable for European development. Where they make a partition of land as “A”, “B”, “C” or “D”, there is land of Class “D” which is for occupation without restriction of any race. I suppose that is the greater part of the Colony’s land, although we all agree that it is most unattractive and unsuitable for intensive equity all round. Why not ask for an Order in Council for that land not to be occupied by any other race except those for whom it is most suitable? I find that the Commission not only endeavour to reserve for eternity suitable land for European development, but are also allowing them to occupy land elsewhere. This question of the definition of the Highlands has been very arbitrary. We know the original idea was to go by:— It then went on to include Muhoroni, Kaimosi, and Kipkaren on both sides of the railway. On the map you will find there is no definition and never has been of the Highlands, not even geographical or otherwise. I am now coming to a

very unpleasant subject, Sir, which originally I did not mean to touch on. It has been maintained that the reserved Highlands have been what we call for the general benefit of communities and of the native interests; there has also been emphasized their beneficial effect to the country at large. I for one would not deny the benefits to the country, to natives and others, of the European settlement, but that it has been an unqualified success, that it now is or is likely to be in the future, we all have our doubts. I am referring to the European Highlands question, because it is proposed to reserve them for all time. I feel that there are many members, yourself included, Sir, who know Professor Julian Huxley. He has said:—

“The white colonisation of the Highlands area is an interesting and valuable experiment, which we are not only morally pledged to support, but which deserves our support and encouragement until such time as it is firmly established, or, as is still quite possible, it peters out through economic or physiological reasons.”

That is what a man like Professor Huxley thinks of this settlement. An Order in Council puts all this area—whether it is utilized from the economic and other points of view for the welfare of country or not—it would put it out of reach of any other sections of communities for development purposes, even in the event of white settlement being a failure at any time in the future. What is white settlement as it is to-day? You know that the European population of this country occupies for every man, woman and child, one square mile, and the land occupied exclusively for European occupation for agricultural purposes is utilized only to the extent of 10 or 11 per cent. Another friend of Kenya, Sir Humphrey Leggett—we may or we may not like him, but the facts are there, and we have to face them when we say that white settlement is so great a success that we must now by an Order in Council preserve it for the future. It is a very unpleasant thing for me to have to read, but I have to read it, Sir, it is from Sir Humphrey’s memorandum before the Joint Parliamentary Committee:—

“My submission is that land development by the European community on ‘Colonist’ lines has not yet proved its soundness in these desiderata, that it is very far from being prosperous and self-supporting to-day, even if it has ever been so—which I also doubt—and that it is unlikely to be even more hazardous and doubtful in the future. I give reasons below, with supporting figures, to show how I arrive at this opinion, and why I believe that the effort to develop the greater part of the alienated

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areas on 'Colonist' lines, is more likely than not to result in failure, which would not only involve the 'Colonist' community itself, but would have other important repercussions, such as holding back a much more promising form of European development, viz. the plantation system, with all that that implies, and also, perhaps, holding back native development in Kenya."

"Some of the points on which the 'Colonist' type of development has been built up since European immigration for settlement on the land first commenced in 1904-5 have been as follows—(a) The initial provision of a railway, traversing the settlement area, free of capital charges for interest and sinking fund, and a system of railway service facilities, and of railway rates on export produce, exceptionally favourable to the settler community and their produce. From the opening of the railway in 1901, up to 1922, the railway annual working profits . . ."

HIS EXCELLENCY: I think the hon. Member is rather getting outside the motion; we are not dealing with the railway.

DR. THE HON. A. C. L. DE SOUSA: I was trying to point out that the railway, as well as other services, is being used to support the settlement scheme, which in my opinion is not right. I hope, Sir, that I shall not be wrong in quoting Sir Humphrey Leggett as saying that:—

"Until 1900, i.e. for the first five years of European settlement, the Kenya Treasury took the whole of the Customs receipts on the imports of Uganda, plus the Customs revenue that was then levied by way of export duties on certain produce."

Since I feel that I am only making myself more and more unpleasant, I would refer to another passage, and that is that one of the effects of this financial assistance is to put up the price of maize for local consumption to an amount equal to the difference between the net export value and the amount of the subsidy, on all local consumables, whether European, native or Indian, because the cost of food and labour *pro tanto* increases. This affects Government departments; plantation owners, and all who do not grow their own supplies . . .

HIS EXCELLENCY: The hon. Member must stick to the Report. I have been very lenient during this debate, but there are limits.

DR. THE HON. A. C. L. DE SOUSA: I should like to have your ruling, Sir, as to whether I can refer to settlement.

HIS EXCELLENCY: You can refer to the Highlands, which is a perfectly legitimate question.

DR. THE HON. A. C. L. DE SOUSA: I cannot without referring to white settlement.

HIS EXCELLENCY: You can within limits, but at the moment you are going too far.

DR. THE HON. A. C. L. DE SOUSA: I am sorry, Sir, but in a matter of this kind a member expects latitude. If I may, I will refer to the Soldier Settlement Scheme, which I think has a great bearing on the subject. I believe it to be . . .

HIS EXCELLENCY: That has been referred to before, and you are at liberty to do so.

DR. THE HON. A. C. L. DE SOUSA: I cannot say whether I am in order or not, but anyhow I will read you this. I was maintaining that we are not sure whether white settlement is to be a success or not, and whether it is necessary to safeguard it by an Order in Council. My whole point is the Order in Council. Settlements, I say, in this country have been failures. About eighty ex-officers, mostly married and with families, were selected for this scheme, which was the B.E.A. Disabled Officers Scheme:—

"And 26,000 acres of probably the best farming land in Kenya, adjacent to the township of Kericho, was set aside as a free grant. The officers were allowed to commute their pensions in order to provide a minimum of £400 capital apiece, and a similar amount, bringing the total to about £800 per family, was provided by the Ministry of Pensions; free or partly assisted passages or rail fares were provided, and these eighty families were placed upon the land, but failure began within two years, and although the scheme was allowed to borrow about £20,000 from the bank on the security of the land that had been granted free, this was soon exhausted, and within four years not one of those settlers remained on the land. The total expenditure was not less than £80,000—£100,000, plus the free grant of the land, and the whole of this capital was entirely lost, and the eighty families were ruined. The land which the Colony had thus parted with was eventually sold by order of the bank and realized about an average of £5-10-0 per acre, the excess realized over the amount of the bank debt being sufficient to repay these settlers less than one-half of what they had sunk in the venture, and the State itself made a dead loss of its 26,000 acres."

That is only a glimpse of what we have had of this settlement, and if thirty years' of settlement have not been sufficient for these people, all very well-meaning people, to make good in this country, then according to this great ethical principle of the Commission if the "possession of large undeveloped tracts of land by any tribe, person or class is prejudicial to the welfare and development of a country," the land would no longer be necessary to them, and facilities should be available to permit of development by other people. I submit they are natives, Africans, Arabs—by a lapse of memory I nearly forgot the Indians! The Commission is not very emphatic about it, but the question of the reservation of the Highlands by an Order in Council also raises the question. I have said that it has not been proved that the land exclusively reserved for white settlement has been properly used. I also say that in order to keep up the development of this race, the other communities have to contribute their share. When we consider that only 10 or 11 per cent of the land has been developed, and that there is a native population of about 150,000 living on this land occupying well over a million acres, the question comes in—has the land given to white settlement during the last thirty years been profitably used? That is the question that arises, Sir. Before I leave this subject I might say that in the past this very land has been used for the sake of speculation. In 1905 or 1906 the Indians applied to the Land Office for farms in Kibigori, Muhoroni and Fort Ternan districts. They were refused, and grants were given to Europeans in that locality almost for nothing. Fourteen years later, in 1910, this land was sold to Indians at a profit of Sh. 120 per acre; that is, in Muhoroni. Perhaps Your Excellency knows what a land boom means. We have had very big booms when large concessions were divided and sold. I may say now that after thirty years—and I am referring to the report laid on the table this morning of the Commissioner for Local Government, Lands and Settlement—this is the latest we have. The Commissioner says:—

"The scheme for closer settlement which was devised and approved in 1923 became inoperative owing to the general depression and fall in prices, and it is unlikely to be revived in its original form. Emphasis meantime is laid on residential settlement and the attractions of Kenya for the retired classes."

That is not an advance in the land policy of the country. The increase in settlement generally is primarily now a matter of subdivision of alienated lands—that is for the sake of the profits to the large land holders in the area. I am now referring to another report, that of the Land and Agricultural

Bank of Kenya, and in it it is stated that up to the 31st December, 1932, the total number of mortgages registered was 173, securing advances of £227,700. "At December 31st, 1933, the number was 246, securing advances of £300,050. During the year 239 applications were received for advances, aggregating £393,520, an average of £1,646; 22 applications, aggregating £33,120, were brought forward from the previous year, making a total of 261 applications" for nearly half a million pounds sterling. I mention that because the Report goes on to say:—

"The large proportion required to meet existing mortgages indicates the most difficult phase of the situation with which the bank is confronted."

That is very important from the point of view of an Order in Council giving exclusive rights in the Highlands, and, says the Report:—

"An overwhelming majority of farms are mortgaged before coming to the bank, many of them having borrowed a larger sum than in present circumstances can justifiably be replaced by a Land Bank loan. They constitute evidence of the existence of a number of deserving cases which may ultimately go to the wall unless relief is available from some quarter. On many farms the farmer is carrying a mortgage debt, incurred in better times, which to-day is not justified by the value of the security mortgaged."

I mention this, as the way we view European settlement in this country is that it has been a drag on the country in more than one respect, and the fight put up to maintain the privileges which were acquired to the detriment of the Indian community, especially in the old days, has neither moral nor practical support behind it.

I shall only refer lightly to the native question, but I should very much like to draw the attention of Your Excellency to that very healthy principle which I find missing in this Report, by E. D. Morel, who says: "The acid test of trusteeship is the preservation of the land of Africa for its people." That principle has been accepted by all foremost international men in public life. Now the Commission, in paragraph 1370, admits a high rate of native population within the next two decades. Although I regret to say it, it does not make any specific provision in respect of that need. Here again this land question has come, as most of our legislative

inspirations have come, from the south rather than from the north, for General Smuts, in his Rhodes Memorial Lectures at Oxford, said:—

"The mistake we made in South Africa in the past was our failure in not reserving sufficient land for the future needs of the rapidly increasing natives; and the land problem which we have in consequence on our hands is one of the most difficult."

The Commission itself finds that the land may not be quite enough, and it finds that the native population is increasing very rapidly. In fact, the density of the population in the three main provinces of Kikuyu and Kavirondo is 171 per square mile. These are the lands which can be developed by natives, but there are other lands where natives will not be increasing in such numbers. The total density for the Colony's native population is 51 per square mile. I say that this question of land is a very important question from the native point of view. We are inclined to make light of their claims as the Europeans do, but the native attaches to this very great importance. If you had the patience, Sir, and the time, which I agree you have not, to go through the 4,000 pages in these volumes represents about five hundred pages, and not in one paragraph of it do you find that a native has given up his right for his land, or advocated its alienation to non-natives. You told us the other day, Sir, that you had visited reserves, and we had the reply of the Hon. the Commissioner for Local Government, Lands and Settlement, that so many things had been done in barazas, but I submit that the chiefs, the headmen, and a large number of people, witnesses, who came before the Commission in and outside barazas, have in their evidence said not a single word on the recommendations for the exclusive rights of immigrant races; I submit that with all your efforts to obtain opinions from the natives, you will get nothing from the native point of view. Not only the native here, but in Uganda and Tanganyika also they are all looking to this land question with a keenness which will embarrass this and the Imperial Government. The Kabaka of Uganda before the Joint Parliamentary Committee said:—

"From the newspaper reports and other correspondence on this subject emanating from the European community in Kenya, it is only too clear that my fears and anxieties are well-founded and that it is the express intention on the part of the European community to subordinate the interests of the natives of East African territories to the interests of the immigrant European races."

Similarly the Tanganyika natives. This land question is a leading question with Africans, and sooner or later the dissatisfaction of the natives is going to be on a tremendously big scale so that not only the immigrant races of Indians and Europeans but Government will find it very, very difficult to deal with it. Some of us look forward to the development of Imperial relationship as between all communities, and are very earnestly interested, not merely from the point of one community alone, but from all communities.

THE HON. SHAMSUD-DINN: Your Excellency, this session has probably been marked by the number of lengthy speeches delivered in this House by unofficial members. I wonder how many of us realize what each day of this session costs the country? I reckon that it costs the country something like £300, and every member who speaks for one minute costs the country at least £21: I am referring to this for the reason that in my opinion—I may be entirely wrong—but the last four or five days of this session have been a perfect waste of money and breath for the reasons that although the Commissioners themselves have accepted and embodied that fact in the Report, that they expected their recommendations would be thoroughly debated in this Council, the home authorities have actually approved of the Report almost immediately on its publication without giving to this House any opportunity for expressing its opinion. That shows how much the Government think of this Council and its opinions! Therefore I submit that the possibilities of getting any alterations made to the recommendations of the Report—which have already been approved—are very remote indeed, and in my opinion it is nothing but a colossal waste of the money of the Colony to debate them. Originally I had no idea of speaking on the subject, which has been debated at so great a length, but I realized latterly that this is probably the last opportunity when I can say something on the subject of the land of this Colony, from which it is intended that my community should be eliminated for all time, especially from the Highlands. I was going to say that it is entirely the unofficial European members who are responsible for this waste of money and time, because according to Your Excellency's speech at the opening of the session this session was called at their insistence. I wish to begin by referring to the personnel of the Commission. I am afraid that I am not able to endorse the views hon. Members have expressed here about the personnel of this Commission. The chairman was a gentleman who in 1913 from the presiding chair of the highest British court in this Colony, said in so many words to the natives that the old adage which had a great deal of truth in it, that an Englishman's word is as good as his bond, was no longer applicable to this Colony. I am

referring to the decision of the Appeal Court in the Masai case in 1913. The chairman of this Commission was also chairman of that court, and he said to the natives quite clearly, in my opinion—I may be wrong—that the word of an Englishman in this Colony was nothing more than a scrap of paper, which could not be enforced by any court of law.

HIS EXCELLENCY: The hon. Member is out of order. You are indulging in personalities, and I must rule you out of order.

THE HON. SHAMSUD-DEEN: I am referring, Your Excellency, to the public record of the chairman of this Commission, and I submit—I bow my head to your decision—that it is a public matter and refers to the judgment published in the official records of the Colony. I would therefore say that he was actually disqualified from being chairman of this Commission. He, in my opinion, has shattered all confidence in the minds of natives, and dealt a vital blow to the prestige of the white man. The fact remains that that judgment of the Appeal Court is there, in which a very important section of the natives of this Colony were told that what the Governor had made solemnly in the form of an agreement was not recognized by that court and that the court could not enforce the terms of it. After all, it is the same man. However, if you do not like me to refer to that matter I will not go on with it. But I believe that I am in order to show that the personnel of this Commission was, really speaking, absolutely disqualified to sit in judgment upon the matter. There is no slur on the particular persons, but these are the circumstances. Take the case of Mr. Wilson. He has got a very large tract of land next to the reserves on which he has been sitting in judgment in these recommendations. The hon. Member Mr. Hemsted actually appeared as a witness before the sub-committee of Executive Council which deal with this matter. Naturally, I submit that the members of the Commission who sat as judge and jury knew more than all the witnesses put together that came before them, and therefore I submit that ideal personnel of the Commission should have been one or two entirely disinterested Britishers and one or two Indians from India who had no interests or previous prejudices in their minds and, most of all, one or two educated natives from one or other of the dependencies. That would certainly have been an ideal personnel. I submit that this is a very important matter, especially when people come in contact with the lower types of humanity, races who are backward intellectually. It is almost humanly impossible for men of a highly civilized nation to forget the great responsibility which rests on them, and not take undue advantage of the ignorance of the people whom they are dealing with, and the tendency generally is,

especially to men who live in the colonies, for any length of time, on most occasions to actually deny the ordinary rights to natives. I may be accused of exaggerating this, but I wish to mention for the information of members of the House that a very prominent citizen of this Colony, looked upon as a leading member of the Council for a number of years, actually in a public meeting held in the Theatre Royal a few years ago described the natives of this Colony . . .

HIS EXCELLENCY: What has this to do with the Report?

THE HON. SHAMSUD-DEEN: Your Excellency, I submit that members of this Commission were so long associated with the Colony that they were in actual conflict with the idea which in most cases does not recognize the full rights of the natives as human beings. However, if you think that is beside the point, I will not go on with it, but the fact is that people who live in colonies and come in contact with the natives are inclined not to treat them with the full consideration that they would give to other communities. I also wish to mention the fact that the Report as supplied to me is an incomplete record of what the Commission has reported, inasmuch as I have had only one volume of the Report, while references are made frequently in the Report to the evidence taken by the Commission. I have had no copies of evidence, although I see on the table several volumes. I am therefore at a disadvantage. I think I am right in saying that I am the only member of the Council who has not had all the volumes but only one copy, so that I am at a disadvantage in following the debate in this House fully. The debate that has been going on during the last four or five days and the whole trend of the Report, if listened to by a stranger, he would probably think that we are in some part of Asia or Europe where we are trying to find a solution for the accommodation of an influx of alien natives into the country, whereas the undeniable fact is that we are in Africa, where the land belongs to the Africans, and both the European and Indian races are alien races, both competing with each other to get the best piece of land belonging to the native. It is exactly opposite to what it should have been, and the whole trend of the debate in this House has been on those lines. I submit that the proper principle to have been adopted by the Commission and all just people is that when you take possession of the land of the native of Africa to tell him: "Take what you want and what you think you need, and then also add what you consider reasonably necessary for future generations and increasing numbers; if there is any residue left at all, it should be a matter of right of all British subjects to take what they can put to the best use." But in this Colony the case is exactly the opposite. We say: "We take what we consider the best

for us, and leave the natives what we cannot make use of." I find that there is one aspect which is hardly mentioned in the Report. In order to deal with the land problem of any country, it is not only necessary to deal with that problem as we find it to-day but the most important factor is, how we came into possession of that land. I do not want to go into the whole history at all. As a matter of fact, I rather admire Your Excellency's patience and latitude in listening to these repetitions and exhaustive quotations. I do not mean to indulge in any or to give you a long historical survey, but I should like to mention what struck me as a very important statement in the historical review in the first Pageant of East Africa, held about two months ago. In that sketch of East African history, the author mentions that:—

"When Speke wanted real guidance for his journey of 1837-38 he could get it offly from the Hindu Puranas, compiled about 1,000 B.C., and a hearsay sketch map made by the missionary Eriardt in 1856 A.D. There was nothing of intermediate date, a gap of nearly three thousand years."

I mention this fact to show that we know so little of this country. Up to the eighties of the last century Sir Frederick Jackson and the German Carl Peters were actually in a sort of race, entering into friendly treaties with natives, telling them: "We are going to be your friends, will you please allow us to come in, and we don't mean harm, only peaceful discoveries of places that do not appear on the maps of the world." That is how the white man came in and is here. Within a few years we told him: "You are not putting your land to the best economic use, you do not cultivate your various races tell him the land is too much for him and that we will make use of it for him. I may be wrong, but it appears to me the mentality which is being endorsed actually by the Commission is that of a person who finds his way first, of all into the house of another person by solicitations, and having again entered through the hospitality of that man begins to criticize his methods and belonging until he takes possession of the house and returns to the man what he thinks is not useful. I submit that the superior races have a special responsibility when they take other people's land, especially those of uneducated natives whom they found on arrival, and the best policy would have been not to touch their land or property at all. If we begin to follow the policy I have just stated, and I hope I am wrong, past history tells us that although the invaders prosper for a while, a century or two, the future generations, their grandchildren, have to stand a great deal of reckoning for the bad administration of other people's

property. That is why I refer to what happened in 1913. In 1904 the Masai tribe was living in the vicinity of Nairobi. Sir Donald Stewart, on the advice of the administrative officers and the pressure of the white colonists, said: "We want to bring white colonists into this land. You are so near to Nairobi that you are occupying land which is useful; you do not know how to use it. Please shift to Laikipia and make room." And the Masai readily agreed. I submit that the Governor of the Colony, by his land, in the presence of heads of departments, gave the Masai certain solemn promises that they would not be disturbed. They were also told that they would be given administrative officers whom they knew and in whom they had confidence. That promise was—I will not go to the extent of saying that it was broken—but in 1911 there was a further influx of European population who also wanted the land to which the Masai had been shifted. That brings me to this important question of the Nile Zone. Anybody who has carefully studied the Report—it is nearly one o'clock, Sir, and I shall have to take a few minutes more to finish my speech; probably a quarter of an hour. May I go on, Sir?

HIS EXCELLENCY: If you will be only a quarter of an hour you had better finish your speech; if not, then we shall probably adjourn.

THE HON. SHAMSUD-DEEN: I will not promise that I shall not take more than a quarter of an hour, for I certainly have a lot of things to say.

HIS EXCELLENCY: Perhaps, as it is one o'clock, the hon. Member had better continue his speech to-morrow morning. I propose to adjourn now.

The debate stood adjourned.

The Council adjourned until 10 a.m. on Wednesday,
24th October, 1934.

WEDNESDAY, 24th OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 24th October, 1934, His Excellency THE GOVERNOR (BRIGADIER GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 24th October, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table—

By THE HON. THE ATTORNEY GENERAL (MR. W. HARRADIN) :

Report of the Select Committee appointed to consider and report upon the provisions of a Bill to provide for the control and production of tea in the Colony.

By THE HON. T. FITZGERALD :

Report of Select Committee appointed to consider and report upon the provisions of a Bill to confer temporary exclusive rights in respect of telegraphic Press messages.

NOTICES OF MOTIONS.

By THE HON. THE ATTORNEY GENERAL :

That the report of the Select Committee on the Tea Bill be adopted.

By THE HON. T. FITZGERALD :

That the report of the Select Committee on the Telegraphic Press Messages Bill be adopted.

ORAL ANSWER TO QUESTION.

E.A. CURRENCY BOARD LOSSES.

No. 91—THE HON. F. A. BERNISTER asked :—

“Will the Government inform this Honourable House of the reply, if any, received from the Imperial Government to the covering despatch sent home following the undertaking given by H.E. the Governor on April 10th, 1933, in connection with the motion proposed by Captain the Hon. J. L. Cotter on the question of losses incurred by the East African Currency Board?”

THE HON. THE ACTING COLONIAL SECRETARY (MR. A. DE V. WADDI) : A copy of the official report of the debate was sent home in accordance with the undertaking given by Government, and a formal acknowledgment has been received.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL moved that Standing Orders be suspended to enable a Bill to amend the Customs Tariff Ordinance, 1930, to be carried through all its stages without due notice.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

The question was put and carried.

Standing Orders were suspended.

BILL.

THE CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 1934.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. G. D. KINSORP) moved that the Customs Tariff (Amendment) Bill be read a first time.

THE HON. THE TREASURER seconded.

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS : Your Excellency, I move that the Bill to Amend the Customs Tariff Ordinance, 1930, be read a second time. This Bill is the outcome of an agreement reached between the Governments of Kenya, Uganda and Tanganyika Territory and similar territories. So far as its main provisions are concerned, the Bill may be regarded as supplementary to the Customs Tariff (Amendment) Ordinance of 1933, and is intended to revise certain of the duty rates applied under that enactment. As honourable Members are no doubt aware, the revenue yield from textile and certain other goods has, during recent years, suffered serious loss through an altogether exceptional depreciation of values brought about by external factors—currency inflation, improved methods of manufacture, over-production and so on. And the object of the Tariff (Amendment) Ordinance of 1933 was to counteract to some extent the influence of these depreciated values on the revenue by applying to certain of the commodities affected alternative specific and *ad valorem* duties in lieu of simple *ad valorem* duties, and specific duties being fixed with a view to securing a fair minimum contribution to the revenue in relation to the quantity of the goods imported rather than to their value.

As my hon. friend the Treasurer, who was in charge of the Tariff Amending Bill of 1933, explained to the House, it was hoped that the specific rates then applied had been fixed at a figure sufficiently high to ensure that they would impose upon abnormally low-priced goods a duty approximately equivalent to the contribution to the revenue from similar goods prior to their invasion of the local market at prices which the factors already referred to had made possible, and at the same time sufficiently low to avoid the imposition of any hardship on the consuming population. The problem of determining specific rates adjusted to satisfy both these conditions was complicated by the lack of adequate data. In the case of the main category of goods concerned—cotton and rayon piece goods—the statistical records which had been compiled at the Custom House related import values to linear yards or to weight, while new specific rates had to be fixed in relation to square yardage as the unit of quantity. In the case of other articles affected by the revision, that is to say, shirts, cardigans, jerseys and so on, no separate import statistics had been compiled and these new rates had, accordingly, to be fixed without any recorded data to work on. Owing to this difficulty and because both the volume and the range of these low valued imports continues to expand, the schedule of alternative duties applied by the amending Ordinance of 1933 was necessarily experimental. More than a year's working experience has made it possible to ascertain which of the specific rates then applied have succeeded in securing an appropriate contribution per unit to the revenue and which have failed to do so, and the main purpose of the Bill before the House is to adjust those rates which actual operation has proved to have been fixed at somewhat too low a figure under the parent Ordinance enacted last year and where necessary to extend the scope of their application.

The particular rates which it is sought to amend are those covered by items 38A, 40 and 49 (e) and (f) of the schedule to the Bill, the articles affected being blankets, boots and shoes, cardigans, jerseys and pullovers, shirts, piece goods, bicycles and bicycle parts. The comprehensive classification designated piece goods represents over 80 per cent of the total trade in all the articles enumerated, and hon. Members will note that for the purpose of duty rating piece goods are divided into three categories: Item 40 (a), unbleached cotton, (b) other cotton, (c) silk and artificial silk. The rate of duty on the first category, unbleached cotton, was altered in 1933 from 30 cents per lb. gross weight or 20 per cent *ad valorem* to 9 cents per square yard or 20 per cent *ad valorem*. From the statistical material which has since been elaborated, it has been established that the latter basis of assessment does not, in fact, give a larger revenue contribution per unit than the former.

In other words, the present duty rate of 9 cents per square yard averages out as the approximate equivalent of the former rate of 30 cents per lb., and indeed in the case of certain of the heavier brands which are gaining in popularity the 30 cents per lb. rate produced the larger contribution. If we go back to the year 1929, which was accepted as the standard year in 1933, the revenue contribution then obtained from unbleached cotton has been established at approximately 11.6 cents per square yard. It would not, accordingly, be going beyond the declared intention of the original enactment if the present experimental rate of 9 cents per square yard were increased to 11½ cents per square yard. But the Government of Kenya, no less than the Governments of Uganda and Tanganyika, has been insistent that the primary consideration in the present adjustment of rates should be to avoid the imposition of hardship on the consumer, and for that reason the rate which this Bill seeks to impose has been fixed not at 11½ cents per square yard but at 10 cents—that is, an increase of only 1 cent per square yard on the existing rate. The average duty-paid value of unbleached cotton in 1929 was about 38 cents per square yard. At the present time that value has fallen to 29 cents, so that the additional 1 cent duty which it is now sought to impose may be expected to increase the duty-paid value to an average figure of 30 cents a square yard. Thus the consumer will retain the benefit of 17 cents out of a fall in price amounting to 18 cents, the remaining 1 cent accruing to the Treasury by way of a partial recovery of lost revenue.

Turning to the second category of piece goods, i.e. "Other cotton materials", the Amending Ordinance of 1933 replaced a straightforward *ad valorem* duty of 20 per cent by a specific rate of 10 cents per square yard or alternatively 20 per cent *ad valorem*. Here again it has been found that the experimental rate of 10 cents has failed to restore the equivalent unit revenue contribution obtained in the year 1929, and that to obtain such a contribution it would be necessary to increase the rate to about 13 cents per square yard. In this case it has been decided to adopt 12 cents per square yard as a rate which is in suitable alignment with the rate fixed for unbleached cotton, and sufficiently low to protect the interests of the consumer. The experimental specific rate fixed for artificial silk piece goods was 15 cents per square yard, in order to restore the unit revenue contribution to the 1929 level. It would be necessary to fix a specific rate of about 25 cents per square yard, so that the rate of 20 cents per square yard now adopted is amply justified. In the amendment Ordinance of 1933 the alternative specific rate of 15 cents per square yard fixed under item No. 40 (c) was applied to artificial silk piece

good only. Goods manufactured of natural silk are now, however, being imported at prices which do not yield even as high a duty as 15 cents per square yard, and this typical development has made it necessary to put both silk and rayon piece goods in the same duty classification. The adjustments effected under item 38A have been made with regard to the same considerations as those which govern the revision of the piece goods rates. For example, the duty contribution from a cotton blanket in 1929 was 34 cents, and the rate is now fixed at 30 cents. And, here again, it has been found advisable to extend the scope of the alternative duties to include blankets made of other materials as well as blankets manufactured of cotton, which alone were rated under tariff item No. 38A (1) in the enactment of 1933. Blankets manufactured of such materials as rayon and wool wares are now finding their way into the import market at prices which allow them to compete with the cotton article, and the alternative rates imposed under this item are accordingly made applicable to all classes of blankets—including second-hand blankets at present rated under item No. 38. A somewhat similar extension of scope has been applied to tariff item No. 38 (ii) by the substitution of the words "Boots and shoes of which the soles are made of rubber and the uppers of canvas and/or leather" for the present wording, which is "Boots and shoes made principally of canvas and rubber." In the case of this item the actual duty rating, i.e. 40 cents per pair or 20 per cent *ad valorem*, remains unaltered, the effect of the amendment merely being to bring under the alternative basis of assessment a type of cheap footwear made of rubber soles and leather uppers which has recently made its appearance in the local markets. The adjustments made in items No. 40 (c) and (g) have the effect of increasing the specific rate on completely assembled bicycles from Sh. 8 to Sh. 13; and of substituting a graded scale of rates to various bicycle parts which have hitherto been assessed on a simple *ad valorem* basis. While these revised rates will not succeed in securing the revenue contribution on the same basis which obtained a few years ago, they will at any rate assist in protecting the revenue from progressive price-cutting and from the practice of assembling bicycles locally from different makes of spare parts and marketing the mongrel machine so put together as a high-grade product.

I have now covered, in these explanatory remarks, all the items included in the schedule of the Bill, which are designed to assist in stabilizing the revenue, and I hope it will be generally agreed that the basis of adjustment throughout is one which exacts no more than a reasonable and equitable toll from the consumer, without depriving him, to any appreciable

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extent, of the advantages of astonishingly cheap overseas production—advantages which continue to make themselves felt over an increasingly large section of the import market. It was hoped that the revision applied under the Tariff Amendment Ordinance of 1933 would give an additional annual yield of about £20,000. It is not now expected that the additional yield will reach that figure during the current financial year, but the further adjustments which it is now sought to apply will accrue to the revenue during the year 1935. In this connection, Your Excellency, I have your permission to announce that it has been decided by the Governments of Uganda and Tanganyika Territory not to continue the tax on imported packages beyond the currency of the present year; that is, after the end of this year. The grounds for which this package tax has been abandoned in those territories are that it is unscientific and vexatious. Your Excellency wishes me to state that in view of the action which it is proposed to take in Uganda and Tanganyika, the Government of Kenya feels that it would be unwise to continue the package tax in this territory on an equitable basis. To operate such a tax, which in that case would amount to a transit duty on goods which pass through Kenya to other territories, would have a serious effect on the transit trade of this territory. It is therefore the intention of Government to abandon the tax.

HIS EXCELLENCY: With the Secretary of State's approval.

THE HON. THE COMMISSIONER OF CUSTOMS: With that approval, it is proposed to abandon the tax at the end of its currency.

The amendments included in the Bill to which I have not already referred, i.e. the amendments to tariff items 19, 62, 100, 104 and 118, are of lesser importance. So far as items 104 and 118 are concerned, the amendments are merely intended to remedy previous drafting or printing errors—in the first case by the insertion of the letter *n.e.e.* (not elsewhere enumerated) and in the latter by the substitution of the words "arsenite and arsenite of soda" for the words "arsenite and arsenite of copper". The amendments to items 19, 62 and 100 will have the effect of exempting certain articles from duty in the interests of agricultural and industrial development. The scope of item No. 19 is thus extended to include mineral mixtures for stock feeding with the intention of encouraging the use of such mixtures in countering the scourge of mineral deficiency diseases in the stock industry. The amendment to item No. 62 extends exemption from duty to trailers used as attachments to motor and steam road and farm tractors, a concession which will assist an economic

development of transportation practice of immediate interest to the gold mining industry. The exemption in favour of batching oil now introduced under item 100 (b) will assist the local exploitation of sisal fibres.

It is impossible to compute the cost to the revenue of these concessions, but it will not be material. Hon. Members will, I am sure, agree that in each instance the case for exemption is a sound one and consistent with the general principles on which the Customs tariff is constructed.

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

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

LIBERT. COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, naturally you on this side of the House have to watch very carefully any additions which may be made to the taxation of the country, but when the amending Bill was introduced last year, on the same principle of which this is a further implementing, it was agreed as a general principle that as now from certain sources goods are imported into this country at such very low cost the old system of *ad valorem* did not meet the case. It is impossible, of course, to give any opinion on the detailed recommendations, as to whether 10 or 12 cents in a right amount, as we have only this moment seen the Bill, but the general proposal as far as I am concerned—I have not had time to consult my colleagues—I am prepared to support. We welcome the fact that there have been one or two additions to the free list, such as mineral mixtures for stock feeding, for these will help the farmers. With regard to the further announcement that the package tax will not operate after this year, that is in accord with what was originally agreed to, as I think I am correct in saying that it automatically ceases at the end of the year unless it is renewed. I support the motion, Sir.

THE HON. SHAMSUD-DEEN: Your Excellency, I do not wish to oppose this Bill for the simple reason that it is no use opposing it, but I am not at all happy about these increased duties on goods that ultimately fall on the native consumers. I see that the necessity for increasing these duties is owing to the very cheap goods being imported into the Colony from certain countries, but while we are increasing these I am afraid we create real hardship on the people who wish to use British goods in preference to these goods. Unfortunately we cannot make any preference in this Colony owing to various reasons, but I am afraid that instead of this

acting as a check on cheap goods from other countries it will act quite adversely. For instance, on bicycles from Great Britain which are in great demand. It will be a great deterrent on the imports of British goods which are increasing very considerably owing to this unhealthy competition which is going on in regard to these cheap articles which are being imported from various countries. I have been told that in Mombasa one can get a bicycle for Sh. 8 after paying the duty. The addition of another Sh. 12 will not hurt that kind of trade, but it may affect the British import.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in reply to the hon. Member Mr. Shamsud-Deen, it is fairly simple, because actually the fact is these duties will operate in the reverse direction to which he has indicated. It is quite obvious so far as the higher grade goods are concerned that the specific rate does not apply but they remain as they were, subject to *ad valorem* duty.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL moved that the Council resolve into committee of the whole Council to consider the Bill clause by clause.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

The question was put and carried.

The Council went into committee.

In Committee.

The Bill was considered clause by clause.

THE HON. SHAMSUD-DEEN: I should like to ask the Commissioner of Customs, Mr. Chairman, if it is not possible to take this opportunity of amending one small item? I have recently been to Zanzibar, and was informed that there is a great opening there for orange and lemon squashes . . .

HIS EXCELLENCY: It is quite impossible now, because a similar Bill was passed this morning in Uganda and Tanganyika.

THE HON. THE ATTORNEY GENERAL moved that the Customs Tariff (Amendment) Bill be reported to Council without amendment.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY informed the Council that the Customs Tariff (Amendment) Bill had been considered clause by clause in Committee of the whole Council and had been reported to Council without amendment.

THE HON. THE COMMISSIONER OF CUSTOMS moved that the Customs Tariff (Amendment) Bill be read a third time and passed.

THE HON. THE TREASURER seconded.

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

KENYA LAND COMMISSION REPORT.

MAJOR THE HON. F. W. CAVENDISH-BERTINCK having moved the following motion:—

“Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

Whilst noting that in general terms their Report has been substantially approved by the Imperial Government this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations.”

THE HON. CONWAY HARVEY having seconded.

The debate was continued.

THE HON. SHAMSUD-DEEN: Your Excellency, I was yesterday referring to the 1911 agreement for the move of the Masai. This Report makes several suggestions as regards this agreement of 1911. In one place it says that in view of the Kenya Annexation Order in Council of 1920, the 1911 agreement becomes null and void. It goes on then to say that they will not go to that extent, and suggests several alterations in that agreement. When dealing with people like the Masai tribe, it is very wrong indeed to indulge in legal quotations, and these various resolutions introduced subsequent to that agreement are not at all understood by people like the Masai. The Report suggests that the One Mile Zone was not intended to be included in that agreement. I submit that that agreement and the boundaries explained in it are so clear that they do not admit the possibility of any doubt at all, because Sir Percy Girouard in that agreement, signed in the presence of eight European heads of departments, defined the boundary of the new Masai Reserve as: “On the north and east by the Uganda Railway zone from the Athi River to Sultan-Hamud railway station.” The whole question boils itself down to

this: What is the railway zone? I know that up to about 1904 the railway zone did consist of one mile distance on either side of the tracks, but at the time the agreement of 1911 was entered into the railway zone was changed, and I believe that even to-day it only consists of about one hundred yards on either side of the track. The agreement is so clear. I hope that the General Manager of the Railway will be able to tell us what the railway zone is to-day, but even assuming it is a mile zone on each side of the track there seems no justification why that zone should be given in preference to the European community than to the people who have used it for all these years. It mentions in the Report that that zone includes certain very important watering places for the Masai, but it is argued in other places in the Report that although the Order in Council would render this agreement null and void they did not want to insist upon that but say there is no reason why the agreement should not be amended and altered for the benefit of the Masai tribe. If it is for the benefit of the tribe that they should be deprived of this zone and of the watering places, and that it should be thrown open to European colonists, it is a curious interpretation, a very curious interpretation of that agreement, that the Masai should be deprived of land which I submit is absolutely clear was meant to be given to the Masai for the exclusive use of that tribe. If we go on to indulge in these fine legal points, I am afraid that native confidence in British administration will be shattered more than it has been in the past. In the 1911 agreement there is a specific clause that the Kinangop slopes will be expressly reserved to the Masai. Now it is proposed to alter that. This sort of changing and chopping with agreements which bear the signature of the Governor of the Colony is not the right policy to pursue. The Report in several places is curiously contradictory. In some places it says the Masai were a decadent race at the time British administration came; then again it quotes from Sir Charles Elliot's report that the Masai are the most formidable element in the country and that it will be necessary to maintain a strong military force for a long time to come. I submit that a Report of that sort cannot be taken seriously by this Administration. You do not keep military forces to keep in order decadent races. But since then the reports of the administrative officers show that the Masai are decaying under British administration.

While I am on that subject I also want to say the Commissioners give a misleading picture as regards the density of population. They say the Masai tribe consist of something like 40,000 people who have got about 15,000 square miles, which means a density of about three per square mile. They talk about the Masai tribe having been very generously treated, and attribute the overcrowding in the Kikuyu district to the

mal-distribution of land. They do not mention the fact that the over-density in the Kikuyu province is really due to the area of land having been alienated against the land laws of the country at the time of the influx of Europeans, owing to the ignorance of the administrative officers, who thought all land lying fallow was waste land and in their ignorance simply distributed it free to anybody who asked for it. That is the reason for the over-population of the Kikuyu district and not to the land having been given the Masai. I do not know whether I should refer to this point, as to what the Kikuyu think of the reasons given for this over-population; I do not want to give very long quotations, but this is a short one. Mr. G. A. S. Northcote, District Commissioner, Kiambu, afterwards Acting Colonial Secretary, in his evidence before the Land Settlement Commission of 1917, page 12 of the Report, stated: "What Kikuyu holds to be the robbery in 1903-4 of large tracts of privately-owned land still causes strong resentment among them." What the Report says of the density and over-population of Kikuyu is that it is due to the mal-distribution of land, and that is what the Kikuyu think of the Report concerning the land belonging to them. There again the Report gives a very misleading, and I should say, absolutely wrong idea of the Masai Reserve when it says the greater part of the reserve includes some of the finest agricultural and pastoral land in Kenya. In the same paragraph they say that the agricultural land comprises not unfavourably with that in the neighbouring Kikuyu sub-district Dagoretti. Anybody who has been through the Masai Reserve knows that this statement is incorrect. On leaving Kijabe by motor car, if you do not take good care to carry with you a good supply of water then you are in trouble, because there is not a drop of water to be found after leaving Kijabe for about fifty miles, until you get to the Siabi River. Again, if hon. Members will refer to the Appendix in which the reports of the administrative officers are contained on the drought in 1933, they reported that in Kikuyu, Fort Hall, Kiambu and Embu although there was a natural scarcity of grazing there had been no mortality in stock for there had been some water, but it reads the heart to read the reports of the administrative officers in the Masai Reserve who recorded that last year the mortality in native stock would reach up to 2,000 head a month until the arrival of the rains. If that is a fact, surely the description of the Commission concerning the Masai Reserve is obviously misleading? I submit, Sir, when people in other countries who know nothing about the Masai Reserve read this they will probably think the Masai have been treated generously; whereas the fact is, I think, that this is the most unfortunate tribe in the whole Colony. It is given an arid desert, with only two large rivers, the Mara and Siabi, and the District

Commissioner, Narok, last year said they were reduced to the merest trickles of water. If you give the whole of the Taru desert to so many people and say that so many thousands of square miles have been given so many people, it simply means that you are misleading the reader.

Then, referring to section 713 of the Report, another point is the recommendation it contains that an area in the north-west corner should be handed over to the Lumbwa. Three weeks ago, long before this Report was even mentioned in this House, administrative officers actually started to move the Masai manyattas. Four have already been moved, and arrangements made to hand over that very important piece of land to the Lumbwa. I do not want to compare the various tribes, but I do say on reading their history that the Masai have in the last twelve years behaved themselves in such an admirable manner that they deserve every consideration by Government. Nothing is ever heard of Masai being involved in cases of murder or rape of the type we have been hearing recently, but to think that you must take away from them land and hand it over to the Lumbwa almost gives the impression that we are giving the Lumbwa praise for the Semai murder. That tribe is notorious for its criminal habits, and it should be treated in this way. This brings me to the Semai murder, for if we are anxious for security it is absolutely necessary that a tribe like the Lumbwa should be taught a lesson.

HIS EXCELLENCY : I think the hon. Member is out of order.

THE HON. SHAMRUD-DIEN : I shall not refer to it, Sir, but in the interests of the people living in the land security is necessary and an example should be made; but I will not refer to that point.

As regards the Highlands, I think the hon. Member Mr. Panjya has very strongly put the case of the Indians in this Colony, and the hon. Member Dr. de Bousa yesterday told the House how a very simple statement made in the early years was converted into a pledge when Lord Elgin said that Indians would not be given land in the Highlands for administrative reasons but that it was not the policy of His Majesty's Government to impose restrictions on any subjects. Afterwards it did, and in 1921 that became an *unfait accompli*, that Indians were not to be given land in the Highlands at all. When you read this Report concerning this question of the Highlands, any ordinary reader would be rather amused by the mental gymnastics exhibited by the Commissioners. They begin by saying that they do not agree with people who say that any land suitable for white settlement is

Highlands. They say that is obviously wrong. They cannot hold that the lowlands are highlands. They go on to say that the idea of following the 5,000 feet latitude slavishly would be wrong, but they eventually come back to the same thing and simply say what is the definition of the Highlands: that wherever Europeans hold land in the Colony, at the Coast or not, those are Highlands. I referred to an English dictionary for a definition of highlands, and it said "Highlands means a mountainous country", and in Scotland it meant a line drawn from Dunbarton to Nairn or Aberdeen. But in Kenya we shall have to alter the meaning of the dictionary, and say that Highlands simply means any land where a European possesses any tract of land, whether it is in mountainous country or at the coast. They even go to the extent of making provision for a few places held by Europeans at Mombasa. That by no stretch of imagination can be called Highlands, but the Commission say they must be included in the same area. I am rather surprised as to what Europeans want the Order in Council for, and what they particularly want. They want the Order in Council to save them from themselves. They have got the security, the deeds, in their hands, which guarantee that the land is theirs, and their heirs and successors. But they are simply afraid that some one might sell that land to non-Europeans. I submit that that is a very poor compliment to the Europeans in this country, that they ask for protection from themselves. In this Report, mention has been made of the fact that certain lands near Muhoroni in the possession of Indians shall be taken into the Highlands when purchased by Europeans. We are not asking for any Order in Council to protect these Indians. If you do not want to sell, you simply don't sell. I must say that I was very much impressed by the concluding remarks of the hon. Member Mr. Isher Dass on this question, when he said that the one great service rendered by this Commission to the Indian community in this country was the dissolution in their minds completely as regarded any of their rights as British subjects and of their British citizenship that Indians might have in this country. Those things have been completely overlooked, and I am very glad that as British subjects, believing we had some rights in this country, we have been disabused. Take the question of the Highlands in the two Colonies adjoining; from the geographical point of view they are more or less the same. There there are no restrictions. In Tanganyika the Indians hold large tracts of land in the Highlands and have developed them; there is never any trouble. I do not suppose there are many places one could call Highlands in Uganda, but there again Indians possess large tracts of land and there are no restrictions. There are no restrictions in the Belgian or French possessions. It is

only the peculiarity of this country which if it is insisted on and an Order in Council is made, will act so adversely on the Europeans themselves that they will be very sorry they ever had it. I hope this point will not be pressed by members.

As regards European colonisation in this Colony, the hon. Member Dr. de Sousa stressed that point, but I know that unless some financial help is forthcoming from the Government, which I am sorry to say the Secretary of State rather discouraged, unless some financial help is forthcoming, and very quickly, the future of the land as held by European farmers does not seem to be very encouraging, to say the least of it. In these circumstances the only policy is to throw the land open to everybody, and I am quite certain that large capital would be attracted from India. I have absolutely authoritative information that capital is ready to come to this Colony, but that owing to these racial discriminations of land policy people will not dream of investing here. While I am on this subject, I wish to mention that in this very town of Nairobi, in the early days, in 1900, when there was no question of any highlands or lowlands, certain Indians were invited to take up land on the banks of the Nairobi River. As a matter of fact, in those days John Ainsworth asked everybody to take up land, and quite a few Indians did so. They have got it even to this day. In the first instance ten years' leases were granted. In 1910 certain people were given longer leases, but others, less clever and less informed, did not apply for them. It is only fair that their case should be considered in equity, especially as in 1910 a deputation of the Indian Association waited on Sir Edward Northey and explained the whole position. I think it will be on the records that Sir Edward Northey actually promised that deputation that the leases of all land held by Indians between Ainsworth Causeway and Racecourse Bridge would be extended. I am very sorry to say it, but the latest communication I have had from Government on the subject is that after keeping these people in suspense and hope, Government have now decided that they are not going to get that land; it will be auctioned, and they can buy it if they want. That I submit is a very unfair way of dealing with those people who took up the land as far back as 1900. The Commission refer to one particular plot in paragraph 1137. While we are talking about security of European settlers, I wish to mention to this House that the Indian community has been so shabbily treated, that in the native reserves where they have invested large sums of money and erected mills entirely for the benefit of natives, the time has now come when they are to get out of it. I think the Commission makes special mention in this paragraph of a person who held a five-acre plot near Kisumu. It is only fair that there should be an opportunity to exchange leases rather

than that they should be expelled from the place. The Commissioners, however, are very hesitating, and leave the matter to the District Commissioner, whereas it was their duty to have laid down that where people established themselves many years ago and erected mills and invested capital they should be given an exchange of leases. That was only fair.

Before resuming my seat, Sir, I wish to mention something about the Coast. I do not pretend to know much about the Coast, but I think that when the British people took over the strip of land it was their duty to make themselves acquainted with the customs of the people whom they were taking upon themselves to administer to. The British people no doubt have done a wonderful thing in abolishing slavery, but when they had done that they should have seen that those people should not be allowed to die out, but that is what is happening at the present time at the Coast. The ex-masters of slaves have been left to very tender mercies. The Commissioners suggest that proper title deeds should be given these people, and they lay stress on it being done to all nationalities, with no restrictions regarding transfer of these title deeds to Europeans and Swahilis at the Coast. It is my personal opinion, but I am quite sure it is the correct one, that unless you protect these people for twenty or thirty years against selling land to non-natives at the Coast, that in five or ten years they will become landless. The temptation will be there, and they will sell to Indians and Europeans, and it will be a big problem. One hon. Member mentioned the disadvantages of the land policy pursued in that part. When an area of 30,000 acres of land at the Coast at one time held by the Mazrui is sold to one European, how many thousands of natives are deprived of their livelihood? That land, after being paraded all over the country, is now acquired by one of my countrymen at a price ridiculously low. I hope he will develop it. But that is the sort of policy being indulged in, which will sadly ruin the people at the Coast.

Again, I have heard so much about the Recorder of Titles and Survey Office and various other suggestions. I submit that when an alien nation comes to a country like Africa the best policy for them to adopt is to let people continue to live in the circumstances to which they have been accustomed for centuries. For instance, the titles convey no idea as to the rights of the owners. The old custom was in India and other countries that when a person was given a title it was self-contained so that it was rightly understood by people who were not educated enough to understand maps usually attached to deeds. I submit that whatever action is being taken at the Coast, the Arabs and natives will be given titles that they really will think are titles and not a certificate which will be a source of trouble to them in having to go to

the Registry Office and pay a search fee of Sh. 2 every time. This importation of western ideas into Africa or Asia is a big mistake. Instead of throwing the onus of proof on those people, it is up to Government to find out what people have a title to the land; the owners should not prove their claims, but Government, which has taken on itself the responsibility of removing certain people, and Government should find out what people are entitled to land and to keep a diligent watch on the matter for future requirements. As regards the Highlands, a few years ago I pursued the claims of the Indians in this Colony with great vigour, thinking we were here as British subjects and that it was our privilege and our right to ask for an equal share in the land. But I think I have lived long enough to learn that that is a wrong policy. The traditions of Indians as a nation have been in the past that we have never invaded other people's countries and they have learnt only recently this art of what I describe as the robbery to other people's land; they were only asking for their share in that robbery, because they had assisted the British people who came to this place. But our national history is scrupulously clean, and it would be much better for Indians to have nothing to do with claiming land in this Colony, although Indians knew more about this land three thousand years ago than the western people did. It shows that Indian people did not believe in this colonisation and acquisition of other people's land, and it would be much better if we followed the policy followed by America to-day. America could easily have got a share of colonies of other people after the war, but they stuck to the sensible and wise policy of not extending their activities. I am afraid that although I have had a lot to say this is a very extensive subject, but I will not go on and speak because the net result of this debate will be nothing at all. Government have already started putting into operation various recommendations of this Report, and I am afraid that I am only wasting my breath and public money in prolonging this debate.

Council adjourned for the usual interval.

On Resuming.

BILL.

SECOND READING.

THE PRESERVATION OF OBJECTS OF ARCHAEOLOGICAL AND PALEONTOLOGICAL INTEREST BILL.

HIS EXCELLENCY: With the permission of Council, I propose to call on the Hon. the Attorney General to move the second reading of the Preservation of Objects of Archaeological and Palaeontological Interest Bill, so that it can be sent to a Select Committee.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Preservation of Objects of Archaeological and Palaeontological Interest Bill. I must apologize to the House for introducing it in the middle of such an interesting debate as we have been having, but you will realize that we hope to finish the session of the Council this week, and that if this Bill is sent to a Select Committee I have got to get out a report and lay it on the table twenty-four hours before I can proceed with the Bill. Your Excellency has given me permission to say that this Bill is going to be referred to a Select Committee who will have before them one or two people who happen to know something about this subject in the Colony, and I hope to be able to present a report very shortly. This Bill is really an amendment to the existing Ordinance. Hon. Members are aware that in 1927 we first started taking an interest in this subject and a Bill was drafted at the end of 1927, and was passed by this House. That Ordinance has worked very well, but with the advance of interest it is necessary to make so many fresh provisions with regard to restricting people interested in these matters from running away with objects of interest that we have introduced what I will call for want of a better word the permit system. The Bill provides first that no person shall start taking away objects of interest without a permit. The present Ordinance is deficient in this respect, in that although anything which is declared to be an ancient monument is strictly preserved Government has to find out where this interesting object is in order to declare it an ancient monument, the result being that people who are interested come out, roam about the country, and are able to pick up valuable objects without Government knowing anything about it and has not declared that particular place or object an ancient monument. This bill therefore says that if one wishes to search for these objects one must make application. Secondly, if a person wishes to remove objects he must have a permit, subject to such conditions as the Governor thinks fit to impose. These conditions presuppose that half of the object will be left in a museum here, or whatever is necessary under the particular circumstances. It is also provided that these permits will only be granted to people who are interested in the subject and who have scientific knowledge. It is an admitted fact that if people know nothing about it and find some object of great interest and use to science; and that object is not immediately treated in some way to preserve it, in next to no time it becomes dust so that there is a loss to the world in general of any information that might have been gleaned from it. We therefore provide in this Bill that only those people with scientific

knowledge shall be given permits to set out on these expeditions of research. I do not think there is anything else of particular interest. The Bill, I am glad to be able to tell you, has been carefully scrutinized by the authorities of the British Museum, and, subject to one or two amendments that I have made since it came back from them it has been approved by them.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL moved that the Preservation of Objects of Archaeological and Palaeontological Interest Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General (*Chairman*).

The Hon. the Director of Public Works.

The Hon. S. H. La Fontaine.

The Hon. the Acting Member for Nairobi South.

The Hon. Member for Kiyambu.

The Rev. Canon the Hon. G. Burns.

The Hon. J. B. Pandya.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

MOTION.

KENYA LAND COMMISSION REPORT.

The debate was resumed.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I think I should stand uncorrected if I said that not for many years has the serious attention of the House been given to a motion for so prolonged a period as has been the case in regard to the motion now under debate. I feel equally sure that there has seldom been a motion introduced in a speech which gave more indication of careful preparation—in which the facts were more clearly marshalled, and in which the language was more happily chosen—than that with which the debate was opened. The fact that I was unable to agree with all the statements made by the hon. mover in no way detracted from my admiration of his achievement. The House may also congratulate itself on the high standard at which this debate has been

maintained. I fear that I shall be unable to reach the same high level, partially at any rate because, speaking to this motion on behalf of Government, it is no part of my function to expound, defend or to decry the Commission's Report. It will be my task at a subsequent session of this House to lay before it in legislative form Government's proposals for carrying out their recommendations.

At the outset, Sir, I should like briefly to recall to Members the events which led up to the appointment of the Kenya Land Commission. Since the war a number of Commissions have visited East Africa, appointed by His Majesty's Government at home. The first that came was the Parliamentary Commission under Mr. Ormsby-Gore in 1924, and in their report they advocated closer political and economic union between the three territories of Kenya, Uganda and Tanganyika, and endorsed the dual policy of increasing the quantity and quality of production from native lands *pari passu* with the development of European cultivation. A few years later—after an interval during which the Governors of these territories met in conference in London—a second Commission under the chairmanship of Sir Edward Hilton-Young was sent out by the Imperial Parliament to inquire more closely into the advisability of closer union between these territories. On the receipt of that report, Sir Samuel Wilson was sent out by the Secretary of State to discuss it with the Governments, communities, and interests concerned. In each of these two Commission's reports—the Ormsby-Gore and the Hilton Young Commissions—occasion was taken to lay special emphasis on the question of the native attitude in regard to his land. The Parliamentary Commission made certain remarks with which the Hilton Young Commission agreed and incorporated in their report, that—

“there is probably no subject which agitates the native mind to-day more continuously than the question of their rights in land, both collectively as tribes and individually as owners or occupiers. Uncertainty in regard to future land policy is certainly the principal cause of disquiet among the natives, more particularly of Kenya and Nyasaland.”

Again: “At every meeting we had with the natives of Kenya Colony there was evidence of a feeling of insecurity as regards the tenure of their lands.”

On the receipt of Sir Samuel Wilson's report, a Joint Parliamentary Committee of both Houses of Parliament was appointed to consider it, and the report of the Hilton Young Commission. It will be within the recollection of Members that a number of African witnesses went home to London

to give evidence before that Committee. Among other things, they again emphasized the question of the security of their land tenure. In the meantime, in this Colony in 1930 there had been enacted the Native Lands Trust Ordinance. In that Ordinance areas of land which had previously, in 1926, been set aside for native use under the Crown Lands Ordinance were declared to be native reserves for ever. Provision was made for additions to those reserves with the approval of this House of any further areas which in the opinion of the Governor might be required for the use and maintenance of tribes. Moreover, the reserves so declared were vested for the purposes of security in a Central Native Lands Trust Board. I mention that fact at this point, not because I propose to discuss the merits of the Ordinance of 1930 or the proposals to amend it made by this Commission, but merely to emphasize the point that notwithstanding the existence of that Ordinance the feeling of insecurity in the native mind still persisted, so much so that the Joint Parliamentary Committee recommended that—

"In view of the nervousness among the native population as regards the land question a full and authoritative enquiry should be undertaken immediately into the needs of the native population, present and prospective, with respect to land within or without native reserves held either on tribal or on individual tenure."

The Secretary of State accepted that advice, and it was hoped the findings which the Commission would give would set at rest the uneasy sense of insecurity which prevailed in some native quarters, and remove from their minds any feelings they cherished that in-land matters some injustice had in the past been done to them.

That was a great task to lay on any men. From the beginning of the world's history, agrarian unrest has laid at the root of most if not all of the world's troubles; and seems ever to lie in lurk ready to spring up and disturb the peaceful tenour of political, social and economic affairs. In a leading article published in the *East African Standard* on April 13th, 1933, dealing with the appointment of the Commission, this point of view was taken up; the writer of the article said:—

"Land questions go to the root of many of the problems social, political and economic, now facing the Colony and encountered during the last dozen years. There is no question of the sincerity of the desire of all well-wishers of the country and of the settlers themselves to see them removed from the field of biased controversy and studied sanely and with knowledge and sympathy in a proper atmosphere."

A proper atmosphere, Your Excellency. That atmosphere was secured by the appointment of the present Commission. It was intimated in the House of Lords at the time that the Commission was a quasi-judicial body, whose functions it would be to hear evidence from all interests concerned and to give their findings. It was for that reason that Sir Morris Carter was chosen as Chairman. I feel, Sir, at this point that I must pause to deplore the remarks made yesterday in this House with regard to the Chairman of the Commission—more particularly as I am advised that those remarks were founded on wholly incorrect information. I cannot perhaps do better than quote the words of the Secretary of State again in regard to the Commissioners . . .

THE HON. SHAMSU-DEEN: On a point of explanation, Your Excellency, I am entitled to know why that information was incorrect. The hon. Member is casting reflections without explaining.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: If that is desired, Your Excellency, the point will be taken up later in the debate. The Secretary of State said:—

"The members of the Commission were highly qualified for their task. The Chairman had had high judicial experience which was an important consideration, and he had also had the unique experience of presiding over a very complicated land inquiry in Southern Rhodesia. Everybody agrees that he was an ideal Chairman. Mr. Hemsted was a very experienced Provincial Commissioner with a great knowledge of the country, and he has given years of his life to the public service. Capt. Wilson was a farmer in Kenya, highly respected, and a model employer of labour, a man of great ability, soundness of judgment and kindness of heart."

I wish to endorse every word of appreciation of the work of the Commissioners uttered in this House, and to state that in my humble opinion the Colony owes a great debt of gratitude to them if and because they have brought finality to the problems which they were considering and for which no solution had appeared to Government for a number of years; and have dispelled, we hope for ever, the unhappy phantoms of uncertainty and disquietude.

For the purpose of some remarks which I will make later, I might perhaps suggest that the Commission's Report falls broadly into three categories: the first, dealing with the first six terms of reference and representing their findings on

questions of fact; the second, dealing with the seventh term of reference and representing their views as to the legislative and administrative machinery best suited for the protection and management of the estate which in their findings on the first six terms of reference they allotted for native use and development; the third, dealing with certain administrative problems.

Sir, in the course of their work the Commission took evidence from no fewer than 736 witnesses, of whom 500 were natives; they also had a large number of papers and memoranda before them. Of these witnesses, the great bulk gave evidence to them on questions of fact. We have therefore the spectacle of a gigantic judgment hall. It is not to be expected that the findings of the Commissioners on all questions of fact would be pleasing to all those who were concerned in the cases brought under review. If I may take the analogy for a moment of an ordinary civil case, the procedure is that each party sets out the facts as he sees them and endeavours to make the judge believe that they are the facts as he ought to see them. Having done so, each party awaits the verdict with equanimity having confidence in the probity and intelligence of the judge. We, Sir, have expressed appreciation of the work of the Commissioners, and no one would suggest that they were lacking in probity or intelligence. On this point I might perhaps quote further from the article which appeared in the *East African Standard* in April, 1932, and at the time the writer won general approbation in saying:—

"The responsibility may be left to the Commissioners to discharge. But we would repeat—though we hardly think repetition is necessary—that this young white community will do well by itself, by its children, and by the native peoples if it encourages a settlement of African land claims and needs on a scale dictated by unqualified generosity and a sincere desire to see a native people completely satisfied as to the justice of the white man's intentions in the future whatever may have been the history of the past."

It has appeared, Sir, in the course of this debate that the findings of the Commissioners on three main points are displeasing to various sections of the communities here. I refer to Leroghi, the Mile Zone, and the Kikuyu Profit and Loss Account. I do not intend to argue the question of the findings of the Commissioners on these subjects. I would only say, Sir, that all the papers on the subjects which were available and which had accumulated for a number of years, were laid before them; they took evidence, moreover, from all

the people in this country with knowledge of the subjects and who wished to appear before them. Having reviewed the whole of the facts as they saw them, the Commission gave their verdict. The views expressed in this House on these points will be forwarded to the Secretary of State. I would only remind hon. Members that the whole object of this Commission was to attain finality and certainty.

Certain remarks have been made in the course of debate with reference to the action of the Secretary of State on the receipt of the Report. It will not, I am sure, have escaped the notice of hon. Members that in the opening words of the Commission's Report they addressed their Report to the Secretary of State. I trust that in my opening remarks I made it clear that this matter of native land tenure had been lifted out of the sphere of local politics and had become a matter of Imperial concern in which both Houses of Parliament and His Majesty's Government at home were taking an intimate interest. I suggest there can be no reasonable quarrel with the action of His Majesty's Government when they received the Report of the Commissioners whom they themselves had appointed. Action has been taken and recorded in a Command Paper. On the questions of fact H.M.'s Government have accepted the proposals for adding land to the native reserves in the various classifications of A, B, B1, B2, C, to a total of 9,068 square miles. In so far as the proposals relating to Class B1 and B2 land is concerned, His Majesty's Government have accepted the conditions attached to these proposals in view of the vital importance of encouraging better methods of agriculture, particularly in overstocked areas. The regulations which require to be made will differ in the different areas, and the framing of these regulations are receiving now the earnest consideration of the Provincial Commissioners affected. His Majesty's Government further announced their acceptance of the Commissioners' recommendations with regard to the Northern Frontier and the Turkana districts. They agreed that the boundaries of Class O lands should be declared by Order in Council, and also that as a necessary counterpart, the Order in Council should declare that all native claims had been satisfied and extinguished by the settlement. They further accepted the recommendations of the Commission regarding the boundaries of the White Highlands. After the issue in 1923 of the White Paper regarding the White Highlands, it was obviously necessary for this Government to define them. In the record of evidence and in the chapter which the Commission wrote on the subject, there have been recorded various proposed definitions which had been made from time to time to this Government; and

when this Commission was appointed the matter was still inconclusive. It was not inconceivable, in dealing with the first five terms of reference, that the Commission would make recommendations which would involve a diminution in the area hitherto thought of as the Highlands in previous tentative definitions. In point of fact, they did so, but in order to bring the same element of finality and security they advised that security should be given against further diminution of the White Highlands from the same cause save with the consent of the accredited representatives of the Highlands. In working out the definition and the detailed provisions regarding the status, powers and functions of whatever body of men are to be accepted as the accredited representatives, this Government will welcome any suggestions which hon. Members wish to make.

In regard to the seventh term of reference, legislative measures, the British Government have accepted the general principles outlined in the Report, with one exception; that was, they were unable to agree that the Central Lands Trust Board should be located in London. The hon. the mover asked if I could at this stage of the debate give any indication as to the composition of the Board. I am not in a position at the moment to do so; the matter is receiving consideration but no decision has yet been arrived at.

That brings me to questions of matters of administrative policy. I would like to confine my remarks to three questions—overstocking, Coast land titles, and dehorned natives. On the question of overstocking, Government has been accused of a *laissez faire* policy. I suppose, Sir, that we on this side of the House are a fair target for the slings and arrows of adverse criticism. But before the House is satisfied that the attack made upon Government in this connection is justified, I would ask them to look at a few facts. The cause of overstocking in native reserves is dealt with comprehensively in the Commission's Report, and in various documents that are known to hon. Members, and it will be sufficient for me if I merely enumerate them. Firstly, the native conception of cattle, the native custom in regard to marriage dowry which has the effect of quantities of cattle being accumulated without regard to quality; thirdly, the disadvantages of communal grazing; and fourthly, the *Par Britannica* which has put a stop to the forays by natives, and by quarantine regulations and anti-disease measures has prevented nature taking the toll she was accustomed to take by way of epidemics. The remedial measures very broadly fall into three categories: 1, de-stocking; 2, reconditioning of denuded areas; 3, propaganda and education. It is an axiom among people who have

considered this question of overstocking that you cannot do-stock without providing an outlet. The Agricultural Commission of 1920 made this point and emphasized it by printing it in italics:—

"The Commission agrees that compulsory action, for which Government has already taken powers, must be exercised to reduce the number of livestock in the Kaamba Reserve. Before such action can be taken one preliminary step is essential: a meat factory must be established."

The efforts of Government to obtain the establishment of a meat factory go back to 1919 when the first proposals to attract companies from home to establish meat canning factories were formulated. In 1920, a notice was published inviting tenders for the establishment of such factories. To that invitation no reply of any sort was received, although it was published both at home as well as elsewhere. A few years later the late Mr. Eustace Montgomery, at that time Veterinary Adviser to the Governments of Kenya and Uganda, made a tour of South America and Madagascar, and endeavoured to interest companies in the possibility of a factory in Kenya but without any success whatever. In 1926 a syndicate in which he was interested, called Meat Nations Syndicate, became established in Tanganyika, and proposals were on foot for a similar undertaking in Kenya. The matter was considered by a committee representative of both unofficial and official elements. Ultimately, in view of the fact that in the establishment of a factory of that sort it became evident that financial guarantees would have to be given, the committee advised that Government should give no guarantee of interest and capital and no guarantee in regard to the flow of cattle. That proposal therefore fell through. Further committees in 1928 and 1929 considered the matter and advised that a factory should be established by Government. In 1930, when the Board of Agriculture was set up it took stock of the position, and made recommendations to Government which were sent home, though in a somewhat modified form, in regard to management, as an application to the Colonial Development Fund Committee. Application was made for a free grant of £30,000 for capital expenditure and for a loan of £50,000 for working expenses free of interest for ten years. That application was strongly supported by the Secretary of State but it was rejected by the Committee because in their view the object was one of arresting decay rather than promoting development, and they considered that the local Government would probably find itself pledged to carry through the scheme at an early date whether or not assistance from the Fund was given. They did, however, offer a free grant of two-thirds of the initial capital expenditure,

that is £20,000, provided Government felt itself in a position to find the rest of the money involved. Government, unhappily, was not in that position, and the matter had to be dropped for financial reasons. Now, Sir, we have the recommendation of the Kenya Land Commission that a fertilizer factory should be established, and Your Excellency has already announced in your communication from the chair that Government has again approached the Colonial Development Fund Committee for a free grant of upwards of £25,000 for the initial capital expenditure involved in the establishment of the factory. The second way of dealing with surplus stock is by an increase of the habit of meat eating among natives. That has been stimulated as far as Government and the Administration are able to stimulate it by the establishment of butcheries up and down the reserves. I understand that from the Kamba country a steady flow of something like 12,000 head of cattle per annum go out to the reserves. Progress in that direction has not been so rapid as one might have hoped for, because the native, though possibly not in the same degree as other communities, has undoubtedly suffered from the present world financial depression, and is unable to afford the practice of eating meat to the extent which he might possibly desire.

I now turn to the remedial measures of reconditioning with regard to two reserves, Kamba and Kamasia. So far as Kamba—Machakos—is concerned, I will read a few extracts from the Native Affairs Department reports each year from 1929. In 1929 the report says—

"One of the principal activities of the Machakos Local Native Council is the reconditioning of the hillsides, which have been made bare by erosion. To meet this requirement plantations of tree seedlings are maintained at convenient centres. Failure of these seedlings, however, caused heavy loss in many of the plantations; of those planted at Machakos not a single seedling survived. During the short rains, however, more than 450,000 seedlings were planted out and there is every hope that a large majority of these will do well. This Council employs a European supervisor, and considerable progress has been made in the construction of dams during the year. Three have been built at Kiasu, one at Masii, and one in Upper Mhooni; five existing dams have been enlarged."

In 1930: "The problem of surplus stock is still one of the main problems in Ukamba. From the Ukamba Reserve 10,000 head of cattle and 60,000 sheep and goats were exported during the year. The quarantine station

near Machakos was extended by the erection of buildings for a veterinary training station similar to that at Ngong. For this station the Local Native Council has voted £900 in their 1931 estimates."

In 1931: "By the close of the year funds had been voted by the Machakos Local Native Council for model holdings and reconditioning of five hundred acres. A reconditioning officer was stationed in this district, and eight new dams were constructed, there being at the end of the year thirty-seven in all."

In 1932: "The main activities of the Machakos Local Native Council have been directed towards the improvement of their reserves, and they have voted money for reconditioning, reafforestation, and the construction of dams. The Provincial Commissioner writes that the most important project undertaken was reconditioning, and early in the year £750 were voted for the reconditioning of eroded areas in the reserve. There is a veterinary training centre at Machakos, which was established in 1931, at which Akaamba are trained in methods of animal husbandry."

The policy adopted in the Machakos Reserves is to tackle the problem in two ways: firstly by demonstration and secondly by intensive propaganda. Demonstration has taken the form of selecting areas of some hundreds of acres of eroded land and reconditioning them. This reconditioning has included the digging of contour trenches, terracing, and the planting of fodder producing plants and grasses, and so on. Parties of natives were taken to inspect the areas after reconditioning to enable them to appreciate its advantages. About one hundred plots have already been planted by individual natives, and a visit to the reserve will show that the resting of eroded areas by individual is already a not uncommon practice. Furthermore, in that reserve large sums have been spent by the Local Native Council on forestry, and an important effect of the policy which has been practiced and pursued by the administrative officers in that reserve has come to pass, in the passage of a resolution on the 7th September of this year by the Local Native Council:—

"That this Council in order to check and remedy the severe erosion which has taken place in the Machakos Native Reserve directs that the headmen of Kiteta and Masii locations be empowered to restrict or prohibit the use of grazing by any form of stock in their locations, which locations this Council have now set apart for the purpose of reconditioning and for the planting of fodder producing plants and grasses."

These two locations represent an area of 100 square miles and in forwarding that resolution the Provincial Commissioner stated: "The agreement to de-stock these two locations is a tremendous advance and is a result of the campaign instituted in 1932."

In the Kamusia Reserve the report by an experienced officer of the Agricultural Department and a survey of the position was made in 1929, and in 1930 funds were specially voted by this Council for bore holes and the employment of the reconditioning staff and for undertaking reconditioning works. In both reserves natives and administrative officers have had to get on with the work, despite the effects of drought and locusts. I have before me a report made in October of this year by the Provincial Commissioner of the Rift Valley, in which he says:—

"The area at Mkuyni which was reconditioned first and was referred to in my report of 26th September, 1933, was restocked with 100 milk cows in the first instance, and it has been found possible to increase this number to 150. The grazing provided is appreciated by the Kamusia, they realize the necessity of control (although complaining of its strictness) and trespass on to farms has been much lessened in this corner. The furrow at Loboi has been extended, and duplicated for part of its length. A considerable area has been got back to grass by use of the overflow flood water, and lucerne, Napier grass and other crops grown. The local natives have made extensive use of the furrow for their own cultivation. The main work of the year has been the reconditioning of some 3,000 acres at Kuress, by means of flooding, disc harrowing, manuring, sowing and some planting. Bush has been cleared and utilized for forming anti-wash barrages to stop erosion. This area has been a real success, carries a good crop of grass which has now seeded down, and 300 cows have been allowed back on it, as a first instalment. The area reconditioned to date to a greater or less extent is now some 10 square miles. The programme for 1935 is to rest and recondition an area bordering on the Solai Valley, which is particularly suitable for treatment."

All that work has been made possible only by propaganda and the education of the natives. It is a trite remark to say you cannot make people good by Act of Parliament, and all the people who have dealt with this problem—which affects other parts of this country of Africa—have insisted on the necessity for obtaining the co-operation and goodwill of the native population. That point is stressed in the quotations from the South African Commission Report made in the body of the evidence, and which I will not waste time in quoting

now. You must in dealing with this problem get the natives on your side, and the work done in the past four years in that respect by officers, both of the Administration and the Agricultural Department, deserves in my opinion the highest praise. Government is anxious to continue the work of propaganda and education, and to obtain the co-operation and goodwill of the natives. But in connection with the factory to be established while every effort will be made to develop the flow of cattle by voluntary measures, Government is prepared if necessary to introduce compulsory culling. The progress which has been made is not claimed to be of a spectacular kind. It would have been greater if more money had been available and, Sir, I suggest that Government in this connection has shown that it has a policy, and the only disadvantage has been lack of funds to adequately prosecute that policy. I do suggest that the comparison which has been made by one hon. Member that the attitude of Government has been like unto that of the Sleeping Beauty, or the further suggestion by another hon. Member, which is of even a more damaging character, that in full knowledge of the facts Government has adopted a posture of supine complacency, are both singularly inappropriate.

I turn now, Sir, to the question of the Coast land titles. Hon. Members are aware that the office of Recorder of Titles was done away with in 1922 as an economy measure. It had operated for a space of fourteen years, and during that time, what with the expense of the Recorder, an Arbitration Board, and surveys, the net amount of something like £80,000 had been spent by Government in the administration of the Land Titles Ordinance. It is true that in 1919 the Registration of Titles Ordinance was passed and applied to the Coast and that the effect of the Ordinance, as the hon. Member Sir Ali bin Salim has said, is that if a small piece or fragment of a holding at the Coast, the subject of a certificate of ownership or interest, is sub-divided, the necessity arises for a detailed survey. Taking into account the value of the land sub-divided, and the expenses attached to the employment of licensed surveyors who are not numerous at the Coast, it often happens that the expense of the transfer is very much in excess of the value of the land. The Commission has now recommended that the office of Recorder of Titles be re-established, and it would seem from that recommendation that they considered the old system of land titles should be persisted with. There are 4,000 claims at the moment unadjudicated; there are in the safes at Mombasa 2,000 titles which have been issued but not taken up because the owners have not the money to pay for them. If the system is reintroduced it will undoubtedly involve Government in considerable expense. It has appeared

to the administration for a number of years that what is desired at the Coast is something more flexible than the rather rigid system of registration which we have at the moment, and it is, I think, fortunate that at the present time the Government of Zanzibar, faced with difficulties of a rather similar nature, have invoked the assistance of a very eminent survey officer in the person of Sir Ernest Dawson, to report to them as to the best system which should be followed. We have obtained his services for a brief space to visit the Coast to see conditions for himself, and then to advise us whether we should continue the present system with all its drawbacks; if not, to advise us what system should be introduced.

On the question of detribalised natives and the removal of Pangani and Kibira, the Municipal Native Affairs Officer has had a valuation of all the houses in Pangani made, and when funds become available to make that move the intention is that natives should be moved into Pumwani under permit from the Municipal Council and that a board consisting of two native residents of Pangani and three municipal councillors should sit and hear any appeals made against the actual valuation of property. Regarding Kibira, and the Sudanese ex-soldiers there, I personally doubt whether it will be necessary to move them, for the space of one or two years at least, but I entirely agree it is necessary to take urgent steps in dealing with unauthorized natives who have accumulated in that settlement. In order to ascertain the exact position a survey has recently been made of the houses at Kibira, a kind of *Who's Who* is being compiled, so that we shall be in a position to know who have some claims to live there and who have not.

During the course of the debate I was asked to give information in regard to certain points. First, in regard to the action Government had taken on the Commission's recommendations regarding the West Suk. A despatch was sent to Uganda on the 1st of October suggesting in the first instance that the Provincial Commissioner of the Eastern Province of Uganda and the Provincial Commissioner of Turkana, Kenya, should collaborate in defining the boundaries of the area now occupied or required for the native tribes with natural affinities who should be brought under one administration; and to report to the two Governments the administrative difficulties which might arise from the adoption of the boundaries if this area is to be administered by either Government. The two Governments will then be in a position to consider further the practicability and desirability of proceeding with the proposal. The hon. Member for Nyanza expressed perturbation in regard to the size of Kisumu township. The position is, I think, adequately safeguarded because the areas to be

removed from the township lie on the extreme north and south sides and, while being excellent for the purposes of native cultivation, have no great qualification for the purposes of residential or commercial development. The hon. Member for the Coast expressed certain views in regard to the property of Teita Concessions, Ltd. The late Acting Chief Native Commissioner and myself in July visited this estate and discussed the Commission's proposals with the estate managers. We had previously, in Nairobi, discussed them with the directors. I am hopeful that some alternative recommendation which will be suitable from the native point of view and to the estate owners will shortly be arrived at.

Your Excellency in your statement from the Chair indicated that I would give some account of the action taken by Government in regard to carrying out the recommendations of the Report. Action on the Report falls into two categories: the one administrative; the other legislative. On the administrative side, in answer to the hon. and reverend Member Canon Burns, a day or two ago my hon. friend the Acting Chief Native Commissioner informed the House of the steps taken to acquaint the natives with the terms of the Commission's Report. Copies of the Report were also sent to all District Councils, and I am in process of receiving from Provincial Commissioners and District Councils any proposals that they may have for minor modifications in matters of boundaries. The Report contains, I think, some 128 recommendations which require administrative action. It will naturally take some time to deal with all of these, and so far as the recommendations are concerned which affect acquisition of land from private owners of property, preliminary proposals are on foot in most cases. In one case, the Wundanyi Estate, we have for reasons of necessity completed the acquisition of the property which the Commission recommended should be restored to the Teita Native Reserve. On the legislative side the drafting of a measure to amend the Native Lands Trust Ordinance to bring it into line with the Commission's recommendations is a matter of no little complexity and one which requires meticulous care. That work is being done in the Hon. the Attorney General's office, and I hope by the end of this week or next week that the first draft will be reached. On both sides of the work the best maxim to employ is the old tag "Hurry slowly", and while I do hope to exceed the pace of the tortoise I feel sure I shall not be allowed to be overcome by the lassitude of the hare.

Your Excellency, this Government has welcomed the opportunity this debate has given them of hearing the views of members opposite on the recommendations of the Report. The motion expresses the hope that their views will be taken

carefully into consideration when the draft legislation is being undertaken. I can, Sir, unhesitatingly say that that will be done. I also have Your Excellency's authority to announce that Government accepts this motion.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, the hon. Member Mr. Shamsud-Deen stated yesterday that he had worked out that every minute of a speech here cost the country £2. I worked it out on his own estimate that he cost the country £124! I leave it to hon. Members' own views as to whether we had our money's worth or not, but in any case I promise not to be so expensive. I should like to associate myself with the remarks of the hon. the Commissioner for Local Government with regard to the unwarrantable imputations by the hon. Member Mr. Shamsud-Deen on the fair-mindedness of the members of the Commission. Many of us, Sir, must disagree with some of their recommendations. That is inevitable in any Report of such magnitude dealing with such contentious matters. But I am surprised that anyone should attribute anything but the maximum of fairness and broadmindedness to those gentlemen who composed this Commission. The hon. Member Mr. Shamsud-Deen and another Indian member who spoke made a great deal of the question of the reservation of the European Highlands. I am not going to reply to that, because it is a waste of time, but the question of the privileged position of the Europeans in the Highlands is a question settled by successive Imperial Governments in Great Britain, and I have no intention of even suggesting that any Government which may hold office in Great Britain will go back on the word which has been given to the settlers of this country; even white European settlers have a right to believe that pledges given by Imperial Government will be honoured. What we do ask is what is recommended in this Report, that the whole position should be put on an absolutely clear and secure basis by means of the Order in Council. The hon. and reverend Member Canon Burns in his zeal to represent the point of the native people whom he is on this Council to speak for, said he would look at the matters purely from a native point of view. I claim that we European Elected Members have striven very hard to avoid looking at this from the purely European settlers' point of view. Whilst putting up the case for our own fellow countrymen, we have endeavoured to look at it from the broadest point of view, giving fair play to the native people of this country. I think this was borne out by the speech of the hon. member, which I have only just been able to read as I was not present when it was delivered; by far the greater part of his speech was devoted to the questions affecting native interests. The hon. and reverend Member

in his zeal to speak for the native people I think was perhaps led away a little bit, because in one breath he praised the Commissioners for the wonderful work which they had done and in the next breath he accused them of producing a fraudulent balance sheet. Knowing my hon. friend as I do, his high ideals and his life, I am sure that the last thing he would do would be to praise somebody who produced a fraudulent balance sheet. Therefore I can only presume he used the argument to try and make out a case which really did not exist on behalf of his clients. He further got somewhat to exist on the evidence of some anonymous what led away, I think, on the evidence of some anonymous friends of his who apparently spent a large part of their life counting sheep on the Leroghi Plateau. Whether it was a cure for sleeplessness or for other reasons I do not know! but he said in an impassioned way that the proposed alternatives put up from this side of the House for the solution of this question would lead to death and devastation. I feel that I might describe his statement as a rhetorical inexactitude, because in the proposals put up for dealing with this Samburu question we have taken great care to suggest land which is not destitute of water as he suggested. In many parts it is well watered, and we honestly believe it will meet the requirements of the Samburu while leaving the Leroghi Plateau—only a part of it in fact—for the development of white settlement. I should like to say this. We do not only look on this question of white settlement from a purely selfish point of view. We honestly and sincerely believe that for the good of the future of the country we all love that white settlement, and a strong white settlement, is, as your predecessor, Sir, was so fond of saying, essential to the wealth and prosperity of this country. For that reason we do look with great apprehension on the possibility of land being taken away that has been reserved for the potential white settlement of the country. We do not wish to be unfair to the Samburu tribe. We do not wish to condemn them to death and devastation, but we do say, Sir, that when the Masai were moved in 1911 we did understand—when I say we, I was not in the country then or personally concerned—but it was understood by the settlers that when the Masai were moved that land would be available for white settlement. Even if this was not actually stated in so many words, I do not think that anyone will argue the Masai were moved for the purpose of putting the Samburu in their place. At the same time—I do not know, but whether anyone has touched on this in the debate or not, it is a point that there were various European farmers moved from their farms to facilitate this movement of Masai. And gentleman in this House might have mentioned it; I do not know, I was not here. It was definitely understood that this

move was for the benefit of the Massi and that the land from which the latter were moved would be available for white settlement. I do not wish to take up your time, Sir! I was not here last week so that I do not want to refer to any speeches I have not heard. I welcome the reply of the Hon. the Commissioner for Local Government as far as it went, and I trust that Government will work out a policy and a programme for putting into effect the recommendations of this Commission which are for the benefit of settling very vexatious questions.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I had no intention of interposing in this debate until the speech of the hon. Member Mr. Isher Dass in which he thought fit to cast reflections on a distinguished member of my profession and a distinguished judge. Those reflections you will remember were to the effect that he had stated in a case which the hon. Member mentioned that an Englishman's word was not his bond, or even if he did not say those exact words he had implied that by his judgment. I therefore took the opportunity on going back to the office yesterday of looking up that judgment, and it was on my advice that the Hon. the Commissioner for Local Government stated in this House to-day that the statement of the hon. Member Mr. Shamsud-Deen was based on wholly incorrect information. I have read this judgment from cover to cover. It refers to one point, and one point only, and that was whether a certain document was a treaty or an agreement. If it were an agreement, it could have been inquired into by the courts, and if it were a treaty it was a matter for the diplomatic side of the Service. After great consideration the learned judge came to the conclusion that the document was in fact a treaty and therefore did not come within the purview of the court, and on that, and that alone, the hon. Member has thought fit to cast the aspersions against the judge's character, which you heard in this House.

HIS EXCELLENCY: If no other member wishes to speak I will call on the mover to reply.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: I doubt if I shall finish in twenty-five minutes, Sir.

HIS EXCELLENCY: In that case you had better adjourn the debate now and deal with the several Bills on the Order of the Day.

The debate was adjourned.

MOTIONS.

NAKURU-ELDORET TRUNK TELEPHONE.
THE HON. THE POSTMASTER GENERAL: Your Excellency, I beg to move the motion standing in my name:—

"Whereas a sum of £240,275 was appropriated and applied to the purpose of Communications under the Specific Loan Ordinance No. 43 of 1930.

And whereas from this figure a sum of £47,125 was allocated to the under-mentioned works—

Trunk Telephone: Nairobi-Nakuru	£12,000
" Nairobi-Mombasa	33,325
" Lugari-Bungoma	1,200
Telegraphs:	£47,125

And whereas the actual requirements for these purposes have been reduced by the amount shown below against each item making up the total of £3,900—

Trunk Telephone: Nairobi-Nakuru	£3,553
" Nairobi-Mombasa	187
Telegraphs: Lugari-Bungoma	160
Total	£3,900

Be it resolved that this Council hereby approves the expenditure of a sum of £3,900 upon the purposes specified in the Schedule hereto—

SCHEDULE.

Trunk Telephone: Nakuru-Eldoret	£3,900
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I should explain in the first instance that the money it is proposed to reallocate under this motion is loan money which has actually been saved on the construction of certain telegraph and telephone line development works. The savings arose partly from the favourable placing of contracts for materials and partly from more expeditious construction than was originally estimated. Hon. Members will agree that in a time of depression like the present any expenditure on extension of services should be carefully considered, and I can say that that consideration has been given to the motion under discussion. The work which it is proposed to devote the expenditure to is the most necessary and most proper one to which these savings can be put. As hon. Members are aware, there is in Eldoret a telephone exchange with quite a number of subscribers and it is a fairly busy

commercial centre. There is also one at Kitale, and a fairly extensive system in the Kipkarren area which are linked up by trunk lines. The work it is proposed to carry out in linking up Nakuru and Eldoret will give all the services on the Plateau access to the main trunk system of the Colony. I am satisfied from the point of view of granting these facilities that the work will be justified and self-supporting. In addition, there are the following considerations: that the linking up of Nakuru and Eldoret by trunk telephone line will bring Kenya and Uganda systems so much nearer to each other; also, the extension of this service will be a step towards granting the Kakamega area in due course the necessary telephonic and telegraph facilities. These are the grounds on which I advocate provision for this work.

THE HON. THE TREASURER seconded.

HIS EXCELLENCY: The motion is, that the motion just moved by the hon. Member be adopted.

THE HON. A. C. HONY: Your Excellency, in supporting the motion before the House I am very glad indeed to find that the Hon. the Postmaster General has at last been able to make provision for this very long-felt want, because Eldoret is growing in importance every day, more especially in connection with the mining industry in Kakamega. I believe this extension of the trunk line to Eldoret is long overdue, and I do hope that as this work is approaching completion that it may be possible out of the savings to further consider extending this line from Eldoret to Kakamega, because what with the mining companies making their headquarters in Eldoret, the educational and medical facilities, it is becoming more closely linked with the goldfields every day. If we have telephonic communication direct from Eldoret to Kakamega undoubtedly it will increase the traffic for the trunk line which must go through Nakuru or Nairobi to Eldoret. I strongly support the motion, Sir.

The question was put and carried.

UNREDUCED PENSION TO E. J. KELLY.

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

"This Council approves the payment of an un-reduced pension of £371/8/2 a year to Mr. E. J. Kelly, who is retiring from the service of this Colony with effect from about the 31st of January, 1935, in lieu of a reduced pension of £203/11/1 a year and a gratuity of £678/10/0."

It is in precisely similar form to several motions recently accepted by this House. Mr. Kelly is an officer in the Agricultural Department who is now retiring, and originally he elected to receive a gratuity and reduced pension under the European officers pension regulations. He now wishes to revoke that option, and it is considered in the interests of Government that he should be allowed to do so. This motion will give the necessary authority for granting the pension. I recommend the motion to the favourable consideration of the House.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

THE HON. F. A. BRUSTER: Your Excellency, I only rise to ask a question in connection with this matter. I would like to ask the Hon. the Treasurer to let us know what age this gentleman is, because the purchase price of £678 appears to be £68, which is practically 10 per cent. If he is a young man it might be considered a high rate of interest, but if elderly it should be calculated actuarially.

THE HON. THE TREASURER: I am afraid, Sir, that I am unable to give the information out of hand; I could let the hon. Member know what this officer's age actually is. It is a fact that Government has allowed officers in the past to revoke their option, the fact being that it is inconvenient at the present time to pay out a large number of lump sums. The officer has in fact retired and left the country and will be on the retired list within a short time, and has the same privilege accorded any officer in respect of his age.

The question was put and carried.

BILL.

SECOND READING.

THE COTTON (TAX) (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Cotton (Tax) (Amendment) Bill be read a second time. This Bill is drafted merely in order to facilitate matters in connection with the taxation on growers of cotton, and also in order to conform with the existing custom in Uganda, with whom we have an agreement. It has been found in the past that as the present Ordinance reads it is only possible to impose one rate of taxation for the whole Colony so that the cotton in one part of the country is taxed at exactly the same rate as in another, although in point of fact the seasons are quite different, and it might be necessary from time to time to vary the amount in accordance with

the amount received at home. All this Bill does is to give power to the Governor in Council to introduce at various times of the year any necessary amendments to the schedule by notice in the Gazette and also to be able to impose a special tax for a special part of the country as opposed to a tax for the Colony as a whole.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

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

THE HON. CONWAY HARVEY: Your Excellency, having had opportunities of visiting the more important cotton areas of the country in the past year, I take the opportunity of congratulating the Kenya Agricultural Department on its enterprise and the effective measures pursued in order to stimulate the production of this important crop. Those hon. Members who were members of the House when the original measure was under discussion in 1927, will remember that with some degree of reluctance I and my colleagues only agreed to this proposal, which we believed to be unsound in principle, as is any tax on production. We agreed to it with some reluctance, in view of the peculiar circumstances of Kenya and its cotton industry, particularly in relation to the cotton industry in the adjacent territories. But there was one very important understanding in this matter. We were assured at the time that the money so derived would be used entirely for the advancement of the industry and spent on the native cotton growers from whom the money was extracted. I think it is only reasonable to ask Government to indicate to what extent that promise has been fulfilled and what is Government's policy in the immediate future in this regard. We do support the amendment in spite of that, but those are points worthy of ventilation.

THE HON. J. H. LANDIA: Your Excellency, With regard to this Bill I should like to say that as the development of cotton industry is still in its infancy stage in Kenya I do not think it is advisable to levy any tax on cotton in this country. I feel that in early stages of development it is necessary that natives should be encouraged to grow cotton by inducement to good prices. If this tax is imposed no doubt prices paid to natives would be lower to that extent. I have heard an argument advanced by some people that if higher prices are paid to natives they would be lazy and would not grow more cotton. This is not the opportunity to deal with such arguments but I should like to say that it has been found by experience in Uganda that there is no substance in

that argument. It is given as one of the objects and reasons of this Bill that the object of the proposed legislation is where possible to achieve uniformity in taxation with Uganda, but, in my view, Sir, there is no comparison between the stages of development of cotton industry in Kenya and Uganda, and there is no case for uniformity. There was no cotton tax in Uganda until the industry reached a certain stage of development and I am sure this stage has not yet been reached in Kenya. I am, however, very glad the very wise provision in this Bill will enable the Government to make suitable differentiation between the different cotton growing areas of the Colony having regard to their seasons, conditions, and development. I hope this wise provision will be liberally interpreted and administered. The only other point I wish to make is that when it is decided to levy a tax in a certain area the rate of tax for the season should be declared in advance so that the rate of tax could be taken into consideration at the time the price for buying seed cotton is fixed by the Government.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, in reply to the hon. Member for Nyanza I am unable at the moment to give an exact profit and loss account of the money and services spent on the cotton industry and, on the other side, the amount of the cotton tax obtained as revenue. Actually it was computed the other day that the Department spends something like £2,000 a year on cotton development. It is quite clear that if this Bill is passed this subject will have to be considered very seriously by the Governor in Council when any occasion arises for any variation in the amount of the tax. That is one of the subjects on which I, as Director of Agriculture, shall have to give very full information for the consideration of the Governor in Council.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I am able to supplement to a slight extent the information given by the Hon. the Director of Agriculture. I can confirm everything that was said by the hon. Member for Nyanza, that when the tax was introduced the undertaking was given that it should be returned to the industry. It was never suggested that it should be earmarked, and that has never been done, so that figures are not available. But I am in a position to assure the House that the cotton industry has benefited at least to the extent of the tax and probably a great deal more, certainly in the way of providing roads, bridges, and so on through the cotton area, and seed, quite apart from the personal emoluments of the officers concerned who take a great interest in the industry.

THE HON. F. A. BRISTON: With your permission, Sir, I should like to intervene in this debate, because I was the first man who suggested a cotton tax, in July 1917, to Sir Robert Coryndon. But I only rise on account of a remark by the hon. Member Mr. Pandya, that in the early part of the cotton season the tax should be declared. It is obvious, if you think what he meant, that it was to give the ginner or buyer a chance to count his cost back to the native. It was distinctly laid down in Uganda that that tax should be collected on the price of ginned lint in Liverpool from the time of shipment. I hope, Your Excellency, that you will use your prerogative for altering the tax just as the ginned lint is ready for shipment and not at a time when a person can bargain to take the whole lot out of the natives.

The question was put and carried.

*The Council adjourned till 10 a.m. on Thursday,
25th October, 1934.*

THURSDAY, 25th OCTOBER, 1934

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 25th October, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOTTUS BRANE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 24th October, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

By THE HON. THE ACTING COLONIAL SECRETARY:
Schedule of Additional Provision, No. 3 of 1934.

By THE HON. THE ATTORNEY GENERAL:
Report of Select Committee appointed to consider and report upon the provisions of a Bill to provide for the Preservation of Objects of Archaeological and Palaeontological Interest.

NOTICES OF MOTIONS.

By THE HON. THE ACTING COLONIAL SECRETARY:
"That the Schedule of Additional Provision No. 3 of 1934 be referred to the Standing Finance Committee."

By THE HON. THE ATTORNEY GENERAL:
"That the Report of the Select Committee on the Preservation of Objects of Archaeological and Palaeontological Interest Bill be adopted."

ORAL ANSWERS TO QUESTIONS.

SALARIES OF HEADS OF DEPARTMENTS.

No. 69—THE HON. E. H. WRIGHT asked:—

"In view of the unanimous conclusion arrived at by the Expenditure Advisory Committee in paragraph 37 of their Report, and further in view of the recommendation in paragraph 41, has Government made any modification in the rate of salary offered to any of the recently appointed Heads of Departments with a view to effecting further economies?"

THE HON. THE ACTING COLONIAL SECRETARY: The hon. Member will appreciate that the appointment of Heads of Departments rests with the Secretary of State.

It is the fact, however, that in two cases recently in which Heads of Departments have been appointed, viz. the Chief Justice and the Commissioner for Local Government, Lands and Settlement, their salaries have been reduced by £100 per annum as compared with those of the previous holders of the posts in question.

In another case, that of the Treasurer, his allowance as Currency Officer has been reduced from £200 to £150. Another Head of a Department, viz. the Director of Agriculture, and two Puisne Judges who have recently been appointed to this Colony, have been transferred here at a reduced rate of pension constant.

MOTION.

KENYA LAND COMMISSION REPORT.

MAJOR THE HON. F. W. CAVENDISH-BENTING having moved:—

"Be it resolved that this Council records its appreciation of the valuable work done by the Kenya Land Commission.

Whilst noting that in general terms their Report has been substantially approved by the Imperial Government this Council expresses the hope that whereas early action should be taken to implement in legislation the general principles of the Report, full consideration will be given to locally-expressed views in regard to detailed recommendations."

THE HON. CONWAY HARVEY having seconded.

The debate continued.

MAJOR THE HON. F. W. CAVENDISH-BENTING: Your Excellency, I would like first of all to thank Your Excellency for the great latitude you have permitted during the course of this, as we consider it, most important debate, during which a number of points have been raised to which I wish to reply. The hon. Member for Nyanza, referring to cattle in townships, made reference to the fact that the problem was not merely a Nairobi one but was common to every township throughout the country. In the course of my speech to the motion I only alluded to the problem as affecting Nairobi firstly because the Commissioners' remarks on this subject largely referred to Nairobi, and secondly because Nairobi happens to be the constituency which I have the honour to

represent. Nevertheless, I thoroughly agree that the problem is common to every township, and I will only again refer to paragraph 634 which lays down that natives who elect to live in townships cannot expect to be allowed to keep cattle. The hon. Member also referred, whilst dealing with the subject of mining leases, to the fact that the Native Lands Trust (Amendment) Bill would appear to be still in the hands of the Secretary of State and that His Majesty's assent thereto has not yet been obtained. I would point out that in Your Excellency's communication from the Chair on 24th July, Your Excellency stated that the main reason for what Your Excellency described as that "Special Sitting of Council", held in July, was the urgency of passing a Bill to amend the Native Lands Trust Ordinance, 1930, in accordance with the recommendations of the Carter Report. After going through its successive stages and that of a Select Committee, this Bill was read a third time and passed on 2nd August. I entirely agree with the hon. Member for Nyanza that it seems difficult to understand, in view of the urgency which was suggested at that time, why this Bill should still be held up. Another point made by the hon. Member for Nyanza was with reference to the Leroghi Plateau. In section 1952 reference is made to a sub-committee of Executive Council, which consisted of the Commissioner for Lands, the Chief Native Commissioner and the Hon. Conway Harvey, which sub-committee made proposals as to the boundaries of the area to be known as the Highlands of Kenya. The definition proposed by this sub-committee will be found in section 1953. In paragraph 1054 the Commissioners suggest that the definition put forward by this sub-committee excluded Leroghi. The hon. Member for Nyanza rightly points out that this was most definitely not the case, in that they recommended—as can be proved by referring to section 1953—that the Highlands of Kenya should comprise, amongst other areas, those within the administrative districts of Trans Nzoia, Uasin Gishu, Ravine, Nakuru, Naivasha, Laikipia, North Nyeri and Nairobi, and at the time they made their recommendation what is now known as the Leroghi Plateau was under the control of the officer administering Laikipia district, and that therefore it was quite definitely the intention of that Committee to recommend the inclusion of the Leroghi Plateau within the area of the European Highlands.

I would next like to allude to some of the points made by the hon. Mr. Pandya. In the first place, I cannot but express my astonishment that some of the hon. Members representing Indian interests should oppose this motion, because after all, it is a very harmless one indeed. It merely starts by suggesting that this Council should record its appreciation of the valuable work done by the Kenya Land Commission. It goes on to

note that the Imperial Government accepted the Report in general terms, and asks finally that full consideration should be given to locally-expressed views. I should hardly have thought that anyone would have refused to record their appreciation of the valuable work done by the Commissioners: The second half of the motion was merely framed in order to give hon. Members representing Indian interests—as well as ourselves—an opportunity of putting forward their points of view. As far as I can see, by opposing this motion the hon. Members have put themselves in the position of voting against Government giving consideration to their views, which views they expressed at very great length! The hon. Member Mr. Pandya stated that he could understand why natives should require security, but could not understand why members of an advanced race such as the European settler community should require it. However, I must thank him for having saved both myself and this House a great deal of trouble, for, having opened his remarks with this question he, and subsequently his colleagues, then proceeded to answer it themselves in great detail and at some length! Nevertheless, I will give him just one perhaps additional or possibly merely more comprehensive answer by referring him to the Term of Reference No. 6 given to the Commission, which reads as follows:—

“To define the area generally known as the Highlands, within which persons of European descent are to have a privileged position in accordance with the White Paper of 1923.”

Now the Commissioners have defined the area within which persons of European descent are to have a privileged position in accordance with the White Paper of 1923, and it is therefore quite obvious that if we allowed the recommendations of the Commission on this—to us vitally important subject—to be implemented in some ambiguous or slipshod form we shall be betraying, not only those who put us in this House, but the future inhabitants of those White Highlands. The hon. Member Mr. Pandya takes exception to any Order in Council as meaning finality, and in support of this he quotes the Commissioners' evidence regarding the boundaries of individual tribes. As regards the boundaries of individual tribes, within the areas of native reserves, I agree with Mr. Pandya and the Commission. But the Commission was perfectly definite as regards the boundaries and total area of the native reserves; we maintain that they should be equally final regarding the definition and total area of the European Highlands. A great point has been made by both the hon. Member Mr. Pandya and the hon. Member Mr. Isher Dass of their allegations to the effect that the land available for Europeans is not being properly utilized but that it is being

held by owners for the purpose of speculation in land values. The hon. Member Mr. Pandya suggested that only 11 per cent of the land in the European Highlands is at present occupied beneficially. The hon. Member Mr. Isher Dass stated that 87 per cent of the land was not developed by Europeans. The hon. Member Dr. de Sousa gave the figure at 10 per cent or 11 per cent of land being utilized. I do not know where they got their figures from, but I think probably from a table which appears in the Report by Sir Daniel Hall, in which (speaking from memory) I think it is stated in a schedule that the amount of agricultural land which had actually been ploughed and planted amounted at that date to between 11 per cent and 13 per cent of the total alienated area. This, of course, in no way refers to land fenced or developed in other ways—it merely refers to land actually ploughed and planted in that particular year. In order to refute once and for all this complete and deliberate distortion of the truth, I would refer the honourable gentlemen to page 7 of the Agricultural Census, 1933, and I can give them figures to add to that table which can be authenticated by reference to the Agricultural Department, to the effect that in 1932 the number of occupiers of land in the European Highlands was 2,107 and the total area developed was 2,814,952 acres, or 54.1 per cent of the total occupied area. In 1933 the total area developed was 2,873,434 acres, or 55.2 per cent of the total occupied area; and I would add that these percentages compare very favourably with the percentages of developed areas of occupied land in the Union of South Africa or Rhodesia, territories which are very much older than Kenya.

THE HON. J. B. PANDYA: Your Excellency, on a point of explanation, I referred to the whole of the area in the Highlands piece and I took my figures from the Agricultural Census.

DR. THE HON. A. C. L. DE SOUSA: I did so, too.

MAJOR THE HON. F. W. CAVENDISH-BUNTING: I am glad to hear that they are now qualifying the unjustifiable allegations which they made during the course of the debate. On page 30 of the same report will be found a table of the value of the exports as between European and non-European production. The total value of exports in 1930 as from European sources amounted to £2,712,657, as compared with a value from non-European sources of £395,750. In 1932 the total value of exports from European sources amounted to £3,712,657, as compared with a value from non-European sources of £395,750. In 1933 the total value of exports from European sources amounted to £1,705,630, as compared with

1926
1807

a total of £262,100 from non-European sources. The hon. Member Mr. Pandya also made certain references with regard to the Leroghi Plateau, and I should like to pay this tribute to him, that, unlike my reverend and hon. friend who represents native interests, he did not allow his enthusiasm entirely to obliterate his sense of proportion in that he admitted—although he did not agree with us—that "there was a good case on both sides". I notice, incidentally, that the hon. Member accused the European Elected Members of glossing over paragraph 1973, which refers to the recommendations of the Commissioners with regard to the Kaimosi and Kipkurren blocks, for the reasons that their findings on this question went in our favour, whereas he suggested that we unduly stressed findings which had gone against us. I would, however, draw the hon. Member's attention to the fact that I did allude to the recommendations made by the Commissioners with regard to the Kaimosi and Kipkurren blocks at great length, as also did the hon. Member for Nyanza.

The hon. Member Mr. Isher Dass made a not very coherent but militant speech which I had some difficulty in following. I do not think it contained anything to which I need refer, beyond one or two serious misstatements, which I must refute. Early on in his remarks he took exception to a statement which he alleged I made to the effect that Europeans had been asked to come to Kenya and colonise. Actually what I said was, that we had been encouraged to come here, colonise and make our homes in Kenya, in substantiation of which statement I need only refer to the Soldier Settlement Scheme, to which reference has already been made in the course of this debate. The hon. Member next stressed the fact that the Commissioners had gone beyond their Terms of Reference, in that they were never asked to extend the areas of the European Highlands, but merely to define them. This point was also made by other hon. Indian Members and in reply I would refer them to the map facing page 2840 of Volume III of the Evidence, on which they will see the various suggested delineations of the European Highlands in the past, and it will be quite clearly shown—as indeed it is admitted by the Commissioners themselves—that the new area as defined in the Report is considerably smaller in extent than any of the areas shown on the map to which I am referring. The Commissioners therefore have—far from extending the area—in fact, considerably reduced it. The hon. Member also referred to the subject of the alleged speculation in land by the Europeans. I have already refuted this statement. Later on he objected to placing certain forest areas in the native reserves under the control of the Forest Department or to declaring them as native forest reserves, and he alleged that the proceeds of sales in native forest reserves went into general

revenue. I can inform him that this is not the case, as the proceeds of sales in native forest reserves do not go into general revenue but to the Local Native Councils concerned.

I will now turn to the remarks made by the hon. and reverend Member Canon Burns, who made a very excellent and clear speech, but who, I feel, possibly allowed his enthusiasm to override in some respects his sense of proportion. He first took exception to what he considered the "mathematical manipulation" of the Profit and Loss Account, and quoted certain circumstances with regard to the Chania block in support. At a later stage he produced precisely the same arguments with regard to Leroghi in order to prove an opposite contention. His arguments in this regard appear to be somewhat contradictory. I was, however, pleased to note that the hon. Member endorsed my remarks regarding the "Githaka" system in the Kikuyu Reserve, by saying that it also confused him. The hon. Member next referred to the resident native labourers or squatters, and I think that here again some confusion must also exist in his mind on this subject, in that in the course of his remarks he suggested that 210,000 Kikuyu squatters would probably be sent back to their Kikuyu Reserves; in other words, that all Kikuyu squatters at present outside the reserves would be sent back, a contingency which will never arise. There is a committee sitting on this subject to which the hon. Member for the Trans Nzoia referred, and some exception was taken by Government to his remarks that there was undue delay in dealing with this question. It took the Elected Members five years to get that committee appointed and I believe it has now been deliberating another two, so that it would not seem unreasonable that the hon. Member should have asked that the work of compiling some suitable amending legislation should be expedited to the fullest extent. Reverting to the speech made by the hon. and reverend Member representing native interests, in dealing with the subject of squatters, he quoted section 498 only. I cannot understand why he made no allusion to Chapter VIII, Part III of the Report, which deals at length with the question of squatters or resident native labourers; nor can I understand why he made no allusion to sections 1860 and 1868 in this chapter. He would have seen that in section 1868 the Commissioners recommend extensive additions to the Kikuyu Reserves on economic grounds and have provided for the establishment of a large "C" area on the Yatta. They go on to state that these two facilities, together with other recommendations, should go far to alleviate the difficulties of finding accommodation for time-expired squatters and should be adequate to meet any contingency that is likely to arise for many years to come. I would also draw the hon. Member's attention to page 471—again in Chapter VIII, Part III—from

which he will note from Table No. 4 that an area of no less than 939 square miles has been set apart as native areas Class "C", for this very purpose. The hon. Member also made some allusion to the question of Pangani village, from which I think he more or less supported my views, but he took exception to my suggestion that there were undesirable elements there. I would like to state that I quite agree with him that there are also a large number of respectable people there. What I said was that Pangani had a notable preponderance of undesirable elements.

When dealing with the subject of Leroghi and the Samburu I fear that the hon. and reverend Member rather succumbed to the temptation of adopting the tactics of a publicity agent rather than concentrating on basing his remarks on the arguments he has heard put forward during this debate, or even on the evidence adduced by the Commissioners themselves. When dealing with this subject, he commenced by drawing attention to paragraphs 868 and 869. I should like here and now to inform the hon. and reverend gentleman that the European Elected Members are in entire and absolute agreement with the principles laid down in paragraph 869. What we contend, however, is that Leroghi Plateau is not essential to the Samburu, for the simple reason that another area is available. The hon. Member, however, referred to this alternative area as a "valley of desolation and death". He said that we were prepared to drive out 6,000 Africans with 50,000 head of cattle into this "valley of desolation and death." I cannot let a statement of that kind pass. If I am a little rough in answering it, the hon. and reverend gentleman will admit that he brought it on his own head by making such a serious and totally unfounded allegation.

THE REV. CANON THE HON. G. BURNS: On a point of explanation, Your Excellency, I asked the question: were we prepared to do it? I did not say the European Elected Members were going to do it. I asked the question.

MAJOR THE HON. F. W. CAVEENBIE-BENTINCK: I am very glad to hear that was the case. However, I would still like to continue my argument by saying there is something to be said on both sides. First and foremost, let me deal with the numbers of cattle which he states the Samburu have on the Leroghi Plateau. A count was made location by location by Mr. McKay last year, that is during 1933, and during the time the Commissioners actually sat. Personally, I think a lot of cattle were driven up there for the special purpose of establishing the Samburu claim, and I still do not believe that that number of cattle in an Leroghi to day. However,

that is a personal opinion, and I and the European Elected Members are prepared to accept this count, which was very carefully made, location by location, and will be found given on page 1638 of the Evidence, Volume II. The total number of cattle, according to Mr. McKay, on the Leroghi Plateau amounts to 38,591. We therefore will accept the figure as 6,000 souls and 38,591 head of cattle. In section 882 it is laid down that either Leroghi or some other grazing area is necessary for these Samburu on economic grounds. Naturally, we do not deny this. We merely suggest that they can go into the area referred to in section 855, which the Whitehouse Committee reported in February, 1930, as being capable of carrying 41,000 head of cattle all the year round (see page 1461, Volume II of the Evidence). That area the hon. and reverend gentleman refers to as a "valley of desolation and death", yet it is the area which this Committee reported as being capable of carrying 41,000 head of cattle. Also it is the area from which the Samburu themselves were removed by Sir Edward Northey in 1910 and to which the Samburu themselves asked to be allowed to return at the barza held by Sir Edward Grigg at Barsoloi in September, 1929. Nor is that all. It is also an area to which a gentleman who is now an hon. Member of this House, who was one of the Commissioners of the Kenya Land Commission, and who was at that time Provincial Commissioner of the Northern Frontier Province (I refer to the Hon. Mr. Rupert Hensted) recommended the Samburu should be sent in 1929. Finally, to describe this area as a waterless desert—which was a further misrepresentation of facts made by the hon. and reverend gentleman—displays a complete lack of sense of proportion, to put it mildly, in that this area is bounded on the north by the Usin Nyiro River, which is fed by three tributaries—the Ngare Dare, the Siolo and the Mar—all of which run through this area, actually making it the best watered piece of country in the Northern Frontier Province. I may add that all the foregoing facts can be substantiated by the volumes of Evidence. To me it is almost unbelievable that a man of Canon Burns' well-known integrity, a man whom we all respect, who has had twenty-six years' experience of this country and of the settlers in this country, should make such an accusation against the European community. He ought, at least, to give us credit for not debasing ourselves by endeavouring to seize land at the risk of sentencing 6,000 souls to starvation. Surely—even if he cannot give us this credit—he might at least give it to his colleague representing native interests in this Council, who, I repeat, himself recommended that the Samburu should be sent to this very area in 1929. Now, I have been twitted by several members—including the hon. and

reverend member—with regard to my examination of the Leroghi Plateau by air, and in my defence I need only quote paragraph 847, which reads:—

"The plateau may be said to comprise roughly all the high land between the so-called Kittermaster and Coryndon lines. The position of this latter is uncertain, but appears to follow the foothills of the escarpment to the north. The survey figures of the area give it as 870 square miles, of which only 300 square miles are said to be suitable for European settlement, and 130 square miles are forest. We have not been able to obtain a description of the remaining area of 440 square miles, but it is believed to consist largely of barren, precipitous, lava hills of little value for stock or agriculture."

In that section it will be seen that the Commissioners state that they have not been able to obtain even a description of 440 square miles, but believe it to consist largely of barren, precipitous, lava hills of little value for stock or agriculture. This, I may inform hon. Members of this Council, is a description which appears on and was taken from an old (and probably still the only available) map of that area. It is utterly incorrect. The hills are not barren. Nor as they, in many cases, precipitous. They are of a rolling, down-like character, with a certain amount of forest, a considerable amount of permanent water in the many gullies and a very large amount of good grazing. I at least have seen them—which is more than either the Commissioners or the hon. and reverend gentleman can claim.

I will only refer to one remark made by the hon. Member Dr. de Sousa on the subject of the Soldier Settlement Scheme, and would draw that hon. Member's attention to the fact that he has evidently mixed up what we know as the Soldier Settlement Scheme with what has already been known as "D.E.D.O.C.", or the British East African Disabled Officers' Colony, which was a private enterprise in no way associated with the Soldier Settlement Scheme. The hon. Member Mr. Shamsud-Deen commenced a long speech by commenting on the cost of Legislative Council. The figures he quoted are not, however, reflected in the estimates I rather gathered from his remarks that he objected to this session of Legislative Council, whereas the hon. Member Dr. de Sousa, who spoke immediately prior to him, apparently wanted this session—provided it was called on the initiative of Government and not on the initiative of the European Elected Members. Beyond that I will say nothing except that I really believe this debate has served an extremely useful purpose.

I will now deal with the sole contribution made to this debate by Government. I must thank the hon. the Commissioner for Local Government, Lands and Settlement for very kindly commencing his remarks by making very complimentary allusions to the speech which I made in proposing this motion, and will retaliate by informing him how much I admired the extremely clever contribution which he made to this debate yesterday. It was most carefully worded and was most concise. In fact, from the point of view of Government, it was so clever that for some time I thought we were going to get something more than merely whitewash—but the fact remains that fundamentally his contribution was whitewash and nothing more! He started by giving us an interesting and detailed history of the various Commissions that had made inquiries prior to the appointment of the Kenya Land Commission. He then proceeded to inform us that the Commissioners had heard a very large number of witnesses and had had access to a very large number of documents, and as the result of the sifting of much evidence they had pronounced judgment in terms which naturally were not likely to please everybody. All this we appreciated would be the case long before the Report came out, and since it has come out I think I can claim that on the whole we have loyally accepted the verdict they gave.

He then mentioned that there were three particular subjects on which they had pronounced definite judgment, to which exception was taken—to wit, Leroghi, the Mile Zone and the Profit and Loss Account. As regards Leroghi, I would point out that they gave no definite verdict (and would refer him to paragraph 807) as to what the future of Leroghi was to be after a period of years. On the other two subjects we, on this side of the House, at any rate, have accepted their verdict. He then hurriedly splashed a little plaster over the action of Imperial Government in issuing a White Paper before even the Government out here had had access to the recommendations of the Kenya Land Commissioners, by saying that this was one of the matters which had to be taken out of the purview of local politics, owing to the interest taken by Imperial Government in the question of native rights. As far as we can see, things are being taken out of the purview of local politics to an increasing extent by Imperial Government, so much so that any question of any importance at all is nowadays referred for a decision to the Secretary of State, and we, quite rightly, object to this practice.

The hon. Member then made numerous quotations from the White Paper. Amongst others, I think he quoted paragraph 9, in which His Majesty's Government expressed their acceptance of the Commissioners' definition of the boundaries

of the European Highlands. I congratulate the hon. Member on the careful phraseology of his reference to this question. I think his words were roughly these:—

"That, although he admitted a diminution of the area previously known as the White Highlands had been recommended in order to meet the needs of the native population, present and prospective, with regard to land, ample compensation for that diminution was made by the fact that we secured stability and security against further diminution from the same cause."

In juxtaposition to this carefully phrased statement I will repeat the equally carefully phrased statement I made in opening the debate and will leave Government to draw its own conclusions, merely adding that we on this side of the House are in deadly earnest on this question:—

"It is only fair to add that apprehension does still exist amongst Europeans that the extent of the Highlands may again be diminished, either by the Government of Kenya, or possibly, should another Party come into power, by the Imperial Government in England. We have always understood—and our wholehearted acceptance and support of the recommendations contained in the Report entirely hinges on this understanding—that the main object of the Commission has been to frame recommendations which would instil a sense of absolute and permanent security in the minds of both the natives and the Europeans, and we therefore demand—and I think on this occasion we have a right to demand—that the boundaries of the European Highlands should be finally safeguarded by a suitable Order in Council so that we, the European community, who, after all, have been encouraged to come out, colonise and make our homes in Kenya, may in common justice at least be given the same measure of security in regard to land as is given to the natives. I must, however, add quite definitely that in our opinion not even an Order in Council can furnish that security, unless such an Order in Council specifically provides for the grant to a statutory body comprised of the representatives of the whole of the European Highlands (as recommended by the Commissioners in paragraph 1406 of their Report) absolute power of veto over all land transactions whatsoever within the boundaries of the European Highlands, on similar lines to the power accorded to the Native Lands Trust Board in regard to transactions in native lands."

The hon. gentleman next expressed resentment of the attacks made on Government on the grounds of its past policy of "benevolent laissez faire". I will only say that my attacks

took the form of quotations, as, on each occasion, I merely quoted the actual words of the Commissioners. So it was not, as the hon. Member tried to make out, merely the usual attack on Government by the European Elected Members, it was an endorsement of the definite attack made on Government's policy by the Commissioners themselves. In dealing with this subject the hon. gentleman again whitewashed Government by saying how difficult it was, or how expensive it was, to take any steps to remedy the desperate position existing to-day in the native reserves, which I and other hon. Members of this House delineated. He quoted the four considerations which had to be taken into account in dealing with overstocking, such as native conception of cattle, custom of marriage dowry, communal grazing and the "Pax Britannica". He alluded to the difficulties of inducing private enterprise to put up a meat factory, to the difficulties of inducing natives, who have been squeezed dry by hut and poll tax collections, to purchase meat from butcheries established in native reserves, and, of course, he referred again and again to expense. I myself outlined all these difficulties in my opening speech. We thoroughly realize that there are difficulties, but in view of the enormous overhead expenditure which it takes to run this country we have a right to ask for something more than just an outline of these difficulties in a careful speech in Legislative Council. The fact is there is no continuity of policy—and could this be shown more clearly than by the remarks the honourable gentleman made in regard to reconditioning? He quoted from three successive annual reports what was being done on one hillside in the Machakos area and he quoted another case where something was being done in the Kamasia Reserve, to which efforts, incidentally, I had already made allusion in my opening speech. And what was the sum total of what had been done—and done, incidentally, by specially able individual District Commissioners and not by Government at all? The whole effort amounted to this—something had been done on one hillside near Machakos, and ten square miles in the Kamasia Reserve had, to a greater or lesser extent, been re-conditioned. This was all Government could show as having been done as regards reconditioning or some sort of "control" throughout the whole Colony.

During the debate every member who referred to this question referred to paragraph 2040 and asked what Government was doing with regard to the Commissioners' recommendations, but we were not favoured with a reply. Yet paragraph 2040 contains probably the most important recommendations made by the Commissioners in the whole of their Report. All we were told was contained in a nebulous statement to the effect that "various rules and regulations would be introduced in various districts", and that such policy as

the Government had or proposed to follow was that of "propaganda, education and securing the goodwill of the natives" ! Incidentally, the hon. Member made no reply to the question asked by the hon. Member for the Plateau, who asked why the Native Marketing Bill had been withdrawn. Nor did he deign to allude in any way to the very definite question I asked in my opening speech as to whether the Kenya Government had examined the vital question of the financial implications of the implementation of the Commission's recommendations.

Your Excellency, it was suggested yesterday that hon. Members on the other side of the House have come to regard themselves as the natural target for the somewhat unreasonable and unjustified shafts and arrows directed from this side. I can assure Your Excellency that we do not wish to attack. Our ambition is to assist Government to get on with the job ! In our anxiety to be helpful Members on this side of the House, many of whom have had far more years' experience of this country than the Members facing us, have put forward during this debate views and criticisms on vital questions concerning agriculture, animal husbandry, native administration, etc., etc., and yet neither the hon. the Director of Agriculture, nor the hon. the Chief Native Commissioner, nor the hon. the Colonial Secretary, have considered the debate as of sufficient importance to warrant any contribution from them. Government merely put up their most able speaker to make an *apologia* on their behalf. It really does look as though the attitude of Government is this: "Sir Daniel Hall and the Agricultural Commission tell us that the position in the Native Reserves is desperate and that Government's policy can only lead to disaster. The Carter Commissioners express a similar opinion. The Elected Members urge that something should be done". But apparently Government considers itself above criticism and continues to flounder along majestically, expensively and unperturbed.

The question was put and carried by 33 votes to 4, one hon. Member not voting.

Ayes.—Messrs. Bemister, Boulderson, Major Brassey-Edwards, Mr. Bruce, Canon Burns, Major Cavendish-Bentick, Major Robertson Eustace, Messrs. Fitzgerald, La Fontaine, Gardner, Hoey, Hamp, Harragin, Harvor, Hosking, Dr. Johnstone, Col. Kirkwood, Messrs. Kirsopp, Logan, Montgomery, Pilling, Major Riddell, Mr. Scott, Lord Francis Scott, Sir Robert Shaw, Sheriff Abdulla bin Salim, Messrs. Sikes, Tannahill, Wade, Walsh, Waters, Welby, Wright.

Noes.—Messrs. Isher Dass, Pandya, Shamsud-Deen, Dr. de Sousa.

Declined to vote.—Mr. Hemsted.

SELECT COMMITTEE REPORT.

THE MINING (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF MINES: Your Excellency, I beg to move that the Report of the Select Committee on the Bill to Amend the Mining Ordinance, 1933, be adopted. The Select-Committee of which I was chairman arrived at speedy agreement on all points except two at its first meeting. The points that caused us trouble occurred in clauses 10 and 11 of the Bill, the former dealing with compensation. Regarding this we sought the assistance of the insurance companies. The Vigilance Committee of the local Association of insurance companies gave us their advice. The definitions which they sent in showed no *via media* between a full-fledged Workmen's Compensation Act and an adaptation of the existing section, which applies at present only to native employees of mining firms and companies. It was obviously impossible for the Select Committee on the Mining Bill to introduce a full-fledged Workmen's Compensation Act, and in view of the attitude of the local representatives of insurance companies we were forced to adopt the second alternative, that is to provide for in the Bill an indeterminate right to compensation at rates to be assessed by the magistrate. We have every confidence that this is practical as an interim measure. Should Government ever intend to introduce a Workmen's Compensation Act such an Act would over-ride the provisions made in this Bill. After a unanimous report had been prepared and laid on the table, a bombshell arrived from home. We found that the local representatives of the insurance companies had communicated with their head offices who in turn had communicated with the Secretary of State, and were pressing very strongly for the reinsertion of certain provisions against which we had been advised by the local representatives ! My hon. friend the Attorney General has agreed to relieve me of the somewhat invidious task of moving an amendment to the unanimous report of the Select Committee of which I was Chairman. I can assure him that I have consulted the members of that committee, and the amendment which I have circulated this morning has their blessing and their support. The only other difficulty was a minor one, and that is in dealing with clause 11 of the Bill which is headed: "Payment of wages". I would stress the point that it is headed "Payment of wages". A communication was received from one of the Chambers of Commerce asking the committee to drop this question until a committee sitting in South Africa should report on the problem of trading on mining properties. On the other hand, another Chamber of Commerce sent us a copy of a resolution in which they strongly recommended that every facility should be given to

mining companies to provide employees with goods on order. I would ask any hon. Member who wishes to draw a red herring across this trail that he should carefully avoid the Haul, where conditions are unique and in no way applicable to conditions that we have here, and should lay the trail along the back blocks of Rhodesia, through the hinterland of Tanganyika, and, carefully avoiding Kakamega; lay the herring to its last long rest, which by this time it will need, on the shores of Lake Rudolf or some equally inaccessible part of the Colony to which the Mining Ordinance applies and where it would be absolutely imperative that the mining companies should themselves provide their employees with facilities for obtaining goods. Your Excellency, I now beg to move this motion.

THE HON. THE SOLICITOR GENERAL seconded.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the report be amended as follows:—

That paragraph 4 of the Report be deleted and the following paragraph be substituted therefor—

"4. That new clause 13 be deleted and the following clause be substituted therefor—

13. Section 86 of the Principal Ordinance is hereby repealed and the following section is substituted therefor—

86. (1) Save as is provided in sub-section (6) of this section, compensation, the amount of which shall be assessed by the magistrate, shall be payable by any lessee, holder of a location, licence or right in respect of any personal injury caused to any person employed by such lessee, holder of a location, licence or right by any accident arising out of and in the course of his employment whereby such person has become temporarily or permanently, partially or totally incapacitated, or has met his death:

Provided that no compensation shall be payable under this section in respect of an injury to a person which was due to his own serious and wilful misconduct. For the purposes of this section the expression 'serious and wilful misconduct' shall include drunkenness, wilful contravention of any law or regulation made for the purpose of ensuring the safety of or preventing accidents to persons, or any other act or omission which the magistrate, having regard to all the circumstances of an accident causing injury, may declare to be serious and wilful misconduct.

(2) The amount of compensation so assessed shall not exceed—

(a) in the case of death or total or permanent incapacitation a sum of seven hundred and fifty pounds or a sum of money calculated by multiplying by thirty-six the monthly wage or salary of which the person killed or incapacitated was in receipt at the time of the accident, whichever sum is the less;

(b) in any case other than death or total or permanent incapacitation a sum of three hundred and fifty pounds or a sum of money calculated by multiplying by eighteen the monthly wage or salary of which the person injured was in receipt at the time of the accident, whichever sum is the less.

(3) Where such compensation is to be paid in respect of an injury it shall be paid to the person injured.

(4) Where such compensation is to be paid in respect of death it shall be paid—

(a) if the deceased was a non-native, to the legal representative of the deceased;

(b) if the deceased was a native, to the District Commissioner of the district in which the accident occurred, for and on behalf of the dependants of the deceased.

(6) Any person dissatisfied with any award of the magistrate made under the provisions of this section may, within thirty days of the making of the award and on giving notice to such magistrate, appeal to the Supreme Court.

(7) The provisions of this section shall not apply in respect of a personal injury to or the death of a person who at the time of the accident was—

(a) paid a wage or salary in respect of his work by the hour at a rate exceeding five shillings per hour;

(b) paid a wage or salary in respect of his work by the day at a rate exceeding thirty-five shillings per day;

(c) paid a wage or salary in respect of his work by the week at a rate exceeding two hundred shillings per week;

(d) paid a wage or salary in respect of his work by the month at a rate exceeding eight hundred and thirty-three shillings and cents thirty-three per month;

(e) paid a wage or salary in respect of his work by the year at a rate exceeding ten thousand shillings;

Provided that the daily, weekly, monthly or yearly pay of such person shall be calculated exclusive of pay for overtime."

In moving this amendment I said that I should implement what the hon. the mover has said with regard to the trouble that this committee took in arriving at their conclusions. When the Select Committee was appointed by this House, it made arrangements to meet the members of this insurance association. My hon. and learned friend the Solicitor General was unable to be present, and at the request of the Chairman I reserved myself as a witness. You can take it from me it amounted to this. We were told by the insurance companies: "We won't look at this Bill, and will have nothing to do with it in its present form. As it stands, no insurance company could possibly think of accepting insurance policies under it". The committee adjourned with the request that we should follow the suggestions put forward by the insurance companies' representatives, and should submit a draft amendment for their consideration. I may say that their suggestion was that the laws at present in force in Southern Rhodesia should be adopted here. With this object in view, I drafted the necessary document and sent it to the insurance companies here asking for their comments in order that I could get the Bill amended before submission to the Select Committee again. Imagine my surprise when the next thing I heard about it was a protest to the Secretary of State that such a suggestion should have come from Kenya. Actually, what happened was this: this was the suggestion of the insurance companies—at least, this was my idea, I must give them an outlet there—of what their suggestions were with regard to the amendment of the Bill. Meanwhile, as no reply had been received from the insurance companies the Select Committee very rightly met again and produced and signed the report which hon. Members have before them. After the report had been laid, news came from London with regard to the representations of the head offices there, and as a result, gentlemen, you are practically going to have the Bill as it originally stood! The only alterations which this amendment of mine in fact make are first a verbal alteration with regard to the words "arising out of employment", and secondly, and

I think this is reasonable, a limit to the amount which any insurance company may be called on to pay on any policy; there is a limit of salary with which goes the maximum amount payable, and lastly it has clarified exactly who will receive the amount when payable. As the hon. mover told you, this is merely *ad hoc* legislation to tide over the difficult period until such time as we may have a full Workmen's Compensation Act here. At any rate, it has been agreed in principle by the House that such a measure is necessary, and these limitations that I have inserted in my amendment will enable, I am informed, owners and lessees of mines to insure with the various insurance companies.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

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

THE HON. J. B. PANDYA: Your Excellency, I am in substantial agreement with the report of the Select Committee of which I was a member, but on one point I have recorded my dissent. That is in connection with section 91 (2) (b) of the principal Ordinance, which is amended by new clause 14 of this Bill. This allows for the retention of wages for goods supplied.

THE HON. THE ATTORNEY GENERAL: On a point of explanation, Sir, I do not wish to interrupt the hon. Member, but it would be so much better if we could deal with this amendment first and he can afterwards speak to the original motion.

The question was put and carried.

HIS EXCELLENCY: The question is, that the report as amended be adopted.

THE HON. J. B. PANDYA: Your Excellency, I am in substantial agreement with the report of the Select Committee, but I recorded my dissent on one point. The hon. the mover has made it clear. I agree that this is not a new principle, the deductions from wages by employers of the cost of goods supplied to employees, and I also agree that it does not allow or disallow any trading in mining areas. But the point I wish to make is that this principle is fraught with danger to the trading interests, and I am not quite satisfied such a principle is absolutely necessary, under the circumstances prevailing in this country. The hon. the mover referred to the difficulties which might arise if the clause was not in the Bill, as a man

might be in some part where there is no trading centre, but even without this clause a mining company is entitled to deduct from the wages of its employees the cost of goods supplied, because what is done is simply the cost is debited as a cash in advance transaction. If a company wants to supply an employee with a bicycle they are not stopped from doing it without this clause, as they would say they advanced Sh. 100 in cash to the employee who took the bicycle and the employer under the law took the money from his wages. I feel that this provision is unnecessary, and is creating a sort of principle which might be misinterpreted.

THE HON. SHAMSUD-DIEN: Your Excellency, I only want to get some information from Government regarding the Workmen's Compensation Act which has been mentioned. For quite a long time Government has been promising . . .

HIS EXCELLENCY: That has nothing to do with this motion.

THE HON. SHAMSUD-DIEN: The information given by the hon. mover was . . .

HIS EXCELLENCY: The debate is on the motion for the adoption of the report of the Select Committee as amended, and the hon. Member is going beyond that.

THE HON. CONWAY HARVEY: Your Excellency, as a member of the Select Committee I wholeheartedly and quite naturally support the report under discussion. I should like to mention for the information of my hon. friend Mr. Pandya that the clause relating to the collection of debts at the end of the month has been in force ever since the original Ordinance was passed. There is no new principle involved in the amendment. Moreover, it is in accordance with the universal practice in almost all countries and quite definitely so far as the Union of South Africa and Rhodesia are concerned. It is nothing to do with mining, and I suggest that the hon. Member should raise that point when the licensing laws are under discussion. I did not hear either gentleman who spoke for Government mention the fact that this Bill has been referred to the mining companies, and I understand, Sir, that no adverse criticism has been received. The only representations that have so far been made express complete and absolute approval of this amended Ordinance.

THE HON. THE COMMISSIONER OF MINES: Your Excellency, the hon. Member for Nyanza has relieved me of the necessity for replying at length. He has pointed out that this

debateable clause is only a re-wording of a section that has previously received the sanction of this House. I do not consider that anything further need be said on the subject.

The question was put and carried.

The Council adjourned for the usual interval.

On resuming.

BILLS.

THIRD READING.

MINING AMENDMENT BILL.

THE HON. THE COMMISSIONER OF MINES moved that the Bill to Amend the Mining Ordinance, 1933, be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

REPORT OF SELECT COMMITTEE.

THE POLICE (AMENDMENT) BILL.

THE HON. THE SOLICITOR-GENERAL: Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Police (Amendment) Bill. As hon. Members are aware the Police (Amendment) Bill making various alterations to the Police Ordinance, 1930, was introduced into this Council in July last, passed its second reading and was referred to a Select Committee of this Council. The Select Committee met and agreed upon a report which was laid on the table of this Council on the 1st August, 1934. After the report had been laid, representations were made to Government that there were a few further suggested amendments which were desired to be laid before the Committee and, accordingly, the report as then laid on the table was not proceeded with. A further meeting of the Select Committee was held on the 16th October when these further suggested amendments were considered and the final Report was laid last Tuesday in substitution for the report laid on the 1st August. I will now deal with the amendments to the Bill which the Committee recommend.

The first amendment is to clause 2 of the Bill and adds a definition of "police station" to those definitions already in the Ordinance. The reason for this is that clause 28 of the Bill provides that a search may be made in certain circumstances by an officer in charge of a police station within the

limits of such station. Now without a definition of the term "police station" it might well be argued that such an officer could not search outside the actual police station premises. This of course is not the intention of the clause and a definition of "police station" has been inserted in the Principal Ordinance reading as follows:—

"police station" means a post or place appointed by the Commissioner to be a police station and includes any local area policed from such station".

thus making it perfectly clear that the expression "police station" is not confined to the narrow interpretation which might be put upon it were it not defined.

A similar definition of "police station" is already included in the Criminal Procedure Code.

Clause 6 of the Bill, Sir, is amended in a purely formal way, that is to say, by the addition of a bracket and the figure (2) before the word "every" in line 12. The reason for this is that the new section 16 of the Principal Ordinance which is set out in clause 6 of the Bill is divided into sub-clauses and inadvertently the figuring of the second sub-clause was omitted from the Bill as originally drafted.

Clause 8 of the Bill has been amended by deleting the provision contained in section 55 of the Principal Ordinance, making African and Asiatic subordinate police officers eligible for pensions under the Ordinance. With regard to African subordinate police officers, existing financial conditions are such that it is considered that, in the circumstances and for the time being, the gratuity system which is at present in force should continue. With regard to Asiatic subordinate police officers the reference to pensions in section 55 is deleted as being redundant, seeing that the Non-European Officers Pensions Ordinance, 1933, provides that pensions shall only be payable under that Ordinance to those non-European officers who held pensionable posts in this Service on the 30th April, 1933. The pension rights of officers who so held such posts will not be interfered with.

Two further amendments, namely, one to clause 12 and the other the addition of a new clause, are formal amendments necessitated by the change of designation in the titles of the various members of the Force.

There are five proposed amendments to old clause 15, new clause 16, of the Bill.

The first amendment is a clarification of the final paragraph of the new clause 42 (1) as set out in the Bill. This amendment which deals with the remission or alteration by

the Commissioner of any punishment imposed by a Superior Police Officer, is merely putting in a perfectly clear form what is at present slightly vague and uncertain.

The second amendment to old clause 15 of the Bill rectifies a printer's error.

The third amendment to the clause I have mentioned is made for the reason that the provisions of clause 42 (9) as now framed would not appear to grant the Commissioner powers of awarding minor punishments of the nature indicated in paragraph 42 (1). The Commissioner has power to inflict punishments such as a fine not exceeding Sh. 200, stoppage of increment, reduction in rank and dismissal of certain subordinate officers, but as the law now stands he has not got the power to impose lesser punishment such as reprimand or a fine not exceeding Sh. 100, and it is proper and right that he should have these powers.

The fourth amendment is necessitated by the following circumstances. As the law stands at present, the Commissioner of Police may inflict upon an Assistant Sub-Inspector, second grade, such punishments as he may inflict upon subordinate officers below that rank. It is thought proper, however, that he should have the power to inflict the same penalties on an Assistant Sub-Inspector, second grade, as on subordinate officers above that grade. Officers in charge of units already possess these powers, and the omission to give this power to the Commissioner in the Principal Ordinance was inadvertent. This will enable the Commissioner to reprimand an Assistant Sub-Inspector, second grade, if the pettiness of the offence warrants such a course being adopted, whereas at the present time he would have to inflict a more severe punishment.

The fifth amendment is necessitated by the following circumstances. As the amending Bill was originally drafted, it was not proposed to provide for any right of appeal against any sentence of dismissal. The Select Committee, however, received representations which have induced them to provide for a right of appeal for subordinate officers above the rank of Assistant Inspector, second grade, against dismissal by the Commissioner; and paragraph 6 (e) of the report makes provision for such appeal to the Governor in Council.

Finally, Sir, it is proposed to add a new clause to the Bill, to be numbered 32, to provide that the amendments made by this Ordinance shall be embodied in the Principal Ordinance, and that all further copies of the Principal Ordinance shall be printed with all these amendments embodied therein. This

will be a great boon both to the officials concerned with the working of the Ordinance and to the public, who will then have before them the whole law on the subject.

I beg, Sir, to move the adoption of this report.

THE HON. THE ATTORNEY GENERAL seconded.

HIS EXCELLENCY: The question is, that the Report of the Select Committee on the Bill to Amend the Police Ordinance, 1930, be adopted.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, there are two points that I should like the assurance of the hon. member on. One is the point just dealt with, I believe, which has been provided for in the Bill, that is that a police officer should have the right of appeal to the Governor in Council. The other point is that there are a number of fairly senior police officers who are rather worried because they think the terms of service under which they are at present serving are materially altered by this amending Ordinance. I understand that the matter has been discussed by Government, and that that is not to be the case; that is, a man who has a certain number of years' service can elect to come under the new terms or continue under the present terms. But I should like that clearly stated in this House before the Bill is finally passed.

THE HON. F. A. BEMISTE: Your Excellency, I should like it explained that if a man elects to stay under the present terms it will not affect his promotion.

THE HON. THE SOLICITOR GENERAL: Your Excellency, I think I can give the hon. Member the assurance asked for. This was discussed in Select Committee, and I understand that at the time the hon. Member was quite satisfied.

The question was put and carried.

THIRD READING.

THE HON. THE SOLICITOR GENERAL moved that the Bill to Amend the Police Ordinance, 1930, be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

REPORT OF SELECT COMMITTEE.

THE TELEGRAPHIC PRESS MESSAGES BILL.

THE HON. THE POSTMASTER GENERAL: Your Excellency, I move that the Report of the Select Committee on the Telegraphic Press Messages Bill be adopted. Although, Sir, the principle of the Bill to which the report refers is comparatively simple and straightforward, the working out of the administrative details presented some little difficulty. The problem has been to preserve a fair and reasonable balance between those who pay in hard cash for a proprietary right in news and the right, in the public interest, to make bona fide comment on news of general interest. The Committee feel, Sir, that their recommendations offer an acceptable solution of the problem. Our recommendations have, I may say, Sir, been framed after hearing representatives of what may be called opposing interests. The recommendations refer mainly to amendments to clause 3 of the Bill, which is the most important clause. The first amendment proposed in this clause is intended to make it clear that the terms of the Bill refer only to news messages for which payment has been made. And at this stage I would like to emphasize that there is nothing whatever in the Bill which prohibits the use of general broadcast matter which is not reserved as copyright matter. The second amendment to the clause in question is intended, Sir, to extend the period of protection from seventy-two hours to eighty-four hours. This extension we considered reasonable because of the local conditions under which daily newspapers are published. Papers which are published in the morning have, of necessity, and in order that they can be despatched up-country in good time, to be printed overnight. The proposed extension of twelve hours covers this night period and in effect leaves the period of protection at the original seventy-two hours from the time the paper is in the hands of the public.

The remaining amendments to clause 3 are important in so far as they specifically allow bona fide comment on news of the kind protected, after a period of twelve hours. We consider that no harm can be done by allowing such comment. This decision follows, I may say, the practice in South Africa. It will be observed, Sir, that one member of the Committee, Dr. the Hon. de Sousa, has signed the report subject to a reservation. He has set out his reasons clearly in detail and I do not think any comment on them by me is necessary.

THE HON. THE SOLICITOR GENERAL seconded.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to oppose this motion. It has been the practice, as I pointed out before, for a considerable time to adopt the

laws of England to Kenya. It has always been pleaded that the laws at home should be applied not only to Kenya but to East African territories. I understand that this principle has been departed from, and I cannot see how the other side of the House, or whoever happens to be bringing a Bill in, can make use of the argument I have mentioned and yet support a notion like this. It is pleaded that the Bill conforms to South African law, so that we are going from the English law to the adoption of South African law. I understand that the period of protection under copyright law of England is twenty-four hours, and personally I think that adequate. Once news is twenty-four hours old it is stale, and as bad as a bad egg, if not worse. Again, in the last paragraph of their report the Committee recommend this proviso: "Provided further that bona fide comment on such message by a weekly or monthly publication shall not be considered an infringement of this section so long as the said comment does not appear within twelve hours after publication of the said message". I think I am right, but I take it that proviso practically destroys what the Bill is aiming at, so why should the time of the House be wasted in going any further with this motion? I am quite in agreement naturally with the proviso, but as I point out it does destroy the intention of this legislation. The time of the House was wasted on a previous occasion, and again this morning, and I do ask that the copyright laws of England should apply to Kenya—nothing more and nothing less.

MAJOR THE HON. SIR ROBERT DE VIERE SHAW: Your Excellency, as a member of the Select Committee I rise for one moment on account of the remarks of the hon. Member for Trans Nzoia, because I think there is a slight misunderstanding of precisely what we are trying to do under this Bill. We took a great deal of evidence in Select Committee to make certain that we got the matter right, and it was pointed out by representatives of the Press that they were perfectly satisfied that the copyright law of England is applicable in this country in regard to the twenty-four hours' protection. That copyright refers to the actual reprinting of news in one paper by another, but what we are actually trying to do is that we are not interfering with that protection in any way but are trying to give to the actual purchaser of the news protection in regard to the news itself. There is a slight difference there, and my hon. friend will realize, if I have made myself clear, that we are not in fact interfering with the copyright at all. The other question of bona fide comment is very necessary if my first point is taken, because the best we can do is the only fair thing to do, to include the words "bona fide", and then if there is any dispute between the owners of news and the commentator whether the comment

is in fact piracy or not, the matter can be submitted to the courts who will decide. I do not see how we can do more or better than that in framing this legislation. I hope I have met the specific objections of my hon. friend.

THE HON. THE POSTMASTER GENERAL: The remarks of the hon. Member for Ukamba have covered the points raised by the hon. Member for Trans Nzoia, and I do not think that any useful purpose would be served by my going over them again.

The question was put and carried.

THIRD READING.

THE HON. THE POSTMASTER GENERAL moved that the Bill be read a third time and passed.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

REPORT OF SELECT COMMITTEE.

THE TEA BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee on the Tea Bill be adopted. Thanks to the efforts of the hon. Member for Nyanza, I am pleased to be able to tell the House that when the Select Committee considered this Bill we were able to have expert witnesses from the tea industry itself. I think I can say with safety that the Bill and the amendments as they appear to-day not only represent the feelings of the Select Committee on the subject but also to a very large extent those of the tea industry. The actual alterations we suggest to the draft Bill are very small. The point with regard to infilling which was raised in debate on the second reading has been dealt with by deleting the definition of tea planting and leaving it to the common sense of the people who have to administer the Ordinance; if they have any difficulty they can look in the dictionary and see what tea planting means! The second amendment is a very small one, in that we provide that the word "are" should be deleted and the words "may be" inserted. This is merely a drafting amendment. The third amendment gives the Director of Agriculture power to call for certain returns which it was admitted on all sides would be necessary if the Ordinance is going to function satisfactorily. The fourth amendment which was put in at the suggestion of one of those interested in tea consists of the words "materials such as cuttings" after the

word "need" because it was pointed out that in addition to need it was possible to export cuttings, thus contravening the objects of the Ordinance, so that there is a tightening up here. The next amendment gives the Director of Agriculture power to issue permits under certain conditions. As the Bill reads at the moment, he would have power to refuse but he would not be able to grant under conditions. This he will now be able to do. The next is to secure the unfortunate Director because we found the word "shall" used for something he should do and if he failed, by some oversight to do it, he would be liable to severe punishment under the penal section of the Bill. In the next amendment the scope is enlarged of the submission of returns by owner, occupier or manager as well as licensee or permit holder. All the way through we have deleted "of Agriculture" and put in the definition section an interpretation of Director to show that that means Director of Agriculture, thus avoiding a repetition of words. Lastly, but not very important, in clause 11 we give the Director certain powers calling for returns. Actually we did not say in the Bill that returns should have some connection with tea, and certain members of the community thought the Director might call for income tax returns or something of the sort, so that we inserted the words "relating to the cultivation of tea". Those are the only amendments we have made, and as I said before the Select Committee can say that the tea industry here has little objection to offer to the Bill as it stands.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

THIRD READING.

THE TEA BILL.

THE HON. THE ATTORNEY GENERAL moved that the Tea Bill be read a third time and passed.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

SECOND READINGS.

THE NON-EUROPEAN OFFICERS' PENSIONS (AMENDMENT) BILL.
THE HON. THE TREASURER: Your Excellency, I beg to move that the Bill to Amend the Non-European Officers' Pensions Ordinance, 1932, be read a second time. This Bill brings the 1932 Ordinance into line with the European Officers' Pensions Ordinance which was similarly amended in December of last year. Under section 17 of the principal Ordinance,

Your Excellency in Council is empowered to grant to the legal personal representative of the deceased pensionable officer a gratuity of an amount not exceeding one year's pensionable emoluments. The object of the Bill is to provide expressly and beyond question that the gratuity thus granted to the legal representative of the deceased officer shall not be subject to estate duty or to fees and charges by the public trustee if he is in charge of the estate.

THE HON. THE ACTING COLONIAL SECRETARY seconded.

The question was put and carried.

THE GERMAN MISSIONS (REVESTING) BILL.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Bill relating to the re-transfer of property to a certain German mission be read a second time. As is stated in the printed Bill, the objects and reasons for this measure are contained in the preamble of the Bill. Briefly, after the war arrangements were made for carrying on certain German missions in the Ukamba Province and they were vested in a trust for that purpose. It is now desired to cancel that trust and to restore the property to the original mission. The three missions in question, which belonged to the Leipzig Lutheran Mission, are situated in the Ukamba Province, and I understand that arrangements have been made for the sale of one of them to the African Inland Mission which previously held the trust; the other two will presumably some time in the future continue as the Leipzig Lutheran Mission.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THE BANKRUPTCY (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to Amend the Bankruptcy Ordinance, 1930, be read a second time. I think hon. Members will agree with me that this Bill is self-explanatory. The Official Receiver has pointed out that he often has under his control substantial sums of money and he is restricted to the bank rate existing in this Colony for the interest he can get on that money. It is therefore desirable to give him power to invest in safe securities—or as safe as one can get them—and this Bill makes provision for the Official Receiver to invest such sums of that fund as he thinks fit in British Government securities.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

THE DISEASES OF ANIMALS (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to move the second reading of the Bill to Amend the Diseases of Animals Ordinance. As stated in the objects and reasons, the amendments in this Bill bring within the scope of the principal Ordinance certain varieties of birds not at present specifically included, eggs of domestic birds, and also bees. With regard to birds, the main object is the protection of the poultry industry, and in particular it is very desirable there should be legal powers to prevent the entry into this Colony of certain infectious diseases and contagious diseases from which poultry suffer in other countries. With regard to bees, experience in other countries has shown the necessity for legal powers to protect the local bee industry from the introduction of diseases. Power to guard against these infections is provided by the amendments in the Bill.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

THE ASSIGNMENT OF LIFE POLICIES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to provide for the giving of notice to the insurance company concerned on assignment of a policy of life assurance. This Bill has been drafted and presented to this House at the request of the banks. It would appear that in India there has been some trouble with regard to the interpretation of sections 130 and 131 of the Indian Procedure Act, and I imagined when it was put forward that this Bill would be practically an agreed measure. Actually, since the Bill has been before the public, I have had an opportunity of discussing with the hon. the Acting Member for Nairobi South certain difficulties with regard to this assignment, and though I feel sure the Bill will eventually go through, in almost its present form it would seem undesirable to press it through at this stage. I would therefore ask Your Excellency to refer this Bill to a Select Committee in due course. The real difficulty which has necessitated in bringing this Bill is the fact that there are certain floating assignments of policies in various countries which are not registered. The particular case to which I made reference earlier occurred in India last year. I have not actually seen the report of the banks, but I have had it detailed to me by the advocates for the case. It would appear that a man who had an insurance policy gave what is known as a floating assignment, that is on a piece of paper, and assigned his policy to his wife some ten years before, which she kept carefully till the date of his death. In the meanwhile, the owner of the policy became

hard up and took the life assurance to the bank and obtained an advance on the security of his life assurance. On his death the bank sought to take the amount due to them, when there was produced this floating assignment. In effect, the court held that as this bore a prior date it automatically held good against the bank. Clearly something must be done, as if the public wish to be able to raise money on their life assurances the banks will certainly refuse to advance money unless they can be sure they have some security; again, the insurance companies must know where they are for I believe they also do a great deal of advancing money against policies, with the result that under present conditions they themselves find they are not able to take from their own assurance policies the amount they have advanced. There are, however, one or two other difficulties in the Bill, particularly with regard to when it should take effect. As the Bill is drafted, it would appear to take effect from the date of passing, and the hon. the Acting Member for Nairobi South, who has taken a great deal of trouble over this matter, has seen both the insurance companies and the banks, and I think that when the matter is referred to a Select Committee and we have the necessary evidence before us we shall be able to arrive at the correct solution.

THE HON. THE SOLICITOR GENERAL seconded.

THE HON. A. C. TANKHILL: Your Excellency, I should like to endorse what the hon. and learned Attorney General has said. First of all, Sir, I should notify you that I do hold an insurance policy and that I am a director of an insurance company in this Colony. This Bill is as useful to the insurance companies as to the banks, and everybody I have spoken to has laid it down that the sooner we get it the better. But the one difficulty to which the hon. and learned Attorney General referred does merit very serious consideration, and I am delighted to hear from him that it is proposed to refer the measure to a Select Committee who can meet probably the banks and the insurance companies and arrive at some finality. I would like to say that if the Bill remains at it is drafted, it looks as though the protection that the Bill endeavours to provide will not become absolute protection until the death of every policy holder who is living to-day, and that may be sixty or seventy years. Two very minor points which, as the hon. and learned Attorney General says, can easily be adjusted, arise out of section 4. The first one is the one month allowed in which to make necessary alterations to policies; I think it should be three months. The other, a small drafting amendment, is that it should not be necessary for insurance companies who may issue one hundred policies in this country and a million elsewhere to also overprint the

million policies distributed outside the Colony, I beg to support the motion with the understanding that the Bill goes to Select Committee.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL moved that the Assignment of Life Policies Bill be referred to a Select Committee consisting of the following:—

The Hon. the Attorney General, *Chairman*.

The Hon. the Treasurer.

The Hon. Member for Nairobi North.

The Hon. the Acting Member for Nairobi South.

The Hon. Isher DUSA.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

SECOND READING.

THE NATIVE TRIBUNALS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Bill to amend the Native Tribunals Ordinance, 1930. The Bill before the House, I am afraid, is to cover a mistake of mine possibly, as will readily be seen by a reference to the existing Ordinance on the opposite page. The Native Tribunals Ordinance came into effect in 1930, and was to die a natural death at the end of 1933 unless two things happened: that this Council approved of it continuing for a further period and secondly that the Secretary of State approved, when the Governor by proclamation could give effect to the resolution of this House. In fact, the resolution was moved in this House and was passed; in fact the Secretary of State did give his approval. But actually the proclamation was never issued. It is therefore necessary in order to legalise the working of the Tribunals since the first of January of this year to pass this Bill.

THE HON. THE SOLICITOR GENERAL seconded.

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

REV. CANON THE HON. G. BURNS: Your Excellency, I should like to ask for information whether the death of the Bill occurs on the 31st December, 1936, or whether it will continue in force if Your Excellency issues the necessary proclamation?

THE HON. THE ATTORNEY GENERAL: Your Excellency, the answer to the question is in the affirmative, that it does die on the 31st of December, 1936, provided that if this House wishes to continue it it will be necessary to pass a motion to that effect, and also to obtain the approval of the Secretary of State. When those two things have been done, Your Excellency will be able to act and keep it alive by issuing the necessary proclamation, which was not done in this case.

The question was put and carried.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL moved that Standing Orders be suspended to enable two motions to be considered without due notice.

THE HON. THE TREASURER seconded.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as you know, we are always very chary of agreeing to the suspension of Standing Orders, but in this case it would be an unwarrantable waste of public money if we objected, thus insisting on another meeting of Council-to-morrow morning. Therefore, the members on this side of the House do not oppose the motion.

The question was put and carried.

MOTION.

SCHEDULE OF ADDITIONAL PROVISION, No. 3 of 1934.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Schedule of Additional Provision, No. 3 of 1934, be referred to the Standing Finance Committee. Hon. Members will observe that the total additional expenditure for the year amounts to £64,732. Of this sum £18,202 has been covered by savings, leaving a net balance of additional expenditure of £46,530. Of the total sum of £64,732 this House has already, by the approval of previous Schedules, sanctioned expenditure of £33,709. Item No. 7, Famine Relief, £2,500; items 45-50, Mining Department Expenditure, £10,663; and items 66-67, Pensions and Gratuities, £15,000, were approved by motion in this Council on August 2nd, so that the net additional expenditure contained in the Schedules which hon. Members have before them is £12,770. This sum of £12,770 comprises a variety of small items, to which I will not refer now, but all of which will be carefully examined by the Standing Finance Committee. It is hoped that this additional expenditure, which has proved unavoidable, will be covered by general departmental savings.

THE HON. THE TREASURER seconded.

The question was put and carried.

REPORT OF SELECT COMMITTEE.

THE PRESERVATION OF OBJECTS OF ARCHAEOLOGICAL AND
PALAEOLOGICAL INTEREST BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee on the Preservation of Objects of Archaeological and Palaeontological Interest Bill be adopted;

Those of us who had the pleasure of serving on this Committee learnt, I am sure, a great deal yesterday afternoon. We learnt what the meaning of these words in the Bill is, and we also learnt that archaeologists and palaeontologists do not always agree! In fact, I would almost be prepared to say that they never agree on any point whatsoever. We were fortunate in having a witness before us in a member of our Committee who had made a deep study of these particular subjects, and I should say on behalf of the palaeontologists that he has signed this report, but although he has signed it he would like to make certain mental reservations as he thinks he was rather jollied by the archaeologists into going further than he thinks this Bill should go! However, on my assurance that I had no doubt Your Excellency would receive sympathetically any cases of hardship which he found necessary to bring, he has consented to sign this report. The report of the Committee deals with very few matters. The first amendment is the definition of the words "object of archaeological and palaeontological interest". It was pointed out that if we left in, in the last line but one of that definition, the words "or of scientific interest", it will mean that practically all of your beetles and everything else might be considered by some people to be of scientific interest and would automatically become protected under this Ordinance. Naturally this was not the intention of the Ordinance, so we suggest deleting those words. The next small amendment is to section 3 (2) in which the Colonial Secretary is given power to issue a permit. As it reads at present, he can only issue a permit if the applicant is competent both by training and experience. It is pointed out that one might become competent by either, not necessarily both, other two amendments are very small. In section 5, one has to report to both the District Officer and the Colonial Secretary. It is pointed out that it is not necessary to report to both; that the District Officer is in fact the agent of the Colonial Secretary and can forward a report in the ordinary way; it is therefore necessary to delete the latter. In section 6 (2) we make it quite clear to whom the notice of any discovery is to be posted.

25th October, 1934

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THE HON. THE SOLICITOR GENERAL seconded.
The question was put and carried.

THIRD READING:

THE HON. THE ATTORNEY GENERAL moved that the Bill be read a third time and passed.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ATTORNEY GENERAL moved that the Council resolve itself into Committee of the whole Council to consider clause by clause the following Bills:—

The Non-European Officers Pensions (Amendment) Bill.

The German Missions (Revesting) Bill.

The Bankruptcy (Amendment) Bill.

The Diseases of Animals (Amendment) Bill.

The Native Tribunals (Amendment) Bill.

The Cotton (Tax) (Amendment) Bill.

THE HON. T. D. H. BRUCE seconded

The question was put and carried.

The Council went into Committee.

In Committee.

The following Bills were considered clause by clause:—

The Non-European Officers Pensions (Amendment) Bill.

The German Missions (Revesting) Bill.

The Bankruptcy (Amendment) Bill.

The Diseases of Animals (Amendment) Bill.

The Native Tribunals (Amendment) Bill.

The Cotton (Tax) (Amendment) Bill.

THE HON. THE ATTORNEY GENERAL moved that the following Bills be reported to Council without amendment:—

The Non-European Officers Pensions (Amendment) Bill.

The German Missions (Revesting) Bill.

The Bankruptcy (Amendment) Bill.

The Diseases of Animals (Amendment) Bill.

The Native Tribunals (Amendment) Bill.

The Cotton (Tax) (Amendment) Bill.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY informed Council that these Bills had been considered clause by clause in committees of the whole Council and had been reported to Council without amendment.

THE HON. THE ATTORNEY GENERAL moved that each of the following Bills be read a third time and passed:—

The Non-European Officers Pensions (Amendment) Bill.

The German Missions (Revesting) Bill.

The Bankruptcy (Amendment) Bill.

The Diseases of Animals (Amendment) Bill.

The Native Tribunals (Amendment) Bill.

The Cotton (Tax) (Amendment) Bill.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

The Bills were read a third time and passed.

VALEDICTORY.

HON. H. S. SCOTT.

HIS EXCELLENCY: Hon. Members, before I adjourn I am sure you would wish me to express to Mr. Scott our warm appreciation of all the valuable work he has done for education in Kenya. In addition to this work, he has been a wise and painstaking adviser to the Government in Executive Council and a most able and trenchant debater in this honourable Council. Our heartfelt sympathy goes out to Mrs. Scott in her illness, and I am glad to hear this morning such good news about her condition. I shall greatly miss these two friends and I know that many, many others will miss them also.

May I, on your behalf and on behalf of the Colony, extend to Mr. and Mrs. Scott our heartiest good wishes for their future happiness and prosperity.

LIEUT.-COL. THE HON. LORD FRANÇOIS SCOTT: Your Excellency, may I with your permission associate myself on behalf of the European Elected Members of this Council with all that you have said. The hon. Member Mr. Scott has had to carry out his onerous duties through a very difficult time, and I think all those of us closely associated with his work know how he has thrown himself heart and soul into the welfare of education in this Colony. We shall, as you say, Sir, miss him and Mrs. Scott very much, and we on this side of the House would like to associate ourselves with all you have said.

THE REV. CANON THE HON. G. BURNS: Your Excellency, may I be permitted on behalf of the natives, for whom the hon. Member Mr. Scott has done so much with regard to education since he came to the Colony, to express a word of appreciation. I should like to associate myself with what you have said, Sir, and to include in my remarks Mrs. Scott.

THE HON. J. B. PANDYA: Your Excellency, I would also associate myself with your remarks, Sir, and with those of the leader of the European Elected Members. I do feel that the hon. Member Mr. Scott has done very good service to Indian education as well, and has removed one of the biggest troubles that we had at Mombasa. To both Mr. Scott on his retirement and Mrs. Scott we wish success.

THE HON. H. S. SCOTT: Thank you very much.

The Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1934

FIFTH SESSION

TUESDAY, 20th NOVEMBER, 1934

The Council assembled at 11 a.m. on Tuesday, 20th November, 1934, at the Memorial Hall, Nairobi, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Ex-Officio Members:

RALPH HENRY WALTER WISDOM, Acting Director of Education.

SIR GODFREY DRAN RHODES, General Manager, Kenya and Uganda Railways and Harbours.

PRESENTATION OF INSIGNIA.

On behalf of His Majesty the King, His Excellency presented the Insignia of an Officer of the Most Excellent Order of the British Empire to:—

C. N. LEWIS, Esq., O.B.E.,

and the Insignia of a Member of the Most Excellent Order of the British Empire to:—

GOWARDEAN LAL, Esq., M.B.E.

COMMUNICATION FROM THE CHAIR.

His Excellency made the following Address from the Chair:—

HONOURABLE MEMBERS OF COUNCIL,

Before coming to the main subject of my address this morning, namely, the Budget proposals for 1935, it would perhaps be convenient if I first referred to other matters of general interest.

I received the Report of the Economic Development Committee early this month. It is now in the hands of the Government Printer and will be issued for publication as soon as possible. It is a most instructive report and when you have read it you will, I know, agree with me that our thanks are due to Mr. Sandford, the Chairman, to the members of the Committee and to Mr. Liversage, the Secretary. They have had a difficult task as the terms of reference ranged over a very wide field. When it has been published I rely upon your co-operation to give full consideration to its recommendations and to see what effect can be given to them. I do not propose at this stage to refer in detail to the recommendations made, but I may mention that, as was to be expected, some of the proposals contemplate increased expenditure from public funds. In particular the Committee has recommended an increase in staff with a view to the stimulation of production in the Native Reserves.

I will now refer briefly to the agricultural position. Owing to recent rains the outlook has improved considerably. The condition of the coffee trees in the main coffee areas has improved and the yield should be increased accordingly. Recent rains have also been very beneficial to later-sown cereal crops and good yields should be obtained in many areas. Cereal prices have declined somewhat during the past few weeks and former hopes of good prices have not been maintained. The London price of coffee remains at a low figure and the market is quiet and demand poor.

The policy with regard to native agriculture is definitely laid down and varies from area to area according to such factors as altitude, rainfall, fertility of the soil and characteristics and density of population.

Each Province is divided into a number of natural zones, based on these factors, and the potentialities of each zone have been surveyed for estimation of volume of foodstuffs and cash crops capable of being produced; the results of these surveys form permanent records on which the policy in each zone is based.

At the same time all practicable steps are taken to increase the production of the suitable crops within the potentialities of the zone.

The value of the work of increased production has been masked during the last few years by the deprivations of locusts and by drought, as well as by the withholding of produce from markets by natives owing to the exceptionally low prices. Results will be revealed with a return to normal seasons and more so with a recovery in prices. Already in 1934, the surplus maize and beans in the Nyanza and Central Provinces Reserves is higher than during any previous year, and the improvement in quality is marked. In respect of purely export products which have not suffered from locust destruction, the production of wattle bark has doubled, and of cotton trebled, within the last three years.

Legislation exists prohibiting the purchase by, or sale to, traders of inferior produce. Inspection services exist to ensure that the law is observed and, as a result, during the last three years the improvement in the quality of produce has been rapid. It has been estimated that in respect of maize and wattle bark alone this enhanced quality has increased the money return to the native growers by £25,000. Other cash products which show improvement are cotton, beans, groundnuts and sisinn.

It has been possible to apply the principles of organized marketing to cotton, cashew nuts and wattle bark; the first two by means of protection which has the effect of exclusive licences, and in the case of wattle bark by the employment of an agent to purchase bark at fair market value, without any protection against competition.

Formerly cotton areas were confined to districts adjoining the Lake and the Coast. Recently, development of cotton in the lower parts of the Central Province has been undertaken and it is expected that the development will shortly justify the erection of ginneries at Kitui, Embu and possibly Meru.

The organisation of a cashew nut industry at the Coast was commenced in 1931. Since then some hundred thousands of trees have been planted and machinery imported for the preparation of the nuts and for packing for export. This industry is very promising and the tree appears to provide a certain cash crop to the natives each year.

Improved varieties of tobacco were introduced in 1931 and trials have proved successful. Present production in Central Kavirondo is already such that it is hoped that a tobacco manufacturing company of standing may be induced

both to render assistance in the matter of proper leaf preparation and to purchase the leaf when ready for the market. Trials at Meru have also proved successful, but development will not be undertaken until the interest of a tobacco firm is assured. The Bagana Valley is also capable of producing large quantities of tobacco of the particular type which has been found to be profitable both in Uganda and Nyasaland.

A native coffee industry has been commenced, in a small way, in South Kavirondo and Meru, and planting out from nurseries will shortly begin.

I have already referred to the Report of the Economic Development Committee. If we can possibly give effect to the recommendation made to provide additional staff for the Native Reserves I feel that the money will be well spent and that it will bring in an adequate return in the form of increased production which is so very necessary at the present time.

The conditions of the roads serving the Kakamega mining area has been a matter of concern during the year. The road from Kisumu to Piccadilly Circus now carries an average of 245 vehicles per day; and on occasion between 300 and 400 vehicles have been recorded. The soil and sub-soil are of a clayey character, and the rainfall is high. It has been proved by experience that improvement of the road by drainage and treatment with soft stone is inadequate to enable the road to stand up against this volume of traffic. I am advised that nothing less than a solidly constructed road, treated with bitumen and provided with good foundations, will carry the traffic, much of which consists of heavily laden lorries. The first seven miles of the road from Piccadilly Circus to Butere are of a similar character and are subjected to equally heavy traffic. A considerable sum will be required for constructing the road from Kisumu to Piccadilly Circus and the first seven miles of the Piccadilly Circus-Butere Road. A road will also be required to enable heavy material and plant to be conveyed to mines in Area No. 5 and Lotgorien from a pier to be constructed by the Kenya and Uganda Railways and Harbours Administration at Malindu Bay. As the nature of the country and the soil are better than in the Kakamega area, and the rainfall is smaller, the Central Roads and Traffic Board considers that a much smaller sum will be adequate for the requirements of this road for the present. This sum would be used principally for the construction of bridges and drains of permanent type, and the alignment selected would be suitable for the construction of an all-weather carriage-way should this become necessary in the future.

An equally difficult problem is that of adequate communications between Lumumba and Kericho. Here again the soil and climate are of such a character that only a solidly

constructed road would be satisfactory for the conveyance of heavy traffic. This traffic is largely in connection with the tea industry at Kericho which has been developing rapidly during the last few years. Although the Economic Development Committee has recommended that this road should be maintained from revenue, the Central Roads and Traffic Board, on the other hand, has advised that a substantial sum will be required properly to construct it. The provision of funds to finance this important work has been receiving our earnest attention.

Throughout most of the Colony the rainfall has been light, and most of the roads have remained passable. On the Coast and in Buk-Turkana, however, heavy rain caused serious damage, and traffic was interfered with by washways. The road from Mombasa to Malindi is carrying lorries in increasing numbers, and in consequence it is difficult to maintain the road in a suitable state of repair. It is proposed to increase the allotment for maintenance of this road, the required sum being found from savings on certain roads up-country, the allotments of which can be proportionately reduced.

Progress has been well maintained by the contractor on the new Law Courts at Nairobi, and it is hoped that this work will be finished in April next year.

The proposals for the inauguration of the European Local Civil Service, contained in Sessional Paper No. 1 of 1934, and endorsed by this House, have been approved in general terms by the Secretary of State, although correspondence is still proceeding on certain matters of detail. It is intended that the Service shall come into being with effect from the 1st January, 1935, but, for reasons given in the Memorandum, it is not reflected in Draft Estimates, save that provision is included for the Provident Fund.

The Report of the Civil Service Board on the proposed terms and conditions for an Asian Local Civil Service will be laid on the table, and its adoption, subject to one minor amendment, will be moved during the course of the present session.

As regards the Railways and Harbours, the General Manager, when introducing his budget, will give the House full details regarding the present financial position and prospects for next year. It will only be necessary for me, therefore, to deal with this matter in very general terms.

It may be stated that the present position is satisfactory. Railway Revenue at the end of October was some £78,666 in excess of the amount collected during the same period last

year, while Expenditure has been kept down below the estimate. It is anticipated, therefore, that the final position will be at least as good as last year.

That earnings have been so consistent at a time such as the present is a matter for satisfaction. This position is, of course, largely due to the continuation during the year of the protection afforded to the Railway against wasteful road competition and to the excellent cotton and coffee crops that have been exported from the neighbouring territories of Uganda and Tanganyika, and illustrates once more the economic interdependence of these three territories and the value of the close co-operation between them.

While the earnings as disclosed by the figures available to the end of October give cause for quiet confidence, the main reason for the sound position of the Administration is, of course, the fact that costs have been kept at a very low figure. As explained by the General Manager in his Report for the year 1933, he aims at keeping working costs, exclusive of Depreciation, in the neighbourhood of 50 per cent of the total earnings and by this means to build up a Reserve which, it is hoped, will avoid any repetition of the recent crisis. The building up of this Reserve is in my view of great importance.

It is a cause of satisfaction to me personally to feel that the drastic steps taken by the management during the past three years to achieve economical working, which received the support of the two Advisory Councils and my support as High Commissioner, have in the end proved so efficacious.

The success of these measures has, too, been a cause of satisfaction to the Government of Kenya and, no doubt, to the Government of Uganda, as the anxiety caused by the possibility of the Railway and Harbour Administration failing to fulfil their obligations to the Governments is now completely removed.

Among the Bills which will be submitted for the consideration of hon. Members during the sitting will be a Bill to amend the Licensing Ordinance; a Bill to provide for a Provident Fund in respect of the Asian Local Civil Service, similar to that which this Council has passed in respect of the European Local Civil Service; a Bill to consolidate and amend the law relating to the sale and control of liquor, which follows the recommendations of the Committee whose report was recently adopted by this House; and a Bill to define in more precise terms the definition of the expression "native", a matter which, as hon. Members know, has proved contentious in the past.

I now come to the general financial position; but before touching on next year's Budget and prospects I will put before you the 1934 position as I see it.

This time last year I was able to announce that the deficit of £176,000 originally budgeted for in respect of 1933 could probably be reduced to £85,000. When the final figures were made up after the close of the year, the actual deficit was only £45,000. As you are aware, it is impossible accurately to assess a deficit or a surplus until the accounts are finally closed. Revised estimates of revenue, however carefully prepared, must contain an element of guesswork, owing to the fact that it is impossible to prejudge departmental savings, and revised estimates of expenditure cannot be regarded as firm figures. Comparing the estimated position with the actual position at the end of each year, the balance, due principally to unanticipated departmental savings, was greater than that estimated by £51,000 in 1931, by £110,000 in 1932 and by £39,000 in 1933. What departmental savings will amount to in 1934 I am unable to say, but in the revised estimates for the year they have been assessed at a tentative figure of £15,000, to which must be added a sum of £29,000 already earmarked by Heads of Departments. Naturally the continued paring of Expenditure Estimates tends to make these savings less each year. However, the fact that there will be departmental savings should be borne in mind in connection with the figures which I will lay before you.

Now, if you refer to the 1934 Estimates which were presented at the sitting which commenced on the 28th November last year, you will see that we budgeted for a surplus of £3,439 (raised to £10,392 in Select Committee) which was not unsatisfactory considering that there had been a deficit in round figures of £170,000 in 1929, of £200,000 in 1930, of £150,000 in 1931, of £110,000 in 1932 and of £46,000 in 1933.

On the Revenue side the Estimates were considered by all to be sound and framed on conservative lines.

On the Expenditure side the estimated surplus had only been achieved by adhering rigidly to a policy of stringent economy, the net result being that, on a fair basis of comparison, the Estimates, as finally sanctioned, provided for a total expenditure of £10,247 less than the figure recommended as a basis of expenditure by the Expenditure Advisory Committee. I would ask that this be noted especially by those who state that Government had made no effort to reduce our annual commitments to accord with the changed conditions arising out of the world-wide depression. The Expenditure Advisory Committee, composed of three officials and three

unofficials, in whom the country had every reason to have confidence, were by their terms of reference asked to reduce the Government machine to a state of only reasonable efficiency and to ascertain the reductions which would have to be made to stabilize this position during the period of the following four years. Their laborious task was most thoroughly performed; they held 102 meetings between the 9th July, 1932, and the 19th February, 1933, and not only did they examine numerous witnesses, but they invited the public to submit to them memoranda for their consideration.

If hon. Members will refer to "Hankard" they will see that this 1934 Budget received a kindly reception. The Noble Lord the Leader of the European Elected Members was good enough to say that Government had made an honest attempt to meet the requirements of the situation. The hon. Member for Nairobi South (Captain H. E. Schwartz) went even further, and I beg leave to read to you an opening paragraph of his speech:—

"Your Excellency, the Noble Lord said at the beginning of his speech, and I agree with what he said, that this Budget could be looked upon as an honest and genuine attempt by Government to meet the situation in which the Colony finds itself. I should like, if I may, to refer in support of that contention to the motion which was moved on the 9th of May in this House by myself with the consensus of Elected Members—

"That this Council requests Government in the preparation of the draft Estimates for 1934 to implement the recommendation contained in paragraph 461 of the Report of the Expenditure Advisory Committee and to reduce the expenditure on reducible items to £1,500,000."

The figure actually appearing in this estimate of reducible items chargeable to that figure is £1,541,000. From that latter has to be taken approximately £9,400 in respect of the continuation of the combined Finger Print and Registration Department, which had been recommended for total abolition, and a further sum of £5,500 caused by the introduction of the Central Revenue Department, totalling in round figures £15,000, thereby reducing the amount appearing in this Budget to £136,000 only more than the £1,500,000 referred to in my motion. That figure is a little under 2 per cent of what we requested Government to bear in mind during the course of the Budget preparation. I would remind Your Excellency and hon. Members that that figure of £1,500,000 was calculated on the basis of the recommendation of

the minority report of the Expenditure Advisory Committee signed by the Noble Lord and Major Cavendish-Bentick, which recommended a further general cut of 5 per cent on the recommendations of the main committee. I think that to reduce our expenditure to within 2 per cent of the recommendation of the minority report of the Expenditure Advisory Committee and the request of this Council in May is an achievement for which Government can justly take full credit."

Having brought these facts to the recollection of hon. Members I will endeavour to show how far the hopes we so confidently held in November last year have been realized, and in what direction we have been disappointed. In analysing the position, I submit, we should carefully distinguish between purely temporary local misfortunes such as drought, locusts—and their attendant evil, famine—and those which we, in common with the rest of the world, have to bear owing to the depression. We cannot be expected to make undue allowances year by year in respect of temporary misfortunes, for surely under the ordinary law of averages we must be allowed to contemplate a time when we shall get some relief from locusts and drought which have so sadly affected our calculations during the past few years.

As regards the world-wide depression, which continues to be by far the most formidable obstacle to a return to healthy development and prosperity, full account of this paramount factor must naturally be taken when framing our Budgets. It must be assumed that the Expenditure Advisory Committee also did so when they put forward their four-year plan.

The revised Estimates of revenue for 1934 stand at a figure of £3,157,595, showing a fall of £41,378 as compared with the original estimates. Substantial shortfalls are expected from Customs and from Native Hut and Poll Tax, which have been partially compensated by increases in other items. With reference to Customs, the estimate has been reduced from £625,000 to £600,000 in the light of actual returns over the first seven months of the year. Under Native Hut and Poll Tax there is an estimated shortfall of £42,000, which is due in part to adverse conditions in the Coast Province and the Masai District where drought and locusts have caused famine and distress, and where relief by way of remission and reduction of taxation became imperative. The position in other native areas is still somewhat obscure owing to the lateness of the seasons, but information at present available is to the effect that the total amount collected by the end of the year is unlikely to exceed £530,000 as compared with the original estimate of £571,000. The anticipated

shortfall in Customs revenue must be attributed in main part to adverse local conditions and to the low prices ruling overseas for many of the Colony's principal exports. Returns covering the first nine months of the year show that the value of domestic produce exported from Kenya dropped from £1,770,000 in 1933—which was itself by no means a good year—to £1,400,000 in 1934. This heavy fall of £370,000 is to a considerable extent accounted for by a decline in yields of various crops, particularly coffee and maize, due to adverse local conditions, the most important of which was drought.

On the Expenditure side, the revised estimates of expenditure, after taking into account savings estimated to amount to £41,000, total £3,212,000. This figure exceeds by £24,000 the original expenditure estimate.

Comparison of the revised estimates of expenditure with the revised estimates of revenue for 1934 therefore discloses an estimated deficit of about £54,000 after making some, but probably not full, allowance for departmental savings.

Nevertheless a deficit for the sixth year in succession must be anticipated, and this deficit must be attributed not only to a shortfall in revenue but also to certain emergency expenditure which has proved entirely unavoidable. Substantial supplementary expenditure has been voted by the House in connection with famine relief, the locust campaign, pensions and gratuities, writing off bad debts incurred in connection with the Agricultural Advances Scheme and other items.

Turning to the 1935 Estimates, which will be laid on the table this morning, I must first refer to certain public speeches and to allusions in the Press to the effect that Government is gambling on the prospects of the gold mining and other industries. Although I have the greatest faith in the future of Kenya, I have consistently set my face against any such gambling.

The Government policy is and has been to keep expenditure down to a figure which will just support a reasonably efficient machine—that is, down to a level which formed the basis of the recommendations of the Expenditure Advisory Committee. In my judgment it would be equally wrong at the present time to gamble the other way and to mutilate the machine to such an extent that development and progress would be retarded. Those who have closely studied the Report of the Expenditure Advisory Committee will, I am sure, realize that any substantial economies beyond those recommended must entail the curtailment or elimination of essential services which, judging by the continued requests I am receiving from

the unofficial community for further expenditure, would be resented by the country at large. The following is what the Expenditure Advisory Committee had to say on this point:—

"It must at the same time be evident to all who have the interests of the Colony at heart that it would be a council of despair that evils produced by several years of expenditure beyond our means, culminating in a cataclysmic depression, must be counteracted by the sudden destruction of services on which the whole organization of the Colony depends."

Hon. Members will observe from the draft Estimates that a small surplus of £2,520 is provided for. The gross estimate of Expenditure is £3,237,811, being an increase of £30,770 over the sanctioned Estimates for 1934. There is, however, an increase in estimated reimbursements and cross entries, and net expenditure shows an increase of £47,467 over last year's figure.

At an early stage in the preparation of the Budget it became apparent that very substantial increases in what I may term fixed charges were inevitable if the Colony was not to become a defaulter. There is a nett increase of £37,495 in respect of Pensions and Gratuities, due partly to the fact that in 1934 we had underestimated our requirements, and partly because it is now necessary to make provision for the two Provident Funds which are being started in connection with the European and Asian Local Civil Services. As hon. Members know, the whole object of these Provident Funds is to reduce expenditure on Pensions in the future, but unfortunately they postulate an increase at the moment. Again, provision for Sinking Fund Contributions in respect of the 1930 Loan was made in respect of only half of this year, whereas provision for a whole year, entailing a gross increase of £17,000, has to be made in 1935. The total nett increase on account of these fixed charges amounts to £57,965.

This entirely unavoidable increase rendered the preparation of the Expenditure Estimates a matter of the utmost difficulty. They have been thoroughly examined, item by item, and wherever a reduction has proved at all possible, that reduction has been made. The result is that, leaving out fixed charges, and despite the necessity of providing for normal increments and for certain other unavoidable increases, as for instance in the Police Vote, we have been able to effect a further nett reduction in nett expenditure of £10,408 and we are £16,338 below the comparable Expenditure Advisory Committee figure.

I have already quoted from the speech of the hon. Member for Nairobi South in which he referred with satisfaction to the fact that expenditure on reducible items was a little under

2 per cent over the figure of £1,500,000 calculated in accordance with the recommendations of the Minority Note to the Expenditure Advisory Committee's Report, and paragraph 13 of the Memorandum on the Estimates shows that the corresponding figure for 1935 is, despite the increases to which I have referred, within a fraction over 1 per cent of the Minority Note figure proposed by the two representatives of the European Elected Members. These figures speak for themselves and call for no dressing on my part.

Hon. Members will see that no provision is made for any payment into the Native Betterment Fund. Lord Moyne recommended that that Fund should be started, and that into it should be paid half the average receipts from Native Hut and Poll Tax over the previous period of six years, and from it should be met certain expenditure on Native Services. That recommendation has been specifically approved by the Secretary of State. Examination of the proposal, however, showed that there were a number of practical difficulties inherent in Lord Moyne's scheme and consequently in 1933 a Select Committee of this House was appointed to examine how effect could best be given to his recommendations. That Committee reported, and the Report was laid on the table, but owing to the financial position of the Colony inauguration of the Fund was, with the approval of the Secretary of State, postponed until 1935. On account of our continued financial difficulties and for no other reason, the Secretary of State has, at my request, agreed that the setting up of the Fund should be further postponed until 1936.

Before commenting on the Revenue Estimates I consider it desirable to examine the effect of the withdrawal of the Income Tax Bill in 1933 and the substitution therefor of what are called the Alternative Taxes. I do so because of the necessity of including some of these taxes in the draft Revenue Estimates now before you. To refresh the memories of hon. Members, I should like to give a short narrative of the events which led up to the adoption of these Alternatives.

In the early part of 1933, after the Report of the Expenditure Advisory Committee had been issued, responsible and thinking men in the Colony realized, from the figures shown in paragraph 44 of the Report, that additional taxation was necessary if our Budget was ever to be balanced. The paramount importance of balanced Budgets was generally accepted. Nothing, in so far as I am aware, has happened between then and now to justify any change in such sane views. Customs duties could not be relied upon to fill the gap, as apart from the violent fluctuations in yield to which this form of taxation is inherently liable, a system of relatively high

duties coupled with the full acceptance of the principle of protection for 'internal' production must inevitably cause a diminution in the flow of revenue from this source.

The Government, having reviewed all the circumstances, decided to accept Lord Moyne's advice and introduce Income Tax, a measure calculated to bring in, in a full year, from £120,000 to £130,000. We considered that it was an equitable means of raising this revenue as it would not have increased the obligations of those without chargeable incomes and those with chargeable incomes would pay only in accordance with their capacity. Various reliefs were in addition included, especially those in regard to families; considerable sums would also accrue from absentees—including pensioners—receiving money from Kenya, and from the growing number of Companies. The system of relief from double taxation would have prevented undue hardship, the ultimate result being a deflection into the proper channels—that is, the Kenya Government coffers—of revenue accruing from the taxation of incomes derived in Kenya but spent outside the Colony. This object cannot be achieved by any form of Poll Tax, which, by its nature, must be dependent on residence, but must be applied by some form of imposition which relates the tax to the income and not to the poll. We believed, and I still believe, that a very considerable number of people in this Colony are not paying their fair share of taxation, and I am satisfied that this state of affairs must continue until some change in our fiscal system is made.

The imposition of Income Tax would, we hoped, not only have provided the additional revenue which was needed to balance the Budget, but would also have enabled the Government to review other forms of petty or irksome taxation, of which in my opinion none is so irksome as the existing high tax on petrol, which hits the poor man who nevertheless has continually to use motor transport in connection with his business. However, at that time the country appeared to view Income Tax with displeasure and an impasse seemed likely to occur.

Towards the end of February, the Nairobi Chamber of Commerce courageously stepped into the breach and put forward proposals for missing an equivalent or greater amount of revenue in what they thought would be a more acceptable form.

On the 9th March I informed the Noble Lord the Leader of the European Elected Members that I intended to ask the Secretary of State to withhold advising his Majesty to assent to the Income Tax Bill until the Alternatives I have just referred to were considered. The Noble Lord expressed to

me his relief and pleasure on hearing of this possibility of reaching a satisfactory settlement of the controversy, which was causing unrest in the country—a settlement which he trusted would be in accordance with the wishes of the people provided they came forward with a genuine desire to assist Government in achieving balanced Budgets.

I then appointed a representative Committee to examine the proposals of the Nairobi Chamber of Commerce, and on the 13th April I received their Report recording the opinion that after examining thirty-one suggestions they advised that the following alternative means of raising revenue were worthy of consideration; in each case the approximate yield in a full year was given:—

Alternatives	Approximate Yield in a full year
Tax on the Registration of Companies ...	£11,000
Trade Licences ...	*£92,000
Stamp Duties on Bills of Exchange and Promissory Notes ...	£7,000
Package Tax ...	£17,500
Landing Tax on Passengers ...	£9,500
Graduated Non-Native Poll Tax...	£35,000

making a total of £172,000, a very satisfactory figure.

On reading the Report I found it hard to believe, from data in my possession, that so large an additional sum as £92,000 could be raised from Trade Licences and I referred the matter back to the Committee. As a result the figure for Trades Licences was reduced from £92,000 to £31,000. It should be noted that Trade Licences for many years formed part of our permanent taxation—the Committee's proposals merely increased the yield.

The final result of the deliberations of the Alternative Revenue Proposals Committee was that the original total of £172,000 was reduced to £111,000, which was still a satisfactory figure and one comparable with the amount expected from Income Tax.

On the 25th April I received a letter from the Acting Chairman of the European Elected Members' Organization, which I will read to you:—

"Your Excellency, I am desired by Elected Members to inform you and to ask you to be kind enough to inform the Secretary of State that, after a full and careful

*Additional to the £20,000 already received under the existing Licensing Ordinance.

consideration of the Report of the 'Alternative Proposals' Committee, they are unanimously of opinion that the proposals set out on Page 43 of that Report will be infinitely less unacceptable to the Colony generally than the imposition of an Income Tax.

Without dealing with these proposals in detail Elected Members consider that the incidence of such proposals will fall on those least able to bear them and that there is very much less chance of such incidence being passed on than would be the case if Income Tax were imposed.

The commercial and professional community, who are prepared to accept the new proposed taxation in order to bridge what they confidently believe to be a temporary gulf, would quite clearly be less disposed to pass the burden on to the consumer than would be the case if they were forced to submit to taxation to which they are opposed and to which they have not consented.

Moreover, the Alternative Proposals will not inflict a further burden on the impoverished farmer who would be severely handicapped if the present proposal to double the Poll Tax becomes law, for, although extra taxation of Sh. 30 per annum may not sound a big sum, it is, nevertheless, a sum quite beyond the capacity of many to pay.

Elected Members understand that the figure given by the Committee of £92,000 as being likely to be derived from increased Trades Licences may be found to be a very much over-estimated one, but, even presuming that this figure is reduced to £25,000, still the gross amount derivable from the sum of the alternatives suggested is at least equal to the amount estimated to be produced by Income Tax and the net amount is considerably more since the cost of collection will be negligible.

I am requested to impress upon Your Excellency and the Secretary of State that it is not, in the opinion of Elected Members, unreasonable to suggest that people who have to pay the extra tax required should have the right to pay it in the manner most acceptable to them, provided that the incidence is, as in the present case, equitable and that the sum to be raised is equivalent to that contemplated by Government under the proposed Income Tax Bill.

As Your Excellency is aware, certain Elected Members hold the view that the financial position of the Colony and its people is such that no further taxation is possible or can be justified and I have been asked to make

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it clear that, by subscribing to the terms of this letter, such members in no way withdraw from the position and still maintain that, if the Budget is to be balanced, it must be by further drastic reduction of expenditure and not by the imposition of fresh taxation.

As the Honourable Member for Plateau South is no longer a member of this Organization, he must not be taken as in any way bound by the terms of this letter.

(Signed) H. E. SCHWARTZE,
Chairman,
Elected Members Organization.

On the 29th April I forwarded a copy of this letter to the Secretary of State, together with the Report of the Committee.

As the record of the debates on the Income Tax Bill which took place in Council between the 31st March and the 12th April had already been sent to him, he thus had before him a complete picture of the problem upon which he had expressed himself willing to decide. Hon. Members will thus see that a very genuine effort had been made to find a way out of the difficulty which had arisen.

The decision of the Secretary of State was conveyed in a despatch dated the 7th June, 1933, which was included in a "Sessional Paper" laid on the table of this House. I propose only to refer to certain passages of the despatch which read as follows:—

"The necessity of taking adequate and immediate steps to restore the financial position in Kenya is universally accepted. It is also generally and rightly accepted that this position must be met by a combination of economy and taxation. Both subjects have engaged and are engaging the earnest attention of yourself, your officers, and the Legislative Council. Great economies have already been made, and I appreciate the constant consideration which is being given to this side of the question. But when every step has been taken, which is practicable, to ensure economical administration in every field, it is clear that the finances of the Colony cannot be restored without resort to fresh taxation. You have referred for my consideration and decision what further measures of taxation can best be taken.

I appreciate that the alternative proposals have been put forward as a genuine effort to aid Government by constructive suggestions. I am also impressed by the fact that there is a *prima facie* case for supposing that they

will produce a total of new revenue falling not far short of the anticipated yield of income tax. It has been estimated that income tax may produce £130,000 in a full year, while the yield expected from the alternative proposals varies from £111,000 to £94,000 in a completed financial year.

In all the circumstances which I have reviewed I think it right that a full and fair trial should be given to the alternative measures, which I have reason to believe will be more acceptable to the taxpayers.

If expectations are fulfilled and the alternatives produce adequate revenue and prove generally acceptable in operation, their introduction will have been justified, and the needs of the financial situation will have been met. If, on the other hand, these hopes are falsified by events, and if it is found in practice that the alternative taxes do not yield an adequate revenue, or are felt by the majority of taxpayers to be less acceptable than an income tax, then these alternatives will have failed in their purpose. But in that event they will have failed after a full trial of their adequacy and convenience as a substitute for a system of income tax."

As I read the despatch, the alternatives were to be given a full and fair trial; they were not alternative to nothing, but alternative to income tax. No specified period of trial was indicated but, as in the case with the levy on official salaries, certain implementing ordinances were only made operative for a year and would have to be re-enacted before the close of the year if still required.

Now it never occurred to me nor, I feel sure, has it occurred to the Secretary of State, that the alternatives could be abandoned without the introduction of income tax or other measures designed to provide sufficient revenue to meet requirements. I therefore listened with some surprise to a statement made in this House on the 10th May this year by the Noble Lord the Leader of the European Elected Members, which I will read:—

"I have been asked by European Elected Members to take this opportunity of speaking on this motion, as it seems the only opportunity possible of making their position quite clear to Government with regard to what is generally known as 'alternative taxes'.

As will be remembered, five alternative taxes were originally proposed by the Committee and accepted by Government, namely: Non-Native Graduated Poll Tax, Package Tax, Landing or Exit Tax, Tax on Formation

of Companies, Licensing Tax. Of these, the Landing or Exit Tax has never been put into force, and need not be further considered. The Companies Tax was never intended to be a temporary measure, and will presumably remain on the Statute Book in its present form. The Licensing Ordinance was also not introduced as a temporary measure, but there was a quite definite understanding that a committee should be appointed during the course of this year to report on its workings in the light of experience, and to suggest such amendments as would make it more scientific and equitable, and we have heard this morning that Government will appoint a committee to deal with this Ordinance.

With regard to the other two taxes, i.e. Graduated Poll Tax and Package Tax, it was made abundantly clear by Members on this side of the House that they accepted these taxes on behalf of the Colony on the distinct understanding that they should operate for a period of two years only, in order to give Government a reasonable opportunity of balancing the Budget, and would then be withdrawn, and this understanding was accepted by Government, which is shown by the fact that the Bills themselves provide for their demise at the end of 1934.

Elected Members wish to make it quite clear to Government that they have not retreated from the position they took up last year, and that they hold that these two Bills must automatically cease to operate as from the end of 1934, and that in place of the present Graduated Poll Tax Ordinance the former Poll Tax Ordinance, which was repealed by the present Ordinance, should again be brought into force.

Elected Members have thought it only right that their attitude should be made known to Government at the earliest possible moment, and in order that Government should be aware of it when framing the Budget for 1935.

I cannot find anything in the despatch from the Secretary of State or in the debates in this House that would warrant the supposition on which the Noble Lord's statement is based. On the contrary, my hon. friend the present Colonial Secretary, in replying on the 11th August, 1933, to a motion tabled by the hon. Member for Trans-Nzoia, stated definitely that—

"It is quite impossible for me to commit the Government at the end of 1934 to any definite line of action."

And later in his speech he said:—

"I cannot be expected to give a guarantee that the Non-Native Poll Tax will do for ever at the end of 1934 and that nothing whatever will be substituted for it."

Let us now see what light the experience of the last fifteen months throws upon the alternative taxes and whether they have fulfilled their essential purpose, namely, to yield revenue comparable to that expected from income tax. In a passage which I have quoted from the Secretary of State's despatch of the 7th of June reference was made to a yield from the alternative proposals estimated at from £111,000 to £94,000 in a full year as compared with an anticipated yield of £130,000 from income tax, and I think it is fair to assume that in coming to his decision on this matter, he anticipated that the yield from the alternative proposals would not fall short of £94,000 per annum.

When the alternative revenue measures were before the Legislative Council in the form of Bills, certain changes were made in the proposals examined by the Alternative Revenue Proposals Committee, the most important of which were the abandonment of the Landing Tax Bill, and the reduction from 1 per cent to $\frac{3}{4}$ per cent in the stamp duty on the registered capital of companies, while the adoption of the Package Tax by neighbouring territories in the Customs Union, with distribution of proceeds, led to a reduction in the revenue estimated by the Committee from that source. The net result of these changes was that the gross revenue anticipated from these alternative revenue proposals fell to £80,000 in a full year.

This figure was £14,000 per annum less than the minimum estimate of the yield from the alternative proposals which was before the Secretary of State when he decided that those proposals should be given a full and fair trial. But I do not wish to labour this point because I am in full agreement with the decision not to proceed with the Landing Tax and with the other changes introduced in these revenue Bills. My Government acquiesced in the introduction of taxation measures calculated to yield £80,000 only in a full year and in their being given a full and fair trial in substitution for income tax, not because we felt that the alternative proposals provided either a scientific or a suitable alternative to income tax, but because the Secretary of State's decision was based on the understanding that the alternatives were more acceptable to the taxpayers, and though the estimated annual yield had fallen to £80,000, we felt that the achievement of that addition to the revenues by consent of the taxpayers was preferable to the introduction of a measure, calculated to give a higher yield, which we were led to understand was contrary to the declared wishes of a large number of taxpayers.

The figure of £80,000, however, included an additional yield from Trade and Professional Licences estimated at £33,000 in a full year, and after the new Ordinance had been in operation for three months, it became apparent that this figure was still too high. In the Estimates for 1934 the anticipated yield was placed at £20,000 and in the revised Estimates for 1934 it has been further reduced to £13,000. As a consequence, the estimated yield from all the alternative revenue measures in 1934 stands at a figure of approximately £60,000.

As compared with the estimates put forward with the alternative proposals, I think it will be agreed that this is a disappointing result, and it is a result which readily leads to the conclusion that, after a full and fair trial, the alternative revenue measures have failed in their purpose, and it is not unreasonable to assume that they have failed because they were inappropriate and unsuitable and not because, as I have seen is suggested, of laxity of collection or because the taxable capacity of the Colony is exhausted. One further factor must also be taken into account. One of the alternative proposals was a tax on imported packages. This took the form of a charge on each package imported into the Customs Union and legislation similar to that introduced in Kenya was introduced in Tanganyika and Uganda. The tax is unscientific and has been found vexatious in practice. The neighbouring territories have refused to continue it after the 31st December this year, and we have no alternative but to follow suit, for if we alone retain a tax of this nature it must do permanent injury to our entrepôt trade. This tax, therefore, will not be imposed after the end of this year and the yield from the alternative revenue measures falls a further £9,000 to £10,000 per annum in consequence.

As against this, the enquiry recently carried out under the chairmanship of my hon. friend the Treasurer into the working of the Licensing Ordinance will, I hope, not only result in the adoption by this Council of a Licensing Ordinance better suited to the circumstances of trade in this Colony and in providing a law more free from ambiguity and doubt, but will also give a greater yield to revenue.

In the speech to which I have already referred the Noble Lord stated that European Elected Members held that the cease as from the end of 1934. The Package Tax will, as I have said, be discontinued at the end of this year because in my opinion it is a matter as to which Kenya cannot act alone without detriment to her own interests, but in regard to the Graduated Poll Tax I would repeat that this form of taxation was accepted as one of a number of alternatives to income tax; it was not

an alternative to nothing, and the revenue from it is still necessary. I am at a loss, therefore, to understand the attitude underlying the statement he made.

It may be that the European Elected Members have at the back of their minds some scheme under which further substantial economies can be made, thus eliminating the need for this extra revenue. If they have any such scheme I would beg of them to submit it to me in full detail. I will promise to place it before the Standing Finance Committee and to lay the Report of that Committee before the House. Personally, I cannot envisage economies of any magnitude except from the drastic cutting down of essential services which, in my judgment, as well as in that of the Expenditure Advisory Committee, would harm the country.

The Revenue Estimates provide for a net increase of £30,055 over the sanctioned Estimates for 1934. I shall refer briefly to the more important differences as compared with this year.

In the first place, there is a net increase of £5,800 under Customs and Excise. Some extra revenue will be obtained from the recent revision of the tariff and the deferred benefit following the revision that was undertaken during 1933.

The increase under Licences, Duties and Taxes is largely accounted for by the proposed amendment to the Licensing Ordinance, to which I have already referred; and the increase under Petrol Tax, the estimate in respect of which is based on actual receipts during the first eight months of 1934; and by the increase of £6,000 under Stamp Duties, the revenue from which has this year been under-estimated.

The increase under Fees and Payments for Specific Services is almost entirely due to Grading Fees on Agricultural Produce, in exports of which the Director of Agriculture anticipates an increase.

Again, we expect increased revenue from the Post Office, due in part to the new stamp issues, and consequent sales to dealers. A reduction of £7,000 on account of Land Stamp Premia is envisaged. This reduction is due to arrangements for unavoidable moratoria which have been concluded between the Commissioner of Lands and various landholders.

Taking the Revenue Estimates as a whole, I see no reason to fear that they will not be realized; indeed I trust that, with the increased trade which must be brought about by mining and other developments, they will be materially exceeded, but, as I have said before, the Government is not gambling in this matter.

Finally, I desire to say that the more I consider the present financial position and the Colony's fiscal system, the more I am forced to the conclusion that any system of taxation which attempts to support the Revenue by imposing undue and vexatious burdens on certain sections of the resident community, and at the same time, with a full appreciation of all the circumstances, fails to call upon absentees and others deriving their incomes in whole or in part from Kenya to bear their proper share in the expenses of Government, is and must be inequitable and fundamentally unsound. I therefore believe that if we are ever to afford relief to the sorely pressed agriculturalist and others from certain of the taxes now in force, we should take immediate steps to place the fiscal system of the Colony on a more scientific basis which will have proper regard not only to the yield from taxation but also, and more particularly, to the incidence of that taxation. In this way an equitable distribution of the burden will be possible and those who, under the present system, are unduly harassed, will be afforded the relief which is their due. I propose, therefore, to acquaint the Secretary of State with the present position which I regard as most unsatisfactory; but, before doing so, I would welcome any expressions of opinion which, in the course of the debate on the Estimates, hon. Members may wish to make on this very important subject.

Hon. Members of Council, in conclusion and in opening the Session of Council, I most earnestly trust that with the help of Almighty God its deliberations may lead to the further peace, prosperity and welfare of the Colony of Kenya.

MINUTES.

The minutes of the meeting of 25th October, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

- BY THE HON. THE ACTING COLONIAL SECRETARY (HON. A. DE V. WADDE) :—
- Draft Estimates of Revenue and Expenditure for 1935.
 - Memorandum on Draft Estimates of Expenditure for 1935.
 - Report of Standing Finance Committee on Schedule of Additional Provision No. 3 of 1934.
 - Report of Civil Service Board on Proposed Terms and Conditions for an Assin Local Civil Service.
 - Report of the Tana River Expedition, 1934.

BY THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENTS (HON. W. M. LOGAN) :—

Return of Land Grants, July-September, under Crown Lands Ordinance.

BY THE HON. THE TREASURER (HON. G. WALSH) :—

Statement of Colonial Loans, No. XXII.

Agricultural Census, 1934; 15th Annual Report.

Sixth Annual Report of East African Agricultural Research Station, Amami.

BY THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. THE HON. SIR GODFREY RHODES) :—

Supplementary Estimates, 1933, Kenya and Uganda Railways and Harbours.

Estimates of Revenue and Expenditure for 1935, Kenya and Uganda Railways and Harbours.

BY THE HON. THE DIRECTOR OF PUBLIC WORKS (HON. H. L. SIKES) :—

The Underground Water Resources of Kenya Colony and records of results of drilling for water, 1926-1932.

NOTICES OF MOTIONS.

BY THE HON. THE TREASURER :—

"This Council approves the payment of an unreduced pension of £47/7/11 a year to Mr. N. C. Drury, who retired from the Service of the Tanganyika Territory with effect from the 26th of July, 1934, inclusive, in lieu of a reduced pension of £35/10/11 a year and a gratuity of £118/10/0."

BY THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS :—

"That the Supplementary Estimates, 1933, of the Kenya and Uganda Railways and Harbours be approved."

"That the Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours Administration for the year 1935 be approved."

BY THE HON. THE TREASURER :—

"That this Council gives covering authority under section 6 of the Agricultural Advances Ordinance, 1930, for a temporary appropriation of £201 in addition to the sum of £113,000 already appropriated to cover certain

advances made during the year 1933 in excess of the sum of £113,000 on the understanding that the sum of £201 will be recovered as quickly as possible, this further appropriation to be a temporary charge on the surplus balances of the Colony."

By THE HON. THE ACTING COLONIAL SECRETARY :—
"That the Report of the Standing Finance Committee on Schedule of Additional Provision No. 3 of 1934 be approved."

"That the Report of the Civil Service Board on Proposed Terms and Conditions for an Asian Local Civil Service be approved, subject to the substitution in Recommendation 10 of eighteen days for fourteen days as the period of local leave to be granted."

"That the Draft Estimates, 1935, be referred to the Standing Finance Committee for consideration and report."

BILLS.

FIRST READING.

On the motion of THE HON. THE ATTORNEY GENERAL (Mr. W. HARRIGAN) the following Bill was read a first time :—

THE INTERPRETATION (DEFINITION OF "NATIVE") BILL.

Notice was given to move the second reading of the Bill at a later stage of the session.

The Council adjourned till 10 a.m. on Monday,
26th November, 1934.

MONDAY, 26th NOVEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m., on Monday, the 26th November, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF OATH.

The Oath was administered to :

HENRY WOLFE, Acting Director of Agriculture.

MINUTES.

The minutes of the meeting of 20th November, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ACTING DIRECTOR OF AGRICULTURE :

Naiynsha Livestock Research Station, Report for the year 1933.

ORAL ANSWERS TO QUESTIONS.

UNQUALIFIED RESIDENT MAGISTRATES.

No. 83.—THE HON. J. B. PANDYA asked :

"(i) Is it a fact that some persons not qualified in law are appointed to the responsible posts of Resident Magistrates?

(ii) Whether Government has received any complaints in that behalf?

If the answer be in the affirmative, inasmuch as the administration of justice depends much on qualified persons, will Government take steps to henceforth appoint only qualified persons to such responsible posts?"

THE HON. THE ACTING COLONIAL SECRETARY : (i) It is a fact that administrative officers who have not been called to the Bar have been seconded as Resident Magistrates.

(ii) Government has received two communications complaining on general grounds against such secondment, but is unable to give an undertaking that only officers who have been called to the Bar will henceforth be called upon to act as Resident Magistrates.

SEVERE SENTENCES FOR TECHNICAL OFFENCES.

No. 01.—THE HON. E. H. WRIGHT asked:—

1. Has Government's attention been drawn to the case of five old Dorobo who were sentenced to a maximum term of imprisonment for a technical offence?

2. Has Government observed the Court of Appeal's recent judgment that in such cases detention is a more suitable form of punishment than two months' imprisonment with hard labour?

3. Will Government therefore inquire into the circumstances in which these offences were committed and into the severity of the sentences passed?"

THE HON. THE ATTORNEY GENERAL: 1. The attention of Government has been drawn to a "case" of five Dorobo who were sentenced to two months' imprisonment for an offence against section 7 of Chapter 26 of the Revised Edition of the Laws of Kenya.

2. The answer to Part 2 of the question is in the affirmative.

3. The Court of Appeal has already investigated the circumstances of this case having special regard to the severity of the sentence and the judgment of the Court of Appeal was given on the 9th of October. Government is not of the opinion that any further inquiry into the matter is necessary.

THE HON. E. H. WRIGHT: Arising out of that answer, Your Excellency, is Government aware that in addition to the pots, bows and arrows and other utensils confiscated and burnt and that no compensation has been paid to them; and, further, is Government aware that coincident with these cases there were two other instances of illegal flogging at the same time and place and administered by the same magistrate?

MOTIONS.

SUPPLEMENTARY ESTIMATES, 1939, K.U.R. & H.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I beg to move that the Supplementary Estimates, 1939, of the Kenya and Uganda Railways and Harbours be approved.

This is more or less a formal motion, asking for approval of supplementary estimates which have been rendered necessary largely by the fact that we earned considerably more revenue last year than we anticipated. Full details of the work of the year in question have already been published in my annual

report, and further information regarding these supplementary estimates is printed in the memorandum attached to them. As I propose to make my main statement about the railway position in connection with the next motion, I think perhaps it would meet the convenience of the House if I did not take up too much time in moving this motion. If there are any questions that hon. Members wish to ask in connection with the items shown in the supplementary estimates, I shall be only too glad to try and answer them. I beg to move, Sir.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

ESTIMATES, 1935, K.U.R. & H.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I beg to move that the Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours Administration for the year 1935 be approved.

On this occasion last year I informed the House that I expected that the working results for 1934 would provide a new standard of comparison and a new basis for comparing future estimates of expenditure by the Administration. Hon. Members who have had an opportunity of studying the figures contained in my last annual report will, I think, agree with me that the workings of that year did in fact provide this new basis, and the Estimates of 1934 were drawn up on that new basis, and the Estimates now before the House have been drawn upon them in a similar way. I think, therefore, it will be unnecessary for me to add a great deal at the present time in giving comparisons with previous years' workings, as I have done in the past. These figures which are now before you are fully explained in the annual reports, and additional explanations have also been published in the memorandum here.

I think, Sir, that before going on with the Estimates it would help this House if I gave some idea of the present position of the Railway finances. You yourself stated in your opening address that our earnings were coming in very steadily; in fact, at the end of October, the date to which our figures are definite, our earnings were some £73,000 in excess of our earnings for the same period last year. As regards the Port, the position is not quite so favourable, as we were some £22,000 below last year's earnings. But, taken altogether, the position may be said to be entirely satisfactory. On the expenditure side, we are below the estimate, so that the net result will be an improvement on last year. If the revenue does not fall off between now and the end of the year, the

position should be better than last year. That, I think, Sir, should be taken as satisfactory. It might be of interest to note in that connection that our earnings at the present time are somewhere in the neighbourhood of what we earned in 1926, but on the expenditure side our expenditure is well over £200,000 less than the expenditure that year. That, I think, accounts chiefly for the betterment in the position. The result will be that at the end of the year our so-called Deficit Account should be below the £100,000. In these published Estimates, the figure is £117,000, but in view of the betterment of the position since they were published we now feel the deficit will be below £100,000. This deficit, as hon. Members are aware, represents that portion of our statutory contribution to the Renewals Fund which we have not been able to find in full during the period of depression.

Turning now, Sir, to the Estimates themselves, I would like to explain that the estimate of revenue is drawn up in accordance with our usual custom, on very conservative lines. Our estimate is below the actual earnings during 1933. We think that that is a very safe estimate for the coming year. It is necessary to adopt conservative estimates, because as hon. Members are aware our traffic depends very largely on agricultural prospects, which again depend on weather and other conditions. The cotton position, for example, will not be definitely clear until the end of the present year, so that we are unable to count on having too large a crop when these Estimates are prepared. Similarly, regarding revenue at the Port, we have taken a figure well below actuals in 1933. On the expenditure side, as I have already stated, these Estimates follow closely the Estimates for 1934, but we have next year allowed an extra expenditure of approximately £40,000 to overtake arrears of maintenance and bring our annual maintenance up to normal standard. Hon. Members will notice that the larger proportion of that sum has been allotted to Abstract "C", maintenance of locomotives and rolling stock; it is essential that arrears of maintenance of coaches and wagons should be made up so as to avoid further deterioration.

It will be noted that the budget as drafted shows a surplus of £60,151; that is, after making full allowance for depreciation and after meeting all our loan commitments and other working costs, and also after making allowance for an estimated loss at the Port of £57,416. I may say at this point that these Estimates have been very carefully examined by the Railway Advisory Council and the Harbour Advisory Board and have received your approval, Sir, as High Commissioner of Transport. While perhaps it will not be necessary for me to say much more to supplement the statement already before the House about the actual Estimates, I need hardly say that I shall be only too glad to answer any question

that I can that may arise during the course of the debate, but I expect that hon. Members will wish me to say something with regard to the future. In my own mind I am convinced that with the loyal co-operation of my staff, the transport organization is now working with efficiency and at a cost never before obtained, but nevertheless I do feel that always present in this question: is it possible for us to do more? in what way can we assist East Africa in meeting her present difficulties? in what way can we best serve the interests of the territories as a whole? Some of the problems involved by these questions have been dealt with fully in the annual reports, and perhaps I may be allowed to refer to one or two of them now and thereby clarify the position.

The first essential to my mind is financial stability. I feel that we should never again allow ourselves to be caught in the position we were two years ago with reserves at a very low ebb indeed. If we look at the position of our funds as shown on page 77 of the printed Estimates before the House, I think we will agree that the position of the Renewal Fund is satisfactory. We now have sufficient money in that fund to take care of all normal renewals as they arise. That Fund is not designed to deal with special renewals or unforeseen obsolescence or anything of that sort, but we can safely take care of the regular renewal programme. In addition, the fund is able to provide us with our working capital which is so necessary in the administration of these services. Regarding the Betterment Fund, it will be seen that this Fund is not a large one; in fact, I may say that it is barely sufficient to deal with the betterment side of our renewal programme. In connection with renewals, inevitably there must be some expenditure under the head of betterment, and this Fund is on the low side. That position will have to be carefully watched. Apart from these two Funds, it will be seen that we have no reserve funds at all nor a Rates Equalization Fund which is advocated in some quarters. The creation of a reserve, as Your Excellency emphasized in your opening address, is in my view one of the most urgent matters to be kept in front of us. On pages 8 and 9, in the two net revenue accounts, you will see the items connected with our loan interest charges and loan redemption charges. These totals form a very large proportion of our total costs, and I think hon. Members will agree with me when I say that everything possible should be done to reduce those costs. The first date when anything of that nature can be done will be in 1946 when the first Kenya loan, shown on page 78, the 1921 loan of £5,000,000, carrying interest at 6 per cent, falls due. 1946 is the first date when we can do anything in that direction, and at that date we shall have available in the sinking fund £1,800,000 only. Between now and 1946 we

must do everything that we possibly can to accumulate further funds to enable us to redeem that loan completely. It is the most expensive loan that we carry and is one to get rid of as soon as we possibly can. With these demands ahead of us we must continue our policy of great caution, continuing to keep our working expenditure as low as we possibly can. As I stated in my annual report, I consider in that connection that our primary responsibility is to carry goods at as low a rate as possible, and to do that we must avoid all possible extravagances or rates or services that do not pay. In other words, we must maintain what I have called pioneer services. That means a considerable amount of co-operation on the part of the public because if we get extravagant demands for larger services that do not pay that policy cannot be carried on, but if we are permitted to carry on this policy I am confident that we shall keep our operating costs within 50 per cent of our total revenue, and with that position we shall be able to maintain the administration on an absolutely sound financial basis and at the same time be able to build up gradually a general reserve which we all feel is so urgently required. The other problem is the question of the distribution of the cost of transport as equitably as possible over the users of the railway. That is a problem where we cannot expect to get agreement on all sides, but we do feel that our present policy does give reasonable satisfaction in that direction. Our tariff structure will, of course, be modified from time to time when found necessary. There are still a number of unsound rates in that tariff structure, rates which either encourage wasteful movement or fail to discourage wasteful movement. Those sorts of movements are costly, and we can ill afford them at the present time, but they cannot be removed until a suitable opportunity occurs; they will come up for review as and when that opportunity is available.

Before I sit down I should like to take this opportunity of publicly thanking the staff of the Administration for their splendid work during the past year and in previous years. In that connection I should like to mention the name of Mr. Hamp, who has acted for me during the past eight months at great credit to himself and with benefit to the Administration. I should also like to mention the name of Mr. Mayne, our Chief Accountant, who has left on leave pending retirement, and our thanks and good wishes go with him. I think, Sir, that is all I need say at the present moment, but I shall be only too glad to answer all the questions that I can that may be put to me during the debate. I beg to move, Sir,

THE HON. THE ATTORNEY GENERAL seconded.

HIS EXCELLENCY: The question is, that the Estimates, 1935, of the Kenya and Uganda Railways and Harbours be approved.

THE HON. CONWAY HARVEY: Your Excellency, the fairly satisfactory position of the Railway must not necessarily be taken as indicating a return to that prosperity for which we were all urged to plan a year or two ago. It must be remembered, Sir, that the Kenya and Uganda Railway serves, in addition to Kenya, Uganda, a portion of the Congo, a portion of Tanganyika, and other territories, and increased trade in any of them is a very largely improved result so far as railway takings are concerned. I suggest, Sir, that a very important influence in regard to the present revenue position is the fact that the Uganda cotton crop is now being produced at remunerative prices. Such, unfortunately, is not the case with the main products of this country, and maize farmers, wheat farmers, coffee planters, and sisal growers are still very hard put to it to-day indeed to make both ends meet. And I assure Your Excellency that very few farmers engaged in these particular industries do make both ends meet. The Railway has a stranglehold on agriculture and the mining industry in Kenya. Whatever may be the position of those industries from year to year, the Railway extracts its pound of flesh, and I suggest that there is very great danger of the economic advancement and prosperity of this country being sacrificed at the shrine of a pretty railway balance sheet.

This motion furnishes me with an opportunity of making public representations to the hon. and gallant mover which have already been made privately to the Inter-Colonial Railway Council by all the large mining companies operating in the Kakamega region, and also by the Shell Company, on the subject of the railway charges on Diesel oil, which are acting as a very serious drawback to legitimate development. I should like to make it quite clear in this connection that I am speaking for myself as representing the mining interests concerned, though I am sufficiently optimistic to believe that my views will be shared by a substantial number, if not all, of my colleagues in this House, while the whole Colony must inevitably be interested in any subject which means the promotion of this extremely important mining industry of ours. What the mining industry wants in this connection is that Diesel oil should be relegated from Class 9 to Class 10 in the tariff. This would mean in the case of Kisumu a saving of Sh. 17/45 a ton, and the traffic would only need an increase from 300 to 400 tons a year for the Railway revenue to be the same. Secondly, I would urge that a very substantial reduction should be made in the rates at present charged for the return of empty haulage vans. I think, Sir, it will be

readily conceded that the provision of suitable and adequate power is absolutely essential to achieve economical development. Much of the power used underground is in the form of compressed air which, besides being most expensive to produce, has no alternative for certain purposes, such as machine drilling, certain classes of hoisting and certain types of pumping. Secondly, Sir, a high initial fuel cost has a most important bearing on the cost and rapidity of development, and I feel sure that all are agreed that our mineral resources should be developed as rapidly and as economically as possible. Unless development costs are low, as everyone knows, gold cannot be won at all from the very large number of low-grade propositions which should also be stimulated and encouraged to add their quota to the maximum mineral output of this country. Now, Sir, Diesel oil units are at present regarded as the most suitable form of power for mining purposes. I have been given very carefully prepared estimates indicating that no less than 23,500 tons of oil will probably be the final power requirements of the goldfields from Kisumu, so the magnitude of the traffic will be easily realized. This is not a wild dream of the future, and finally in this connection with very ordinary luck may quite easily be reached in the course of two or three years. I believe the maximum of 23½ thousand is based on the installation of no more than three 5,000 h.p. units, which will be certainly the very minimum requirements of mining development in the comparatively near future the way things are going now. These figures, though big, are in my humble opinion not too remote. The alternative in many cases is producer gas, which everyone knows is costly to produce, besides which its excessive use will be a very big loss to the Railway in oil freights besides being very much more expensive to produce power unless the Administration is reasonable in the matter of rates.

Now, Sir, I am fully aware of the importance from the Railway point of view of safeguarding Railway revenue. There are those who say that any rate relief which is deemed possible should be in the direction of reducing rates on the supplies of hard-pressed farmers' produce. We farmers, in my humble opinion, are entitled to very much more consideration than we have so far received from the Railway Administration, but more mining means a lot to farmers, to native labourers, to commerce and to every other sphere of life in Kenya, and in my opinion everyone stands to gain, Government not least of all, by reason of a prosperous mining industry. There can be little doubt that a slightly reduced rate on these oils will mean greatly increased consumption. Ultimately, therefore, Railway revenue will not only be maintained, but greatly increased. At present, Sir, the Railway freight charges on Diesel oil from Mombasa amount to no

less than 33.9 per cent of the delivered Kisumu cost, which I suggest is excessive. We are often told that Railway rates in Kenya compare favourably with similar rates in other countries, but in this case that is not so. In Rhodesia, a country similar in many respects to Kenya, freights are more favourable to the mining consumer by no less than 25 per cent. So far as returned empty haulage is concerned: in South Africa for 600 miles the charge per ton is only Sh. 6/25 as against Sh. 15 in Kenya, while for longer hauls, such as 1,000 miles, the South African charge is equivalent to Sh. 10 per ton as compared with Sh. 30 in Kenya. I honestly believe that there is a reasonable case for some reduction in the freight on Diesel oil and returned empty haulage wagons, and sincerely trust that the hon. and gallant gentleman will inform us that arrangements are now under contemplation for this concession which may mean so much to the rapid and economical development of the mining industry.

I would also like to invite the attention of the Railway authorities to the present exorbitant freight rates on certain other mining requirements. A variety of chemical re-agents are used in the flotation process of ore reduction to the extent of about one-quarter pound per ton of ore. This does not sound very much but it amounts to a great deal in the aggregate. One consignment the other day of less than a ton was recently charged no less than Sh. 341, which is altogether too onerous. Another outstanding illustration of over-charge is on certain oils which are used in the ore reduction process. The mining industry contends, and I most cordially agree, that Class G represents a rate far in excess of what can conveniently or economically be borne by this process. There is a possible explanation, Your Excellency. In all probability mining requirements were never contemplated when the Railway tariff was arranged, and I feel sure that the Railway Administration will do its share to assist the development of an industry which makes such very heavy contributions to Railway and Harbour revenue, an industry which is pregnant with such boundless possibilities for the future of the whole Colony.

THE HON. J. B. PANDYA: Your Excellency, may I take this opportunity of congratulating the hon. the General Manager on the well-deserved honour that has recently been conferred upon him by His Majesty and for the clear statement which he has made in regard to the Railway finances?

I consider him to be in a very happy and fortunate position to-day because Railway finances do not give us any cause for anxiety, and I feel that this is largely due to the very substantial reductions in Railway expenditure which the General Manager has effected by cutting down ruthlessly the

staff and the services. But I do not consider, Sir, the increase in Railway revenue is a sign of prosperity for the country in this particular instance. I do not think the Railway finances reflect the economic condition as far as Kenya is concerned. For the Railway is no doubt in a very happy position, because it serves two or three territories and recoups losses made in one by gains in another. In another way, Sir, I do not agree that Railway freight payments should be considered for services rendered. In this country we have got to see the fact that the Railway transport system is a monopoly and therefore that system does not allow of natural check for adjustment and conditions of competition. Therefore, Sir, the Railway freights are a form of taxation. It is not the businesslike organization of private services, which charge a rate which is reasonable. That being the case, Sir, I feel that the Railway Advisory Council and the Harbour Advisory Board should be fully representative of all interests in the form of taxpayers in the country. I should like to draw the attention of Government that in these very important Councils the interests of the Indian community are not represented. We have raised that point again and again and I should like to press this point again at this juncture, because I understand that the Secretary of State for the Colonies is reviewing the whole position. My contention about the Railway freights being mostly taxation is borne out by the fact that in 1932 the goods traffic revenue was £1,564,967 and in 1933 that revenue increased to £1,821,927, an increase of £256,960, and the point I wish to make is that this increase is very largely, if not entirely, due to the prohibition of motor transport. Now, that is a system of monopoly.

Sir, I should like to quote the figures of revenue and expenditure for 1933 and 1935. The actual Railway revenue for 1933 was £2,088,163 and the expenditure, excluding depreciation, was £900,054. In 1935 the estimated revenue is £2,087,000, and expenditure, excluding depreciation, £1,067,490. This shows that while the actual revenue in 1933 in comparison to 1935 is exceeded by only £1,163, the expenditure for 1935 in comparison to 1933 went up by £77,376, that is, about 7½ per cent increase in expenditure, whereas the revenue remained practically the same. With regard to Harbour accounts the actual revenue in 1933 was £308,022 and the 1935 Estimates show £324,936, or a decrease of £13,086. The actual expenditure in 1933 was £126,429 and the 1935 Estimates show an expenditure of £169,120, an increase of £42,700. That is one way the revenue went down and the expenditure increased. I should like to quote one or two heads of expenditure and compare

them for 1933 and 1935. Head A, Engineering—Actual cost was £162,350 in 1933; Estimates in 1934, £170,896, and Estimates in 1935, £193,504. Head C, Engine and rolling stocks—1933 actual £116,904; Estimates in 1934, £161,855, and Estimates in 1935, £191,849. These figures now show us an increase in A of £31,154 or a little less than 20 per cent, and in Head C an increase of £44,445 or about 30 per cent. These increases of expenditure are not negligible, and while I quite realize that the hon. the General Manager has been managing the finances of the Railway very efficiently and in a proper way, I should still like to sound a warning that we have not yet reached the stage of prosperity in this country and we must try to save every penny and not drift into the previous position in which we were before 1933.

Now, Sir, going through the various items of expenditure in the Estimates, we come to explanations under the heads which say: "returning to normal standard of maintenance" and "overtaking deferred and proportion of arrears of maintenance". The General Manager gave us an indication of these repairs, but I went to the extent of totalling a few figures and find they come to £45,000. I do feel and quite agree that these items are for very necessary repairs, and I am quite sure that as a layman I am not in a position to criticize the figures of these repairs, but I should say that there are repairs and repairs. As an instance, if one wanted to renovate a house he might do it with costly dis-tempers, remove one part and put in another part, and make an increase in accommodation and convenience and this would still be called repairs, whereas one could patch the floor here and there with little cost and that could also be called repairs. I do not know to which category the repairs mentioned in the Estimates belong, but I wish to say this, that to-day we ought to limit ourselves in regard to these repairs and that the repairs should not be other than those absolutely essential to maintain the service in working condition.

Now, Sir, coming to the comparison of certain tonnage, I should like to quote the figure of public tonnage in 1933 which was 766,363 tons, and I deducted from it the output and the exceptional rate tonnage which amounts to 389,179 tons. This is a little over 50 per cent, whereas the revenue which accrued from this export tonnage amounted to £709,566 which is about 39 per cent of the total revenue. Coming to the import tonnage we find that the tonnage in 1933 was 377,184 tons and the revenue £1,100,479, which was about 61 per cent of the total revenue and, in this revenue, import classes 1 to 5 paid 60 per cent. Now, Sir, I am quoting these figures in order to demonstrate that the Railway finances do not necessarily depend on the general conditions or the increase

in tonnage but on the ratio of tonnage between imports and exports, because if we look back we find that in 1920 the public tonnage was 552,934 but the revenue from that tonnage was £1,989,080, whereas in 1933 the public tonnage was 766,363 and the revenue derived was £1,821,370. This illustrates the fact that whereas in this public tonnage there was a great difference between the two, the revenue was practically the same. And how did that happen? because the tonnage in 1933 for exports in comparison to 1920 was perhaps lower. Now the Railway rates to-day are for exports in the neighbourhood of 2 cents per ton mile, and for imports Sh. 1/11 per ton mile and the lowest is not less than 10 cents per ton mile. The hon. the General Manager in his report for 1933 at page 60 observes:—

"It has been noticed in certain other Railway reports that great credit has been taken when low-valued crops are given a benefit of 3 or 4 cents per ton mile below the general average. It will be observed that in this country assistance to agriculture is in the neighbourhood of 10 cents."

The point I wish to make is that the hon. Member for Nyanza brought in the question for consideration of the mining industry, and the reduction of rates for imports. Now, Sir, we have so far in this country, and I have demonstrated by the figures, got 2 cents for export and 10 cents at least for imports and that is only maintained because of the high ratio of imports we have had up to now in this country. If we are going to increase this subsidization of industries by putting in the mining industry, what will be the result to Railway finances? I cannot possibly say. I think the mining industry deserves all recognition and consideration, but it should be borne in mind that the people who remain to carry the burden are very few. And, of course, the turn would come of the rest also.

On page 29 of the Estimates there are items for hostel accommodation for European and African apprentices. I do not begrudge this facility to these apprentices, but I do wish to ask the General Manager why it has not been found necessary to have such facilities extended to the Asians also.

In the Report of 1933 at page 55, the General Manager observes that:—

"In the locomotion section 17 Europeans, 6 Asians and 83 Africans received instruction in the school. The training of European apprentices in the locomotive workshops in the various trades was continued during the year—21 apprentices being employed in the workshop at the end of the year."

This shows that there were 6 Asian apprentices only in the training staff and that more and particular attention appears to have been given to apprentices from the European and African communities. I am not jealous of these facilities being extended to others. Personally, I believe, if one wants to catch up to the other he must try to rise to his position instead of asking the other to come down. Apart from that, I do feel that the Indian community is entitled to a fair share of treatment in this matter, and I hope the General Manager will give us an indication of the policy in regard to the engagement and training of Asian apprentices. We have in this country quite a large population of Indians—young people—who would otherwise overcrowd other lines or remain without jobs, and I think they ought to be allowed an opportunity to prove useful in this line.

I should like to take the opportunity presented in this debate of drawing attention to the railway rates for the milling industry at the Coast. To-day the milling industry at the Coast suffers from a very large disadvantage. They have been getting their supplies of maize from up-country at a rate that is more than the export rate to the extent of Sh. 8/80 per ton. I bring this matter up in order to inform the House of the difficulties and disadvantages from which that particular industry suffers at the Coast. The miller at the Coast and the miller up-country are situated differently, when it comes to export, because the latter can mill their maize meal for export at export rates, whereas the miller at the Coast has to pay the country produce rate which is Sh. 8/80 per ton more. Exports of maize meal are generally to Tanganyika and Zanzibar only, and this special treatment is naturally taken advantage of by millers up-country, while the millers at the Coast suffer, even in comparison to the millers at Tanga and Zanzibar inasmuch as they can get their supplies from up-country in Kenya at low export rates which are not available to the man in Mombasa who is paying all sorts of taxation in this country. That is a very peculiar state of affairs. In this connection I do not ask for any special privileges or any sort of special treatment against the others. What I do wish is that the milling industry at the Coast should be given an opportunity of claiming rebate when they ship maize meal for export. This treatment, I understand, is already extended to the coffee and hide industries, and I honestly feel that this should be extended to the milling industry. Even with this facility of being able to claim rebate, the millers up-country have the natural advantage and would still be able to maintain their lower prices because the miller at the Coast, after getting his maize from up-country, changes it into the finished product of maize meal so that when he exports it it is reduced in quantity. Therefore, when

he asks for rebate he would not get the full amount, and I understand that about 10 per cent is usually deducted when rebate is granted, so that the upcountry millers will maintain the natural advantages in this industry.

In this connection, the Hyderi Oil Mills situated at the Coast is making definite efforts for the shipment of a certain quality of flour called granulated maize flour. They are doing a very specific service in trying to push this flour in Zanzibar against imported rice, and they are changing the food habits of the natives there and increasing exports from Kenya. They require, and do deserve, encouragement for that, but instead what we actually find is that they are at a very great handicap in regard to this business. I will quote an extract from a letter addressed by the hon. the General Manager to the proprietors of the mills on the 18th December, 1933, in regard to this particular matter. He observed that: "Action on the lines suggested by you would have material while perhaps meeting your individual requirements would react unfavourably in the case of the millers whose mills are situate near the grain fields." This extract at first glance conveys possibly partiality on the part of the Railway Administration for the millers up-country; that their interests should have prior treatment to the industry at the Coast. I do not make any such charge. I believe the Railway Administration is trying to act fairly and justly and tries to hold the balance between the various industries, but I do feel, Sir, that this question does require sympathetic consideration. I do agree there are various difficulties in regard to paying a rebate, and it is necessary to know whether maize is booked from far off or nearer stations. But I have made inquiries, and have satisfied myself that the industry at the Coast gets their supplies from the maize-producing areas up-country, and I am quite sure they would be prepared to give all sorts of reasonable guarantees to the Administration that they would ship from the consignments thus received. If this principle is accepted by the Railway Administration, I am quite sure the differences and the difficulties in regard to the milling industry at the Coast would be solved.

One more thing before I conclude. I should like to draw the attention of the hon. the General Manager to the question of local leave for the Asian staff. These employees now get ten days local leave, and naturally it is considered very necessary in these days that such leave should be granted to all employees in order to maintain their efficiency. But in this particular instance I do feel that the period of ten days holiday is insufficient. If a railway employee in Uganda takes his holiday of ten days, and he comes down to the Coast, he will have to spend about half his time in journeys to and fro,

leaving him only three or four days in which to have a change. I think this is very unfair. You cannot call it a change at all, and if the Railway Administration wishes to maintain the efficiency of its employees I suggest that the period for Asians should be extended to eighteen days.

Another point I should like to make is that the hon. the General Manager in his opening remarks made a statement as to the necessity of creating reserves. I agree entirely that there should be reserves for the Railway; but I cannot agree that you must continue to accumulate reserves at the expense of the rates. The first consideration must be given to reduction in rates. He also made a point that for the loan due in 1946 there was at the present moment a sinking fund of £1,800,000, so that the amount should be near the required figure when the times comes to square it up. I do not think the Railway should be permitted to continue unnecessarily to add to the fund for the redemption of the loan. The present generation has been paying very heavily, and I cannot imagine why it is considered necessary that the loan should be paid from earnings. If the sinking fund is not large enough to meet the loan on maturity, money could be borrowed at low-interest to do so. This is a point which I hope will be borne in mind.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I regret, notwithstanding that from the Railway's point of view a satisfactory budget has been presented by the hon. the General Manager, that I cannot compliment him on the sound financial position of the Railway as it stands to-day. I realize that all Government railways throughout the whole Empire have been built to develop the country, and I also realize that the Kenya and Uganda Railway is run for the benefit of the Railway and not for the benefit of the country. The Railway comes first and the country gets very little consideration: it is a taxing machine superimposed upon the Government of Kenya's administrative budget, and we have had experience this year of increased taxation by this Railway monopoly that has practically brought the producer to the verge of bankruptcy. For these reasons, while I do not blame—and this is not personal—while I do not blame the General Manager I do not compliment him, but I blame the conditions under which he is working to a very great extent. I have in my mind that this Colony saw fit many years back to forego the control of their own railway, the most disastrous action politicians in this country and Government have ever taken.

There are one or two matters that will not take me but a few minutes which I wish to touch on, and I hope that I shall be able to extract some information from the hon. the General Manager if he will be good enough to let me have

it after I have spoken. I refer first of all to the branch line rates. As Your Excellency is probably aware, the branch lines were built on the undertaking to users in the area that they would pay branch line rates until such time as they showed a financial profit. Naturally, one has got to realize that to make a profit a line has to pay the ordinary rate and also the branch line rates. I have raised this question on several occasions, and I raise it again now. I have been told unofficially that this matter has been discussed by the Railway Administration and that they have some intention of giving the relief I have asked for inasmuch as they are going to separate the branch line finance from the main line. I should imagine that there is very little difficulty in doing that. As I have pointed out before, Mr. Roger Gibb in his Report on the Railway and Harbour mentions that the Kitale branch line under one system of accountancy shows a loss of £96,000 and under another system shows a profit of just under £6,000. It is a very contentious and sore point with a very large number of hard working producers in my area, and all we ask for is justice. I am not asking that the branch line rates should be reduced. I am only asking that the guarantee given to the users shall be honoured, and I request that sympathetic consideration be given by the Railway to this matter, so that the main line charges shall be eliminated when it is proved that the branch line is paying, that this guarantee will be carried out in the same spirit that the users have carried out their obligations in paying these increased rates, not only branch line rates but also the heavy increases to the ordinary rates they were paying some time ago. I hope it is true that this matter has been discussed and that the hon. General Manager, with the assistance of the Inter-Colonial Railway Council, has now decided to give a fair deal to these branch lines, so that whenever any particular branch line is shown to be a paying proposition it will be treated in accordance with these known facts.

I should also like to refer very shortly to the Yala-Butero branch line. When it was built the economic survey was a very satisfactory one, and we were told by the Railway definitely that that line would pay from its inception. I would remind the hon. the General Manager that it was decided to build that line before Kakanega was discovered, and since Kakanega has been functioning there has been increased traffic over that short branch line which comes from Kisumu. Yet I see there is a guarantee in the budget by Government to the Railway for 1935. It is very difficult for us to understand and to be able to absorb the knowledge as to why the Railway should now demand a guarantee from the central Government to cover a deficit on this line. I hope we may have an answer to that question.

There is a question of very great importance to this Colony; I refer to the fact that the sum of £13,250,000 is the figure of the Railway loans. Kenya Colony is responsible for the whole of that sum, and I maintain that nobody can contest my contention that it is most unfair and unjust that Kenya should have the contingent liability for the capital expenditure, the interest and redemption, on the railway, into Uganda. It is not the first time the question has been raised, but it is the first time to my knowledge that it has been raised in this House. I should like the hon. the General Manager to state whether it has been discussed by him with the High Commissioner for Transport and the Railway Council, and whether any action is to be taken or pursued with the Secretary of State to have Kenya relieved of several millions of railway loans which I maintain should be carried by Uganda. I know it is true that Uganda does pay interest and redemption on her part of the line; I believe that is correct. I am not quite sure, and I should like to know, the gross amount on which they pay. But I think this House will realize it is most unfair that a small Colony like Kenya should bear the whole responsibility for the redemption of the loan. There is no question about it, that is the position, and the sooner Kenya gets rid of this contingent liability the better; it will put her in a more favourable position than she is in to-day for raising a loan and it would mean that if a proportion of the commitment were passed on to Uganda we could raise our next loan at a much less rate of interest than we should have to pay if Kenya bears the whole responsibility of the loan.

There is just one more matter on which I should like to speak and on which I should like an answer. I was very interested in reading my morning paper to read a detailed account of an interview of a sub-committee of the Chambers of Commerce with the High Commissioner. The committee was appointed to ask for certain information as the representatives of the users of the Railway. It did seem to me that they got a rather unsympathetic hearing. Since then, there has been a discussion between the Chambers and the General Manager, and I gather from the details in this morning's paper that the matter has not been taken any further. I am now going to suggest that sympathetic consideration should be given to the request of the Chambers of Commerce on behalf of the users of the Railway and that the information they have asked for should be obtained and supplied. Failing the ability of either the General Manager or the Inter-Colonial Council to supply that information, I suggest without any hesitation that facilities should be given the sub-committee of the Chambers of Commerce to get that information from the records of the Railway themselves. I should think the

matter is a very simple one, that the information in the possession of the Railway could be given, and in my opinion it should be supplied. I would ask the Hon. the General Manager to give me an assurance that the information referred to will be supplied.

Council adjourned for the usual interval.

On resuming.

THE HON. ISHAK DASS: Your Excellency, to my mind the finances of the Railway, as presented by the hon. the General Manager to-day seem to me to be far from satisfactory. I will try to give the causes, and at the same time I maintain that I have no reason to compliment the General Manager on his most unsatisfactory statement for the Railway.

In the years 1931 and 1932 we were told that the finances of the Railway were most unsatisfactory and in order to meet the situation he suggested some remedies. But in those days when there was a deficit in the budget and the position was unsatisfactory we were never actually given the true causes for the position being unsatisfactory. In fact, the General Manager suggested that motor transport was the one cause and that the world-wide depression was the second. But I still maintain and I maintained then that actually these were the reasons for the unsatisfactory position. Previous to 1931 the Railway authorities bought rolling stock and locomotive engines in such a quantity though actually there was no necessity for that rolling stock and engines to be bought because there was no demand for them. Secondly, there were loans on the Railway paying as much as 5 and 6 per cent interest. These loans were paying a high rate of interest and were a burden. The third reason is the Railway administration is not commercial and is controlled by the State, but the wages of high officials, compared with other departments in India and other places, are too large and should have been cut down to the level of a business house. Then, in addition, the expenditure was high, and comparing the actual state of affairs, the buildings built and some of the improvements done, there was actually no necessity for them. To my mind these were the causes of the unsatisfactory balances of the Railway. But we were given to understand that it was the general depression and the motor transport.

Now, dealing with the first question, the surplus rolling stock and locomotive engines, I have personally been to the different sections to see the state of things for myself. Your Excellency, this stock exists in such a

quantity that to-day after years of disuse locomotive engines are stabled at the three different stations of Kajindo, Makindu and Gilgil permanently with no hope of their ever coming into service again. We bought them and have had to keep them, and they are absolutely a dead loss to us; no efforts are being made as to their future disposal. As regards the rolling stock, it was bought in such a large quantity that it is no less than ten or fifteen stations sidings had to be built and the stock stabled there, and to-day if anyone went by train and did not go to sleep while travelling he would see miles and miles of rolling stock with no hope of its coming into use again and being of any use to anyone.

Now, Sir, about the high wages. I have been comparing the wages drawn by the higher authorities in the Railway, with elsewhere, and unfortunately I find, on comparing the whole financial position and the amount of work carried on by the Railway here, that in Kenya they are absolutely higher than in any other part of the world.

There is another point. We built very grand palatial buildings for the headquarters of the Railway for which I feel there was no necessity when the finances were in a deplorable condition. Sir, if the Supreme Court of Kenya could be accommodated in its present building to administer justice, surely the old headquarter buildings were good enough for the Railway. Now actually what the hon. the General Manager told us was that the unsatisfactory balances were due to the motor transport and secondly to depression, and instead of doing anything as I have suggested to dispose of the rolling stock or reducing the high wages and not having these buildings, the Railway suggested they should meet the deficit by two means and that is, the prohibition of motor transport and ruthless retrenchment among the under-dogs only.

I will deal with the position of the Railway prohibition of motor transport, Your Excellency. By prohibiting the motor transport in the country I can say definitely that the Railway General Manager has used a measure which has been of no good to the country as a whole, because he suggested that the earnings of the motor transport were to the extent of about £50,000 which was a loss to the Railway. Actually the figures provided by the Transport Association of Mombasa and other individuals who gave evidence before the Select Committee were to the extent of £20,000 only. Actually he said by prohibition a sum of £50,000 would be saved to the Railway, but we have to consider what the consequences of this prohibition were. It has been of very little benefit to the Railway, but what losses actually were done to the country on the whole? Motor mechanics,

drivers and native boys were all put on the streets to the extent of about 60 to 80 families or more. The Association suggested there were 250 people with their families, but I would say there were at least 150 families and children put on the streets and made unemployed with no hope of earning their living. These people were all on the streets. In addition, this prohibition caused a lot of loss to the general revenue, regarding which the Transport Association in their memorandum to the Committee appointed to consider the Motor Services Bill, in paragraph 5 stated:—

"This memorandum would be incomplete if we did not stress the fact that any curtailment of road transport would reflect in the Customs revenue on such items as petrol, oils and greases, tyres, tubes, motor spare parts and accessories. This revenue has increased enormously in the last year or two. A curtailment of transport means reduced earnings to the Kenya and Uganda Railways and Harbours in landing charges and rail freight on lorries in their original packing. The loss of revenue to the Government for licenses, etc., should also be stressed as also the resultant unemployment of large numbers of drivers, mechanics, etc., many of whom are natives."

Thus, by this means, there was actually no saving but in fact it caused greater hardship to the country and loss of revenue.

The second matter adopted is the ruthless retrenchment of the under-staff. That point has been stressed and I need hardly go into the details of it.

When giving evidence before the Select Committee I suggested that to meet the amount of £20,000 which the hon. the General Manager said would be derived by the Railway by bringing in such a measure as prohibition, there should be a toll tax imposed: that when a lorry passed a certain point it paid a tax. That would have been brought in the revenue. But the hon. the General Manager was afraid of the motor competition, because the latter were charging less for the freight on goods carried than the Railway charged for its Classes 1 and 2 goods. What has now happened, after four years? We are given to understand that the finances of the Railway seem to be satisfactory; some of the unemployed people have probably obtained employment, but very few of them—most of them are still on the streets in Kenya. Your Government, Sir, is well aware of the unemployment situation in Kenya. Now, the expenditure in 1931, 1932, and 1933 was increased; in 1935 the expenditure is still higher, and the revenue is exactly the same. This seems to me to be a very funny position, and a most unsatisfactory position. All I suggest at this stage is that instead of doing nothing, in order to give relief to these unemployed families and to

increase the general revenue, we must have the introduction of motor transport again. There surely will be a loss of £20,000, but it can be met by savings on other items, and I suggest there should be a reduction in the wages of the higher officials.

On the second question, as I said before, there are tons and tons of rolling stock and engines lying idle in the yards, and if these could be disposed of to some other countries for their railways it would be better. The normal life of this equipment is ten or fifteen years; they have already been lying idle four or five years, and at the end of twenty years they will be of no use to anyone, but will still be kept there.

A third method is loans. The hon. the General Manager has already suggested that the present loans are carrying a high rate of interest, that they should be repaid, and a new loan floated in the market. I am taking advantage of this opportunity to raise a few points, and I hope the hon. the member when replying will give us some fairly satisfactory answers.

My hon. friend has already spoken about the leave question. He has said that Indians get only 10 days leave and the Europeans 18; he also gave a sound reason why the former's leave should be increased to 18. I would go a little further and would ask: why this differentiation at all? If Europeans are entitled to 18 days leave, these people who receive less wages are entitled to more leave, if not an equal amount, in order to be efficient to carry out their duties. Again, under the terms of the new Asian Local Civil Service, 18 days leave will be given the members of that Service. I see no reason why Asians in the Railway should not be entitled to the same privilege, and it is high time both were equal. There is another point, and that is with regard to the artisans and others who are employed in the workshops, loco sheds and other places. For some years these people have been employed on agreement of two or three years and given facilities of return passages and so on. To-day, those facilities have been taken away from them, and they have been put on daily wages and all concessions taken away. This system is very harmful to them; for example, a man is dismissed at twenty-four hours notice and immediately he has to vacate his quarters. A poor man, he . . .

HIS EXCELLENCY: Has this anything to do with the Estimates?

THE HON. ISHER DASS: Your Excellency, I only mention this as this is an opportunity to bring up some points for the consideration of the hon. the General Manager. These

people are asked to vacate their quarters on 24 hours notice of dismissal, and it is impossible for anyone to be dismissed from service, and to have all the worries in life, and have to find new quarters when he has not the means to pay.

The question of Indian representation on the Railway Council has also been raised by the hon. Mr. Pandya. This is no racial question, Sir, and I hope the General Manager will bring it before the High Commissioner for consideration. It is not of a racial nature, but simply a request that every individual viewpoint in the Colony should be represented on that Council.

With regard to the running stock, I have noticed when I have had a chance of travelling by brake van that many things require attention. One thing, deplorable enough, is that there is no provision even for drinking water for the guard though he has to do duty for twelve hours. A man is expected to go dry until he is off duty. That is all I have to say at this moment. As I have said, the actual position financially of the Railway is far from satisfactory, and it is time that we should do something in the matter, as I have suggested, in order to improve the finances of the Railway.

THE REV. CANON THE HON. G. BURNS: Your Excellency, there are only two points to which I should like to draw the attention of the hon. the General Manager. I should like to ask him if, in his reply to the debate, we could be informed of the relation of the fares of the third class travelling by the Uganda Railway to the first and second class passenger fares? The second point, which is most important in my mind, is that I should again like to press and ask the Railway authorities to give serious consideration to the state of things existing in the third class accommodation with regard to African female travellers. The conditions under which they have to travel long journeys, sometimes from Mombasa to Kisumu, without any accommodation that should be provided on those long journeys, is very deplorable indeed. I do congratulate the authorities on the wonderful improvement that has taken place in the third class accommodation, but there is this one thing that still remains to be provided for the female African passengers who are travelling long journeys. I should like very much if some system could be worked out by which they could have accommodation for themselves with lavatory accommodation and all that sort of thing for these long journeys. I do not think that that is too much to ask, seeing that the African third class passengers form such a very big item in the revenue of the Railway as far as passenger returns are concerned.

THE HON. SHAMSUD-DEEN: Your Excellency, I want to make it clear from the outset that while criticizing the Railway budget I do not mean to cast any reflections on the personality of the hon. and gallant mover of this motion; it is merely the system that I wish to criticize. To begin with, I wish to associate myself with what my two hon. friends the Indian members have said on the absence of Indian representation on the Railway Council. It is one of the accepted principles of the whole world that all sections of the community which contribute towards revenues should have adequate representation on the board that controls the policy and working of that to which they subscribe. As regards economies, I can fully appreciate that the hon. the General Manager has in the last two or three years made strenuous efforts to bring down the cost of the Railway, but I must say that the principle of cutting down the expenditure by hitting the lowest paid clerks or employees is not a very sound method of economy. Your Excellency called to order the hon. Mr. Isher Dass as regards artisans, but that is a point which can be legitimately represented at the time of the Railway budget discussion. In a country like this, where Indian labour has to be brought or comes from overseas, the conditions that prevail in India or other countries where the natives of such a country form the working class, cannot be applicable here. Here, until recently, a very large section of the artisans have been brought on the daily wage system. There seems to be no serious objection to that on the ground that it is not a system which obtains in other countries. But in other countries those people are the indigenous natives of the country and when told at the end of a day that there is no more work on the morrow there is not much hardship entailed. In this case, however, it is economy carried to extreme in that these unfortunate workers are often denied the national holidays such as Christmas, Empire Day, or Easter holidays; they are completely deprived of any holidays at all whether they are common holidays or any others. The system of daily wage is carried to such an extreme that quite irrespectively of whether there is work for these men or not quite a number of people are told on an evening that their services are not required the next day and then other people are engaged in their stead. That is causing a good deal of discontent in the staff of the Railway as well as causing hardship.

I am rather sceptical about these budgets when placed before the House. Most of those placed before us always show surpluses, but at the end of the year, when the actual expenditures are obtained, more often than not they end up with a deficit. I hope in this case that the optimism of the hon. the General Manager will be justified. He told us, if I heard him correctly, that the earnings were the same as in

the year 1925, and the expenditure £200,000 less than the expenditure that year. That seems to be a very, very happy position indeed, and I hope it will be justified by facts at the end of 1935.

It appears, Sir, that we have gone back to what was popularly called here sunbeams because 1926 was an exceptionally good year of prosperity, but I have never been able to understand—I think the hon. Member for Plateau North (Lt.-Col. the hon. J. G. Kirkwood) also raised that point as regards how far Uganda shares the liability of the loans—but I should like to know whether Uganda also pays for this enormous expenditure incurred by Kenya Colony in putting up expensive Railway offices and workshops and many other organizations and machines that exist here, the benefit of which is derived by Uganda Protectorate. I want to discuss on this basis that if Uganda had to have their own organization they would certainly have to have equally expensive central offices and a General Manager and other staff. My question is that they pay a proportion of the staff but not of the buildings on which we have had to spend such enormous sums. May I take this opportunity also, Your Excellency, of expressing my views on the speed of the Railway. The time taken by every train from Mombasa to Nairobi is roughly 16 hours for a distance of about 330 miles, an average of 20 miles an hour. I am not in favour of the speed being increased, but my experience has been that although theoretically the time shown for stoppages of trains at stations is very small because no long stops are justified and there is no other excuse for these trains stopping, in practice what is happening is that there is a rush of terrific speed between two stations and a very large amount of time is wasted by stopping at the stations. The running staff try to make up time. That is a point that I should like to draw attention to.

I associate myself with what has been said as regards the third class accommodation. There is quite a large number of Indian women also who use the third class carriages and I believe that according to statute the railway is bound to provide accommodation for families and also for lavatories when the railway runs for a certain number of miles without stopping. It is desirable that something should be done in that direction—that is a very important point.

I personally am convinced that there is a great deal more scope for economy in the Railway expenditure if the right policy is pursued. The Railway administration is also suffering from the same misguided policy of not employing the most economical labour in the market. In a country like this, Your Excellency, the right and proper principle is wherever it is possible to employ local labour, but until such

time as the natives are filling various positions, we have to go to the next least expensive market, and that is the case of Indians. If you cannot employ Indians then you can employ Europeans who are always paid higher. Most unfortunately the feeling in this country is in favour of employing European staff. I refer to this as an economical point of view. I should like to know how many officers of the Railway employ European domestic staff in their own homes? I think I can say without fear of contradiction that there are very very few houses where people employ European servants. Why? Because it touches their pockets. In this case it does not touch their pockets, and that is why an Indian staff could easily work with equal efficiency. I cannot understand how an engine driven by an Indian driver should not be preferable and why we should go to the extent of employing European drivers and pay more. Equally, a letter typed by an Indian typist is as good as that typed by a European and if we can get them at a cheaper rate we should do it; if that principle was observed, I am quite certain the expenses could be brought down by half.

I am not sure whether I mistook the hon. the mover, but my impression is that what he said really meant that since the Railway was carrying a more valuable commodity from Uganda, such as cotton, there is no room for reduction of rates, and so far as agricultural produce is concerned, I think that is entirely wrong. The Railway belongs originally to this country and if agriculture goes down entirely in this country, well, the whole structure goes down. I doubt very much whether Uganda alone would be able to maintain a railway which at the present moment occupies a monopoly. Unless the Railway Administration keeps in view the local requirements as much as the Uganda requirements they are in for a very bad day. I personally think the Railway is entirely misled by the large amount it gets on the imported articles. If the export disappears and therefore even if for a temporary period the Manager had to go much below the rates that he is giving to the settler in this country, I think it would be fully justified after a few years and that is the right policy to be followed.

Your Excellency, I think most of the points which I wished to mention have been put by others and I do not wish to compete with other Members in the time they have taken up, but there is one point on which I can conscientiously congratulate the hon. and gallant mover of this motion and that is on the complete disappearance of the provocative and racially discriminative labels that used to appear on the carriages some time ago.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, as a member of the Railway Council I have already approved of these Estimates in Railway Council and I have practically nothing to say with regard to them. I have waited towards the end of the debate in case there were questions arising to which, as a member of the Council, I could have been of any help in replying. I do not think anything has been raised which cannot be much better answered by the hon. mover.

There is one point which I do want to emphasize and that is the question of depreciation. For many years now we have been urging that we should be allowed to reduce the rate from 2½ per cent to 2 per cent which would give a relief of over £60,000 a year. As you know, Sir, the Secretary of State gave very favourable hearing to our argument and I have every reason to believe that we were supported at home by the Secretary of State and the Colonial Office, but in spite of that, I believe the British Treasury have turned it down. Now, Sir, I fear that is only one more illustration of the very unsympathetic attitude which the British Treasury takes towards the young and undeveloped portions of the Overseas Empire and when you consider the very heavy burden which we have to bear in the combination of depreciation and loan charges, it does result in the fact that the Railway management have to keep their rates up to a standard which brings them in nearly double the amount of their working expenses, so as to cover these very heavy overhead charges, and I do wish to emphasize, as already put by the hon. Mr. Pandya, that it is wrong that this present generation, going through such a particularly bad time as the present one, should have to carry the full burden of these overhead charges with regard to depreciation and the interest and sinking fund on loans.

There is one point which is very well illustrated by the very improved position of the Railway to-day on the revenue side, and that is how everything in these countries depends on the produce of these countries; I think it cannot be contested that it is a fact that our friends in Uganda have for three years running had an extremely good crop there and that the price of cotton has gone up and is a remunerative price, that we have got such greatly improved returns on the Railway, as with this large export at the remunerative price of cotton, we have had the resulting imports which pay so well. It does illustrate the argument which I think many of us have always taken that the prosperity of the Railway in this country does depend on the producers of these countries.

Sir, I have nothing more to say in this debate, except that I should like to associate myself with the remarks of the hon. and gallant mover in the tribute he paid to Mr. Hamp

and to Mr. Mayo. It has fallen to my lot, as a member of the Railway Council, to see a good deal of the work of these two gentlemen, and I entirely agree with every word which the hon. the General Manager said in tribute to what they have done.

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, I will endeavour to be as brief as possible. There are not many points that require a detailed reply.

The hon. Member for Nyanza, in a very eloquent speech, pleaded for the cause of the mining companies and mentioned particularly the rate on Diesel oil. I need not assure the hon. Member that the Railway Council and myself have these matters before our attention almost continuously. In fact, several of these were dealt with by the Railway Council at their last meeting and the point that he so strongly stressed that we should do nothing to prevent the development of such a promising industry as the gold industry is very fully understood. The present position is that the mining industry is being asked to pay the same rates that all others in this country have been paying for some considerable time and although the time may come when we may have to think it advisable to introduce special rates for that industry, just at the moment we feel that the rates are not inflicting any real hardships, but as I have said the position is kept closely in view.

There is one point in connection with the oil rate that has been particularly referred to, and that is the return rate on empty tank wagons. We have already informed the oil companies that as soon as the finances of the Railway allow, the rate will be reduced. They are undoubtedly on the high side. There are several other items—chemical re-agents and items such as those—which have not come before me previously until yesterday. We got a list of certain items which we have to deal with. Those will receive full consideration and if there is any definite hardship, then some improvement will be made.

The hon. Mr. Pandya raised one or two points on which I should like to say a few words. I, of course, cannot accept for one moment his suggestion that our Railway charges are a form of taxation. We do not consider that a correct statement of fact because as hon. Members know all revenue is retained in the Railway funds. It is not paid over to either Government so that it is used entirely for the service of

running the Railway and when the time comes will help to enable us to reduce rates. We try to give you in return efficient service and our rates are no higher than absolutely necessary. He drew attention to the fact that while our revenue remained fairly stationary, expenditure had been increased. I hope I have made it quite clear in introducing the budget that the increased expenditure is due entirely to making up for arrears of maintenance and in bringing up our standard to its proper position. Hon. Members are aware that during the very difficult period that we have just passed we reduced our expenditure even below the economic level. We took a risk which we are now able to deal with and that accounts fully for the extra expenditure. *I need not assure him that we will do everything in our power to see that such expenditure is properly controlled and not wasted.

One point the hon. Mr. Papaya raised was why we did not have an Asian hostel for Asian apprentices. I can only say, Sir, that the only reason why that is not there is because the case has never come up. Apparently there has been no need for an Asian hostel. At any rate it has never come before me since I took over the General Managership. I need hardly say that should such a case prove necessary it will be given the same consideration as European and African hostels.

The question of a rate for the milling industry at the Coast is a little different. I can fully sympathize with his desire but we have never recognized the principle on the Railway that export rates to a mill should be recognized, that is, on maize carried to a mill and subsequently exported. No export rate for that sort of travel exists for maize and it will be quite clear that there are certain difficulties and reasons why that should be so. First of all, we do not know where the maize is going. It is not like coffee which is always an export commodity. Furthermore, the rate for maize is already low and there is not a great deal of difference between the export and local rate. Again, Sir, much maize comes to a mill which has never travelled over the Railway at all, so you will see that for reasons of that sort it is very difficult to control the proposal that we should give export rates to maize that comes to the mill and is subsequently exported. I can only say that those difficulties are being closely examined and if we can suggest anything we will do so, but at the moment I can hold out very little hope of changing the present procedure.

On the question of local leave of Asians, I can only say that revised Asian conditions of service were introduced by the late General Manager. This was the scale set down and agreed to and has been in force ever since and I really

feel that it is adequate although I can quite understand Asian members of our staff wishing to have their leave period extended. That question comes up for review periodically but the question of extra expense is also involved.

The hon. Member for Trans Nzoia has again accused the Railway of being a taxing machine. But I have answered that, from my point of view at any rate. He has also brought up again his hardy annual, the branch lines accounts question. This time, I am glad to be able to say that I can perhaps ease his mind. I said in my last Annual Report: "The heavy reduction in operating costs, brought about by economy measures introduced during the past three years, and particularly the discouragement of the costly 'peak' movements of low-rated commodities, to which attention has been drawn in previous reports, together with an extension in the use of the Hollerith machines, has enabled the Administration to give further consideration to the question of branch line accounting."

Certain suggestions were put before the Railway Council. The main change was in connection with the method of calculating main line costs. On the old formula we charged all commodities arising from branch lines with the average working costs on the main line. With regard to maize, the revenue received was much below the average working cost. At that time, when peak conditions existed, there was no doubt that that meant money was actually being expended in moving the maize traffic. Now, Sir, a change is possible, because we have removed these high costs and extravagant methods of working, and the costs of moving low-rated commodities has closely approximated to actual haulage costs. We have therefore suggested an alteration in our formula so as to allow for average haulage costs to be charged against a commodity. As a result we have been able to put this suggestion before the Railway Council, and it has been accepted, and commencing with the first of this month, November, of this year figures are being obtained on the new basis so that I hope at the end of a year's work we shall be able to say that branch lines are at least paying or getting near the point of paying. I cannot guarantee that position. I shall not know until this time next year, but should that position arise branch lines will get the benefit of the reduction of rates as promised. Up to now we have not been in a position to make any suggestion of that sort. With regard to the specific case of the Yala-Butere line, the hon. Member seems to blame me because the Economic Committee apparently prepared a report which has not come true. In fact, the line has not had the commodities to carry which the Committee led us to believe would be there. It is very difficult to prepare economic reports, but we had a very good

Committee presided over by the Director or Deputy Director of Agriculture, and we ourselves believed that if the tonnages which the Committee foresaw were available this line would pay. But as a matter fact the tonnages were not available, and Government and ourselves, the Railway Administration, had to make up the difference.

The question of Uganda's share in our loan liability is a difficult one to deal with. It is true the Kenya share is over 13 millions and that the Uganda share is about 2 millions, but there are all sorts of questions involved in consideration of the problem; I imagine that not least is the question of ownership. Most of the 13 millions for which Kenya is responsible is spent in Kenya whereas the two millions of Uganda have been spent in Uganda. Whether you can ask Uganda to take a share of the 13 millions spent in Kenya is a difficult problem. I would also remind hon. Members that in former years Kenya was anxious to retain full responsibility over any expenditure within its own boundaries.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of explanation, Your Excellency, was not part of the 13 millions paid for the extension of the railway to Kampala?

THE HON. THE GENERAL MANAGER: I think not, Sir. I have not got the actual details, but I think the division is this: that all expenditure on this side of the Uganda frontier is borne by Kenya and actual expenditure the other side of Uganda's share being approximately two millions. I am speaking rather without the book, but I think that is the position. I will verify that point for the Noble Lord and let him have details later.

LT.-COL. THE HON. LORD FRANCIS SCOTT: The two millions of Uganda were raised after 1932, and the railway to Kampala was built many years before that.

THE HON. THE GENERAL MANAGER: Not many years, but some years before by means of advances. However, I will make sure of the point and let the Noble Lord have the information later on, but I think that is the correct position.

Regarding the request of the Associated Chambers of Commerce, I should like to say this: no one has endeavoured to give more information to the public on Railway matters than I have, but sometimes they go a little further than it is possible for us to meet them. They ask us, for example, to give the actual haulage costs on a particular commodity. We can give the average figures, as we have done, and can suggest how they influence our policy. We can give the average

figures, but we cannot give the actual figures of any particular commodity; they are not known. All the other information they have asked for from time to time has been given, and I repeated much of it the other day. I need not assure the House that we shall, of course, continue to give every possible information that can properly be given to the users of the Railway.

The hon. Member Mr. Isher Dass raised various points, some of which I should like to refer to. There was the question of the rolling stock not in use. That is quite a fair question to put to me. We have an excess of wagons amounting to about 1,500 units or 750 bogie vehicles. The reason for that excess is this. In 1926, 1927, and 1928 we all thought the tonnages we should be called on to carry would go on growing. The situation changed in 1929, and we were caught with too much rolling stock. If we had been as wise then as we are now we certainly would not have ordered so many vehicles. It is possible that some of the oldest will not be brought back into service, but I can definitely state that when the traffic again grows all the other wagons will again be brought into service. There are proposals for certain industries now which may bring these vehicles into use in the next year or two. Regarding the locomotives, the position is not quite so satisfactory, in that we have 50 stored away, and 35 are old, obsolete locomotives too small for present requirements. That would have been the position in any case, and I can assure the hon. Member that we have done everything in our power to dispose of them elsewhere but without much success, except that within the last week we have had another inquiry and we may possibly be able to dispose of some at a low price. At any rate, they are old, obsolete and small and not suitable for our traffic as it exists at the moment. They could be used for shunting and similar work, and those in the best condition will be so used.

It is rather suggested that we have not been fair in our system of retrenchment, that we retrenched from the bottom only, although I think that the figures published from time to time will show how we started. We had in 1931 many senior officers who went. We considered the question purely from the point of view of the work to be done and not at all from the point of view of nationality. It was suggested that motor transport did not account for a large sum of money. In my Report for 1933 I have shown that the benefit to Railway finances from the restriction of motor transport must have amounted to at least £100,000, a considerable sum of money, but I do not wish to go into that question in detail except to say this: that failure to have imposed that restriction would have meant an alteration in the whole tariff policy, which would not be in the interests of the country as the present

time. The question of daily paid artisans is one that was brought up last year. What we have tried to do is exactly the same as other employers of labour do with their casual staff, that is the staff who cannot be economically employed all the year round. As the work comes staff is taken on, and as it finishes it is dispensed with; the normal practice everywhere is to employ a daily paid staff for that purpose. Of course, the daily wages are market rates and are supposed to cover all those other privileges that an establishment staff is entitled to get. It is a very well known system, and adopted, I understand, by the big employers here. I could not quite understand the point about the running staff not being able to refresh themselves during their journeys. If the hon. Member had been a guard himself he would understand that the staff always take their own refreshments with them. I have done it myself often, and I do not think the staff themselves have any reason to complain.

THE HON. ISHER DASS : On a point of explanation, Your Excellency, I simply suggested there was no provision for water in the brake van.

THE HON. THE GENERAL MANAGER : The staff take their own liquid refreshments, tea or anything else they like. That satisfies their need, and they can get water at most of the stations. The hon. and reverend Member Canon Burns has drawn attention to two points and asked me to quote relative figures of the different classes of passenger travel. I presume that what he wants is the figures we published on page 14 of my Report for 1933: 1st class passengers £28,078; second class, £54,797; third class, £76,375. I presume his point is that as we get the greater part of our revenue from the third class travel, we ought to spend more in providing better accommodation for that class. I sympathize with him to some extent. We try to keep the third class costs as low as possible, and we do not wish to inflate them by providing rolling stock of a type that will not be fully used. It will, however, receive further attention when we are buying new third class stock, but I am most anxious to avoid carrying over the line empty compartments. At present the third class coaches are full and I believe meet the requirements of the individuals concerned. But if there is anything that can be done to give better lavatory accommodation or more seclusion without putting up the costs, we will see what we can do. The hon. Member Mr. Shamsud-Deen drew attention to one or two points, especially with regard to Indian representation on the Railway Advisory Council. I cannot say anything regarding that, except to emphasize the point repeatedly made, that the members of the Council do not represent anybody: they are there to give

the best advice possible in connection with the administration of the Railway. They do not represent any particular interests.

I have, Sir, dealt with the questions of retrenchment and artisans. The hon. Member expressed a hope that although we had budgeted for a surplus he hoped it would not turn out a loss. I hope so too, and will again state that we have based our estimate of revenue on very conservative lines, and, as I say, last year we had a considerable surplus. This year there will be another, and I hope that next year it will certainly not be less. Present indications from Uganda point to a good cotton crop. The hon. Member also asked the question, as to whether Uganda pays for the costs of such things as offices, workshops, and so on. The whole cost of the Railway is charged into one account and included in that cost is interest on our loan or capital expenditure, and they are met out of revenue received from users of the Railway. Uganda is a user, a heavy user, and hence is a heavy contributor to the total revenue. It is dealt with as Railway expenditure, and is not treated on a territorial basis at all. Regarding the question of depreciation raised by the Noble Lord, I would state that we have not had any definite or official reply from the Secretary of State or the Treasury, but I believe the Treasury are very much against our proposal to reduce at the present time our contribution to the Renewal Fund and, as we suggested, to increase it in 1946 when our loan commitments have been met. The position is to some extent academic at the present time, because until we have built up a reserve fund any relief in this way would have to be devoted to that reserve fund. It would, however, mean that our reserve fund would that much sooner reach a safe figure. On the other hand, there are arguments for keeping the Renewal Fund fully up to strength as regards contributions. The heavy overhead loan charges as I explained in my opening speech cannot be dealt with until 1946. There is no way in which we can possibly get assistance unless somebody else pays the interest; failing any offer in that direction, nothing can be done until 1946 when we can do our best to redeem this expensive five million loan. I think that, Sir, covers all the points raised in the debate.

The question was put and carried.

N. C. DRURY—PENSION.

THE HON. THE TREASURER : Your Excellency, I beg to move the first motion standing in my name:—

"This Council approves the payment of an unreduced pension of £47-7-11 a year to Mr. N. C. Drury, who retired from the Service of the Tanganyika Territory.

with effect from the 25th of July, 1934, inclusive, in lieu of a reduced pension of £35-10-11 a year and a gratuity of £118-10-0."

It is on all fours with many other motions which have recently been before Council. Mr. Drury was appointed as Assistant Printer in 1912, transferred to Tanganyika in 1917, and has now retired from the post of Government Printer. In the first place he elected to receive a gratuity and reduced pension both in Kenya and Tanganyika. He now wishes to revoke that option. He has been allowed to do so in Tanganyika and authority is also required to do the same in Kenya.

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

The question was put and carried.

AGRICULTURAL ADVANCES ORDINANCE, 1930.

Temporary Appropriation of £201.

THE HON. THE TREASURER: Your Excellency, I beg to move the second motion standing in my name:—

"That this Council gives covering authority under section 6 of the Agricultural Advances Ordinance, 1930, for a temporary appropriation of £201 in addition to the sum of £113,000 already appropriated to cover certain advances made during the year 1933 in excess of the sum of £113,000 on the understanding that the sum of £201 will be recovered as quickly as possible, this further appropriation to be a temporary charge on the surplus balances of the Colony."

This is also more or less of a formal character. Section 6 of the Agricultural Advances Ordinance, 1930, provides that the funds of the Central Board shall consist of such moneys as the Governor may, with the sanction of the Legislative Council, from time to time authorize the Treasurer to pay to the Central Board. The original appropriation was £100,000. That was increased by £7,000 in May of 1933, and it was further increased by £5,000 in December of last year, making a total of £113,000. At the close of the 1933 accounts it was found that owing to a continuation of adverse conditions the repayments of principal had been delayed and appropriation approved had been exceeded by £201. It is nowtional appropriation. I may say, Sir, that although the scheme used to be extremely difficult to operate, conditions are rather easier to what they were a year ago and I do not think it will be necessary to come to this House for an additional appropriation.

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

The question was put and carried.

STANDING FINANCE COMMITTEE REPORT ON SCHEDULE OF ADDITIONAL PROVISION NO. 3 OF 1934.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Report of the Standing Finance Committee on Schedule of Additional Provision No. 3 of 1934 be approved.

This report was laid on the table a week ago and is to the effect that the Committee examined the items in the Schedule referred to them and recommended their approval. Your Excellency, I beg to move.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

BILLES.

FIRST READING.

LOCAL ASIAN CIVIL SERVICE PROVIDENT FUND BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the first reading of a Bill to establish a Provident Fund for members of the Local Asian Civil Service of the Colony and to provide for contributions to such fund by members of the said Service and by Government.

THE HON. THE SOLICITOR GENERAL: I beg to second.

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL: I beg to give notice that I will move the second reading at a first convenient opportunity.

SECOND READING.

INTERPRETATION (DEFINITION OF "NATIVE") BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move the second reading of a Bill to Amend and Define in more precise terms the Definition of the expression "Native".

As hon. Members are probably aware, a Bill of this description has been on the *tapis* for probably the last six or seven years. The problem has been considered at the Governors' Conferences, the Attorney General's Conferences, the Provincial Commissioners' Conferences and in various other places, and it was hoped at one time that we would be

able to have a model Bill for the whole of East Africa. Unfortunately, it was found when we went into details of the proposed model Bill that each Colony, Protectorate or Mandated Territory had its own peculiar problems and it was quite impossible to frame one Bill which would have covered them all. It has therefore been decided that each Colony must take action on its own. Naturally, in drafting a Bill of this description, every advantage has been taken of Bills elsewhere and, in the Bill which hon. Members have before them to-day, you will see reflected the legislation of places such as Tanganyika, Southern Rhodesia and Northern Rhodesia.

I fully realize that a Bill of this description cannot be of a final nature. From time to time as conditions change and as the Colony advances, it may be necessary to amend the Bill which is before you, but I think every member of this House will agree with me that it is time that something was done with regard to this particular legislation in Kenya and to do away with the numerous definitions of the word "native" that we find in every other Ordinance that we pick up.

In dealing with this question, Sir, one of the most difficult problems, naturally, is that of the half-caste. When I say half-caste, I refer to the result of the union between a native and a non-native. Now, it is perfectly clear that it would be impossible, if we may take this example, for a native or for a half-caste who had been brought up in a village to suddenly be told that in fact he was not a native at all, that he was a non-native. On the other hand, it is equally hard we realize that a child who has been brought up, let us say, by his non-native parents under conditions in no way similar to village life, should be suddenly told "Now, you are a native, go back to the village and be subservient to the various obligations of the headman of the village." The difficulty was to know where to cut the Gordian knot, and the Bill, which hon. Members have before them, does this and does this very definitely. It requires that a child which is the result of the union between a native and a non-native, shall, in the first instance at any rate, be known as a native. Having placed him in that position, we then give him a loophole by which he may get rid of what he may desire to get rid of or imagine to be a stigma, by allowing him to go before a magistrate of the first or second class and, as you see reflected in section 2, if he is able, fulfil those three conditions—namely, that he is partly of non-native descent; secondly, that he is not occupying land in accordance with native tenure or native customary law—hon. Members will, I am sure, agree that it would be quite impossible to allow

him to be a non-native if he is holding land under native law and custom—and, thirdly, that he is not living among the members of any African tribe or community in accordance with their customary mode of life. That, of course, refers to the point I mentioned a moment ago. You will notice that these three conditions have to be complied with—not one of them, but all three of them—before he can get the judgment from a magistrate of the first or second class.

We also make it abundantly clear in section 2 (a) that the following persons shall not be known as natives, namely, an Arab, an Abyssinian (Anbama), a Somali, a Baluchi born in Africa, a Malagasy or a Comoro Islander.

Now just to make it clear at once, I will ask hon. Members to refer one moment to the Schedule and you see that in the Schedule we make provision that where in any Ordinance it is desirable that any of these persons should be added to the word "native"—and mark you, they never become native because you say "a native and a Somali"—you see in the second column of the Second Schedule the names of those that we intend adding to the word "native" in the various Ordinances.

It was then necessary to put in a clause with regard to the onus of proof. It obviously would be quite impossible for a foreigner to a suit such as the Crown to be able to prove the pedigree of a person as against what he was claiming to be. We therefore put the burden of proof on the person who wishes to prove he is a non-native to prove that with material which would essentially be within his own knowledge.

We then add the usual definition of what a non-native is.

Since this Bill has been published, section 6 has come under the review of the Labour Officer, more particularly his assistant who has to deal with this particular Ordinance, and when this Bill is considered by the Select Committee, which Your Excellency has authorized me to say will be appointed after the second reading, we will have that Labour Officer before us. You will be able to hear exactly what the difficulties are with regard to that clause. It was obviously what you would expect a lawyer to draft for it seemed necessary to provide for every eventuality.

But there are some further difficulties. Section 7 merely makes it clear that there is no amendment intended in the Penal Code as a result of this Ordinance.

In section 8 I regret there is a printer's error which makes the section read rather peculiarly. In lieu of the word "of" the word "and" should occur in line 2. It would then read: "Section 3 of the Criminal Procedure Code and sections 3 and 19 and the Schedule to the Courts Ordinance, 1931 . . ." With regard to this section, I have received from the hon. Elected Arab Member a memorandum with regard to qualifying the section which I will ask the Select Committee to consider in due course. I think personally at the present moment that it will be accepted by this House at once.

I do not think that there is anything else that I can say with regard to this Bill, except to say that it really has been considered most carefully by almost everybody capable of considering it, and this Bill, which you have before you, is the result of that deliberation.

I beg to move the second reading.

THE HON. THE SOLICITOR GENERAL: I beg to second.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to support this Bill. I think it is high time that we did have a definite definition of the word "native" and I hope that after this Bill has been in Select Committee and the opportunity given anyone who has an opinion to express, that it will come out as an agreed measure.

I have, however, Sir, been approached by my friends of the African and Asian Association to take a watching brief on their behalf as they have been in a somewhat anomalous position. They claim to be Arabs and I believe some of the Arabs at the Coast do not admit that and though they pay non-native poll tax they are not on the Arab Voting Roll. I take it that if they are accepted as Arabs they will come under section 2 (a) and if on the other hand there is any doubt cast on them, they have the opportunity given under section 3 (b); I presume that is the legal position. I do trust that when the Select Committee deals with this Bill they will take those people's interests into consideration.

MAJOR THE HON. R. W. D. ROBERTSON-EUSTACE: Your Excellency, I am very glad to support this Bill. I would like to say that the definition of an Arab should be added so that the clause should include Arabs who had descended from the people who came from Oman, Hatharmy and the Twelve Tribes. These people will then be given a status in the community instead of being merely non-natives.

THE HON. SHERIFF ABDULLA BIN SALIM: Your Excellency, I merely rise to support the Bill, but I do not wish

to say anything now as the measure will go to Select Committee. I should, however, like to ask my hon. friend the Member for the Coast if he can inform the House who are the Major Tribes?

MAJOR THE HON. G. H. RIDDELL: Your Excellency, I have only one thing to say as regards this Bill—which of course I welcome and support—and that is with reference to section 2 (a). The definition of an Abyssinian as a non-native has in brackets after it "Amhara." Hon. Members will remember that when dealing with the Kenya Land Commission Report I claimed there were large sections of the Abyssinian tribes who had been included in what we may call the scramble for land in this Protectorate. The definition "Amhara" after Abyssinian is in my opinion misleading and should be struck out. The Amhara people in Abyssinia are a small tribe, although the ruling tribe, and they live on the highlands of Abyssinia and do not touch us in any particular. The border tribes are Boran, Girsiba, and Wallagalla, who have apparently become natives in this country. Similarly, while these Abyssinians other than Amhara come under this Ordinance, there are Somalis who have lived in this country for years and years and are exempted from the definition. I imagine these things are better straightened out in the course of the deliberations of the Select Committee, but Elected Members will wish, I am sure, that I should call attention to the fact now, inasmuch as the definition cuts right across our intentions as regards the Land Commission Report. I should like to add that since that debate, as regards the Somalis, the statements I then made have been confirmed almost word for word by a report which has since come into our hands concerning the Tana River. In that Report the Commissioners go into great detail as regards the Somali tribes along the Tana which under this Ordinance, unlike the Abyssinians other than the Amhara, are classed as aliens. There is one other point I should like the hon. and learned Attorney General to answer: how do you deal with this Ordinance with the completely detribalized gentleman who lives in Pangani and cannot trace his pedigree and owns no allegiance to any tribe?

THE HON. ISHER DASS: Your Excellency, I support this Bill wholeheartedly, but there is one point I wish to object to: the inclusion of such a clause as 2 (b) (1). I have had the honour of discussing it with the hon. the learned Attorney General, and explained that although that clause may seem a simple one, in fifty years time we shall find ourselves in such an awkward position socially and politically that it will be impossible for anyone to solve the problem. Instead of facing the problem then it would be much better to do it to-day by

deleting all the clause. In the course of my discussion with the hon. the Attorney General I tried to convince him of that, and since the Bill is to be submitted to Select Committee I am glad that I shall have the opportunity of trying to convince him there.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, there is only one point in connection with clause 2 (b) on which I want to comment. The onus of proof that they are not natives is on people. There are certain Indians who have taken African wives and the children of these marriages live as non-native children. According to this clause, it appears to me that in future, whenever cases of this kind occur, and they are sure to, the onus will be put on the parents of the children to prove that the latter are non-natives. These children are admitted by Indians as members of the Indian community, they go to the same schools; in fact, they are considered as Indians. I feel that this Bill is going to inflict hardship on certain sections of the community.

THE REV. CANON THE HON. G. BURNS: Your Excellency, there is only one remark I want to make, with regard to the detribalized African in Pangani and Pwani. I should not think there would be any question at all about them. They look upon themselves as natives, they do not claim anything else but that, and the majority of course have relations and friends in the native reserves. While they may live here, they have relations in the reserves and would not dream of claiming to be anything else but natives of Africa. Should they so claim, provision is made in this Bill that they would have to go before a magistrate and prove they were not natives, which would be a difficult matter for them indeed. I am very glad that this Bill has been brought in, it will serve a very real purpose indeed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I think hon. Members will agree with me that all the points made are Select Committee points, but at the same time I am glad that the hon. and reverend Member has answered one difficulty for me. That is with regard to detribalized natives. There is no question of any Bill making a native a non-native if he is a native! The fact that he happens to be living away from his tribe is not going to alter his status in any way as far as I know. With regard to the remarks of the hon. Member Major Riddell regarding the Amhara, I must plead not guilty, as I am very ignorant of these matters. I merely put in the word at the request of an expert, and I shall have much pleasure in bringing that expert before the Committee in order to justify his decision that Amhara should be put in. Regarding the point raised by the hon. Member

Dr. de Sousa, as to onus of proof. I admit it may be possible that in certain cases there will be a little hardship. At the same time, I have got to put the onus on to somebody, and the only person capable of proving his descent is clearly the person interested. It would be quite hopeless to expect someone foreign to the suit to come in and explain whether someone else was or was not a non-native. Regarding the question raised by the hon. Member for the Coast, as to the definition of Arabs, we have threshed that matter out with Arabs who should know most about it, and they entirely agree with the Bill as printed, and I stand by that.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

The hon. the Attorney General moved that the Interpretation (Definition of "Native") Bill be referred to a Select Committee consisting of the following:—

- The hon. Attorney General (Chairman).
- The hon. the Acting Chief Native Commissioner.
- The hon. Member for Kiambu.
- The hon. Member for Nyanza.
- The hon. Member for the Coast.
- The hon. Isler Dass.
- The hon. Arab Elected Member.
- The Rev. Canon the hon. G. Burns.

THE HON. THE SOLICITOR GENERAL seconded.

The question was put and carried.

Council adjourned until Tuesday, the 27th of November, 1934, at 10 a.m.

TUESDAY, 27th NOVEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Tuesday, 27th November, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF OATH.

The Oath was administered to:—

EDWARD GILBERT MORRIS, O.B.E., Director of Education.

MINUTES.

The minutes of the meeting of 26th November, 1934, were confirmed.

MOTION.

DRAFT ESTIMATES, 1935.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Draft Estimates of Revenue and Expenditure for 1935 be referred to the Standing Finance Committee of this Honourable Council.

As in your opening address to Council Your Excellency dealt fully with the present position of the Colony's finances and the working of the 1934 Budget, I propose to proceed to the consideration of the 1935 Estimates without further introduction, and in doing so I ask the indulgence of Council—which I believe is usually granted on such occasions as this—to allow me to read what I have to say.

The Estimates which are now before Council provide for a gross expenditure of £3,237,811 and a revenue of £3,240,381; that is to say, a surplus of £2,520.

I propose to deal with the Expenditure Estimates first.

The reason for this is that the amount of our expenditure has been largely decided for us. In years of prosperity the Colony embarked upon a far-reaching programme of development and expansion. During the recent years of depression that programme has inevitably been arrested, but that part of it which was completed has left us a legacy of expenditure that we cannot avoid. In connection with the 1935 Estimates there is little profit in discussing whether or not the programme was more ambitious than the Colony could well afford and still less profit in attempting to apportion the blame, if there is any blame, for yielding to natural and laudable ambitions. The salient fact which concerns us to-day is that the

Colony adopted the programme and we have inherited the obligations to meet the expenditure involved. In other words, the problem is not simply, as has been frequently stated, to cut our coat according to our cloth. It is not nearly so easy as that. It is rather a problem of finding the necessary cloth wherewith to make a coat the size and pattern of which within narrow limits of discretion have already been determined for us.

The gross Estimates of Expenditure total £3,237,811, and fall into the following categories:—

- (1) Loan commitments, that is to say, interest and sinking fund on borrowed money.
- (2) Pensions, Gratuities and Provident Fund.
- (3) Rent and Interest to the Sultan of Zanzibar.
- (4) Joint Services.
- (5) Colonial Development Fund.
- (6) Reducible Services, including Extraordinary Expenditure.

Loan commitments are to be met if we are to retain our position as an honourable debtor. I have heard some talk about defaulting. But no British Colony has ever yet defaulted, and it is inconceivable that Kenya should be the first to do so. I may say at once that although circumstances may force us to lower our standard of efficiency, nothing that I can imagine will ever lead Government to lower its standard of integrity. I have heard talk of conversion, and the question has been asked, if the Imperial Government could convert £2,000,000,000 of War Loan from a 5 per cent to a 3½ per cent basis, why cannot similar action be taken here? I wish to make the position perfectly clear. When the Government raises a loan it is part of the terms of that loan that it may not be repaid before a certain date, which I will call the first date of repayment. When the Imperial 5 per cent War Loan was converted, the first date of repayment had already passed, so what the Imperial Government did in effect was to raise a new loan, and tell the holders of War Loan that they could either exchange their holdings for a similar amount of the new loan, or else they could have their money back. As the first date of repayment had passed, the Government were perfectly in order in offering to pay back the money. Now, meanwhile the shares are being bought and sold in the market under the terms of issue at a substantial premium, which means, of course, that investors at home do not get 5 per cent for the money they invest. It therefore follows that no conversion, similar to that effected in the case of the Imperial War Loan, can take place before the date of maturity.

That is the simple fact. The first date of repayment is an integral part of the terms of the loans, and those terms must be honoured.

There is, however, another type of conversion. It is possible that by extending the first date of repayment, bondholders might be induced to accept a small reduction in the present rate of interest. This, would, however, be mortgaging the future unduly for the sake of what would inevitably be but a slight present advantage, and I am advised that any such scheme even if practicable would be found to be to our detriment. Government has investigated the possibilities of conversion but up to the present no scheme has been devised which would appear likely to bring relief from loan charges, even though the terms of the loans, particularly those of the 1921 loan, may appear to be unduly onerous. The fact remains that Government accepted those terms and is bound by them. Our total commitments under the Head "Public Debt Funded" amount to £1,043,253. Of this sum roughly £860,000 is reimbursed and appears as a cross entry on the credit side of the Budget. In addition, there is the sum of £4,924 appearing under Head XII, Interest and Unfunded Debt. These commitments must be met.

Expenditure under the second Head—Pensions, Gratuities and Provident Fund—amounting to £200,150, is equally unavoidable, and must be met by legal obligation.

Rent and Interest to the Sultan of Zanzibar is £16,000.

Expenditure under the fourth head is for what are known as Joint Services, that is to say, Governors' Conference, Customs, Posts and Telegraphs, and Military, amounting to £406,056. This expenditure depends largely on agreements between us and the other territories concerned. The amount inserted in the Estimates is considered to be the minimum necessary for the effective conduct of those services, and in any case cannot be varied without the concurrence of the other Governments.

Expenditure under the Colonial Development Fund amounts to £5,177. This is recoverable except as to £768.

There remains the expenditure under the sixth of my headings, totalling £1,553,053, which is theoretically reducible. I say theoretically reducible, because in practice it is found very difficult to effect reductions of any considerable magnitude without wasting money that has been already spent. I will give two instances to explain what I mean.

We have in the past spent from loan funds over a quarter of a million pounds on road communications throughout the Colony, and if that money is not to be wasted these communications must be maintained. In the Estimates before

Council there appears provision to the extent of £57,000 for the maintenance and improvement of roads and bridges. It might perhaps be thought that in these difficult times that sum might be reduced to, say, £50,000, without any serious loss or damage. But I am advised that £57,000 is the minimum sum required for the maintenance in reasonable condition of the existing system and that any smaller provision will mean that money spent in the past on construction will be wasted and the road system, which is one of the Colony's most valuable assets, will be proportionately ruined. It will be noted that this £57,000 is considered to be the minimum necessary for maintenance, and I am advised that of that sum there is little or no provision for improvement, although the item is headed "Maintenance and Improvement".

We have also spent from loan over £300,000 on building schools. If that money is not to be wasted, those schools must be maintained. If the schools were to be closed we should have to continue to pay interest and sinking fund on the £300,000 and we should get nothing for our money. The approximate net cost of the Prince of Wales School, including loan charges but excluding departmental head office charges, pensions, passages, and the annual rental value of the school grounds, after deducting tuition and boarding fees, amounted in 1933 to over £10,000. It may be that in these difficult times expenditure on this scale is more than the Colony can well afford, but the buildings are there and must be paid for and maintained, and the scholars must be fed and taught. It may be thought that the staff is unduly expensive, but if we were to try to economize by discharging the present well-qualified staff and substituting masters with inferior qualifications, what would be the result? The immediate result would be that in addition to ruining a magnificent institution, of which we are very justly proud, the 1935 Expenditure Estimates would be increased by the necessity to pay commuted pensions to those discharged, while for years to come we should continue to pay the uncommuted part of their pensions to the discharged masters for doing nothing and at the same time to pay salaries to their substitutes for doing the work in a less efficient manner. The same arguments, of course, apply to the maintenance of other Government institutions such as agricultural, veterinary, and medical research laboratories, hospitals, and experimental farms.

I am afraid that a great deal of this sounds very elementary, but from what I have read and from what I have heard I am convinced that in many quarters, in spite of the Report of the Expenditure Advisory Committee, there is so much genuine misunderstanding as to the extent of expenditure to which we are committed that I make no apology for a little elementary explanation.

Other reducible expenditure is that provided for essential services such as the Administration of Justice, Provincial Administration, Police and Prisons. The dangers of reducing these services below the level of reasonable efficiency are so obvious as to need no emphasis from me.

The Expenditure Advisory Committee, appointed by Your Excellency in July, 1933, reported to February, 1933. Its main term of reference was: "To examine the organization of every Government department and to recommend as the basis of Government expenditure for the next four years the services necessary to keep a reasonably efficient Government machine in being". That Report recommended that the minimum necessary, under what are called "Reducible Services", in which category I have included Non-Recurrent Expenditure, for keeping a reasonable machine in being, was a sum of £1,500,032. Since the publication of that Report, Government has attempted to keep within the expenditure advised as being the minimum necessary. The amount provided for reducible services in the 1935 Estimates is £1,553,953. We are therefore £15,970 under the figure recommended by that Committee and, as Your Excellency has pointed out, only about one per cent over the £1,500,000 figure recommended by the Minority Report of that Committee, if account is taken of the fact that, in accordance with the wishes of this House, we have retained the Native Registration Office and the Finger Print Bureau, expenditure on which services was not visualized by that Committee. We have also had to increase expenditure under the Mining Department and we have established a Central Revenue Office.

The guiding aim of the Government in preparing the Estimates for 1935, has been to reduce expenditure as far as is compatible with reasonable efficiency, and to balance the Budget with a conservative basis of revenue, and the Draft Estimates which Honourable Members have before them represent the best that Government has been able to do. If any Honourable Member has any further reasonable economy to suggest, then I reiterate Your Excellency's invitation to him to submit his proposals to the Standing Finance Committee for examination.

It is possible that some members may wish to press for additional expenditure on services in which they or their constituents are particularly interested. I would like, if I may, to read a paragraph of Mr. Moore's speech when introducing last year's Budget:—

"I would, however, appeal to them, before embarking on criticisms (which in more normal times would no doubt be capable of substantiation) to the effect that

expenditure on this or that service in which their constituents are particularly interested has been unduly curtailed, to bear this point prominently in mind, and to give due weight to the fact that the problem of reducing expenditure within the bounds of the diminished revenue estimate could only have been solved in the manner in which it has been solved, namely, by the rigid curtailment of expenditure on each and every service."

Before I pass to the Expenditure Estimates in detail, I would like, if I may, to invite the attention of Honourable Members to paragraph 15 of the Memorandum on the Expenditure Estimates which reads as follows:—

"The terms of service and salary scales in connection with the European Local Civil Service have been approved generally by the Legislative Council and the Secretary of State. Similarly, the proposed terms of service and salary scales in connection with the Asian Local Civil Service are under consideration, and will be presented to the Legislature shortly. The 1935 Estimates do not reflect any of these new terms and salary scales, for the reason that a large number of members of the existing staff have six months during which they may opt either to come into the Local Civil Services, or remain on agreement. Until it is known how each person concerned has opted, it is not possible to state with precision the effect of the inauguration of the Services. The Estimates have, therefore, been prepared on the same basis as in 1934.

As soon as the personnel of the Services is definitely known, Council will be fully apprised of the position, but it is not possible to give any figures at the moment. In general terms, however, the financial effect during 1935 will be an increase in Personal Emoluments, and a saving on account of House Allowances."

I draw attention specifically to this, in order that it may be realized that Government has not been inactive in regard to the formation of these Local Civil Services, though, for the reason here given, it is not possible to show in Draft Estimates the financial effect of the inauguration of these Services.

Honourable Members will have observed from a perusal of the Memorandum that, for purposes of comparison, a summary has again been prepared under each Head of Estimates, showing the extent to which it is an increase or decrease not only on the 1934 Estimates but also on the basic figure proposed by the Expenditure Advisory Committee. There is also a comprehensive table summarizing these figures on pages 3 and 4. It will be seen that two new Departments

appear, the Government Analyst's, which was formerly included in the Medical Department, and the Mining Department, to which I shall presently refer.

The first Head which calls for special reference is Head II, Administration. In this Head, provision for Kabete Reformatory formerly appeared. Methods of dealing with juvenile offenders had long been unsatisfactory, and a Committee examined the matter and reported early this year. Their recommendations were accepted by Government, and, indeed, endorsed by this House when the Juvenile Offenders Ordinance was passed. One of their proposals was that the care of Approved Schools for juveniles should be one of the duties of the Commissioner of Prisons. Consequently, Kabete Reformatory is being reorganized, and a second school is being started as a temporary measure at Eldama Ravine, and provision for both appears under the Prisons Head. I may add that the estimated total recurrent cost of these schools is somewhat less than the sum provided for Kabete Reformatory in the 1934 Estimates, so that the recommendations of the Committee are leading not only to efficiency but to economy.

Under "General Staff" it has proved necessary to make provision for additional sums totalling approximately £7,000 for "passages" and the Tropical African Services Course, which is undergone by newly-appointed Cadets. This expenditure is to large extent abnormal.

The necessity for the appointment of these new Cadets in order to maintain approved establishment is explained on pages 6 and 7 of the Memorandum. The Expenditure Advisory Committee recommended a total of 114 Administrative Officers—since that time the Mines Department has claimed the services of two and one other has been required for the new Sainburi District bringing the total to 117. The twelve new Cadets will bring our strength up to that figure but, until they arrive in August, we shall be very considerably under strength. Honourable Members will appreciate that apart from their duties as Magistrates and Administrators, the officers of the Provincial Administration are also collectors of revenue. A shortage of officers must mean a reduction in strength in the more populous districts, where the establishment is three or four officers, for it is not possible to reduce it to one man station, and generally very inadvisable at stations where the Administrative staff is only two. The loss of an officer in a district where the population is over 300,000 and the revenue estimate is over £50,000 may easily result in loss of revenue in excess of the officer's salary. A reduction in the administrative staff, therefore, below a reasonable establishment is not only dangerous to the maintenance of internal security but is also quite clearly uneconomic.

Provincial Administration is £4,101, or nearly 5 per cent under the Expenditure Advisory Committee's figure, and I would like to take this opportunity of paying a special tribute to the loyal manner in which Administrative officers, often stationed in remote and unhealthy areas, have responded to the calls of Government for more and yet more economy. Since 1930 expenditure on the Provincial Administration has decreased by approximately 27 per cent, while the volume of work they perform is ever-increasing.

The sum of £600 is again provided under "Administration Extraordinary" for the work of re-conditioning the Kamasia Native Reserve. This money is proving a very sound investment and, in this connection, I quote from paragraph 959 of the Land Commission Report:—

"A Reconditioning Officer, Mr. W. H. Langridge, was appointed in 1930. He has done excellent work, but has been severely handicapped by lack of funds. We are of opinion that the vote for this work should be materially increased."

Unfortunately, the financial position of the Colony has not permitted this increase, but the need for it will be borne in mind as and when opportunity permits.

Head III, Agriculture, shows a net decrease of £1,319 and is over £3,000 below the Expenditure Advisory Committee's figure. The only item which I need mention here is that one additional Assistant Agricultural Officer is being engaged to develop the promising cotton industry in Kitui district. The abolition of the Empire Marketing Board has rendered necessary certain increases in grants paid to various institutions at home, all of which are of value to this Colony.

Head VII, Customs, shows that it is proposed to take two posts of Collector out of abeyance and to create a new Local Civil Service post of Accounts Clerk. These increases are considered necessary, but it will be observed that, owing to an estimated increase in the reimbursement from Uganda, there is actually a decrease in estimated net Kenya expenditure.

Under Head VIII, Education, Government has considered it necessary to fill the post of Chief Inspector of Schools which has been kept in abeyance since 1932. Experience has shown that the Director's work is seriously hampered by his not having a senior officer to assist him. It will be observed, however, that despite this appointment the estimates of the Education Department show a net reduction of £698 on 1934. Perhaps I should say a word about the multitude of salary

scales which appear against the item "Education Officers" throughout the body of the Estimates. These scales of newly-engaged Education Officers have been reduced to the lowest point consistent with obtaining suitable candidates, and the result is a considerable variation as between salary scales. Some of the officers concerned are on consolidated salaries, while others are not. The whole question of these salary scales is at present the subject of correspondence with the Secretary of State, and I hope that the scales will soon be reduced in number.

Drastic reductions have been effected under Head IX, Forests. The reason is as explained in the Memorandum, that Government felt that the programme of reforestation should be temporarily slowed down on account of our financial difficulties. It is intended, however, that this slowing down will be of a very temporary nature.

Under Head X, Game, it will be observed that a sum of £250 has been provided for "Expenses of Game and Vermin Control". It is proving more frequently necessary for Government to take action when crops are being subjected to the ravages of game. In consequence, special warrants have become necessary in 1934, although the expenditure has been offset by revenue from the sale of the trophies. This expenditure will, therefore, be revenue earning.

Under Head XVI, Local Government Contributions to Local Authorities, it has once again been necessary to reduce basic road grants to District Councils to keep pace with the reduction which we have been compelled to make in the Public Works Department Road Maintenance Vote. I would like to express the appreciation of Government for the manner in which District Councils have accepted the reductions proposed.

Head XVIII, Military, shows a net reduction of £4,430, due largely to the economies which the Brigade Commander has been able to effect. I must, however, touch briefly on the estimates of the Kenya Defence Force, which show a reduction of £888 on the sanctioned figure for this year. As explained in the Memorandum, it is considered essential that the provision for the Kenya Royal Naval Volunteer Reserve should be slightly increased. We have, therefore, been compelled to reduce the Kenya Defence Force training grant, though honourable Members will notice that it still stands at a figure some £600 higher than in 1933.

The provision under Head XIX, Mining and Geological Department, £11,800, must be regarded to some extent as tentative, for this Department is still in its initial stages.

As hon. Members are aware, the annual cost of pensions and gratuities has been increasing rapidly in recent years and supplementary appropriation has been found necessary. The Draft Estimates for 1935 provide £20,000 for the payment of committed pensions and in addition to making full provision for all recurrent pensions that have been awarded up to date, allow a sum of nearly £15,000 for pensions and gratuities which may be granted during 1935. Included in this Head is a new item of £9,150 representing the estimated contribution to the Provident Fund schemes and the cost of their administration.

Head XXII, Post Office and Telegraphs, shows an increase, but, as will be seen from the Memorandum, this increase is covered by increased revenue.

Head XXV, Prisons, shows a very substantial increase for the reasons given in the Memorandum. The overcrowding which has of late obtained in the prisons of this Colony has rendered it necessary to take some steps to alleviate it, and the proposed farm scheme seems most suitable.

Your Excellency, I do not think that any of the remaining heads of expenditure calls for special explanation from me at this stage. No doubt honourable Members will during the course of the debate ask any questions on points concerning which they may desire information, and the Estimates will be examined in detail by the Standing Finance Committee.

To sum up, the gross estimate of expenditure is £3,237,811, and I do not see how it can be materially reduced. Indeed, there are numerous other demands which should be included in the expenditure side of the budget had the financial position allowed.

Since these Estimates were framed, Government has received the report of the Economic Development Committee, and while there has not yet been opportunity to examine in detail the financial effect of their recommendations, it can safely be said that they demand recurrent expenditure of approximately £20,000 per annum, and I do not see where the money is to come from. The Estimates before Council provide only for the running of the existing machine. No provision for expansion or improved performance is practicable within the limits of our existing fiscal system. The problem, therefore, as I see it, if the budget is to be balanced—and I am assuming that the imperative necessity for a balanced budget is generally appreciated and admitted—is to meet gross expenditure to the amount of approximately £3,240,000 as an absolute minimum, and the Revenue Estimates show how Government proposes to do this.

Of this gross expenditure the sum of £1,078,770 will be recovered by way of reimbursements and cross entries as detailed on page 6 of the printed Estimates.

As Your Excellency has already referred to the most important points in your address from the Chair this day week, I propose to be as brief as possible in dealing with these Revenue Estimates which reflect a gross total of £3,240,331, i.e. £3,520 above the Expenditure Estimates.

The Revenue Estimates show a net increase in net revenue of £39,055 over the sanctioned Estimates for the year, and have been drawn up on a sound and conservative basis.

Under Customs, a net increase of £5,000 is shown on page 11 of the printed Estimates, due in part to the stiffening of the specific duties on certain classes of goods which was effected by the Customs Tariff (Amendment) Ordinance, 1934, which passed through all its stages during the last session of this Council, and in part to the fact that some small improvement in trade consequent on the development of the mining industry and of the inauguration of the paper pulp industry may reasonably be anticipated. Excise duties remain the same, namely, at £20,000.

Under Head II, Licences, Duties, Taxes, etc., it will be observed that there is an increase of £6,000 on account of stamp duties. This increase is based on actual revenue during 1934, and it is largely due to the stamp duties payable on transfers of mining titles.

Native hut and poll tax has been reduced by £8,978, and I trust that the estimate under this item will be realized. Each Provincial Commissioner has examined carefully the amount which he anticipates will be obtained from his Province, and I am advised by my honourable friend the Acting Chief Native Commissioner that the estimates are conservative. The substantial decrease in the Coast Province is due to the fact that a great proportion of that area has been suffering from famine caused by drought and in consequence the people are poorer than heretofore. Should, however, the country on the Coast strip be blessed with good rains during 1935, the estimate should be materially exceeded. Again, there is a substantial reduction in respect of the Masai district. That district has also suffered from drought and from the lack of an adequate market for surplus cattle and in consequence the natives, who, as honourable Members know, are entirely pastoral, have the utmost difficulty in obtaining the necessary ready cash to make the cash payments in respect of their taxes. There is also a reduction in the Central Province due mainly to a previous over-estimate in the Meru district.

The provision for the non-native poll tax remains with the same figure as for 1934, but the estimate in respect of traders' and professional licences has been increased by £10,000 owing to the new legislation which is being introduced at this session and which is based on the report of a Committee which will be laid on the table of this House.

The package tax has been abolished for reasons given by Your Excellency.

It will be noted that it is proposed to retain the levy on official salaries at the existing rates, the amount which it is expected to realize being £46,500. The necessity for the continuance of this levy—which is in effect a discriminatory income tax applied only to one section of the community—is deeply regretted, but it is hoped that members of the Service, appreciating the necessity, will accept the position with that philosophy and loyalty to Government which has hitherto characterized their attitude.

The country in its present condition might not unnaturally resent the inclusion of any extra taxation in the 1935 Budget. I would point out that with the exception of the increased revenue expected from a more equitable revision of trade licences, which will be more or less offset by the withdrawal of the package tax, no additional taxation is being imposed.

Head III, Fees and Payments for Specific Services, calls for little comment. The main increase is under item 25, agricultural produce grading, conditioning, and cold storage fees, etc., which shows an increase of £2,500 based on an increase in exports which my honourable friend the Director of Agriculture advises me can reasonably be expected. This increase is to some extent offset by increased expenditure on the grading and conditioning branch at Kilindini and, should the increased exports not materialize, there will be a reduction of revenue and also a reduction in expenditure. Item 26, Registration of Domestic Servants, postulates the application of the Ordinance to Nairobi and Usini Gishu districts, and the estimated revenue of £1,525 is slightly in excess of the estimated expenditure of £1,427.

Head IV, Post and Telegraphs, includes a non-recurrent windfall of approximately £6,000 on account of the sale of stamps to collectors, a windfall which always attends every new stamp issue. The remaining increases are of a minor character, and my honourable friend the Postmaster General assures me that they have only been included in the Estimates after most careful examination and reflect as accurately as he can judge the revenue which is likely to be obtained during the course of the year.

Under Head V, Earnings of Government Departments, we show increased revenue from the Government Press to the extent of £2,000. The bulk of this sum is received from the Railway for printing carried out by us on their behalf, and is based on the actual revenue which has been coming in this year, it is, however, to a slight extent offset by certain increases in expenditure which have proved unavoidable owing to the increase in the volume of work. The net increase on the expenditure side amounts to £215 only. Under item 2, Prison Industries, there is an increase of £4,500. As to £3,000, this is due to revenue anticipated from the quarrying of stone at the Prison Farm Camp near Ngong, to which I have already referred. The remaining £2,500 is attributable partly to the fact that this year we have under-estimated the revenue which is obtained from this source. The sum of £700 has been transferred from the item Kabete Reformatory in accordance with the transfer of the activities of that institution to the control of the Commissioner of Prisons.

Head VI, revenue from Government Property and Royalties. It will be observed that an increase of £7,000 on account of mining royalties is anticipated. The Commissioner of Mines assures me that this estimate is conservative.

Under Head XII, Land Sales, Item 1—Stand Premia for Farms—there is a reduction of £7,000. This reduction is entirely due to the fact that owing to the continued depression it has been necessary for the Commissioner of Lands to arrange with various farmers for a moratorium in respect of the payments of instalments of stand premia on their farms.

Your Excellency, I have already spoken at some length, and I do not intend to detain the House much longer. Should there be any further points they can either be dealt with during the course of the debate or, if the motion is approved, when the Estimates are being examined by the Standing Finance Committee. I would only ask honourable Members to realize the exceptional difficulties with which we as a community are faced, and to appreciate that Government is not only fully cognizant of their existence but is doing its utmost to overcome them and, I would add on behalf of Government, that constructive advice will be warmly welcomed and will receive the most careful consideration of the Standing Finance Committee should this motion be approved.

Your Excellency, I beg to move.

THE HON. THE TREASURER seconded.

HIS EXCELLENCY: The question is, that the Draft Estimates for 1935 be referred to the Standing Finance Committee.

Council adjourned for the usual interval.

On resuming.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, it is a matter of deep regret to me that it should have fallen to the lot of my hon. friend the Colonial Secretary on his first occasion in this House of introducing a budget, to have to introduce such an appalling budget as we have before us to-day. I say that, Sir, because all of us who know my hon. friend know him to be a really good Kenyan, a true lover of this country, and I regret that it should have fallen to his lot of all others to have to introduce such a budget. Sir, I would like to make it quite clear that I am speaking on behalf of and with the full and unanimous support of all the European Elected Members. They have decided, contrary to their usual custom, that only two or three of our number shall make speeches on this occasion, contrary to the usual custom, when every member jealously guards the privilege which this debate affords every year of a general survey of the whole policy and economic conditions of the country, and gives them an opportunity of bringing forward any particular questions of interest to their own constituency. On this occasion they have foregone that privilege, as we consider the situation too serious to allow of any small parochial questions to come in. I should like to emphasize, Sir, that the European Elected Members are the duly accredited elected representatives of the whole of the European community of this country, and when we speak with one voice unanimously we are representing the views of the people of the country. I believe, Sir, that I can go even further: I believe that you will find in the course of the debate that the hon. we are taking up has also the support of the representatives of the other races in this country! The question, Sir, is not a racial one, it is not a question of income tax versus poll tax. It is a question of this high expenditure which the country cannot go on supporting.

My hon. friend the Colonial Secretary, in his opening remarks, put his finger on the point, the main point, of disagreement between ourselves and Government. He said: "Many people in this country consider that Government should cut their coat according to their cloth." That is exactly what we do say, and we shall go on saying it. Government on the other hand say: "No, we must beg, borrow or steal, whether we have any money to pay for it or not, some more cloth, so that we can be adorned in a beautiful frock-coat." Sir, you did me the honour last week to quote from one of my statements in this House, wherein I said last year that Government had made an honest attempt to try and meet the requirements of the situation. I regret that I am unable

to apply that same epithet to their efforts this year. May I go on, and quote further from that speech, Sir? This is what I said—

"While, Sir, I have given credit to the Government side for having tried to follow out the recommendations of the Committee which I sat on myself for many months last year, at the same time it must be remembered that that has only been achieved by further sacrifices on the part of the people of this country, who will this year be contributing, on a conservative estimate, an extra £50,000 towards the revenue of the Colony: We all know that everybody is in an impoverished condition to-day. Never has the farming community in this country been through such a bad time as we have been through during the last few years, and it is a definite sacrifice which has been called for from the people of this country and which I think the people of this country, however much they may criticize and object to extra taxation—everybody always objects to taxation—have shouldered in a spirit of great citizenship; and I do trust, Sir, that Government will not forget its undertaking, when those taxes were agreed to a few months ago, that they should be of a temporary nature and should be reduced at the very earliest possible moment."

Now, Sir, I made that statement in this same debate last year. No member of the Government disputed or contradicted that. Nor could they in view of the fact of the remarks made some months previously by the hon. and learned Attorney General at the time, Mr. MacGregor, who said on the 3rd August, 1933, when he was moving the second reading of the Non-Native Poll Tax Bill: "The legislation, Sir, is expressed to be temporary in its nature. That again, Sir, is in consonance with the policy of the Colony which has inspired this legislation. It will expire on the 31st December, 1934, unless there is any need to perpetuate it, and that end can only be expressed by resolution of this Council." On the 12th August, 1933, Mr. MacGregor, moving the adoption of the Report of the Select Committee on the same Bill, used these words: "This is expressed to be temporary taxation, Sir. Clause 37 of the Bill definitely brings it to an end at the end of 1934, subject always to the right of this House to perpetuate it." I think you must admit that these quotations amply justify our contention that this Non-Native Poll Tax Bill was always intended to be of a temporary nature.

You, Sir, said it was not alternative to nothing. What it was the alternative to was the immediate cutting down of expenditure by Government. We agreed to that temporary taxation so as to give Government a breathing space during

which it should put its house in order and bring the expenditure side of the budget into closer relation to what the financial resources of the Colony could bear. That, Sir, Government has signally failed to do. Here we are, another year gone, and we have this budget before us, and it is for that reason, Sir, that we European Elected Members will definitely oppose the re-introduction of the Non-Native Poll Tax Ordinance. People may argue that that is not a worthy line to take in view of the fact that it would cause a deficit on the budget, but we realize that so long as supplies are forthcoming for Government to spend that Government will not face up to the realities and will not make the drastic reductions which are absolutely essential if this Colony is to carry on. I do not think it could have been better exemplified than by the remarks of the hon. the Colonial Secretary with reference to the cloth for his coat.

Turning to another matter, I must confess that I felt deeply flattered and somewhat embarrassed to find that the Report of a Committee on which I had the honour to sit has now been adopted by the Government of Kenya as a sort of gospel according to St. Rushton and apparently Government has abdicated its own position in stating what expenditure could be borne by the country so long as it agrees with the figure put forward by that Committee. I must point out, however, that the late Colonial Secretary (Mr. Moore) took a very different point of view on this question. On the 7th December, 1933, he stated in this House, in answer to what some hon. Member had said:

"First, does any hon. Member of this House—however much our admiration for the Expenditure Advisory Committee and its members—suggest that in them alone is to seek a repository of all wisdom? Surely, Sir, this House, which has the ultimate say in all matters of finance, is not going to delegate to anybody—even though it has been appointed by the wish and the concurrence of this House—its rights and discriminations—that this House should examine any recommendations put forward on their merits."

I should, however, like to emphasize that as this Committee has been so extensively quoted, that our terms of reference were unduly curtailed, and though the hon. the Mover said our terms of reference were to examine all departments of Government I think he must have unintentionally slipped up a little bit there, because in our terms of reference we were debarred from considering the loan services, pensions, the Northern Brigade, K.R.A., and the four native services, that is agriculture, educational, medical and public works, detailed in Appendix I, Schedule 9, page 85 of the Report of

the Financial Commissioner, Lord Moyne. Despite this handicap, we believed that half a loaf was better than no bread, and we tried our best to put a clear picture before Government and the country of the actual financial state of the Colony, and, whilst you, Sir, quoted some lines from the Report I suggest that to get the context correct and in proper proportion it is necessary to quote further. This is what we said:—"In the first place, we feel confident that when departments have settled down to the re-organization as we propose, it will be found practicable to make still further reductions. It will be the duty of those who frame the annual Estimates to keep this aim continually before them, and it will be the duty of Your Excellency's advisers to see that constant vigilance is exercised to secure the reduction of the gap between expenditure and revenue." Again, in section 447 we stated:—"We have, to the best of our ability, completed a somewhat unenviable task. We have indicated the financial position as it will be when the present Government machine is reduced as far as we consider it possible to reduce it within the terms of reference imposed upon us." We knew that we had not reduced it as far as it could be reduced. "The revenue which is likely to be available on the present basis of taxation to meet present expenditure will not be sufficient to cover the cost of running this machine. The decision whether the deficit is to be met by a process of drastic retrenchment and reduction of Government services below a standard of reasonable efficiency, or by additional taxation, lies with Government," and in the next paragraph we added:—"The need for efficiency is recognized and admitted by all, but it is false economy to aim at the immediate achievement of a standard of efficiency which involves expenditure beyond the capacity of the Colony. This is particularly true of the large spending departments—medical, education, agricultural, and public works. Adjustments must be made in these and other services, so that expenditure may be brought and kept within the Colony's spending capacity both now and in the future." On page 109 of this Report we pointed out that on the then basis of revenue and expenditure involved under our proposals, there would be in this coming year 1935 a deficit of £161,638. Surely, Sir, to anybody who read that Report carefully it must have been sufficiently clear that the position was an extremely unsatisfactory one, that it was the duty of Government to see that the expenditure was kept within the spending capacity of the Colony?

That Report was made nearly two years ago now, and as everyone knows the spending capacity of this Colony, owing to two of the worst years we have ever gone through, has been seriously depleted, and the figures which obtained then are no longer relevant. It must be obvious to everyone that when

our spending capacity has decreased during the last few years by something like three million pounds, it is quite impossible for the Colony to keep up to the standard of expenditure which was then visualized within our limited terms of reference by that Committee. We knew we had not done enough to put the finances of the Colony on a sound basis, but we were tied to the limitations of our terms of reference and could do no more, and it was for that reason that the hon. Member for Nairobi North and I were moved to add a Minority Report, which we did, to the main Report, and it was with those fears in our minds that we said this: "The foregoing circumstances tend to prove that, pending a rise in the price levels of primary products, the available resources referred to in our terms of reference are scanty and we can see no possible alternative but to reduce still further the cost of the machinery of Government." We then made some definite recommendations, and ended our Minority Report with these words: "We feel, however, in view of the present financial position of the Colony, it is our duty to urge that every possible means be utilized to reduce still further the cost of Government."

I fear, Sir, that I have quoted at some length from this Report, but in justice to those of us who were members of that Committee—and unfortunately the three official members have now all left the Colony—I felt it was necessary for us to clarify our position as it appears that Government are trying, somewhat meanly in my opinion, to shelter themselves behind the Report of the Committee in justification for having produced a budget far beyond the spending capacity of the Colony at the present time! No doubt, Sir, Government thought it was a very good point that the three official members having departed out of the country only three unofficial members were left here, and if Government could produce a budget and say "Oh yes, that agrees with what the Expenditure Advisory Committee put forward," they would then be able to discredit the position of my hon. friend on my left (Major Cavendish-Bentinck) and myself, not to speak of the third. Even so, several of our recommendations have still not been put into force, and if I may I will give one glaring instance of that. It is the question of closing down the central work-shops and seasoning plant of the Public Works Department. We definitely recommended that it should be closed down, but the plea was put forward that as they were in the middle of making furniture for the Law Courts they must be allowed to keep them going until that work was completed. We gave way on that point, and it was definitely recommended that they should be closed down as soon as ever the work of furniture making for the Law Court was completed. What do I read in this year's Estimates? They are now to be kept going

because at some future date some furniture may be required for the Central Offices! and so it goes on. When these offices are going to be built I really don't know, because I do not know what money will be available to build them with, in view of the fact that all the money put aside under loan balances is at present being utilized to bolster up the cash position of the Colony.

In your address from the Chair, Sir, you made a reference somewhere to the necessity of directing money into its proper channels, which you described as the coffers of the Government of Kenya. Now, Sir, that is a statement which I suggest must be taken with a good deal of reservation. I think it is a well known fact that every pound which goes into Government immediately becomes worth Sh. 10 or less as compared with every pound being used in the hands of private enterprise. I should like to give a definite illustration of that. Quite recently a very interesting book has been produced by my hon. friend the Director of Public Works on the question of water boring, and towards the end of that book he works out the figures which it cost to do this boring under Government auspices. The figure he gave was Sh. 27 and a few cents per foot, but he admitted that that high rate was caused by the very expensive costs entailed when they were working for Government purposes, and the figure he gave for the work done on European farms and in the Native Reserves for the Native Councils worked out at Sh. 29 and some cents. Now, Sir, in the last few weeks I have had a private firm boring for water on my own farm. I am glad to say they have found me a good supply of water at a depth of 340 feet and their contract price, irrespective of what sort of ground they had to go through, was Sh. 7/60 per foot—less than a third of what it costs under the auspices of the Government department of Public Works. Sir, I suggest that is a very definite illustration, because whenever enterprises of that sort have to be undertaken by Government departments, one immediately gets all these hidden emoluments—leave pay, relevant housing allowances—piled on the top of everything else, and so the cost obviously must go up.

Sir, I have spoken at some length on the way that Government have tried to shelter themselves behind the Report of the Expenditure Advisory Committee. I must emphasize, Sir, that Government and Government alone is responsible and it cannot off-load this responsibility on to any Committee or any other body. We on this side of the House are not going to oppose the motion for referring the Draft Estimates to the Standing Finance Committee as we still have a hope that Government may see the error of their ways and on that Committee may face up to realities, but at the same time, Sir,

I do not consider it a fair game to play on that Standing Finance Committee, to give them a budget such as we have before us—such an impossible budget—and expect them to get that right in the course of a week or two, when Governments have made no attempt to do so over a period of several months.

I am not, to-day, Sir, going to refer to any details in the budget at all. I am going to keep entirely to the main principle and the real crux of the matter and what I consider the most serious of all, the fact that we have to-day as very clearly explained in the Memorandum on the Draft Estimates, Government admits, a serious cash deficit. It is not very but once more I must ask you to turn to the Report of the Expenditure Advisory Committee and on pages 110 and 117 you will see that Lord Moyne estimated that at the 31st December, 1932, there would be a cash deficiency of £181,630. We, on our committee, by adopting the same methods, made the actual cash deficiency on the 30th November, 1932, £174,720. Since then we have had deficits last year and this year amounting to approximately another £100,000, and so on these figures we have an actual cash deficit of at least £275,000. Actually, working it out from the latest figures I have seen I made it come to £283,000. Now, Sir, that is a very serious position, and how has it been met? I believe, by the use of unexpended loan balances, a method which, in some other walks of life, might be described as "misappropriation of funds," and once more I must draw your attention to that same Report at paragraph 14, where we stated:—

"Whether this cash deficiency be met by drawing from time to time upon the running surplus of deposits over advances, or out of loan funds, seems to us immaterial. The money is, not there and until the budget can be balanced with a surplus it cannot be replaced. Furthermore, until this can be achieved, the cash position is bound to become worse."

I take it, Sir, that none of us here wish to follow in the footsteps of Newfoundland who has had to default. I know the hon. Colonial Secretary said that no Colony had defaulted. Newfoundland is a Dominion; so perhaps it does not count, but if we carry on with this profligate policy of spending such enormous sums of money in proportion to our spending capacity, I can see no other way of how we are going to avoid similar catastrophe.

I have here, Sir, a report of the speech of Mr. Alderidge, the Premier of Newfoundland, giving his last budget speech on the 29th June, 1933, and there is so much in it which is so applicable to this country you must forgive me if I make a few quotations. In the early part of his speech he says:

"No improvement has become visible during the past year in the abnormal, and unprecedented, financial and economic conditions which showed themselves first some years ago, and have since extended over nearly every country in the world. . . . For Newfoundland in particular, the renewed decrease in the price of codfish, in the price of newsprint, and in the export of iron ore, combined with adverse exchange conditions, has inevitably had its indirect effect on our Customs revenue which, as is well known, forms the great proportion of the total revenue of the Dominion; while the payment of interest upon loans raised at very high rates in the past, which are out of all proportion to the existing price of money, has subjected the finances of the Dominion to an intolerable strain."

He goes on to say, and it is so similar to what happens here:—

"Before, however, the year had well begun, it was abundantly clear that the estimates of revenue had been framed on an optimistic scale, and that it was most unlikely that the figures laid down in the budget would be reached. . . . In these circumstances there was only one course which could be followed. The budget for the year had brought into effect considerable increases in taxation; and it was evident that any further increases would impose an improper restriction upon industry and trade. It was necessary, therefore, to cut down budgetary expenditure, and to do so in the most drastic manner."

He then goes into some details I won't read and continues:

"It was particularly repugnant to me to introduce a programme decreasing the payments for our Education service which had already been so severely cut down in the budget for the year; and to make a still further reduction in the salaries and pensions of the Civil Service. There was, however, in the view of the Government, no proper alternative to the course, which was adopted, of cutting expenditure down to the bone, and indeed in some cases into the bone."

Now, Sir, there are further quotations which are a *propos*. but I do not want to bore you too much, but I should like to read this short extract:—

"No one has been more concerned than myself at the severe reductions which have been made both in salaries and pensions in the emergency which has confronted the country in the last two years, and on one appreciates more than myself the spirit in which they have been accepted."

Apart altogether, however, from this emergency, I cannot help stating that in my view there is very great need for the reorganization of the Civil Service."

And finally:—

"They are convinced, however, that, just as I have to say with regret that in existing circumstances no reduction in taxation would be justifiable, no net increase could be brought into force without such restriction upon trade and industry, and without such a burden upon all classes of the community, that the object in view would be defeated."

Sir, where is the difference? All those extracts I have read apply equally to us here, except those reductions have not been made. We have not cut to the bone and we certainly have not cut into the bone. Mr. Alderdice in spite of that was too late and as you know, Sir, Newfoundland had to default and the Imperial Government took over their liabilities and loans were taken up by the previous holders at a very largely reduced rate of interest. Let us be warned in time, Sir, so that we do not follow their example and share the same fate.

I will now turn to the Revenue Estimates. I was very interested in noticing when the hon. Member was discussing the revenue that in some cases he took this year's Estimates and compared them with what is going to happen in 1935 and in other cases he took the actual returns which have been achieved this year. Curiously enough, in both cases, it happened that that was the method which gave the Government the maximum revenue. In actual fact, though he said the revenue showed a net increase on this year's Estimates, he knows, and I know, we all know, that in fact there is going to be a very serious shortfall in this year's Estimates, a £40,000. So in reality the Estimates put at about framed on the supposition that we are going to get £80,000 more in revenue next year than we get this year. Now, Sir, is that an honest way of budgeting at a time of depression like this? How can there be any justification, for that optimism! We know, Sir, for instance that this year the Customs receipts—I am not talking of Excise—will probably be below the £600,000 mark, and yet next year we estimate £630,000. Why should we get an extra £30,000 for Customs duties next year? Let me admit, Sir, before I go on: that there has been a slight alteration of tariffs which I believe is estimated to bring in an extra £5,000, but everybody who is in touch with the commercial affairs of the Colony knows that the spending capacity of the people is at its lowest ebb.

This year, probably for the first time for eleven years, the exports will be below the £3,000,000 figure. Prospects next year are not encouraging. All prices for primary products are still desperately low and our chief export—coffee—is at a lower level to-day than has been the case for a great many years. At the same time the failure of the short rains, in spite of the somewhat optimistic remark in the address from the Chair, on the top of the failure of the long rains, has dashed our hopes of a large crop in the coming season. It must be obvious to everybody that the whole wealth and prosperity of this country depends on the prosperity and well-being of the producers and this does not mean the prosperity of the farmers only, it means the prosperity of everybody in the country, because that is our only source of wealth. It is the only way. The wealth produced out of the soil is the only means we have to produce any wealth and circulate it and to pay for these other services. If our crops can be sold on the world market at profitable prices then all sections benefit. But here we are with all our primary products being produced and sold at a price which cannot even cover the cost of production. At the same time markets are getting closed more and more to our pockets. It is a serious fact that whilst about 50 per cent of our products go to foreign countries, continental Europe is putting up more and more barriers to prevent the importation of products such as we produce. Everyone, here, for some time past has been living on either capital or borrowed money, and unless the tide turns very soon, it will be very difficult to keep going at all. This affects, as I said, not only the farmers, but all the native peoples who are employed by them, the merchants, shopkeepers and Civil Servants, whose salaries have to be found by the only source of wealth in the Colony, and that is of the produce out of the soil. There can be no justification for the assumption that in 1935 there will be a large increase in Customs duties over this year, or in the returns from native hut and poll tax.

Turning to native hut and poll tax, taking the revised estimates put forward by Government, I see they anticipate an increase on that for next year of £34,000. We have heard to-day that there is very little hope of getting much out of the Masai tribe. They have had drought for several years now, most of their cattle are dead and it is quite impossible for much to come from there. I was told a few days ago that it is almost inevitable that the Turkana will again require famine relief, and if you take the natives as a whole how badly they are affected by the terrible depression which is going on—not only are the prices they receive for their products down to the lowest ebb, but their other source of earning money, working for the European farmer, has been greatly

entailed and the wages which the farmers are able to give them are very much lower than they were in the past. I cannot think why one should be surprised that hut and poll tax is down. It is obvious that it must be and I can see no justification for estimating so optimistically for next year.

As to other taxes, if you look down the list of revenue estimates, you will find all the way down the line, little bits added here and there. Why should there be such an enormous increase in the return from petrol tax for instance? I have been informed by the oil companies that they can see no justification for such a big increase.

Trory, I believe, has exceeded this year's expectations, but is it sound finance to budget for the maximum to be got again next year? I say, Sir, that in a time like this revenue must be budgeted for on a most conservative basis, and one cannot get away from the feeling that the Revenue Estimates have been deliberately estimated so that they can show on paper a small surplus over the very high expenditure that Government seem determined to keep up! How can any country with a total value in exports of under two millions support an expenditure of over three millions and remain solvent? It cannot be done. These ugly, unpleasant facts must be faced, and faced boldly, if the country is to be put back on its legs of prosperity. Personally, I am a firm believer in the future of the country and its prosperity. I believe that good times will come again some time, not this year or next year, some time; but we have no right and no justification for gambling that something may turn up. That, in my opinion, is unsound and dishonest finance. Even if good times come again we shall be unable to take advantage of them unless we grapple with the situation immediately and stop this drift down the drain of deficits. In your address from the Chair last week Your Excellency said you doubted if taxable capacity. I assure you that you are terribly wrong in your supposition, Sir. There is no question but that the taxation of this country has reached the saturation point, and if I may quote once more from the Minority Report of the Economic Advisory Committee we said: "It must, however, be appreciated that the stage is reached at which the imposition of further taxation, far from bringing in additional revenue, may curtail enterprise and adversely affect the development of the country." Almost identical words were used by the Premier of Newfoundland, and it is an incontrovertible truth that the more money which is taken out of circulation and private enterprise and put into the hands of Government the worse it is for the development and well being of the country. I believe, Sir, we have reached that stage to-day, and nothing would give a better impetus to the revival of

trade than a real rise in commodity prices at the same moment as a reduction in taxation. Did we not see it in Great Britain last year when Government was able to take sixpence off income tax and how immediately trade began to revive? We do warn you, Sir, that Government cannot go on trying to extract the last penny from the man's pocket merely with the object of sustaining Government expenditure at the very high figure at which it stands at the present moment.

You said in your address from the Chair, Your Excellency, that you believed there was a very considerable number of people in this Colony who were not paying their fair share of taxation. Personally, I have never believed in the existence of these mythically rich people, because I have never met them in real life. I should further like to point out that according to statistics the people of this country pay a very high rate of taxation. A few years ago the Government Statistician put the figure at round about £40 per head for Europeans and a little less than half for Asians. Since then a large number of new taxes have been added. I know it will be argued that the return from Customs per head has greatly decreased. That is so, because naturally people have not got the money with which to pay for imports. Even so, the taxation per head of the European community in Kenya to-day is more than double the rate per head of the population of Great Britain, which is the highest taxed country in Europe. In your address from the Chair you also said that if there was any scheme for reducing expenditure would we produce it in full detail? That, of course, Sir, is an old political dodge of Governments in trying to foist responsibility on to the opposition who have no power. It is not our job to produce schemes for Government—it is Government's own job to see that the expenditure is reduced to a figure that the Colony can bear, and they cannot pass that responsibility, as I have already said, on to anybody else. If the Government were so anxious for our assistance in this matter, one would have thought that they would at least have called in the help of the Standing Finance Committee before they produced their budget, but, as is well known, the secrets of the budget were jealously guarded and not one of us had the slightest idea of what Government's proposals were until the documents were laid on the table after the address from the Chair last week.

Sir, as I listened to the address from the Chair last week, I could not help being reminded of a little story told in the Book of Kings, and if I may I should like to read it. It was after Solomon's death:—

"And Jeroboam and all the congregation of Israel came and spake unto Rehoboam, saying,

Thy father made our yoke grievous: now therefore make thou the grievous service of thy father, and the heavy yoke which he put upon us, lighter, and we will serve thee.

And he said unto them, Depart yet for three days, then come again to me. And the people departed.

And King Rohoboam consulted with the old men, that stood before Solomon his father while he yet lived, and said, How do ye advise that I may answer this people?

And they spake unto him, saying, If thou wilt be a servant unto this people this day, and wilt serve them, and answer them, then they will be thy servants for ever.

And the king answered the people roughly, and forsook the old men's counsel that they gave him:

And spake to them after the counsel of the young men, saying, My father made your yoke heavy, and I will add to your yoke: my father also chastised you with whips, but I will chastise you with scorpions."

Sir, the people of this country have been saying this day in and day out; for some time they have been appealing to Government to listen to their case, to lighten their burdens, and to make it possible for them to carry on. But a deaf ear has been turned to us.

There were certain points which were not touched on in the address from the Chair to which I wish to refer. One of them, however, has been referred to by the hon. the Colonial Secretary, and that is the question of the loan position. As is well known, in nearly every part of the British Empire to-day loans are being converted to a 3 or 3½ per cent basis while we in this country are told that we have to carry on for another ten years or more with loans bearing interest at 6 and 5 per cent while the value of the products from which we have to pay for these loans has depreciated by over 5 per cent. I am aware, as the hon. Member said, that strictly speaking, in orthodox finance this loan cannot be repaid before 1946. But in times such as we are living, many old ideas of orthodoxy in finance have had to be scrapped or modified, of enable countries to exist at all. Who would ever have dreamt that we should see the day when Great Britain defaulted in her debts to another great country, or that one of our Dominions would have to default on its loan? The National Government of Great Britain was only able to achieve its satisfactory budgetary position by the very drastic step that it took to force people to convert the 5 per cent loan to 3½ per cent. As the hon. Member said, they were able to do it legitimately, but as you all know, little alternative was left

to the holders of that stock than to accept the new conditions. But little countries like this, inalienably attached to the mother country, have no consideration given them when we are struggling along, still in our infancy, through the terrible troubles of this age, the troubles of the world, when we are affected by the chaos of world economics through no fault of our own. I believe, Sir, we are not the only Colony suffering in the same way. Cannot the Imperial Government do something to lighten the impossible burdens of these colonies, even if they have to adopt some unorthodox methods? We, Sir, believe that they can if they really have the will. I do trust, Sir, that the Government of Kenya has put forward as strongly as it is possible to do, the heavy burdens of these rates on loans arranged for us by people in London, not out here, at a time when prices were good and money was dear. Has this question been sufficiently emphasized? Some people argue that these heavy rates of interest only affect the Colony's budget to a modified degree, because the greater part of them are carried by the Railway. That, of course, is so, but they affect people's pockets just as much, for they have to pay high rates on the Railway so that the Railway can make enough profit to enable them to carry these heavy overheads. Whether it is called a rate, or whether it is called something "paid for services rendered," it makes no difference: it has to come out of their pockets, so that the people of the Colony feel the burden of this just as much as if it is carried by the Railway or if actually it has to be found out of the revenues of the Colony itself.

Another question that has not been touched on at all is one that I should like to ask. Last year, the question was mooted as to the future system of defence of this Colony, and I believe a report was put up, a suggestion made, that it should be done by the Royal Air Force. Could we be told what is the present position with regard to that? It does seem to me that here is a way in which the Imperial Government could help us. It has recently been decided at home that there shall be an increase in the Royal Air Force strength. Could not part of that increase be stationed in these East African colonies at Imperial Government expense, to help us in that way with a reduction in the cost of our Defence Force?

A third question I should like to ask, on a matter I have never been able to understand, is: why should pensions derived from Kenya Colony be exempt from any form of cut, when pensions derived from so many other sources are being cut to-day and have been cut for some years past? The rate of pension in this Colony is very high, far higher, of course, than any soldier or sailor gets, and I have never been able to understand why it is not possible for Kenya to take a rake-off from these pensions.

Now, Sir, I come to a question which I find some difficulty in approaching if I am to avoid misunderstanding. I refer to the scale of salaries. It is always a difficult question to approach, because when one criticises the scale of salaries from a purely economic and financial point of view, one is invariably accused of making an attack on the Civil Service. I should like to emphasize here and now that I have the greatest regard for the Civil Service as a whole, and I am fortunate enough to count many of its members among my best personal friends; so I do trust that anything I say will not be taken in any way from the personal angle. Elected Members are somewhat unwilling to take up this question; even though they believe that the whole scale of Colonial official salaries at the present time is completely out of proportion to modern conditions, because they have no wish to have an official versus unofficial controversy. But Government's obstinate attitude over the whole question of expenditure has forced it on us. When times were good in this Colony, in 1926 we were anxious that the Civil Servants should share in the general prosperity, and I myself spoke in this House supporting Government's proposal to add 20 per cent increase on to the substantive rates of Civil Servants. Of course, that meant a good deal more than the actual 20 per cent, because it raised the rate on which house allowance was reckoned and the rate for pensions. Times were good then, and we felt we wanted the Civil Servants to have their share of the benefits accruing. But I have realized since that I was wrong when I supported that resolution; it would have been far better, from the country's point of view, if the old method of local allowance had been continued, so that it could easily have been adjusted with changed conditions and fall in the cost of living. If that had happened, there would have been a definite reduction in the cost of the Civil Service of the country and not only the very paltry levy which the hon. the Mover spoke so sympathetically about to-day. How blessed would all of us feel if we only had a 5 per cent or possibly 7½ per cent, even up to 10 per cent, reduction in our incomes!

Now, Sir, we did agree to this increase, and I should like to say that I do not begrudge anybody getting as good a salary as possible—more power to them—provided the country can pay for it, but I do submit that at the present time, with our terribly reduced spending capacity, the present rates form a burden which it is quite impossible for the country to carry without getting into a worse and worse position. There is another point. Government say they cannot reduce expenditure without breaking up the whole of our services, but I have here the figures, given me from Government sources, of the personnel employed in the Kenya Government Service—the figures exclude Railway and Military—and they

are as follows:—European staff, 1,137; Asian staff, 1,232; Africans, 766; making a total altogether of 3,155 people. In the number of Africans are not included hut counters and people of that sort at all. Now, Sir, is it really contended that there can be no reduction of this enormous total of over 3,000 people without breaking up the services of Government? Do you know that Northern Rhodesia, a Colony larger than this in area, though with a smaller population, is run by a total of a little over 700 people? That is to say, it takes four people in Kenya to do the work that one does in Northern Rhodesia, and I suggest that Government must look into this question and see whether large savings cannot be effected. One method alone which I believe might save largely in the clerical staff would be enormous reductions in the numerous returns which officers are called upon to make all over the country, paper work which hampers officers in their duties and which is like a snowball, it grows bigger and bigger. However, that is a matter for Government and not for me, but I do say it is the duty of Government to go into this question and make really serious savings. It seems to me that this budget consists merely of trying to extract the last penny it can wherever it can be found so as to enable Government to keep up its expenditure and salaries at the same old level, and to show a surplus the revenue has been deliberately over-estimated as I have already said. No consideration has been given—it could not have, of course, under these circumstances—to the real needs of this country, the needs which are being postponed for some years owing to lack of money, but which are very vital to the prosperity of the country, far more vital than the mere paying of high salaries. And let me remind you, Sir, once more, of what was said in the *Times* a little over a year ago, that the trouble in the Colonial Empire was that it was looked on as something to be administered rather than a great estate to be developed!

And may I emphasize once more than the whole prosperity of the country, of all sections, does depend on the agricultural community—the people on the land—and that every possible step must be taken to keep those people on the land. I must say I was amazed that in the address from the Chair there was no reference whatever to the plight of the unfortunate farmers who have been struggling against the greatest series of adversities which could possibly face men during a period of years, and the way they have faced those difficulties and kept going is, in my opinion, a subject of greater admiration than almost anything I have come across in my life. They have shown the same grit in facing their difficulties as they showed twenty years ago in the trenches of Flanders, and I do feel at this time Government

should show some practical sympathy towards these people. Every other country in the world, I believe, has helped her farmers by some measures. I admit we have no money with which to subsidize and we are debared from devaluating the currency. At the same time more could be done to help the farmers than has been done in recent years. Actually, nothing has been done since 1930, except a small increase in the Land Bank, which is still absurdly under-capitalized, and a not very helpful Moratorium Bill which does not go nearly far enough to be of practical assistance. On the other hand, Railway rates have gone up again. To-day, Great Britain is subsidizing her farming industries to the tune of many millions. She is quite right, but at the same time it has the effect of adversely affecting the producers in the overseas part of the Empire and I should like to know—you told us the other day, Sir, that you had the report of the Economic Development Committee—I should like to know whether Government has formulated any definite policy for the economic development of the country.

I notice that the only subject you referred to as being put forward by that Committee was one of proposals to increase the staff in the native areas. I trust that is not the only step which Government contemplate to help increase our purchasing power, and, with reference to this question of development in the Native Reserves, will Government say when they are going to proceed with the Native Marketing Ordinance and why it has so far been shelved? Whilst I believe we are all in favour of trying to develop the native reserves in such a way as to increase the wealth of the Colony, I should like to emphasize that it has been the efforts of the European farmers during the past years which have enabled the Colony to export the large tonnage it has during the past, and without the money so provided it would have been impossible for Government to have built up the large machine we now have. It is the fashion in Kenya to decry the possibilities of farming and to say that farming by Europeans is no good. I say the true lesson is the exact opposite. The real moral is that in spite of the world collapse, in spite of the fact that farmers have few resources behind them, in spite of drought, in spite of locusts, in spite of no help in the form of subsidies and other methods, they are still on the land, still producing something from the land, and I do say that shows that if only conditions could improve, prices get right, it proves that this is a country very worthy of farming. To enable these unfortunate people to stay on the land, many of them have been reduced to a standard of living which would never have been expected to be possible. They

have been reduced to living on *posho* and water and perhaps an occasional bit of meat if they are fortunate to shoot a buck on their farm. I do not suppose many of you gentlemen on the other side of the House realize what terribly hard times they have gone through, but knowing you to be just as good, sound members of our race as the rest of us, I feel sure you will join with me in paying a tribute to the wonderful tenacity they have shown in carrying on and to be still doing their bit for this country! (Applause.)

Now, Sir, my point is this, that if the time ever comes when the country recovers and we can take advantage of improved prices if they ever return, we must do all in our power to keep these people on the land. Only recently I travelled out by air with some people from Johannesburg—they were not farmers—but what they said to me was that one fundamental policy in South Africa was that they must keep their people on the land because they were the backbone of the country, and I submit, Sir, the exact same is true in Kenya. Now, Sir, apart from what our Government here has in mind, it would be very interesting to know, in view of recent events, what is the home Government's attitude towards the development of these young countries? The modern policy of quotas and restrictions must bring great alarm to the minds of all who are trying to develop these young countries because it must spell economic stagnation and ruin, and we would like to have a full statement from the Secretary of State as to what his real views are as regards the method to be adopted to put these colonies on a sound basis. Recent disclosures in connection with the Tanganyika Cordage Company have amazed and alarmed many of us, as it seems a hopeless state of affairs if the gentleman who is supposed to look after the interests of the Colonies is in fact merely a protagonist for British manufacturers who happen to find themselves in opposition to Colonial enterprise. I have said already to-day, Sir, that foreign countries are closing their markets more and more to the produce of our Empire and so it is very essential that those in authority at home should tackle this question and do something to see that the products from the Colonies can find a market and that these Colonies can carry on. I fear people are rather apt to think that all that the home people care for the Colonies is that they shall be purchasers of British manufactures and somewhere where a lot of well-paid jobs can be found for a certain section of the surplus population. I know, Sir, that is not really so. I know that they have much more sympathy with our difficulties, but we should like it to be demonstrated a little more publicly.

I have spoken out frankly to-day, Sir, because I believe the situation is so serious that unless it is tackled at once wholeheartedly we shall inevitably slide down into bankruptcy. Expenditure must be reduced and I wish to say that whilst we here on this side of the House are prepared to see these Estimates referred to the Standing Finance Committee, and hope against hope that something good may come out of that, we are absolutely determined to oppose, by any means we can, the budget as it is presented to the House to-day!

I do not believe anyone can accuse me of being a firebrand or a defeatist. I have tried very hard during the last three years to offer co-operation to Government and in fact have gone considerably further in this respect than many of my friends would have liked. I have done this because I do not believe the country's welfare can ever be fully advanced except by the co-operation of official and unofficial, but I do feel to-day that the door has been slammed in our faces and we have no course left us except one of direct opposition. For all that, Sir, may I make, at this eleventh hour, one more appeal to Government to face realities, however unpleasant, to apply the axe ruthlessly and so save this wonderful country of ours, so full of promise, which one day will be fulfilled, from financial disaster? It calls for great strength of will and great sacrifice, but I do make this last appeal to you, Sir, and to all my good friends sitting on the other side of the House. Remember, you and you alone, have the responsibility for the well-being of this great country and of everyone of all races who inhabits it. Turn not a deaf ear to the voice of the people, but save the country whilst it is still possible!

THE HON. J. B. PANDYA: Your Excellency, before I discuss the details of the Estimates submitted to us, I should like to speak on certain principles about this budget and to make certain criticisms underlying those principles. I am sure, Sir, it is acknowledged all round that we are passing through a period of great economic upheaval and that Government finances reflect and are more and more dependent on world conditions. The growing shrinkage of distance as a result of scientific researches, and the rapid progress of modern transportation, make more and more dependable the finances of any country on world conditions. I do feel, Sir, that a budget which fails to take into account all these conditions really results in harm to the economic structure of that country and retards its final recovery. There are two common tests which I should like to apply to any budget. Firstly, whether the economic condition of the country and the economic standard and capacity of its people justify it; secondly, whether it is

framed with a view to encouraging the economic advancement and progress of the people in general without any differentiation between classes or races. These are really the touchstones of failure or success of Government finance in any country. In the light of these tests I want now to examine the budget before us.

Firstly, as to whether the economic condition of the people justifies the expenditure, it will be necessary for me to examine the economic position of the country and go into certain details as regards the figures, and I wish to begin by giving some figures of imports during the last twenty years, giving them in periods of five years each, to justify and to show to what extent our imports have fallen. In 1914, total imports into Kenya and Uganda were £2,147,937; in 1919, £3,419,434; in 1924, £6,524,322; in 1929, £8,920,579; in 1933, £4,686,022, and for the nine months of 1934, £4,028,000. These figures show that the imports from 1914 to 1924 were trebled, and in 1929 were four times greater than in 1914. 1929 was the peak year after which, owing to world conditions, the slump in trade began to show a downward tendency, until in 1933 we reached 50 per cent of 1929. I will now quote figures for Kenya and Uganda separately, and retained imports into Kenya to show what is the economic position in this country to-day, for the years 1928, 1931, and 1933. Imports into Kenya for 1928 were £6,759,673; 1931, £3,783,300; and 1933, £3,382,808; into Uganda for those years, £1,088,104, £1,308,726, and £1,303,314. Retained imports in Kenya for the three years were £4,950,377, £2,677,750, and £1,938,167 in 1933. Those figures demonstrate the fact that the total imports of Kenya were reduced in 1933 by 50 per cent on 1928, and the retained imports in comparison went down by 62 per cent. To-day, we have a trade into the country to the extent of 38 per cent compared to 1928. That really shows what our purchasing power to-day is in Kenya. Turning to the export side, I will quote some figures of domestic exports which will show our productive capacity. In 1914, we exported £443,624; 1919, £834,370; 1924, £2,239,614; 1929, £2,745,900; 1930, £3,422,571; 1933, £2,426,999; and for the nine months of this year, £1,395,692. With regard to the latter, in the corresponding period of 1933 the figure was £1,767,109, or a fall in 1934 of £371,417. If we analyse these figures, they went down by 20 per cent in comparison with 1929, and 38 per cent compared with 1930, but the figures for 1934 are the lowest on record since 1923. The position of imports and exports illustrates the purchasing power and productive capacity of the country, and can be trusted to provide a fair guide for the purpose of arriving

at an approximate taxable capacity of the country. I should now like to quote certain figures of revenue and expenditure in these periods:—

	Revenue.	Expenditure.
	£	£
1924 ...	2,111,565	1,861,511
1929 ...	3,333,742	3,505,078
1933 ...	3,121,496	3,168,035
1934 (estimate) ...	3,189,973	3,188,041
1935 (estimate) ...	3,240,333	3,237,811

The point I wish to make is that revenue has increased by a little less than 50 per cent compared with 1924, but the expenditure for the same period has increased by 75 per cent as compared with 1924, whereas as compared with 1929 the reduction in expenditure is only 10 per cent. I am taking the production for exports as the basis of our wealth-producing capacity, and in this connection, Sir, I desire to compare certain export figures of various countries in relation to the total Government expenditure of those countries. That will show the ratio of producing capacity and at the same time their taxable capacity. They are for 1933, the latest available:—

Uganda:—		
Domestic exports ...		£9,464,610
Government expenditure ...		1,303,365
Tanganyika:—		
Domestic exports ...		£2,543,162
Expenditure ...		1,694,828
Northern Rhodesia:—		
Domestic exports ...		£3,588,600
Expenditure ...		778,878
Nigeria:—		
Domestic exports ...		£8,693,095
Expenditure ...		4,920,675
Gold Coast:—		
Domestic exports ...		£6,329,130
Expenditure ...		2,678,482
Fiji:—		
Domestic exports ...		£1,592,161
Expenditure ...		571,000
Kenya:—		
Domestic exports ...		£2,246,999
Government expenditure ...		3,168,035

The ratio between domestic exports and Government expenditure for various countries I have quoted works out for Uganda, 38 per cent; Tanganyika, 65 per cent; Northern Rhodesia, 23 per cent; Nigeria, 57 per cent; Gold Coast, 42 per cent; Fiji, 33 per cent; but for Kenya it is 138 per cent. All the figures I have quoted are for expenditure including interest on loans, pensions, reimbursements, and I believe it is a fair comparison. But I do not wish to be unjust, and to be absolutely fair to Kenya let us take the figures for 1934. In 1934 the domestic exports on the basis of nine months were £1,750,000, and net expenditure £2,111,565. I have taken out from the total expenditure one million pounds as cross entries, so that after that deduction the result is that the expenditure works out at 120 per cent of the production. Even if we go further, and say that 1934 is a very bad year and that the comparison is not a fair one, let us then take the 1933 figures, a year which was supposed to be a normal one, because from 1931 to 1933 we see that exports have maintained their level, so that if we take that into consideration the figures are that in 1933 exports were £2,246,999 and expenditure, after deducting cross entries, £2,111,565; I did not taking gross expenditure. This comparison also reveals the fact that the expenditure is nearly 100 per cent of our exports. Whatever the difference in conditions between the various territories which I have quoted, one thing is apparent, that Government expenditure in Kenya to-day is out of all proportion to our productive capacity as shown by the exports. The figures reveal a serious state of affairs, and I think it demands very careful investigation of ways and means to reduce expenditure to the taxable capacity of the people.

If we take the revenue and expenditure of 1924 and 1929, we find the expenditure in 1929 is double the figure of 1924, and that after 1929 the revenue began to fall heavily and the attempts to reduce expenditure were not so successful, because of the definite fixed interest and sinking fund charges and irreducible charges which it was necessary to pay. With all these difficulties, that we had unfortunately all these fixed charges to meet, I am compelled to observe that stringent measures of economy by far-reaching changes in the structure of the Civil Service and in various departments which were appropriating a good deal of the revenue were necessary but were not taken in time. In May last, on the debate on the motion for the inauguration of the European Local Civil Service, I brought up certain figures. I do not wish to take up the time of the House by repeating them, but I do feel if certain discriminations were removed in the Local Civil Service the country would save a large amount of money. Government ignored the obvious fact that expenditure once

increased cannot easily be brought down to its previous level. It is very difficult to reduce expenditure once it is put up. One has therefore always to think very seriously before increasing the expenditure, and I am very glad to get support in that particular direction from the Noble Lord, the Member for Rift Valley.

Since 1921 the policy of this country, as far as taxation is concerned, has been mostly based on indirect taxation, and therefore I think the Customs revenue does naturally provide a barometer of the measure of the taxpaying capacity of the people. In this connection, I would briefly quote certain figures of Customs. In 1924 the revenue from this source was £603,501, which in the time of prosperity in 1929 went up to £949,724. During the depression it dropped to £581,706 in 1933. We have to remember that all efforts were made by readjustments in tariffs to keep to the anticipated figures of revenue. The Customs revenue during this period went down by 36 per cent whereas the retained imports in Kenya went down by 62 per cent, so that to-day in regard to Customs revenues we are paying certainly much more than we paid in 1929. These figures demonstrate the fact that the purchasing power of people has been very much affected, and naturally the earning capacity of the people has been lowered. There is a unanimity of feeling on this subject, and people have begun to realize it. Last September, speaking on this question of the desperate economic position of the country, the hon. Member for Nairobi North observed in one of his speeches at Nyeri that:

"The first and foremost problem facing the country was that of the desperate economic situation with which we are faced. Government were quite obvious of the fact that in very truth the money simply was not there. The orange has been squeezed completely dry."

That really showed the country realized that the taxable capacity of the people had been reached.

In order to go further into this question, it is necessary to ascertain whether the various classes of people in this country really are in a position, compared with 1929, to bear the present burden of taxation. To examine the economic position of the people I should like to divide the population of the country into three groups; let us say, the farming community, the commercial community, and the Africans. These are the three classes or groups who bear to-day the present burden of taxation, and we shall therefore in the light of the circumstances in which we find them be justified in saying

whether or not they are capable of bearing that burden. As far as the farmers are concerned, I am sure there will be no differences of opinion on the statement that they are not in a position to bear any further taxation, that they are very badly off, and that various proposals for loans and funds from the Land Bank and other sources naturally prove the fact that they are in need of State aid to maintain them on the land. That is what the Noble Lord has stressed to-day and the Minority Report of the Expenditure Advisory Committee, page 113:—

"According to the recent report of the Committee of the Board of Agriculture the aggregate indebtedness of the agriculturists in the Colony is estimated to amount to between four and five million sterling the bulk of which obligations have been probably contracted at rates of interest round 8 per cent. The farm value of the produce sold by farmers may be taken as in the neighbourhood of two million and it thus appears that annual charges represented by interest on loans amount to from 16 to 20 per cent of the gross value of the produce."

Agriculture is regarded as the mainstay of the country, and we find it is not self-supporting and generally has had to be spoon-fed in this country. The prospects of agriculture for the future are very black indeed. I have had the opportunity of going into the figures in the Agricultural Census recently submitted to this House. We find from that report the total area under cultivation by Europeans on the 28th February, 1934, was 5,138,234 acres, a decrease of 67,940 compared with 1933, and a decrease of 177,150 acres in comparison with 1931. In the course of the debate on the Kenya Land Commission Report the hon. Member for Nairobi North disputed my figures of 11 per cent cultivated land to occupied land by Europeans. This census, on page 4, shows that the actual percentage was 10.82 of the total area under cultivation and that the number of occupiers had decreased by 75 in comparison with 1933. Those figures prove that in spite of all assistance given this industry, and in spite of all the special facilities which are being extended to this industry, the acreage has fallen and the number of occupiers has gone down by 75. It is quite true to say that in these days people are not very fond of engaging in an industry or avocation in which they are bound to suffer loss, and that is really the present position of the farming industry. It is also the case, as far as I can make out, that people who were thinking of retiring on pension and settling on the land in this country have changed their minds; they prefer to settle in England or other countries because the farming prospects in this country are far from satisfactory. In this connection a point was made by the Noble Lord that subsidies

were being given to the agricultural industry at home and in other countries, and therefore we were quite justified in continuing to subsidize such an industry for a long period. I am quite in sympathy with the principle that the agricultural industry is the main industry in this country, but I must say this, that I do not think it is a fair comparison to take the agricultural industry at home and in this country. In England, there is a highly organized manufacturing industry for export which brings wealth to the country, and of that wealth a portion of it is distributed to the agricultural industry in order that the latter may be useful in times of war or other difficult periods. In this country, our main source of wealth is supposed to be agriculture, and if this main source is to be continuously maintained by State-aided schemes, the point I wish to make is: which source of wealth is going to do this in this country? That is really the problem. We must have some source of industry in this country which should pay for the other industry, but when we maintain agriculture is the only industry we have I find it difficult to know whether we shall continue to subsidize it. That does not mean, Sir, that I am against any sort of help for the farming community, which really deserves help in every way, but I am just pointing out the difficulty.

Mr. O'Shea, in the course of a debate in this House on 3rd April, 1933, said:—

"It must be common knowledge to Government that four-fifths of the agricultural community in this country are bankrupt and that a very large proportion of the commercial community are vainly struggling against bankruptcies."

The position was further summarized fairly by the then hon. Member for Kenya, Captain Cotter, who in the course of debate in this House on 6th December, 1933, as reported on page 829 of the *Hansard* said:—

"I was surprised to hear during a meeting of the Agricultural Advances Committee and again at a private meeting in Nakuru that certainly 40 per cent of the agricultural population of Kenya and quite a number of commercial population as well are beyond salvaging. Would it not be better to scrap these and get new people to carry on so that these new settlers may be bled in their turn, was my answer on both occasions."

That really is a very serious picture, and I do feel, Sir, that in these days it is very difficult to get people who will be prepared to be bled, either new or old, for they are always on their guard and in times of stringency people do have a great regard for their purses. But there is no doubt that we ought to face this fact, as far as agriculture is concerned in

this Colony. That fact is this: that Kenya is a very good farming proposition for gentlemen farmers with a very large bank balance. But that is not enough. Such a man must have the willingness to spend that balance; that is really the point. If we do find such people, I am sure we are going to be very happy. That is what has been the position in this Colony up to now, but to-day it is not possible for us to find those people; they always escape. You will find that in the last one or two years we have endeavoured to get officers retiring on pension from service in India to settle in this country, but unfortunately we have not yet had much success; that actually, the number of farmers has been reduced by seventy-five below 1933. As far as the farming community is concerned, it is really in a very grave plight, and I do not think they are in a position to afford any more taxation. Of course, in this connection the policy of Government as regards land has something to do with it, because that has really resulted in putting a source of power in the big land-holders, and that to a certain extent has not allowed the land to be developed properly.

Your Excellency, that is the position of one class.

HIS EXCELLENCY: I think we had better adjourn now, and continue the debate with your speech in the morning.

The debate was adjourned.

Council adjourned till Wednesday, 28th
November, 1934, at 10 a.m.

WEDNESDAY, 28th NOVEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 28th November, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., C.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 27th November, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following Papers were laid on the table:—

By THE HON. THE ATTORNEY GENERAL:

Report of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to consolidate the law relating to the advancement and control of the Coffee Industry.

Report of the Select Committee of Legislative Council appointed to consider and report upon the provisions of a Bill to amend and define in more precise terms the Definition of the Expression "Native".

By THE HON. THE TREASURER:

Report of the Committee appointed to revise the Licensing Ordinance, 1933.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, on a point of order, when does Government propose to lay the Report of the Economic Development Committee?

HIS EXCELLENCY: As I stated in my opening address, the Report is being printed as rapidly as possible. It is a long document, which will take time to print.

NOTICES OF MOTION.

By THE HON. THE ATTORNEY GENERAL:

That the Report of the Select Committee on the Coffee Industry Bill be adopted.

That the Report of the Select Committee on the Interpretation (Definition of "Native") Bill be adopted.

MOTION.

DRAFT ESTIMATES, 1935.

The debate was resumed.

THE HON. J. B. PANDYA: Your Excellency, I doubt yesterday with the position of the farming industry in the country, and I think I sufficiently proved that it could not stand the present burden of taxation.

Coming to the next group which I mentioned yesterday, that is, the commercial community and merchants and industrial people, they are supposed to be the proverbial burden carriers of all sorts of conceivable and inconceivable schemes of taxation. I can, from my own experience, say that the commercial people were never more badly off than they are to-day. So far as I can see there may be a few fortunate people making both ends meet, but I am quite sure a large number are living on capital or credit. Traders' profits, Sir, depend upon the turnover of the business and I advanced figures yesterday to show the turnover to-day in Kenya is 38 per cent of what it was in 1929. I cannot imagine that, carrying practically the same or even reduced overhead, they can make both ends meet. Prices have dropped considerably and the traders' profits more or less depend upon the high prices. An article sold at Sh. 3 shows a larger profit than an article sold at Sh. 1. In this connection, I should like to quote the hon. Member for Nairobi South (Captain Schwartz) in one of the debates in this House on 10th May, 1933. He observed:—

"With regard to people with their own businesses, whether commercial, whether professional or in any other walk of business, the percentage loss in profits—where profits are left at all, which is rare—could be put at a figure of 40, 50, 60 or 70 per cent."

and in the budget debate on 6th December, 1933, the hon. Member for Plateau North (Lt.-Col. Kirkwood) said:—

"There can be no question that the commercial people not only in Nairobi but throughout the Colony are merely hanging on, and that a great number would get out of business to-day if they possibly could."

I quote this in order to show that this position was recognized even in 1933 but that even to-day we have not yet fully appreciated it, and we are still thinking of adding to the burden of the commercial community.

Coming to the third group of taxpayers which I mentioned yesterday, the Africans, I should like to say this: I am definitely of the opinion that they are considerably over-taxed to-day and unable to pay the present taxation without

a great deal of hardship and misery. I will demonstrate that by quoting hut and poll tax figures, and we find that during the last ten years the Africans have been paying practically the same tax. In 1929 the hut tax collected amounted to £330,041, and the 1935 Estimates show that we propose to collect from the African community £502,979. Now, Sir, that shows an increase of £23,938 over the figure for 1929, which was a very prosperous year, it was considered to be the peak. Now it might be possible to collect this amount from the African next year, and it would no doubt be considered as a great credit to the collecting machinery of the Government, but that would not in any case, I think, Sir, demonstrate the capacity of the Africans to pay that tax. It is obvious that since 1929 the Africans have been getting a very low rate of prices for produce and their wages also have been considerably reduced, by 50 per cent at least, and I am quite sure, Sir, that they are not in a position to pay any more. With regard to that the late hon. Member for Kenya (Captain Colter) in the course of the debate on the 6th December, 1933, observed:—

"I suggest, and I have as great a knowledge almost as the hon. Member, that no body of people are so heavily taxed as are the natives in this country. They are more taxed than any of us."

Moreover, we have the authority of Lord Moyné, who after very careful consideration, suggested that the limit was reached. I have heard it said that in certain districts the Africans have been paying Sh. 30 in the pound in taxes. That naturally implies that they are paying from capital, which ultimately reduces the possibility to maintain themselves. From the analysis I have given it is sufficiently evident that it is not possible for the people to stand the present burden of taxation. I would say that they could not stand any more, because that is obvious, but I contend, Sir, that the present burden is very heavy on them. Without enting down the necessities of life or lowering the standard of living further, I do not think they can pay this amount. In my opinion, the limit of taxation has already been overstepped and its continuance will lengthen the period of recovery and subject the people to a nightmare of economic difficulties.

Now, Sir, we might have a very brief glance, in this connection, at the cost of living in this country; because it will demonstrate that while the cost of living has gone down by 15 per cent, the prices of produce have gone down by 50 to 70 per cent. According to the Statistical Department, taking the index number for 1923 at 1,000, in 1933 (November) the index number of groceries and provisions was 862, meat and fish 814, milk 725, local articles 791, and all the articles

average 861. During the same period the fall in prices of primary produce on an index number of 100 for 1928 was cotton 47 per cent, groundnuts 61 per cent, wattle bark 68 per cent, coffee 57 per cent, sisal 65 per cent, maize 40 per cent, wheat 49 per cent and butter 40 per cent. This naturally also has an effect on the taxable capacity of the people.

Before I discuss what I consider to be a reasonable amount of revenue which the people in this country should be expected to pay to-day I should like to say this, that I do not consider it is a good thing to budget first for expenditure, as happened to be the case with the Expenditure Advisory Committee in their Report, and then try to find the revenue necessary to meet that expenditure! In my opinion, Sir, it should be the other way round. I cannot imagine an individual budgeting for expenditure and then trying to find out his income. I was surprised yesterday in the debate when the hon. the Colonial Secretary said that we should find the cloth for the coat instead of cutting the coat according to the cloth. This saying that one should cut his coat according to his cloth is an old saying, and I consider it to be full of wisdom—these sayings are as good as the laws of nature. They are result of experience of centuries and I do not think we can change that experience in a short period.

Your Excellency, in the address delivered to this House at the opening of the session, laid great stress on the Expenditure Advisory Committee Report and claimed that the Government had brought down the expenditure by £15,398 below the comparable figure of that committee. In this connection, Sir, I should like to pay tribute to Your Excellency personally for the very large reduction that has been made in Government expenditure during the last three years and for the great care with which the position has been watched. The whole case and justification as far as Government expenditure is concerned depends on what was made out in the Report of the Expenditure Advisory Committee and in this connection, Sir, I should like to observe that there was no Indian representative on that very important Committee. The Government case as regards making the European Elected Members responsible for the present position I consider quite sound, but at the same time, Sir, I should like to observe that much has happened since 1932 or the beginning of 1933 when that Report was submitted. In these days which we call an economical war, we cannot afford to depend upon what happened a few years ago. We must continue to change our policy according to circumstances and I do submit, Sir, that the circumstances have changed considerably. It might have been possible and I think it was possible for the Expenditure

Advisory Committee to take a very optimistic view in 1932 of the state of affairs. I suppose they never considered or thought or expected that a depression of this kind would continue with greater and greater force and thought that if they could get over two or three years things might get right again. They were not right. We can see by actual experience and therefore, Sir, I submit that the figures in the Report of the Expenditure Advisory Committee are not a very fair guide to-day for the country as regards expenditure.

I do not wish to revive the controversy of official versus non-official wisdom in finance. Many times when I was reading the debates of this House I came across passages in which the European Elected Members amusingly asserted that if they were taken into confidence earlier than 1932 perhaps things would have been different. With the result of the Expenditure Advisory Committee we can see that this kind of thing is very difficult in the changing circumstances. One can never be sure of that sort of thing. But one thing is quite true, and that is that if the Report of that Committee had not been practically unanimous, I am quite sure that the country would not willingly or voluntarily have submitted to the new taxation. That, Sir, in fairness must be said. I am not trying to indulge in any sort of recrimination and I do not wish to say things which might upset anybody, but I think I am quite right in saying that the responsibility for the extravagance in this country has got to be taken partly by the unofficial side and I do not think that is in dispute because the hon. Member for Nairobi South (Captain Schwartz) in the debate in this house on 12th August, 1933, observed on this question:—

"I am perfectly prepared to admit—I believe that every Member on this side of the House is prepared to admit—that we must accept our share of the responsibility for the extravagance which marked a certain period of time recently in this Colony. It would be ridiculous to suggest that we were not to blame in that matter."

The fact that such extravagance is the cause of our present financial difficulties is also not in dispute. In the Report of the Expenditure Advisory Committee the unofficial Members subscribed to paragraph 448, which reads:—

"The extension of social services outstripped the development of the Colony's potential resources, and to-day the progressively increasing cost of these services is disproportionate to the Colony's revenue. A transitory and deceptive prosperity, stimulated by the spending of Government loan funds, encouraged public and private

extravagance which has resulted in a scale of expenditure and a standard of living beyond the means of a young and small agricultural community."

Now, Sir, that paragraph sufficiently demonstrates and proves what exactly is now required to be done in regard to our finances. The whole problem has been put very admirably by the Committee, but after that I am sorry to say that the spirit has not been observed or put into the budgets which have been prepared after that Report.

The principle which one has to observe in regard to the campaign of economy is first to decide which services one should keep and which services one should not keep. Naturally, to-day the profits or the earning capacity of the people has gone down very much and it is natural that adjustments will have to be made in the structure of the Government in the several services and other things. In this connection I have pointed out before in the debate on the Local European Civil Service that we were definitely more generous than we could afford to be in regard to the scales of pay. The Noble Lord mentioned yesterday that looking back to 1926 he thought he was wrong in supporting the increase which was then made to the Civil Servants. I am very glad, Sir, that we are returning to sanity on this side of the House. We have been saying that for a long time, and let us hope that the scientific process of influencing thoughts by wireless, wave lengths of electricity generated in the human brain will have got finally on the other side of the House and that we may begrudge the Civil Service their due, but if expenses are beyond our capacity to pay I do feel, Sir, that in the long run it is better that the Civil Service should recognize the need of economy and try to adjust themselves to the position. In this connection, as far back as 1930, the hon. Members sitting in Select Committee on the Draft Estimates made this reference to the subject. "They said:—

"On a general examination of Government policy as reflected in the Draft Estimates for 1930 elected members have come to the conclusion that the terms of service for European and Asian members of the staff are on a scale which is not only unrelated to the conditions under which service in Kenya is performed, but which is also much more expensive than the Colony can afford."

So far, the action taken is that in four years time we have got the Local Civil Services organized and coming in force from the beginning of next year. Now although the purport of the particular portion I have read was economy in Government expenditure, what we find when we had that

scheme before us in May this year is that every Member on this side of the House stood up and supported it and congratulated the Government. I think we are six months too late to realize the mistake we made on that occasion. In this connection, I should like to quote certain figures and compare them with the scales of pay which are in force to-day in Northern Rhodesia. In Northern Rhodesia Chief Clerks are on a scale of £480 to £600 whereas in Kenya the Special Grade will be £620 to £660. In Northern Rhodesia Grade I is £300 to £480 whereas in Kenya we pay £440 to £600. In Northern Rhodesia Grade II is £180 to £300 and Kenya £150 to £420 and in Northern Rhodesia there is a third grade of £120 to £144, which we have not got in Kenya. In regard to the services which are outside the Government I made some attempt to find out what could be considered a reasonable scale, and I was informed that posts in the commercial service comparable to Grade I carry a salary of £300 to £400 and those comparable to Grade II a salary of £200 to £300. Of course this is without any leave or passages.

In considering this question of service, Sir, the argument usually advanced is that we must keep a reasonably efficient Government machine in being. One often comes across a very nicely drafted phrase, and this is one of them, one that is full, I should say, of foresight and forethought. At the same time it is very difficult to interpret a phrase of this nature: it may mean everything, it may mean practically nothing. It might mean a reduction of 50 per cent, it might mean a reduction of 10 per cent. As an instance of the difficulty of interpreting such phrases, Sir, somebody once told the story of three blind men who were asked to describe an elephant. "Of course," one stated, "the elephant is like a pillar." Another said it was like a rope, and the third described it as a serpent. The one who had said the elephant was like a pillar had felt the animal's feet, the other the tail, and the third the trunk. "This keeping an efficient Government machine in being is a phrase which can be described by anybody as he likes, and that is my difficulty. But in regard to this, the Expenditure Advisory Committee in paragraph 448, quoted by the Noble Lord yesterday—it will bear repetition—said, on this question of efficiency:—

"The need of efficiency is recognized and admitted by all but it is false economy to aim at the immediate achievement of a standard of efficiency which involves an expenditure beyond the capacity of the Colony."

On the question of efficiency Lord Salisbury once said that all efficiency must be relative, that is, that it must take into account not only the requirements but the resources of the people for whom that efficiency is desired. That, Sir, is on the

question of efficiency, and while I am not going to contend that this efficiency should be paid much less than what it is now, we can only afford to pay according to our resources, and I feel that to-day those resources are not capable of meeting this demand for efficiency.

In this connection, I am sorry to say that up to now the policy of the European Elected Members has not been a very consistent one. That is proved by what the hon. Member for Nairobi North said in one of his speeches at Nyeri in September last:

"I am prepared to give a definite undertaking that on this occasion the elected members would not adopt the policy of drift but would come forward with a definite policy which they were prepared to stick to."

That shows that up to now there was some drift in their policy, and what I wish to say is that I quite recognize the difficulties of consistency in a policy of this nature as regards expenditure, because naturally, when the question arises of the benefits that that policy would bring to the European community it is so difficult for the European Elected Members to refrain from supporting it. Of course, if they rose beyond that and considered it from the country's point of view, I am quite sure they would find it otherwise. I want to say, Sir, that I welcome the change because yesterday, from the speech of the Noble Lord, a very eloquent speech, I gathered that for the first time in the history of the country identity of interests has been recognized. It is a very happy augury, and I hope that policy will be consistently pursued.

Now, Sir, coming to the approximate figure which the people of this country could reasonably be expected to pay in taxation, I am going to suggest a round figure of two millions sterling which in my opinion should be sufficient to meet the necessities of this country. And I include in these two millions interest and sinking-funds. My figure is based on the figures of 1924. I wish to convey, Sir, that the taxable capacity of the people by Customs revenue and protection was in 1924 about the same as it is in 1933, and the figures are that in 1924 the domestic exports were £2,239,614, Customs revenue £603,501, Government expenditure £1,861,511; in 1933 the domestic exports were £2,246,099, Customs revenue £581,706. This similarity of figures shows that the taxation which it is reasonable to impose on the community in 1935 should be about what we paid in 1924, when the expenditure was £1,861,000, although considering the natural increase in pensions and other things I should put the figure of our present expenditure at about two millions.

Let us see what would be the effect on the present budget if that suggestion was accepted. Take the present budget in round figures as two million pounds. If we take from that one million for cross entries a million will be left for services and pensions. Take another half a million for pensions, and half a million is left for services; the present budget shows one and a half millions for reducible services. According to my suggestion that would be a 66 per cent reduction, which is of course impossible and impracticable. I agree that if we wanted to do it it could not be done, but I do not intend that the whole reduction should come from the reducible items only. I will therefore now discuss how loan interests could be considered in this matter. We are paying to-day very high rates of interests on our loans, and we are told that they cannot be adjusted or the interest reduced. The hon. the Colonial Secretary said yesterday that no British Colony had ever defaulted; but the Noble Lord gave as an instance the Dominion of Newfoundland. I cannot find that he suggested, and none of us has done so, that this Colony should default. In fact, why should any British Colony default at all? because the point is this. Tanganyika has not been able to meet the charges on their loans, and the British Treasury has given them a grant of £100,000. We can call it whatever we like, there is nothing of default in the grant, because in these days people adopt dignified forms of language. As an instance, people who used to be called barbers, are now called hair-dressers; there is not much difference but one name is more dignified than the other! I do not mind what we call it—call it a grant instead of default, but that is the position. If we cannot get a reduction in our rates of interest, then we ought to get a grant to that extent. This is, of course, a British Colony, and therefore we are so serious on this question of default, but if British investors had held bonds in foreign countries what would have happened? The first thing done would be that payment of the interest would be stopped, after which there would be round table talks as to how those payments of interest could be resumed; investors would no doubt get soft-hearted and say "We will meet you half way." Why cannot that be done in this particular instance? We do it almost every day in the commercial world! A man not in a position to pay will come round and say so, and he will be carried on without interest for a time. We are quite prepared to pay it, but if we cannot afford to do so now we should tell the investors. I think this question has to be considered from that point of view, and I do not think it is unfair to demand that the loan interest should be reduced. There is no question of loss of credit in that. Of course, in this country it is the other way—the moment a man becomes bankrupt he gets more credit! I

would not say that would be so in other countries. But really, Sir, that is the point: why should we lose credit by such a step? It has happened in the richest countries in the world, and I cannot see why we cannot do that sort of thing here. If any consideration is given to that point of view, then my figures will be one million pounds for the reducible services of the Colony, should half the interest be payable. That in comparison to one and a half millions is a fair figure, and I do maintain it is reasonable for the services to-day. Take the instance of the Elected Members' allowances. I understand they reduced it from Sh. 60 to Sh. 40, that was 33 per cent straight away.

If I were to raise the question of protective policy in this country, I am quite sure that members on this side of the House would not agree with me. Nevertheless, I do wish to speak very briefly on this subject, because in the Estimates we have recognized that as a principle of our budget, and it has a great bearing on the economic position of the country. I am not against the principle of protection at all, but in this country it has been applied in a different manner to elsewhere. I am not going to argue it from that point of view, but I should like to say in this connection that the principle of protection must rest on three principles only: they should be applied to the industries which come under these categories. One, that an industry should possess natural advantages; two, that without the help of protection it is not likely to be developed at all or as rapidly as is desirable; three, that it will eventually be able to face world competition without protection.

Your Excellency, I want to discuss the matter from the third point of view, their ability to face world competition without protection, or reasonable protection. Everyone knows that there is not a single industry in this country which can come under that heading. When we decided on the policy of protection in this country, we never thought and never expected that the time would come when the articles so protected would not be able to have an export market even at the cost of production. That was really the basis of the whole policy. Unfortunately, to-day, owing to circumstances over which we have no control, the position has altered very much. We cannot do anything in that matter but the point is this: how long are we in a position to continue to subsidize these industries?

There are two points of view regarding protection. One, its effects on the local consumer, and the other on Government revenue from the articles which are protected. Eventually, if there were large exports to take place from these industries, I

quite realize we should continue to protect them, but that state of affairs is far off, and if we continue in this policy of protection and subsidization for exports, I do not know where we are going to land. As an instance, to-day there is a butter levy of 25 cents a lb. for supporting exports, which may be increased to 50 cents in the near future. If we continue to export larger and larger quantities we shall have to sell butter in this country at 2/6 a lb., which I am sure is beyond the capacity of the people to pay. That demonstrates that there is something wrong with that type of policy, and the policy of keeping up the prices of articles produced by these protected industries has resulted actually in reduction of sales of these articles in the local market. If consumption is to be maintained the price must be reduced in relation to the reduction of the purchasing capacity of consumers, otherwise consumption goes down. To-day the value of sugar for export is £7 per ton, whereas the local price is £24. In 1928 the local price was an average of £23 per ton, in the peak period which shows it has not been reduced in the last five years at all due to the protective policy that we have in this country. The consumption of sugar in 1928-29 was 178,336 cwt., whereas in 1933-34 it dropped to 97,285 cwt., or a reduction of 45 per cent. The local consumption of flour in 1928-29 was 101,841 bags, and in 1933-34 71,319 bags, or a drop of 30 per cent. That demonstrates that by keeping up the price what we are doing is to reduce consumption of these articles. With regard to sugar, the cost of production is not known, but in 1929, when the Tariff Committee was sitting, it was taken to be about £15 per ton. It should be lower now, but the price maintained continuously since then is £24 per ton. Regarding wheat, the export return to growers would be Sh. 4/15 per bag, but the return to growers in 1931-32 was Sh. 13/77 and in 1933 Sh. 15/77, and an average return of Sh. 11 per bag after deducting subsidies paid for Coast and Tanganyika markets, while the cost of production in Kenya was supposed to be Sh. 9 per bag.

The second point which arises in this question of protective policy is the effect that that policy has on Government's revenue. Your Excellency observed in your address from the Chair on the 20th November, that:—

"Customs duties could not be relied upon to fill the gap, as, apart from violent fluctuations in yield to which this form of taxation is inherently liable, a system of relatively high duties coupled with the full acceptance of the principle of protection for internal production must inevitably cause a diminution in the flow of revenues from this source."

That has been so from the very beginning. How can we continue to attempt to give protection to industries and at the same time have the Customs figures maintained? The time came when the country had to decide on excise duties, and I think that ultimately, if we wish to keep on with the indirect form of taxation, we shall have to feel our way towards increasing those duties in order to compensate for the protection given.

Your Excellency, I should like to say a few words in regard to our cash position and surplus balances. The position to-day is very serious. At the end of 1934 we should have a surplus of £150,959. Against that, the agricultural advances amount to £110,244 and advances to maize and other industries to £110,030, a total of £226,334, which means that the liability is in excess of the surplus by £75,375. When these advances were made, I realize that the present position was not foreseen, but we must all feel that the finances of the country are now in a very bad way, and naturally it is the patriotic duty of everyone to help by returning those advances where practicable in order to improve this financial position. Regarding agricultural advances, it might be said they carry a certain rate of interest and therefore this is a paying proposition. I want to quote certain figures here which prove otherwise. Since the inception of the scheme to 31st December, 1933, £7,251 has been paid to general revenue as net interest payments. Against this, £7,164 were written off up to May, 1934, so that deducting this amount from the interest we get the net interest of £87 realized since 1930, a period of four years. That is the position of our agricultural advances.

The second big item of those advances is the loan to the maize industry free of interest, and on this I should like to say a word, Sir. I honestly realize the very great difficulties that the maize farmers have been facing, and I have every sympathy with them, but I wish to quote certain figures to show that fairness and justice should be observed all round. When these advances were made Sh. 7/35 f.o.b. main station was the price fixed as the return to the grower, based on the ruling price of maize K3 grade on the London market, repayment being 50 per cent of the price received in excess of Sh. 7/25. In 1930 I understand that was the cost of production, and it was natural the growers should be paid this before they began to pay anything to the State. Since then, the cost of production has gone down, and on the figures of 1930 I find that the cost of production of maize to-day is between Sh. 6/44 and Sh. 6 per bag. London prices to-day are standing at Sh. 23 per quarter. This would make a return of Sh. 5 per bag, so that on export prices we shall

not get anything. But during certain periods of the year, due to drought and other conditions, maize was sold between Sh. 7 and Sh. 9 per bag f.o.r. main line stations. The point is, what difference does it make if an owner receives Sh. 0 or Sh. 7 from a local consumer or from a house in London? It is in excess of the limit fixed previously, and it is quite fair to expect that when such is the case the advance should have been paid back. But as the basis of repayment is the London market, Government has not received anything. The whole matter bears looking into. I am not trying to be unfair to anyone, but if the cost of production is lower there is no hardship if we take 50 per cent of the profits after the cost of production is returned to the grower.

Sir, I should like to endorse the policy of increased native production in this Colony. I feel that on that depends the salvation of the country. The Noble Lord did not touch very materially on this question in his speech of yesterday, but he did drop a hint about the necessity of bringing in the Native Marketing Ordinance. I do not see eye to eye with the Noble Lord on this question, for it appears to me to be putting the cart before the horse. What we must have first is increased native production, and marketing arrangements would take their natural course. I think the Noble Lord very rightly observed that in this country farmers are the backbone of the country. I entirely agree with that statement, but in my opinion the natives also are a type of farmers—(Lord Francis Scott: Certainly.)—and should be included in the definition. (Lord Francis Scott: They are.) Therefore, their numbers being very large, it is very material that that production is going to have a great effect on the finances of the country. Take only one instance, maize, a native crop. Our efforts to-day should be in the direction of having exports. The cost per bag on plantations worked by Europeans on a modern system is to-day said to be Sh. 6/05, which includes Sh. 1 for European labour, 97 cents for repair of machinery, etc., Sh. 1/65 for transport, interest, etc. These are items which would not form part of the cost of production by natives. Therefore, if you deduct them, the native cost of production on maize is Sh. 2 or Sh. 2/43 per bag; to-day's price in London is Sh. 5 a bag, but even if it comes down it pays every time for the native to export. I cannot understand why that cannot be done in respect of other crops. Your Excellency observed in your address on the 20th November:

"If we can possibly give effect to the recommendations made to provide additional staff for the native reserves I feel that the money will be well spent and that

it will bring in an adequate return in the form of increased production which is so very necessary at the present time."

The indication given by Your Excellency is most welcome, and I sincerely hope that efforts will be made in the direction you have mentioned. Coffee growing has already started, and I hope it will bear fruit, and I wish to suggest the possibilities of wheat growing by natives should also be explored. That would naturally increase the buying capacity of the natives which would be returned to the Customs in revenue and would bring us all sorts of other revenue. In the 1935 Estimates we find that the native agriculture vote is £36,005 whereas the non-native vote is £88,575. Now, Sir, that is so because the policy of this country has been so for a long time but I do submit that the time has come when we ought to increase the vote for native agricultural services.

Coming to the question of the continuation of the non-native graduated poll tax. As part of the 1934 revenue it expires automatically this year but according to the proposal in the budget it is to be continued. It is quite correct to say that this graduated poll tax and other taxes were alternatives to income tax, but as far as I know it is also correct to say when these taxes were agreed to by the country they were considered to be purely temporary. That was the basis on which we had agreed voluntarily to pay those taxes. Therefore, Sir, I must oppose the continuation of this tax because at the election last April this question came up and I gave a pledge to my constituents that I would not support the continuation of the graduated poll tax, and also, apart from that, the productive capacity of the country would be curtailed by this taxation.

With regard to the controversy about income tax which I see coming on the horizon, I should like to make my position quite clear—that I am in favour of income tax in principle—but times and circumstances have considerably changed and I cannot see very much difference between a graduated poll tax and an income tax, because both are a tax on income. One is an unscientific form, the other is a scientific form, and the unscientific form was chosen because we thought it was temporary, but if this temporary measure is to be continued as a permanent one, then I think people will have to change their views and consider it again. When the time comes I will study the details of any proposals submitted from the Luddian point of view.

Now, Sir, turning to the Revenue side of the Estimates, I find it very difficult to agree to the Customs Estimates in the budget. The actual Customs revenue for 1933 was

£600,117 and the revised estimates for 1934 showed this revenue as £622,500, whereas in 1935 it is estimated to bring in a revenue of £652,500, an increase of £52,000 over the actual revenue of 1933 and £30,000 over the revised estimates for 1934. I do hope that estimate will be realized, but if we face the facts I find it very difficult to agree that the estimate can be realized in the present circumstances. Another item which I find it difficult to realize is the item of licences, duties and taxes. In 1933 the actual revenue was £940,469 and the revised estimates for 1934 show £971,980 and the estimated revenue from this source in 1935 is £974,279. This shows that in 1935 it is expected that the revenue under this head will increase by £33,810 and £42,209 in comparison to 1933 and 1934 respectively. Making all possible allowances for the increased licences for traders and others, I find it very difficult to agree that this is a very fair estimate. In regard to the hut and poll tax I am equally not sure whether this also could be realized. In 1929 the revenue collected was £375,222; in 1933 £555,000, the revised estimates for 1934 show £520,045 and the estimates for 1935 show £571,257. Now, these figures in the 1935 Estimates show a drop of £3,700 in comparison with the peak prosperity period of 1929, but in comparison with 1933 they exceed that year by £16,000, and if compared with the revised estimates for 1934 they show an increase of £42,200. Now, Sir, I do not think that that can be realized. Every year we see the difficulties of collection increasing in regard to this hut and poll tax, and we know that whilst previously the collection was made within three months, it now takes almost twelve months for the officers to go around and collect it.

Regarding the Expenditure side of the Estimates, I will not take very long. I will follow the example of the Noble Lord by not going into the details of the expenditure, but I should like to take this opportunity to say a few words briefly. With regard to the Asian Civil Service I do not want to say anything because we shall have an opportunity to say what we like when the question comes before the House, but I find in the Estimates that there are usually 25 special grade posts but only 14 have been filled. I could not say if this is for reasons of financial difficulties, but if so that particular reason does not seem to have been observed in the preparation of the Estimates for other matters. If we examine the Estimates we find there are to be 117 district officers instead of 109 as in 1934. In the Education Department the post of Chief Inspector of Schools is being filled. In the Customs Department two more posts are being filled which were kept in abeyance in 1934, whereas, as far as Asian staff is concerned we find that in 1934 in the Secretariat there were nine Europeans and eleven Asians, but 1935 Estimates

show twelve Europeans and eight Asians and that two Asian posts have been kept in abeyance. In the Customs Department four Asians who are retiring have been replaced for the sake of economy by Africans. The question arises as to why this principle of effecting economy has not been observed by replacing Europeans by Asians. That is why, Sir, I bring this question up now.

In regard to the Police vote the increase in expenditure is inevitable under the circumstances. The depression has the effect of increasing crime, but in this particular instance the small trading centres and in the reserves are practically without any police protection whatsoever. In the reserves even tribal police are not placed in the trading centres, and when these traders have any crime to report they have to go to headquarters, which is far off, and unless the crimes are of a serious nature I do not suppose they are reported. This requires very serious consideration from the Government.

In regard to the Education vote it would not be any assistance if I were to go through it, but it should be realized that the Indian vote is hardly sufficient for the growing needs of the community. A large number of aided schools are run by the Indian community and in this way they bear a large burden in addition to the tax; that particular grant in aid requires a little more consideration. The question as regards overseas scholarships for Indian scholars also arises. In item 30 there is provision for scholarships for Europeans and I do feel that that point should be kept in view for Indians. It would establish the principle of allowing deserving boys to go for overseas education.

In the Public Works Extraordinary vote I am very glad the Government have included the Kitui Water Supply scheme. I think it is an urgent necessity and will not be a charge on the revenue because it will be self-supporting. But I regret to find that another deserving scheme—the Thika school building—does not appear, and the Government still continues to occupy the corrugated iron sheet building and forces the people to send their children there. It is a small amount that is required, but still in these days one can build with less money and with the Industrial Training Depot supplying the needs, the work could be done cheaply.

Coming to the questions affecting the Coast, I would briefly say a few words. We do appreciate the efforts of Government in the direction of an increase in native production. At the Coast cotton is our main hope. In 1930-31 we produced 17,903 lb. of cotton and in 1933-34 the production was 423,631 lb. While it is on the increase it is still a very small crop. It is not enough and we want to

increase the efforts of Government to improve the production of cotton. In regard to the cotton seed which is distributed by the Agricultural Department to the natives there is no inspection afterwards to see whether it has been planted, and I am informed there are instances where these seeds are thrown away. With a little expenditure or by instructions to the headmen to see whether the seeds were really planted, I am sure there would be a great change and increase in production.

In this regard, I should like to suggest one or two other things which could be grown with advantage at the Coast. One is the mango of a superior variety. We have got many trees there but economically they are not of much use. It is also claimed that the mango has a very important food vitamin. I do not happen to know the difference between vitamin B and vitamin C, but if we take authorities I think we should agree that it would be a good thing from the point of view of the health of the people to grow these mangoes and we might possibly establish an export trade from the Coast. There is another matter—the production of citrus fruit. During the last few years Palestine has made wonderful progress in production of oranges and other such citrus fruit. I was informed the other day that the land value there for this kind of fruit gardening was £40 to £60 per acre. It might not be as much here, but if we gave a little more attention to it I am quite sure we should see an improvement. I am informed that at Kibarani at the Coast we are going to acquire 500 acres for nurseries next year, and in those circumstances I suggest to the Agricultural Department that they should import the special varieties like Alphonso and distribute the plants to the natives and within a short period we shall have a wonderful crop of mangoes. The headquarters of the Agricultural Department at the Coast are at Kibarani and those who wish to keep in touch with the agricultural officer have to go a distance of 43 miles from Mombasa. I wish to suggest that it is reasonable to ask that the officer should at least one day a month be in Mombasa on a fixed day.

With regard to veterinary services at the Coast we do not visualize that we shall have the problem of overstocking, but to improve the quality of cattle a dip is necessary at Mariakani. It would result in an increased yield of milk and ghee production, and there are possibilities of establishing an export trade in ghee.

I should like to mention the loading facilities for cattle at Lamu. It has become a great scandal. Lamu is a forgotten place and an old place, but that does not justify the treatment cattle receive resulting in definite injuries whilst loading, so that I hope something will be done in that

any pretence of trying to seek cautious and wise solutions to our difficulties; on the contrary, Government have now entirely lost their heads and all sense of proportion and have sunk to adopting the whining, at the same time over-bearing tactics, of a bully.

Your Excellency, as I know that these are very serious statements I shall proceed to substantiate them. Before doing so, however, I propose to make some allusions again I am afraid to what previous speakers have read to the Report of the Expenditure Advisory Committee. My allusions are in support of what the Leader of the Elected Members said yesterday, and also in view of the fact that a great many allusions have been made to the Expenditure Advisory Committee by the hon. the Colonial Secretary and in the Memorandum supporting these Estimates.

Now in the first place, our leader, the Member for Rift Valley, has I think, demonstrated beyond doubt that the Expenditure Advisory Committee, including the official members of that Committee, fully realized at the outset of their deliberations two things: (1) that their terms of reference were unreasonably restricted, with the result that it was quite impossible for them to make reductions adequate to the situation, and (2) that in consequence there would always be the grave risk that in future an endeavour would be made by Government to use their Report as a "smoke screen", in order—as far as possible—to obviate cutting down expenditure further should world conditions not improve.

An attempt was therefore made to get our terms of reference enlarged. This attempt was frustrated and thus we had to choose between retiring from a Committee—which although recommended by Lord Moyne we had had some difficulty in getting appointed—and endeavouring to produce a Report which, whilst admittedly not entirely satisfactory, could at any rate be used to ensure certain immediate reductions in expenditure which would alleviate the position to some extent and at the same time be also used to convey, in no uncertain terms, our fears for the future.

I venture to suggest that, in spite of what the hon. Member representing Indian interests inferred—because perhaps he had not read the Report quite as carefully as I have recently—in our Report we did convey and stress our fears and that, not in the Majority Report, in the Minority Report. The Noble Lord has made a sufficient number of quotations from the text of the Report as has also the Member representing Indian interests to show the warning we gave Government was in fact a real warning, expressed in words which to the ordinary person were perfectly unmistakable.

He has also quoted the Minority Report, signed by himself and myself, which reads as true to-day as on the day it was written. No useful purpose will therefore be served by my covering the ground which has already been covered.

In order, however, to be able to be in a position to substantiate the statement I have just made to the effect that the Expenditure Advisory Committee was much exercised over its restricted terms of reference and very worried over the ultimate effect a Report made under such terms might have on Government and the public, I took the trouble, after hearing Your Excellency's speech, to look up from my own original files the letters I personally wrote to the Chairman of that Committee in the early days of its deliberations. I found that on the 30th August, 1933, I submitted a draft letter, which I tried to persuade the Committee as a whole to submit to the Colonial Secretary, out of which I will quote this:

"In view of the fact that the Departments of Agriculture, Education, Medical Services and Public Works are the heaviest spending departments of Government and are further organized and administered as one entity, we fail to see how the Expenditure Advisory Committee can venture to submit recommendations in accordance with its terms of reference Part I, Sections C, D, E, unless it is empowered to examine the activities of these departments in their entirety. From the considerable mass of evidence which has already been laid before the Committee, it is evident that that portion of the activities of these four departments which is devoted exclusively to Native Services, is administered extravagantly and is in immediate need of overhaul. Nor is it possible for the Committee to comply with Part II of the terms of reference, unless the liabilities of Government in regard to loan services, pension services and Northern Brigade of the King's African Rifles do come to some extent within its purview. The pension services in particular require readjustment."

At the time I wrote this letter, I believe, as far as I remember, I maintained the attitude that I would not remain on that Committee unless our terms of reference were enlarged.

The letter as drafted was altered but was submitted to the Colonial Secretary, and, as I have pointed out, our suggestions were turned down. In view, however, of the considerations which I have already enumerated, I decided—and I think rightly decided—to remain on the Committee.

I see I wrote in again on October 5th, 1932, stating that I was of the opinion that the policy of the Committee was vacillating regarding the attitude it was adopting in dealing with Heads of Departments, who were taking cover behind what they alleged were the minimum provisions required to maintain their so-called essential services.

In that letter I recommended that we should get our minds focussed on a reasonably conservative estimate of total possible revenue for 1933 and 1934 and that figure I gave as £2,900,000, and that we should allocate to departments a limit of expenditure, telling them that they had got to do the best they could with that. I added that I was not a little perturbed by the attitude taken up by certain Heads of Departments at that time, who were frustrating our efforts by adopting an attitude of *non possumus*, which resulted in our swamping ourselves in a mass of trivial details, over which we argued with these Heads of Departments, instead of sticking to main lines of procedure. I was also particularly worried over a remark made by our Chairman in reply to my suggestion that we should make an allocation to a particularly recalcitrant Head of Department of a certain sum of money and ask him to show us how he would readjust his department, if no more money were available, to which the Chairman had answered "Such a procedure would be outside our terms of reference."

I also see that I wrote another very long letter on the 21st November, 1932, again complaining on general lines that we were being deliberately befogged by Heads of Departments who invariably had recourse to the term of reference which made mention of a reasonably efficient Government machine being kept going, and that we were entirely failing to take into consideration the most important factor of all, the available resources of the country.

Your Excellency, the letters to which I referred and from which I have quoted were numbered and treated as memoranda submitted to the Committee, so I have no doubt they still exist in Government files. If they have been misplaced, I can produce copies. I have merely alluded to them at such length in order to prove that Government was well aware of our ideas at that time and therefore has no right to suggest at this stage that it has complied either in spirit or in fact with the basic recommendations of the Expenditure Advisory Committee. I agree in fact with the Noble Lord when he says that this represents merely a mean and petty attempt to avoid responsibility to-day.

I would moreover again remind honourable Members of what was said yesterday to the effect, and again repeated this morning by the hon. Member representing Indian interests, that the Expenditure Advisory Committee sat in 1932 and reported at the end of January, 1933, which is nearly two years ago, and that world circumstances and conditions in Kenya have greatly changed for the worse since the period in which that Committee sat. That Committee gave a clear warning to Government that things might get worse, in which

case—owing to their restricted terms of reference—their recommendations would be altogether inadequate. Government, therefore, did in point of fact, receive full warning from the very Committee behind which it is striving to screen itself to-day but have wilfully and recklessly failed to act on that warning.

Before dismissing this subject I must, in fairness to ourselves, point out that Your Excellency's advisors were guilty of a very bad lapse when they incautiously ventured to advise Your Excellency to quote in your communication from the Chair, a portion only of paragraph 440 of the Report, removed from its true context, from which quotation Your Excellency furthermore inferred a deduction. The quotation Your Excellency made was as follows:—

"It must at the same time be evident to all who have the interests of the Colony at heart that it would be a council of despair that evils produced by several years of expenditure beyond our means, culminating in a cataclysmic depression, must be counteracted by a sudden destruction of services on which the whole organization of the Colony depends."

The deduction Your Excellency made was that any further curtailment or elimination of services beyond those we were able to make within our restricted terms of reference would not have met with the approval of the Committee. The quotation Your Excellency selected was unfortunate, for it was made from a portion only of one of the three paragraphs headed "General"—the third being thanks to the Secretary—whilst we closed our Report, paragraphs in which we ventured to issue a very grave warning, and, read in its context, it conveys precisely the opposite inference to that deduced by Your Excellency in your communication from the Chair. The two paragraphs have been read this morning to some extent. They are 448 and 449, with the word "General" at the top in black letters to show they are all together:—

"448. Before closing the Report, we venture to remind Your Excellency that in 1925, Government, with the assent of the Unofficial Members of the Legislative Council, launched a programme which events have proved was too extravagant and ambitious for the economic position or future prospects of the Colony. Plans then laid would appear to have presupposed a steadily increasing European settlement, development of native production, maintenance of commodity price levels and of land values, and a steady flow of credit, and, as a corollary, continuous and increasing prosperity. The extension of social services outstripped the development of the Colony's

potential resources, and to-day the progressively increasing cost of these services is disproportionate to the Colony's revenue. A transitory and deceptive prosperity, stimulated by the spending of Government loan funds, encouraged public and private extravagance which has resulted in a scale of expenditure and a standard of living beyond the means of a young and small agricultural community. The need for efficiency is recognized and admitted by all, but it is false economy to aim at the immediate achievement of a standard of efficiency which involves an expenditure beyond the capacity of the Colony. This is particularly true of the large spending departments—Medical, Education, Agricultural and Public Works. Adjustments must be made in these and other services, so that expenditure may be brought and kept within the Colony's spending capacity both now and in the future. It is these general considerations which are the justification for the recommendations we have felt it incumbent upon us to make in the preceding chapters."

449. The important needs to-day are a balanced budget and an adequate liquid reserve. These needs can only be satisfied by the closest and most continuous scrutiny of all departmental expenditure. . . ."

Then it goes on to Your Excellency's quotation.

I think it must be admitted that in these two paragraphs we issued a very definite and clear note of warning as to aiming at a standard of efficiency which involved expenditure beyond the capacity of the Colony. We particularly mentioned the four departments which our terms of reference dobarred us from dealing with, but we showed that we realized in the quotation which Your Excellency made that too sudden a destruction of services would be inadvisable. Two years, however, have now elapsed, so I feel we need have no fears at this stage of the danger of too sudden a curtailment of services!

Having now at some length alluded to one of Government's major excuses for the preposterous Estimates, which have been laid, I will now deal with the Estimates themselves.

Year after year we wait and we hope for some sort of realization of the true state of affairs on the part of those who quite fortuitously have been elevated into positions of responsibility. I can, however, perceive no hopeful symptoms, and the production of this budget which is now before the House proves that Government either cannot appreciate the realities of the position, or are quite unwilling to attempt to do so. If the latter, then it is obvious that they consider

it is more important to keep an enormous machine running which they know to be top-heavy, than to do their duty by the country which they are supposed to serve.

I suggest—and indeed the hon. the Colonial Secretary in his sartorial allusions yesterday confirmed my suggestions—that the general lines on which Government framed this budget are these. Instead of adopting the right method of first calculating the revenue on a reasonable basis and then endeavouring to calculate their expenditure with some regard to the amount of money available, Government first calculated the lowest figure which, in their opinion, it would cost to run their juggernaut fairly comfortably for 1935, and then gave instructions to somebody to produce paper revenue figures to meet that expenditure. In other words, Government adopt the attitude that revenue figures of sorts are only really required for eyewash purposes to get the Estimates through Legislative Council.

On this occasion I submit that, as in 1931, Government have made no adequate attempt to correlate expenditure to existing circumstances, but they have stooped to misleading the public in the preparation of the budget, and it is the realization that Government will stoop if necessary in attempting to enforce what amounts to a fraudulent budget which has caused such a wave of indignation throughout the whole of this country.

Now, I have just been reading the budget debates which took place in 1930 and 1931, and they are very interesting reading to-day. But, whilst in 1930—or more important still—in 1931, the Government, by stretching every factor in their favour may just possibly on balance be considered as having merely been very foolish in their extremely optimistic views as to the revenue, in 1934 there can be no such excuse offerable. Even as long ago as 1931, to put it charitably, the flimsiest of reasoning was dug out in support of revenue figures, principally the estimated figures of Customs revenue, and ridiculous as those reasons seemed then, how doubly foolish do they read to-day, and how utterly has all that reasoning not been destroyed by actual events! But if Government did not know, could not be made to understand in 1930 or in 1931, what shadow of excuse can there be for offering any of those terribly difficult years wherein all the factors of the world situation and of the local situation have been fairly fully disclosed?

In order to substantiate my statement to the effect that the 1935 Revenue Estimates have been financially inflated, I am going to quote a few figures.

I shall deal with the Revenue position first, as it is the Revenue Estimates which I chiefly intend to attack because they are not genuine. At the commencement of this Session Your Excellency made an extremely lengthy communication from the Chair, but it was not until towards the end of that communication that any reference to the Estimates of 1933 occurred and in these terms: "The Revenue Estimates provide for a net increase of £39,055 over the Sanctioned Estimates for 1934." In the forward of the Memorandum of the Draft Estimates for Expenditure for 1935, the hon. the Colonial Secretary dismisses the Revenue Estimates in a short paragraph which reads as follows:—

"Paragraph 8. The Draft Revenue Estimates for 1935 have been framed on strictly conservative lines. Of the new taxation measures which were introduced in 1933 it is proposed to drop the tax on imported packages, a form of taxation which is admitted on all sides to be unscientific and generally unsatisfactory."

We thus have two statements, one from the Head and one from the Deputy-Head of our Government: one tending to give us, or rather the man in the street, the impression that £79,000 more revenue would be collected in 1935 than was obtained last year and the other suggestion that the 1935 Estimates were framed "on a conservative basis".

Now what is the truth? The truth was exposed by the Noble Lord yesterday but I will repeat it. It is that at the time those statements were made or prepared, Government were well aware that the Revised Estimates of Revenue for 1934 had been reduced to £3,157,595 (and even then I should say that their revised estimates of land and poll tax collections, and possibly of Customs revenue, are still optimistic). Government Estimates of Revenue for 1935 amount to £3,240,591, therefore actually Government's so-called conservative Estimates of Revenue for next year show, in spite of the package tax having had to be dropped, they anticipate squeezing no less than £82,786 more out of the population in 1935 than they now hope to be able to squeeze this year. Taking the average for the two previous years they anticipate extracting in 1935 £100,786 more than the average figure extracted during the previous two years. And this is called "Drafting the Revenue Estimates on a conservative basis"!

A few moments ago I suggested Government adopted the attitude that revenue figures of sorts were necessary for eye-wash purposes in order to get Estimates through the Legislative Council. In support of that statement I would mention that beginning with the year 1929 and excluding this year's Estimates, the total deficits on the budget have amounted to no

less than £278,000 and during the last five years—I purposely omit 1929 as the suddenness of the slump took us all by surprise or the gravity of it did—the approved Estimates of total revenue to be put forward year by year by Government (including this year's revised Estimates) has exceeded actual receipts by no less than £920,263. Every year we have warned Government that their Revenue Estimates were unreasonable. Every year Government have assured us that they have been prepared on a conservative basis, and what is the result? Government have been out by nearly £1,000,000 in the last five years. I suggest that this is a situation which we can tolerate no longer. Government's advisers have been proved wrong year after year for five years and it is high time we got some new ones!

Having dealt with the Revenue position in general, I will now deal as shortly as possible with some of these revenue figures in detail. The first allusion I propose to make will be to the figures of Customs and Excise, to which allusion has already been made by previous speakers. Now in regard to this particular item of revenue over a period of many years, Government have yearly received warning from the unofficial, and especially from the commercial communities that their Estimates have been unduly optimistic. As I have pointed out, Government's excuses have been of the flimsiest and in some cases have indeed been even amusing, had the subject not been of such vital importance to the country. I do not propose to waste the time of the House reading extracts from past debates, but I will refer Members, who are interested, to Volume 2 of the Legislative Council Debates of 1930 and Volume 2 of the Legislative Council Debates of 1931. The hon. W. C. Mitchell, a member of considerable commercial experience, stated in 1931 that he thought the Estimates of Revenue, as given in the budget, were most undoubtedly inflated. Colonel the hon. W. K. Tucker, also a Commissioner member, pointed out that in 1930 the hon. the Commissioner of Customs had over-estimated his revenue by no less than £140,000 and that in 1931, when he was speaking, that a shortfall of practically the same amount was already anticipated. As a result of that Nairobi Chamber of Commerce circulated their members and received some thirty replies from business houses, expressing opinion as to what a more reasonable figure would be. The Commissioner of Customs attended the Chamber of Commerce whilst those letters were being analysed and examined. It did not apparently, however, shake his self-assurance, though I need hardly add that eventually the commercial community proved to be utterly and totally wrong.

I even notice in December of that year when the Report of the Select Committee for the Draft Estimates for 1932 was being discussed, the hon. the Commissioner of Customs ventured into the realms of international finance and international economics in order to substantiate his Estimates. I will quote from the hon. Member's speech: "So far as the external factors are concerned, the abandonment of the gold standard late in September has had the effect of raising the prices of primary commodities in terms of sterling, and, apart from any appreciation which may take place later in terms of gold, the immediate effect on this country is definitely beneficial, and will remain so as long as there is no general abandonment of the gold standard and the costs incidental to production and marketing do not reflect a corresponding all-round increase. By abandonment of the gold standard, the Customs Revenue Estimates are automatically converted from a gold to a sterling estimate; that is to say, the prospects of obtaining the estimate based on a gold currency are considerably improved by transportation to sterling currency worth less than three-quarters that of gold."

Later on he said: "I am therefore personally satisfied that the Government Estimate of £750,000 (for Customs Revenue), calculated in the manner I have outlined, is not unduly optimistic."

The hon. gentleman was quite indignant at the unofficial Members criticising his Estimates, and what was the result? The total Estimates Government insisted on including for 1932 for Customs and Excise were £761,170; the amount actually collected in spite of the hon. Member's gold theories was £597,262. In short, the history of Government's Revenue Estimates as regards Customs is this:—During the course of the last five years the approved Estimates have exceeded actual receipts by £609,000. Every single year during this period the hon. the Commissioner of Customs has produced an estimate which has not been realized.

In 1930, Government Estimates were £963,337 and actual collections were £815,286; in 1931, Government Estimates were £953,230, actual collections were £698,584. Quite undaunted by this, in 1932, Government's Estimates for Customs and Excise were £761,170, actual collections were £597,262. In 1933 £617,780, actual collections £600,417. This year £647,500, revised estimates of collection £622,500. Whether they will be realized it is a bit too early to say but in view of that I venture to suggest that the figure of £600,000 is an obvious deliberate over-estimate, even making allowances for the recent alteration in Customs duties. I am afraid this does not astonish us in view of the fact that

the hon. gentleman, who, I have just proved, has led Government astray for five consecutive years, who has clearly demonstrated that he cannot keep in touch with the commercial situation and who has always declined to accept the advice of the Members on this side of the House, who have invariably been nearer correct than himself, is now, I suppose as a reward for ineptitude in estimating Revenue figures, promoted to Treasurer of this Colony and Your Excellency's chief adviser on our finances. Can it be wondered that we are a bit nervous?

Now, as this is a point which may be taken up in the reply to this debate, we know, as our leader pointed out yesterday, that the figure of £652,500 suggested by Government for 1935 includes both Customs and Excise. The corresponding figures have always included both Customs and Excise since 1933, and to simplify matters I am prepared to grant Government their figure of £23,500 for Excise, which leaves a figure of £630,000 which Government anticipate collecting through Customs duties next year. We know there are certain readjustments in the Customs tariffs which have been made, and I see the increase that Government anticipate from this source is £5,000 but, even making allowance for that, you still anticipate £625,000 in Customs revenue alone this year. Now in ten months this year £485,134 was the estimated collection. Actual receipts in 1933 for both Customs and Excise, that is including at least £17,000 for Excise, amounted to £600,417. The average for both Customs and Excise for the last two years was £611,459. Things are worse this year—our only hope is in the mining industry, and presumably they impart inchoitery as they require duty free—so on what can Government possibly base their optimistic estimates for Customs revenue? I suggest the word "convenience", and no other. I believe that this year we unlikely to achieve £600,000 on both Customs and Excise. Last year we only collected £600,417 on both, and yet for 1935 we are supposed to be going to collect £652,500!

Under the next head—Licences, Trades and Taxes—I notice an anticipated increase is expected from Game Licences and Gun and Ammunition Licences. There may be some reason, and the only information given is the letter "D", which means "increase anticipated"—a somewhat vague expression—and it might interest Elected Members to know that the letter "D" appears against no less than twenty-four items in the Estimates.

£1,500 extra is expected from Traffic Licences. I admit that the gold mining area has produced revenues from this source, owing to a number of employees being imported from overseas, most of whom have become car owners, but I should think that this possibly is an over-estimate.

£6,000 is anticipated from Stamp Duties. I presume there must be some change to make this a reasonable amount. The hon. the Colonial Secretary informed us yesterday regarding this item that this estimate was based on this year's figures, but in the actual Estimates I do not see the letter "G" but the letter "D" which means one more increase anticipated.

Then comes Native Hut and Poll Tax, from which source it is said that £563,930 will be collected in 1935. Now, the original Estimate this year for Native Hut and Poll Tax, that is 1934, was £371,257, and in the last revised estimate of revenue this figure had to be decreased to £520,045. For the first eight months we collected £48,000 less than was collected during the same period in 1933. Every District Commissioner in the Reserve has been taken off doing his proper work and has been turned on to squeezing the unfortunate native in the hope that something like £500,000 will be collected this year. Up to August, I might mention, only £909,702 had been collected. Now, if this tremendous pressure is being brought to bear at this time of the year in order to obtain as much as possible this year, is it reasonable to suppose, under existing circumstances and with the present prices of primary products, that the natives are going to produce next year thirty, or forty thousand pounds more than we believe they produced this year? It is, of course, fantastic.

Again, I see under Fines and Forfeitures, an extra £1,000 is likely to accrue to Government.

Estate Duty is supposed to bring in another £3,000. Traders' and Professional Licences, £10,000. This may be the case because there will be a general tightening up of the collection under the amended Traders Licensing Ordinance, but I do not believe it will bring in another £10,000.

I note the Petrol Tax estimates have been increased from £47,000 to £37,000 and are thus supposed to be going to bring in an extra £10,000—this additional to the extra £3,000 that oils and petrol will bring in to Customs revenue in 1935. I cannot follow how the two figures of increase in Customs duty and increase in Consumption Tax on petrol for 1935 are supposed to tally. As it was pointed out yesterday by the Noble Lord representing the Rift Valley, the oil companies can give no justification for Government's figures. Although sales of petrol in Nairobi have decreased, there was an increase in sales in Kenya as a whole during this year; up to the end of September, however, as compared with the same period last year, the increase was just over 2.4 per cent, and nothing like the figure Government claimed.

Under Fees and Payments there are innumerable small items, mostly with the letter "D" against them, which I will not go into, except that I wonder why there should be an increase of nearly 40 per cent in Grading and Cold Storage Fees. There may be some reason for it.

I am leaving the Post and Telegraph Estimates severely alone, because, in my experience, they are the one Estimates of Government Departments which are nearly always correct. The hon. the Postmaster General runs his Department on business lines and not on dreams and fantasies!

I also note that Government Printing, Prisons Industries and the Mombasa Water Supply are all going to bring in more revenue, and that there is to be quite a large demand for ivory, which is going to bring in 50 per cent more than it did last year. Given luck, terrific luck, complete with some startling change for the better in world conditions, some of these Estimates of Revenue may eventuate, but we have no right to gamble on luck, and I think I have said enough to show that we have every reason to accuse Government of first getting out their Expenditure Estimates and then having manipulated their Revenue figures to pretend that they can foot the bill. This has been Government's policy in the past, and it is quite clearly their policy to-day. But this time, if we still hope to save what is left in this Colony, we have got to force Government to a realization of the true position, which is that the money is not there. If Government cannot learn, Government has got to be taught to live within its real income, and to cease producing budgets showing grossly distorted paper incomes.

I will now refer to the Expenditure side of the Estimates. On this subject we were given a very interesting lecture yesterday by the hon. the Colonial Secretary, the gist of which was that much of our expenditure was unavoidable, as it took the form of inherited obligations; the remainder of our expenditure was only reducible theoretically, and he quoted, as two examples, that we had to keep the roads going and we had to keep schools going—not, I suggest, two very bona fide examples of Government expenditure as a whole. However, the hon. gentleman admitted that his explanations—or shall I say excuses?—were somewhat elementary. They certainly were! I have, of course, no doubt that in replying to the debate the hon. Member will again take the opportunity—or some other speaker on the Government side will do so—of telling us that is no use our putting forward a plea to reduce expenditure unless we show some method or other whereby this can be accomplished. This is an old trick—we have no intention of being caught nor at this stage of going into details of suggested reductions. As has been explained, we consider

the details to have been Government's business during the last two years, but to say, in times of the greatest stress, that expenditure is inherited, unavoidable, or irreducible is the most ridiculous statement I have ever heard made by sane persons. We might retaliate by saying that revenue is unobtainable—which, in fact, is very much nearer the truth. Of course no expenditure is irreducible in cases of dire necessity. If the money cannot be found, something or other has to be done. This applies both to private persons, businesses and Governments. Without going into details there are one or two main principles which could be applied to meet the situation. The first, already touched on by both previous speakers, is to make arrangements made to the home Government that they must take up the whole of the Colonial loan position, pointing out that otherwise we may have to default or demand a grant in aid.

I do not in the least agree with the hon. the Colonial Secretary's arguments which he put forward yesterday. There is no question of integrity. Surely, when a country or an individual is placed in the position in which we find ourselves to-day, the only honest thing to do is to be frank about it and to take such steps as can be taken to meet the situation. All countries have had to do this since the war. All we are asking England to do, in her position as trustee, is to ensure that these small Colonies receive equality of treatment in this respect and to give the same measures of alleviation that have been found necessary for all countries—including England herself. Secondly, if reductions in expenditure cannot be made by employing fewer people, then there must be a further reduction in official salaries. I am not one of those who believe in reducing individual salaries, except as a last resort, but I still maintain that the number of people Government employ is grossly excessive, as I think has been clearly demonstrated by the figures given by our leader, the Member for Rift Valley. To quote one instance of what I mean—for Machakos there used to be, pre-war, three administrative and one departmental officer. There are now, I believe, three administrative and eleven departmental officers. Had the progress and production of this district gone ahead in proportion, we should have less cause for complaint, but of course they have not done anything of the kind.

In order to demonstrate the urgency of dealing with this question, I would mention that at the time the Expenditure Advisory Committee sat, the total provision necessary for personal cash emoluments alone was £1,223,540, which sum represents the prime cost of salaries and allowances only, other than housing. I am not able to give the precisely corresponding figures for 1934. I have tried to work it out and believe it roughly to be £1,208,694, showing a reduction of only

about £20,000, a great deal of which is at the expense of the African. I must add that to arrive at the gross total cost of personal emoluments it is necessary to take into account provisions for passages, cost of providing free medical attention, quarters, house allowances and the future cost of pensions and gratuities payable.

Lastly, very considerable economies could be effected were further measures of inter-territorial unification or amalgamation to be put into force. It has got to come. Nobody can keep the clock back, so the sooner we take advantage of such relief as can be obtained through such measures the better.

In addition to the main principles on which reductions of expenditure could be achieved, one cannot avoid an unpleasant feeling that the whole fabric is somewhat unhealthily as regards matters of detail. At the present moment we feel we are fighting a system under which, when and as individual officers try and reduce expenditure on a vote, there is always the risk that they will be told towards the end of the year that the money must be spent on that vote, otherwise that head of expenditure would be reduced next year. It is true that a great deal has been done to counteract this pernicious principle during the last few years, but we feel that much still remains to be accomplished.

Native schools in the Reserves are, I believe, notorious for extravagant expenditure. Large stores of tools and equipment are maintained and the matter of "leakages" is notorious. Do not let that be interpreted as an attack on native schools because it is not meant to be.

The pension position also for the last year or so has been recognized as being thoroughly unsound. It seems difficult to understand how such an underestimate was made in the Pensions Estimates for 1934, but I see additional provision has been made for £37,487 over and above the original Estimates for this year. Incidentally, it is frightening to see the extent to which, year by year, the Colony is paying for lack of foresight in the past in this connection. As a classic example, there is the officer who is drawing a pension larger than his maximum pay. This officer completed his service in Kenya at the time when Provincial Commissioners drew £1,000 per annum. He retired, and whilst on leave pending retirement the rate of pay was raised, I believe, to £1,350 per annum, with the result that within a few weeks he went on to a pension which, calculated on the £1,350, together with house allowance, means that he draws £1,635 per annum for as long as he lives. I trust he will live a long time, as I wish him no ill, but should be live to be eighty-five, he will have cost the country £36,225 in pensions alone, quite apart from the pay he drew whilst in Government service.

I do not propose to say any more about expenditure. I repeat that in view of recent history reductions should have been the business of Government. I have said enough, however, to show that the present scale of expenditure in our opinion at any rate is by no means irreducible.

In concluding your communication from the Chair Your Excellency mentioned that you would welcome any expressions of opinion on your belief that, if relief is ever to be afforded to the sorely pressed agriculturalist and others, immediate steps will have to be taken to place the fiscal system of the Colony on a more scientific basis, which will have proper regard, not only for the yield of taxation, but also to the incidence of that taxation. I venture to suggest that Government is only really concerned about the yield and not unduly concerned about relief. However, be that as it may, we feel that in asking for such an expression of opinion from the Elected Members at this juncture, Government are merely endeavouring to draw a red herring across the trail in the hopes that the real issue may become obliterated in an argument regarding the merits or demerits of an income tax as compared with a graduated poll tax. We have, however, no intention of withholding any information which Your Excellency may wish to convey to the Secretary of State, and we trust that in your despatch Your Excellency will stress the fact that the Elected Members unanimously and firmly contend that the Colony can bear no additional taxation whatever and that they hold the view that it is imperative that Government should immediately reduce expenditure. Conditions have been getting worse here year by year. Elected Members are therefore quite unable to comprehend why Government should expect to extract an increased revenue yearly to pay for a machine which year by year costs more.

As our leader, the Noble Lord representing the Rift Valley, pointed out yesterday, no such question as the respective advantages or disadvantages of direct versus indirect methods of taxation arises at the moment. Any such question is entirely secondary, and can only come up subsequent to the settlement of the main principle.

Whatever individual Elected Members think about income tax, we unanimously agree that its introduction under existing circumstances would be intolerable unless it were understood that all so-called alternative taxes were withdrawn simultaneously with the introduction of such a form of taxation and further that alleviation should be given in the various other forms of indirect taxation which have, for some years past, been in force. You cannot have it both ways. One cannot agree to a permanent system of high direct and indirect taxation—it must be one or the other. Secondly, some relief

in the loan position should be obtained via the media of income tax, and lastly, that the unofficial community should be given some reasonable measure of control of its incidence.

Government's action this year shows only too clearly what would have happened had an income tax been imposed without some measure of control by the people. Government's expenses have gone up by £47,407—and up would go the income tax rate to make up that amount! No! In the light of Government's handling of the present budget it would be folly to give them such a dangerous weapon as a tax which can, and would, be constantly increased. It must always be remembered that we cannot turn out Government as would certainly happen in more advanced countries as soon as the public realized that their Government was so lost to an appreciation of its position that it could suggest increasing its costs at a time like the present. We have therefore absolutely made up our minds definitely to oppose both income tax and graduated poll tax, or, indeed, any extra taxation whatever, as we are determined that Government on this occasion shall reduce the overhead expenditure of this country to a figure which the country can bear.

It may be claimed that we are behaving in an unstatesmanlike and petty manner by opposing a Bill providing for taxation which was paid this year. In refutation I would claim that our action is amply justified in that by refusing to renew emergency taxation which was most definitely only enacted for a limited period on the understanding that it would come off in December, 1934, we are adopting the only constitutional method which is open to us to enforce on Government some sense of its proper responsibility.

Your Excellency has referred to the taxable capacity of the country and you stated that, as compared with the Estimates put forward with the alternative proposals, the results obtained were disappointing, which resulted to the conclusion that, after full and fair trial, the alternative revenue measures have failed in their purpose and that it was not unreasonable to assume that they had failed because they were inappropriate and unsuitable, and not because of laxity of collection or because the taxable capacity of the Colony was exhausted. The Noble Lord, the Member for Rift Valley, has read an extract from the Minority Report of the Expenditure Advisory Committee, which gave warning nearly two years ago that the taxable capacity of the country was very nearly exhausted. Some cogent arguments were put up this morning by the previous speaker. In the last two years, if Government were not willfully blind, it has had every possible sign and portent that the taxable capacity of the country has been exhausted,

but they pay not the slightest attention. Government with its telescope to its blind eye now suggests that existing methods of taxation are inappropriate, unsuitable, or unscientific, and talks about income tax as being appropriate, suitable and scientific.

I venture to maintain that the arguments Your Excellency put forward are not even logical, because, like the proverbial ostrich, Government refuses to probe down to the real causes of why taxes do fail in this country. Taxes which have been sufficient for many years past have failed. Substitutes and extra taxes have failed. Had an income tax been introduced, it would probably by now be said to have failed. And why? They have failed for the very reason that Your Excellency, in your communication from the Chair, rebutted. They have failed because the taxable capacity of the country is definitely exhausted. I would ask Your Excellency, is it possible, with a fall—I am sorry to keep repeating these figures, but it is a curious thing that all three speakers have had exactly the same figures, which will make the ordinary person wonder why Government apparently cannot see them—in retained exports from £4,950,377 in 1929, to £1,038,167 in 1933, to tax the community further so as to maintain a yearly expenditure that has risen in the same period from £2,834,647 to £3,267,747? Can a Colony, which so far is entirely dependent on agriculture, retain its taxable capacity in the face of the fall in prices of primary products? As the Elected Member representing Indian interests has just given these figures there is no point in my keeping the House by quoting them again. In 1928 we had an export figure of £3,266,403. In 1933 that export figure had fallen to £2,346,999, and this year—for the first time since 1922—it seems probable that the export figure for Kenya will fall short of the £2,000,000 mark. And for such products as we do export the markets are becoming more and more difficult. It has been pointed out that America is a good customer of ours, and the Continent of Europe. I ask—is the position hopeful in either case? As to England, our leader pointed out yesterday, we get up against quotas or prohibition! Again, take the evidence adduced by the East African Currency Board reports, June, 1933, the remittances outward from Kenya alone exceed £233,205, the excess of cash sent inwards by rail over amounts similarly sent outwards which gives a net balance of remittances outwards during that period of £1,674,370.

The effect of this is that currency to the amount named has gone out of circulation.

The comparative magnitude of this figure can be judged when it is said that it is about equal to the total amount of currency remaining in circulation in Kenya on 30th June, 1933. It is not possible to give the exact amount of the latter, but the total in circulation in the three territories on the date named, as clearly stated in the Board's report, was £3,862,433, and there is reason to believe that the total for Kenya alone did not exceed £1,700,000 and was probably a little less. In six years, therefore, the amount of currency in circulation in Kenya has shrunk to about half. And yet—entirely disregarding these facts—we still hear such opinions expressed as those contained in a statement by the Secretary of State in England that all is well in Kenya, and in a statement from Your Excellency to the effect that the taxable capacity of the country (which is having new taxes thrust upon it year by year) is not becoming exhausted. The figures I have just mentioned have already been given, to some extent, by the Noble Lord, the Member for Rift Valley, and by the hon. Member representing Indian interests. I trust they will receive the consideration they deserve from the Standing Finance Committee, provided the official Members of that Committee consider the problem as sensible human beings and not as cogs in the machinery of the juggernaut.

One of the most remarkable characteristics both of Your Excellency's communication from the Chair and of the hon. the Colonial Secretary's speech yesterday, was the absence of any real expression of sympathy with the European producer. Nor was there any remark which indicated an appreciation of the difficulties with which the commercial community was faced. The only remarks which led one to suppose that the speakers did realize that circumstances were not normal were contained in an allusion to the difficulties with which Government had to contend and the profuse apology which the hon. the Colonial Secretary made to the Civil Service for the retention of the levy on official salaries, which measure he incidentally criticised as unfair in terms which I can only describe as thoroughly provocative. In view of what has happened elsewhere as regards Civil Servants, notably in England, I suggest that the hon. Member in his present position had no right whatever to make that criticism.

It is fairly obvious to the Members on whose behalf I am speaking that Government is abandoning in spirit all those ideals of strong white settlement which we cherish. Furthermore, there was in both speeches complete lack of any suggestion for reconstruction measures, the only one mentioned being the appointment of more agricultural officers for the native reserves. I am the last person who will oppose developmental work in the reserves. But putting two and two together, in

view of what we have heard during the past few days, I cannot help wondering whether Government's sudden anxiety for native development is altogether altruistic. As I have said before and elsewhere, the European, and I think I can now add the Indian orange has been squeezed dry, and Government realizing this is thoroughly frightened by the native hut and poll tax position, in view of the fact that they are now relying on the native as a last resource for the preservation of their machine, on the plea that exports from native sources if they can be produced are bound to be profitable as there are no native costs of production! An unbelievable economic theory, but one which I have recently heard expounded by Government officers on several occasions!

European Elected Members do, however, propose to support the motion which is before the House, to the effect that the Estimates should be submitted to the Standing Finance Committee, doing so in the belief that, had these Estimates been prepared with the advice of that Committee, which has, during the past few months, been in close touch with the financial situation in the country, they could not possibly have assumed their present form, and the Elected Members hope that after submission to the Standing Finance Committee the Estimates may be returned in such a fundamentally changed form that it may then be possible for the European Elected Members to discuss them. (Loud applause).

HIS EXCELLENCY: Order, order!

THE HON. SHAMSUDD-DEEN: Your Excellency, I rise to speak on this motion.

HIS EXCELLENCY: Is the hon. Member going to speak for very long?

THE HON. SHAMSUDD-DEEN: I shall take more than a quarter of an hour.

HIS EXCELLENCY: Then perhaps we had better adjourn the debate and you can commence your speech to-morrow morning.

The debate was adjourned.

Council adjourned till Thursday, the 29th
November, 1934, at 10 a.m.

THURSDAY, 29th NOVEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 29th November, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.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 November, 1934, were confirmed.

MOTIONS.

DRAFT ESTIMATES, 1935.

The debate was resumed.

THE HON. SHAMSUDD-DEEN: Your Excellency, such a mass of bewildering figures have been quoted *ad nauseam* in this House that I am really afraid I cannot expect the House to listen to any more of these quotations of figures, which give one an awful headache listening to them continuously for three days.

Your Excellency, the day before yesterday I noticed an African sitting amongst the audience and I asked him what he was doing there, and he told me that although he did not understand English he knew perfectly well what was going on. I asked him what his idea was of the proceedings. He said that he understood that on the right of the Governor were sitting the *Bucanas Mubura* who were asking the Governor sitting on the left-hand side for their salaries for the new year and the *Wazee* were trying to impress upon the *Bucanas Mubura* that they have not got the money. But the *Bucanas Mubura* were telling them that if they did not find the money they will send them to prison and take their property. I asked him what made him form that opinion, and he said that was exactly what was happening every year in the native reserves when the tax collector came!

Your Excellency, that may be a very crude way of expressing it, but certainly I think it sums up the debate in this House most accurately. The Government cannot be persuaded that the country has not got the money that the Government want. I must say, Your Excellency, that from the speech from the Chair I am convinced that Your Excellency realizes that the present form of taxation is

harassing and it is not easy for the inhabitants of this Colony to find it. I wish that could be brought home to the Secretary of State, who I think directs the policy of taxation in this Colony, but I am afraid he does not fully realize it.

Now, Your Excellency, I want to avoid referring to figures as far as possible; and with that I have prepared a pictorial representation of the financial position of this Colony in the form of a graph which I have before me. I will be glad to lend it to the Standing Finance Committee if they so wish. From this graph it can be seen at one glance that after the year 1924 up to the end of 1930 unbridled extravagance prevailed in this Colony which resulted in the expenditure reaching the peak in the year 1930. I am in sympathy with the Government for having inherited that legacy of extravagance which is so difficult indeed for any Governor or Government to cut down in one stroke. I am sorry I have not got a copy of this graph otherwise Members would be able to see quite clearly that after the year 1930—I prepared this graph to show the different regimes of the various Governors from 1920 to 1935. I have detailed figures here which I wish to avoid referring to, but the fact is that from the beginning of 1931 to the time of the preparation of these Estimates you have cut down expenditure to the extent of £239,000, call it £240,000—very nearly a quarter of a million—and I quite sympathize with the Government when they think that they have gone so far and they cannot go any further. But, Your Excellency, if you see the complete picture I think you will agree that the Government has not gone far enough. I am not talking on mere suppositions. I will take the challenge of the Government to show the Government how the budget can be cut further as far as expenditure is concerned. I am not going to talk on any suppositions. I want to take for a basis the year 1923. In the year 1923 I think the strongest Economic Committee that was ever appointed in this Colony sat for several months. It consisted of men like Lord Delamere, Major Grogan and with Sir Charles Bowring in the Chair. There was one feature that was not present. Its hands were not tied like the hands of the Expenditure Advisory Committee. I will refer to the initials E.A.C. which occur frequently in the financial report and I was wondering what this meant. It could very properly be called "Exceptionally Amusing Comedy". They were told not to change the revenue estimates at all, that is why I call it an exceptionally amusing comedy. The Economic Committee of 1923 was not like that picture. They had full powers and they went through every detail of the budget. They did not allow any smoke screens to be placed before them by the Heads of Departments. They went through the expenditure very minutely and then called

each Head of Department and told them that as a result of their deliberations their expenditure would have to come down to such and such a figure. They were told quite clearly that the people could not afford to find the money they were spending—in quite clear words, that if they could not cut their coat according to the cloth they were then being offered, they would have to go. Some of them proved to be adamant and had to go; the others, however, soon found that their own bread and butter was in danger and conformed to the suggestions of the Committee.

Now, Your Excellency, that Economic Committee had brought down the expenditure of what the Government calls reducible expenditure to a sum of £709,000. I am not including what I might call the "untouchable" departments. By that I do not mean to use the word untouchable as in India, but a department which Your Excellency does not wish either the Expenditure Advisory Committee or this House to touch, so if there is no objection I should like to refer to them as untouchable departments, namely the Audit, Customs, Medical, Military and Post and Telegraphs. The expenditure of £709,000, to which it was cut down by the Economic Committee in 1923, refers to the following departments: His Excellency the Governor, Administration, Agricultural, Education, Forests, Game, Judicial, Legal, Police, Prisons, Public Works and the Secretariat. Your Excellency, in 1930 the expenditure for these departments went up to £1,371,600, an increase of £662,500 over 1923. Since the time Your Excellency took over the Governorship of this Colony this has been brought down in the year 1935 to £1,092,500, a reduction of £239,000, but if you compare, Sir, there is still an excess of £323,000 over the Estimates for 1923. On this summary it works out that this country is now in a better position than in 1923, but I submit the only sane way to put the finances of the Colony on a proper basis is to go back to the 1923 basis. Your Excellency, reference has very frequently been made to the cloth and the coat we have to cut. I personally think it would be nothing short of foolishness if we soonally think of it as a ridiculous oversize, in which, if we try to put on wearing it, we shall look no better than a clown. We must cut that long coat and we must allow nothing to prevent us—all the extra length and frills which do not conform to the financial ability of this Colony must go!

I want to show you that the increased expenditure has nothing to do with the prosperity of this Colony but is the result of an increasing scale of salaries of the various Heads of Departments which this country cannot afford to pay. I understand the Noble Lord to say that, but these are the facts and figures that are on the record, and I think that it

would be just as well for me to give you a comparison of the main Heads of Departments. Your Excellency, I will only quote the figures for the years 1914, 1922 and 1935.

His Excellency the Governor—in 1914, that is pre-war, £1,000. It went up to £5,500 in 1922 and it is now £8,500. I am quoting the salaries roughly and I believe I am right. It is £8,500 including £1,000 allowance as High Commissioner for Transport.

	1914.	1922.	To-day.
Chief Secretary	£1,100	£1,800	£2,200
Provincial Commissioners (maximum)	£700	£1,000	£1,350
District Commissioners (maximum)	£500	£700	£920 (max.)
Treasurer	£700	£1,200	£1,450
Commissioner of Customs	£700	£1,200	£1,400

It will enable Your Excellency to see that the salaries have been doubled.

	1914.	1922.	To-day.
Auditor	£700	£1,000	£1,150
Chief Justice	£1,000	£2,000	£2,800
Judges	£800	£1,200	£1,450
Attorney General	£800	£1,300	£1,800
Commissioner of Police	£600	£1,000	£1,350
Principal Medical Officer or Director of Medical Services as he is called to-day	£000	£1,200	£1,500
Director of Education	£500	£1,000	£1,500
Postmaster General	£750	£1,000	£1,600
Deputy do.	£300	£800	£1,120
Director of Agriculture	£1,000	£1,400	£1,500

That seems to be quite modest, I have not much complaint about that.

	1914.	1922.	To-day.
Conservator of Forests	£600	£1,000	£1,200
Game Warden	£400	£600	£840
Director of Surveys	£800	£800	£1,000

That is not very much bigger.

Land Officer	£800	£1,200	£1,950
Director of Public Works	£850	£1,200	£1,950

Your Excellency, I am only mentioning the Heads of Departments just to give the House an indication of how disproportionately salaries have increased since the war and since 1922. It is by no means the only unparalleled increase in these departments—all clerks and all the staff have received proportionate increases in salary. It is obvious that we cannot go on at this rate. It might be argued that this was a Colonial Service and that the local Government had no control. If that is so, then I very respectfully submit that if the home Government wishes to inflict on Kenya the services of such highly-paid people—I dare say they fully deserve it, but this country is not in a position to pay such high salaries—if the Colonial Office insist, then I think it is only fair that they should pay a fair quota for maintaining them.

Now, Your Excellency as regards the departments which have gone up, it is rather strange to find that the Administration Department, which is the highest amount in the Colony, has not increased its expenditure on 1923. The Administration Department has been cut and to-day stands at £1,000 less than in 1923, so if the Administration Department can remain within £1,000 of what it stood at in 1923, there appears to be no reason why other departments should not follow suit. The Agricultural Department to-day is drawing 430,400 more than in 1923. Then we come to the Education Department which is £126,400 more than in 1923. I quite agree though that it would be very dangerous to touch that department, as after all it involves the question of education of the children and although it is high I rather appreciate the argument advanced by the hon. the Colonial Secretary that to cut down the Education vote would be wasting all the money that has been spent in the past. The Forest Department is that has been standing at £9,500 more, the Game Department to-day now standing at £8,600 more, the Legal Department at £5,000 more, the Judicial Department at £8,600 more, the Legal Department £600 more—that seems to be a department which has remained within reasonable bounds. The Police is £31,000 more. The Prisons has gone up £16,700—I quite appreciate that the Juvenile Ordinance has something to do with that. The Public Works Department has gone up £35,000, and if one was to take into consideration the argument of the hon. the Colonial Secretary that one must not cut down recurrent expenditure otherwise all roads would fall out of use, the £35,000 drawn in excess of 1923 estimates certainly requires a careful investigation. The Secretariat itself has gone up £8,800—I think that the inclusion of the Legislative Council has something to do with that increase. I submit that, to-day, although Your Excellency has cut down the expenditure as compared with 1930, we are still in excess of the Estimates for 1923 by £323,800. There is no reason why this amount should not be reduced, but I will grant that

we will not touch the Education Department, the Police, the Public Works Recurrent and we will not cut the Governor's vote, which increases all come to £192,400 and still you will find that without cutting these departments, there is still an excess of £131,500 over the 1923 estimates. If we were even to cut this down by half only, we should get £65,000 which is the amount that Government estimates to receive from the alternative taxes.

With regard to these alternative taxes, although the argument has been put forward in quite a plausible manner that they are not alternative to nothing because the very word implies that it is a substitute for something, but what did happen was really this: the Government said they wanted to introduce income tax; the community said it was not the time and we could not consent to it. The Government asked "How are you going to get the money?" and the community said "As a temporary expedient we would suggest the following as an alternative". These words can be twisted into a legal form, that they were permanently meant to be an alternative for income tax, but although I was not in the House at the time, that is not the impression of the Indian community. I think that by no stretch of imagination can it be said that the Indian representatives ever consented to these alternatives remaining as permanent taxes in lieu of income tax. Your Excellency, as far as alternative taxes are concerned, I do not think there is a single European Member in this House, either official or unofficial, who has the faintest idea how harshly these taxes are working on the Indian community. The hon. Member Mr. Pandya yesterday divided the communities of this Colony into three classes, namely, the native farmers, the Europeans farmers, and the Indian commercial men. But I think he completely forgot a very important, though, unfortunate, section of the community, and that is the working class of Indians and the unemployed. Your Excellency, I am Chairman of the Indian Association of Nairobi, and they have given me a very commodious office, nicely furnished, but I have a rabid horror of going into it because every morning when I go there I find rows of Indians sitting in the office with notices and demands from the Revenue Office asking them to pay their poll tax. Leaving that alone for a moment, the poll tax, which is a very primitive and unscientific sort of tax, is a regular tyrant when demanded from a person who is unemployed or who is just getting a living wage. I have tried to help these people for several months but to-day, the honest fact is that since I do not possess the vulnerability of my hon. friend Mr. Ishor Dass or his energy I take the line of least resistance and run away like a coward, leaving it to the hon. Member Mr. Ishor Dass to take them to the Revenue Office. And now he

is thoroughly tired of it. There are hundreds of Indians who cannot pay any of these alternative taxes, and it is nothing short of tyranny that they should be harassed.

I will not enter into controversy of income tax versus alternative taxes. The view of the whole Indian community is that income tax is the most scientific and equitable tax that can be introduced into this Colony or any other country. But, Your Excellency, this is not the time for either income tax or alternative taxation. This is the time when Government is expected to remit taxes, not to introduce taxes! That is done in England; and that has been done every year in India when there is drought or other difficulties such as famine: they are remitted, new taxes are not introduced. I will say again, I am a thorough out and out advocate for income tax, but please wait until you have entrapped a sufficiently large number of people into the Colony, and then introduce it! You have not enough in the Colony now to tax, and if income tax is introduced at the present stage it will shut the doors on futuro immigrants.

I do not wish to take up the time of the House, because we have spoken, enough on the subject, but I do wish that I could have the help of a cartoonist, I think I could put the whole position of the Colony into one cartoon. A young boy, I will call him a child, wearing the clothes of a full-grown man—a very long oversized frock coat with a silk top hat. On his shoulders is a very heavy burden of firewood, such as is usually carried by Kikuyu women. His two parents, the Secretary of State for the Colonies and Local Government, are standing by his side putting additional fuel on to that child who believes he is a full-grown man, and when he groans they say "Don't cry, be a man." We are to be manifold, that is what it comes to. We are not a self-governing Colony, Your Excellency, and you can often see from the public papers in England that even people in England are realizing we are too small a community to bear the crushing burden of these loans and think that something ought to be done. I think we have done more than any other community could have done in the circumstances, and it is only fair that we should expect some help from the parent Government unless, of course, we were a self-governing Colony, in which case—like the case of Newfoundland; they were self-governing, and Government has helped them. But we are like children, still dependent on the support of our parents. I do not wish to introduce any kind of controversial elements into my speech to-day, especially as we have agreed this is a time to unite. And I am very glad that my dream of only a few months ago is coming true, when I threw out the hint that all the unofficial Members on this side of the

House should form, and it was their legitimate duty, His Majesty's opposition; that it is not our business to co-operate with Government but to oppose them when necessary. And we have decided on this occasion, that unless the budget comes back from the Standing Finance Committee in an entirely new form, that we are all going to unite in opposing it! Not only that, but I hope we shall catch the Government napping, and that if one or two Government members are absent we will throw the budget out!

The Noble Lord, the Member for the Rift Valley, quoted figures yesterday that there were 1,137 Europeans, 1,252 Indians, and 766 Africans employed by the Government of this Colony, and I think he showed the disproportion of the number of employees as compared with other colonies. I should have been very much interested if the Noble Lord had been in a position to also state the amounts drawn by those 1,137 Europeans, 1,252 Indians and 766 Africans. Those figures would have been very interesting indeed. I have not the slightest doubt in my own mind that those 1,137 Europeans would certainly have drawn probably more than double the amounts drawn by the Asians and Africans. However, I do not propose to dwell at length on that subject, but that is one of the real secrets of the expenditure of this country not being kept within bounds.

I must say that I am in entire agreement with that part of the speech of Your Excellency in which you struck a very good note as to the possibility of taxes being collected from absentees. There is room in this Colony for introducing a law to make people who are absent from the Colony take their due share of the burden, and in that I think people who are drawing pensions should come first. At the present moment, Your Excellency, I am quite certain these sort of people do not exist in the European farming community, although they are a privileged community who have all sorts of privileges in the way of land, grants, and other things, but I do not think there is one farmer to-day who is stopping in England and drawing any large income from this Colony which could be taxed in the event of any such law being introduced. There are, however, certainly quite a large number of companies and commercial people whom it must pay to remain away for a time or on perpetual holiday in England or India and not come to this country, because unless they come here you cannot get them for taxes. The law suggested certainly seems to be a proper law to introduce in this Colony, and I hope Government will take steps to do something in that direction. As far as the farmers are concerned and the landless Indians, I do not think there is anybody who would evade any kind of payment brought in by income tax. It is

only fair to say that if income tax were introduced, many European farmers, having sunk quite large fortunes which they had brought into this country, would be shown by returns to have no income at all so that they could pay nothing, an exposure of their position which we agree would be undesirable. And that is the reason why some farmers resent this tax.

I only want to say a few words more, Sir. I must say that I admire the moral courage of the Noble Lord when he admitted his mistake, quite frankly, and realized his mistake of co-operating too much with Government and helping Government in the past. I wish that he had said that some years ago when he was one among others who voted in favour of the 25 per cent increased emoluments for the Civil Service. I wish he had bargained at that time that in case of financial distress to the country that increase should be revoked. But instead of that 25 per cent increase being taken off, they are to-day making a great groove because of the levy of 6 per cent. That is the result, Your Excellency, of obliging Government. I think a great deal of blame for the increased expenditure in the years 1925 to 1930 lies on the shoulders of several gentlemen, European unofficials, who are in this House to-day.

Before I conclude I wish to refer to the milling industry of this Colony. There is surely something wrong somewhere by reason of which half the expensive mills erected in this Colony at tremendous cost are lying idle to-day whereas the other half are working at full strength. We heard the case of a mill at the Coast which is lying idle because it cannot export its flour to Zanzibar and other places because the Mail-boat does not give any facility. But that is not an isolated case. There is a number of others lying absolutely idle. I believe the real reason is the wheat pool and the millers being also growers of wheat. I will only touch on the subject lightly, and I hope that some committee or Government will investigate the reasons for half the mills lying idle and the others working at full force.

I do wish, Sir, to refer to a matter which may bring rebuke on me, but I really think that this debate has exposed a defect in the constitution of this House. Several remarks have been passed regarding the speech from the Chair which to my mind should have been avoided, but unfortunately they were inevitable. We could not possibly allow a speech from the Chair to go unchallenged when we think it ought to be challenged, but the debate in this House, in my opinion, is conducted with the same freedom that should really prevail, similar to the freedom which prevails in the House of Commons or Legislative Assemblies of other countries, for

the reason that when Your Excellency presides over the deliberations of this Council we cannot, out of respect for the representative of His Majesty the King, discuss things quite freely. Your Excellency occupies three positions here—you are the Speaker of this House, you have the position of Prime Minister or Leader of the Government, and you are also the representative of His Majesty the King. If we had an elected President, or even a Government official presiding, I think we could discuss and attack Government and we could have a very free debate entirely different in atmosphere. That, personally, I think is the regrettable thing, that some members have had to say something which seemed not quite dignified, but I am quite certain if there was an unofficial or official presiding over the debate many more things could have been said which have not been said.

I have been connected with House off and on for nearly twelve years, and my experience is that once a tax has been introduced it never comes off. The package tax has been removed, but I do not think the local Government can claim any credit for that; it was due to the refusal of the adjoining territories to be burdened with such an unscientific tax which resembled the beer tax in France some years ago. It had no relation to capacity to pay and had no sense at all. That is the only tax that I have seen go. In 1926, when the education tax was introduced, Government then definitely promised, and it can be found in the records, that it would be taken off, it was only a temporary measure. But it has come to stay as a permanent measure. Those people who think the alternative taxes are coming off are living in a fools' paradise. I was really shocked to hear that these alternative taxes were introduced with the consent of the representatives of the people. They were really introduced at the suggestion of a Chamber of Commerce who had no idea whatever of what they were talking about.

DR. THE HON. A. C. L. DE SOUSA: On a point of explanation, Your Excellency, when these taxes were proposed the Indian elected members opposed them.

THE HON. SHAMSUD-DEEN: Anyhow, the Chamber of Commerce was the author, and they first of all represented to Your Excellency that these taxes would bring in a certain amount. When the matter was referred back to them they reduced the sum by half, and even then still further. These sort of random shots cannot possibly be tolerated, and the poll tax should be removed at the earliest possible moment, as it will be if my suggestions are followed. I do not know if provision will be made for witnesses to appear before the Standing Finance Committee.—(Lord Francis Scott: Yes.)—

but I should like to appear and convince them that the £60,000 proposed to be raised by this alternative tax can without hardship on anybody be found by reducing the expenditure on the present Government machine.

I have a lot more things to say, but I do not wish to take up the time of the House. I simply wish to reiterate that this is a very critical time, that Government cannot take the debate in this House as a mere gesture. If Government insists upon passing the budget in its present form without reducing their expenditure, there is going to be an upheaval of public opinion in this Colony.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I had not intended to intervene in this debate, as I thought it was an opportunity when the Attorney General could take a holiday when the budget was being discussed. But, unfortunately, incidents have occurred and remarks have been made in this House which make me feel it my duty to speak, not as Attorney General, not as a Government Member replying on the budget—because I do not know anything about the budget—but I am speaking because of the fight, the inherent right, every one of us has, be he elected or nominated or official member, to join in the debate whenever we manage to catch Your Excellency's eye.

I am not going to worry the House with a lot of figures. I am certainly not going to quote a great deal from *Hansard* or *Blue Books*, but while I have been sitting here just making notes as we went along, as each speaker made his point, there were one or two things which I think should be cleared up. There is one thing in particular where my predecessor was mentioned, which I think should be cleared up. The Noble Lord, in discussing the alternative tax—and if hon. Members will forgive me I will remind them of the position. It has been suggested that the poll tax was put on as alternative to income tax. We all know that income-tax was on the *tapu* and that this country preferred the alternative taxes. It was then suggested both in the House and out of the House that Government had agreed to take them off after a certain time. When the Noble Lord was replying, he quoted the speeches made by my predecessor in introducing the two particular Bills. He quoted them very fairly, and without any reference to *Hansard* myself I was able to realize the position. You will remember that these taxes were being introduced, I think it was in August or September, at any rate late in 1933. They were to be tried out—evidently there were doubts as to whether they would be successful—there were obviously impossible to try them out in one year, and the draughtsman not unnaturally, and no doubt

with Government's consent, put in a period of two years. In introducing the Bill—and as I consider it to be the duty of every Attorney General—he took the trouble to tell members what each section meant, and, when he came to this particular section he said that this section would bring the Bill to an end automatically at the end of 1935 subject to the right of Government to perpetuate it. Which is exactly what is happening in this case. I hasten to defend him, because at the same time I am defending myself, as I have already introduced Bills which come to an end at a certain date and are capable of being carried on for a further period by proclamation, and I hope it will never be said that I am tying Government's hands three or four years hence with regard to policy, because hon. Members know perfectly well that I have not the right to do it. I think it is a little unfair to make capital out of a speech of an Attorney General in introducing a Bill when he is in fact explaining the Bill to the House. So much for that, Sir. It is a small point, but it was one that I thought I ought to clear up.

I could not help, as a looker-on, being a little bit amused at the disgust with which hon. Members, particularly the Noble Lord, scoffed at Government for, he alleged, hiding behind the Expenditure Advisory Committee Report. Well, I will admit that reference in justification of this budget has been made to that Report, and it was shown that within a small amount Government had conformed to the recommendations of the Committee. But can you imagine what the Noble Lord would have said if Government had not done that? (Lord Francis Scott: Worse still!) (His Excellency: Order, order!) Imagine if Government had not conformed to it! We are now told the Committee did not do as much as it should have done, that the Committee could in fact have examined four or five other heads which were not referred to them. I am sure every Member on the other side of the House knows why. But I think it is a little hard when, having appointed a Committee which has in fact reported, in spite of various letters of disapproval which the hon. Member for Nairobi North appears to have sent to the Secretariat he did in fact sign the Report, Government conforms to the Report and is then taken so severely to task because somewhere in the Report, under the heading "General", there is a warning that in addition to the expenditure which is recommended to be reduced there is some further expenditure which Government should find out for themselves should be reduced. The position surely is rather like that of a doctor who, having been called in, without examining you says you are suffering from a sprained ankle and must lie up. As he is leaving he says, "Of course, there may be something else wrong with you but you must look after it yourself." When next week

you are suffering from pneumonia he comes and says: "I told you that you ought to look after yourself." That is exactly the position with regard to this Expenditure Advisory Committee Report.

I was very interested in the Noble Lord's reference to Solomon's son. I thought it was a very happy and apt reference which he quoted from the Bible and at first I was very much impressed. You will remember the quotation. It was referring to Solomon's son who said that his father had chastised them with whips, he would chastise them with scorpions. That sounds all right until you examine it: because in this particular case, if we take the obvious analogy intended, it was not Solomon's son speaking at all but Solomon himself. He was not going to chastise with scorpions but was going to chastise with exactly the same whip that he had always used, and a whip which to a great extent had . . .

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, it was Solomon's son, Solomon was dead!

THE HON. THE ATTORNEY GENERAL: I entirely agree, but in this particular case, where reference was made to Solomon himself, I am suggesting to you that we have not reached the stage where Solomon's son was speaking and, in actual fact it was Solomon speaking as to chastisement not with scorpions but with the same whip he had always used. I presume the Noble Lord was referring in this particular case to a whip such as the non-native poll tax, a whip I think he will agree which was presented to Solomon to use! It is interesting to note that this wise king found it necessary on some occasions to chastise with a whip. That, of course, is quite beside the point.

There is another interesting point, and I think the Noble Lord will agree with me. I know he quoted correctly when he referred to the taxation per head as being £40. I know perfectly well he has got that figure rightly and properly from statistics, but I do suggest that it is a little misleading put in that form. Do hon. Members really think that £40 represents what every man pays? (Lord Francis Scott: Average.) Average is quite right. The figure of course is quite right, but if you refer to an average you must remember that you add in all those who may not have means—they may be paying some taxation—and therefore it gives the impression that everybody who lands in this Colony is liable at once to £40 tax and it is a little misleading.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, I never stated that.

THE HON. THE ATTORNEY GENERAL: One quite realizes the Noble Lord did not quite use those words.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I said "average".

THE HON. THE ATTORNEY GENERAL: Naturally, the average taxation was higher than in England or anywhere else in the world and he quoted a figure of about £40. He thought allowing for various differences in the last few years it was probably the correct figure. I want to explain that I entirely agree with the Noble Lord's figure put in that way, but I think hon. Members should understand that when you say £40 as an average that includes those who spend because they wish to spend and not because they have got to spend, and there is a great deal of difference in that. I am particularly anxious that it should not go abroad that Kenya is in fact the highest taxed country in the world because I do not think that is strictly in accordance with the facts.

I was also interested in the delightful bait which the Noble Lord laid when he said the best gesture to prosperity would be a reduction in taxation, and he quoted that in England the result of taking 6d. off the income tax had resulted in such financial benefit. I think he will admit that before that 6d. was taken off prosperity had already arrived so that the boot is really on a slightly different foot. We know perfectly well that before it was taken off England was able to balance her budget and therefore was able to take it off.

I am sorry the Noble Lord referred to the planting community whom he implored us to help, not that I object to his imploring us to help them, because, of course, we all agree we must, but because of the implication behind that, which is that we are not already helping them. I do not think hon. Members should forget for a moment the amount that Government has in fact done for the planting community. You must remember such things as reduced rates on the Railway, agricultural advances, Land Bank and such things, and lastly, but by no means least, I think he will agree that to a great many planters the tariff wall which has been built up and referred to by the hon. Mr. Pandya in regard to sugar, for instance, must be regarded as a great help. If you are going to keep sugar out so that the planter producing in Kenya gets Sh. 27 as against Sh. 7 if he has to export it, I think it must be admitted on all sides that Government is in fact doing a great deal for that particular planter.

Then, if I may turn for a moment to the hon. Mr. Pandya's speech—it was so full of figures that I do not think I can venture to tackle him on any of them and I leave that to those for more able than I am—but I was interested in two remarks which I found quite easy to catch. One was that the cost of living had gone down 15 per cent and the other was that he proposed a reduction in the Civil Service of 33 per cent. I have no doubt that those figures can be made compatible, and I feel sure that when he is visiting the Asians in his constituency who happen to be in the Civil Service, he will be able to explain them to their satisfaction. I also noticed that the hon. Member said that sanity was returning to that side of the House. I congratulate him on his perspicacity!

Now, Sir, if I may refer to one other point and that is, what is the alternative to this budget? I have listened in vain. I have heard three or four suggestions, but I think that hon. Members really know that thrown out as they are each one in turn is not practicable because it is quite easy to say one in salaries, but even that, if you double it, would not balance the budget, according to the figures given from the other side of the House. Of course I have heard people suggest all sorts of absurd things. You can balance a budget in any way. You can go the Socialist way and say no one should have an estate of more than 200 acres, but you want to know where money can be found. That is one way. Then coming to the more practical suggestions, one is that we should not pay our debts, we should find our way out of paying loan interest. Of course, if we could accept the hon. Mr. Pandya's experience which is that the moment one goes bankrupt you get more credit, then I admit that is the soundest proposition put forward.

THE HON. J. B. PANDYA: Your Excellency, I said only in this country!

THE HON. THE ATTORNEY GENERAL: And actually I was only referring to this country, but I really think, as Mr. Pandya readily points out in his interjection, that if we have got to raise the money from outside the country, we might find that method a little difficult and we might find ourselves in 1946, when I think we really intend to borrow it at all, in such a position that we would not be able to borrow it at all. And the last suggestion—a grant-in-aid—well, I wonder if hon. Members remember when you need to have a grant-in-aid? I was not here then but I have been in Colonies where we had a grant-in-aid and I can assure you the budget was a very different proposition then to what it is now. Nobody has complete control over it; it has to go home and is treated this way and that and if you accept a grant you have to treat

the line, so that I do hope we are not driven to those extremes. There are, of course, other privileges which a grant-in-aid may or may not bring with it, which hon. Members are well aware of.

Now, Sir, I think you will agree with me and all hon. Members will agree with me that this House is very jealous of its privileges. We have several privileges, the privilege for instance of exemption from slander actions. We can say exactly what we like or think provided we keep within Standing Rules and Orders. The Standing Rules and Orders are those things, Sir, which guide the decorum of this House, just as those who are bridge players will know that the rules of bridge are laid down by the Portland Club also guide the demeanour and behaviour of players at bridge. But we all know that those rules—certainly of bridge—can be circumvented; they can be observed in the letter and not in the spirit, and the only thing that people can do with those members who insist on playing in this manner is not to play with them, although so far as the rules are concerned they are in order. Well the same thing, Sir, can be done with your Standing Rules and Orders. You can sail so close to the line that without actually overstepping it you and everybody in the House realizes that you are breaking the spirit if not the letter of the particular rule. Now, Sir, there is no one in this House who welcomes more than I do a fearless open debate, when members can say exactly what they think on the particular motion before them. I never take the slightest umbrage when introducing a Bill, if I am told by members on the other side that it is a hopelessly bad Bill and wrongly conceived and that some other should be introduced or that the particular section I am explaining is thoroughly bad, but, Sir, after listening to the speech of the hon. Member for Nairobi North (Major Cavendish-Bintinck) I felt that the prestige of this House was falling because under the thin veneer of discussing the budget there is no one in this House but will agree with me that a violent, vitriolic, unparliamentary and personal attack was made on a member sitting on this side of the House.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Sir, there was no personal attack at all. I suggest the only attack was on the hon. Member in his capacity as Head of a Government department, a custom which is always well accepted in all Parliaments. I think many members of this House must have read in the debates in the House of Commons of the passages between Mr. Winston Churchill and Lord Snowden when one or the other happened to be the Financial Adviser and the other was out of office. I suggest there was no personal attack whatsoever made on the hon. gentleman.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, on a point of order, all European Elected Members are equally responsible. The hon. Attorney General names only one.

MAJOR THE HON. F. W. CAVENDISH-BINTINCK: On a point of order, Your Excellency, I made no personal attack, but I did make a definite attack on a member in his official capacity and I was justified in doing so.

THE HON. THE ATTORNEY GENERAL: Your Excellency, nobody welcomes those words more than I do, but all I can tell the hon. Member is that when he used words with regard to the Treasurer of this Colony such as that the budget was deliberately manipulated and in another place faked and in another place inflated, he can only mean that that officer is dishonest.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Oh, no. Not personally.

THE HON. THE ATTORNEY GENERAL: You know perfectly well, Sir, that if that was said to the director of a company outside this House, that that is what everybody would understand and that is what everybody of ordinary intelligence on this side of the House understood yesterday. The hon. Member says that it is not so.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, I did not understand that yesterday as an Elected Member. (Lord Francis Scott: You are not of ordinary intelligence!)

HIS EXCELLENCY: There is no point of order in that.

THE HON. THE ATTORNEY GENERAL: I am, as I said, Sir, delighted to hear the unqualified withdrawal of the hon. Member opposite. If an attack was merely made on my hon. friend in his capacity as Treasurer, then I have little to say, because as Treasurer he is here to stand the racket of the attack, just as I am with any Bill, but I cannot help thinking that if the hon. Member will refer to his speech he will see that he deliberately and carefully quotes five Customs revenue returns estimates, returns which the hon. Member must have known that two of them were not made by the hon. Treasurer himself (one of which was the one before the House) and the hon. Member knows perfectly well must have been made by the present Commissioner of Customs and with regard to the other three returns he knows perfectly well every other Customs officer in every part of the world was suffering the

same way. Nigeria in one year alone lost £800,000 on its estimates. To take them as an example and to say that the estimates were deliberately—those were the words—deliberately manipulated (Major Cavendish-Bentlinck: This year's estimates.) this year's estimates were deliberately manipulated because in view of his past failures in the Customs he must have known that he was over-estimating, is, in my opinion, whether I am attacking him personally or as Treasurer, completely unjustified. The hon. Members on the other side know perfectly well that if these figures are manipulated, if this officer is so stupid or dishonest as to manipulate them in order to deceive the public, then I can tell them that we are all in it with him because every Head of Department is responsible for the figures he sends in and not the Treasurer, so that I wish it to be clearly understood that any criticism which hon. Members may have thought to fall on the Treasurer in yesterday's debate must fall on each and all of us in turn as our estimates come to be considered in exactly the same manner. I know perfectly well that certain hon. Members abrogate to themselves the sole wisdom in finance. They are fortunate. We are lucky that at least one of them will be on the Standing Finance Committee to guide us on this occasion. I hope he will be equally successful.

Now, Sir, I welcome the fact that an hon. Member tells me that on the other side of the House we have unity. For the first time I am glad to see that the Elected Members—both European and Indian—apparently are able to see eye to eye. I only warn them of the last Coalition which was heard of—you remember hearing of in the House of Commons—a few years back. (Lord Francis Scott: There is one in existence to-day.) That is not the one to which I am referring, but the one to which Mr. Snowden in his debate was referring, in which he said that it reminded the hon. gentleman of that stupid and stubborn animal the mule, with no pride of parentage and with no hope of posterity.

Council adjourned for the usual interval.

On resuming.

THE HON. GANON THE HON. G. BURNS: Your Excellency, we have been having some nice rains up at Limuru! As a result of those rains our flowers have improved very much, and I want to bring a little bouquet of those Limuru flowers, and, with the permission of the House, lay them on east them at the feet of one who, having a particularly difficult task to perform, performed it, whether we agree with him or not, in a very able and clear way. I refer to the hon. the Acting

Colonial Secretary. We may not agree with all his figures and his deductions, but I think we must all agree with the fact that he has put before the Board that has been appointed by Your Excellency to go into all the figures and finesses of the Colony, he has put before them a budget which they are to consider under his chairmanship, and with their advice to bring forth a budget which will be pleasant to all communities in this House. If they do that they will have achieved something which has never yet been achieved in Kenya Colony! I would also, Your Excellency, like to express my regret that my colleague in connection with native interests has not been able to be in this House since the debate on the Estimates started, and that he is absent to-day, and that it falls on me unfortunately to put before this House the interests of the people in whose name I have the honour to appear here.

We are all passing through difficult times, whether we be farmer or commercial man, and, I suppose, Your Excellency, I might also include officials. We are all passing through difficult times in the Colony, and from what I have seen during the last few years, since Your Excellency took the reins in governing this Colony, there has been, I may be mistaken, a very real and very honest effort by yourself and your officers to reduce the overhead charges of this Colony, and you have been successful so far—perhaps you may be more successful after this debate has been dealt with—in reducing the expenditure of the Colony by a quarter of a million pounds, no mean achievement, within the last two or three years. I am not going to say any more with regard to the aspects of the budget that have already been dealt with. I am here for a specific purpose: to put before this House and Your Excellency the needs of the people I have the honour to represent, the needs of the Africans.

If I look at the taxation, the hut and poll tax as contributed by the Africans since 1929, in 1930, 1931, and so on until this year, I am astounded that the level of this tax has been kept up in such a wonderful way. The natives have passed through a time of great trial, drought, locusts, and other things, as well as the European farmers. They have all been sufferers together. Yet the highest, the peak point of native taxation was in 1931 when the revenue collected by hut and poll tax reached the sum of £600,318. In 1934 they contributed towards revenue £571,237, and they are expected during 1935 to contribute £562,970. I should like to express my sympathy, Sir, with your officers, administrative officers, in the native reserves who have the unpleasant task of extracting from the natives at this time of stress this enormous sum of money, £562,970. I entirely agree that the native, by reason of the benefits he has derived from the administra-

tion of this Colony, should pay his fair share of taxation, but I do submit there is a point beyond which the native cannot go without hardship of the most glaring character, and when it comes to the time when his goats and sheep have to be seized and taken away for miles and natives from every village have to follow those goats and sheep to the centres where they are taken, and spend days before they are able to return to their villages, it is a very serious matter for the natives of this country when that sort of thing takes place. I am not blaming anybody, but I do think the time has come when this native taxation must be faced in order to ascertain whether the native is able to pay the tax we put on him. I will deal with that later if I am allowed to do so.

Yesterday, we were told that the four major services were very extravagant: Medical, Educational, Agricultural, and the Public Works Department. I should like first of all to just stress the educational item. In 1930, the total sum spent on African and Arab education—in those days they were not separated—was £96,238. In 1935, the sum proposed to be spent on African and Arab education, although the sums have been divided, is £11,800 less than was spent on the education of Arabs and Africans in 1930. We had in 1932 one who was supposed to be a financial expert. I refer to Lord Moyne and his Report. In his Report, he made the recommendation that a Native Betterment Fund should be started in this Colony. He recognized the fact that the native was taxed up to and perhaps beyond his capacity to carry the taxation imposed upon him, and at the same time he recognized that out of these taxes that a native, he did not think, was getting his fair share, and so he suggested this Native Betterment Fund. I am not going into figures such as the hon. Member Mr. Pandya went into yesterday, though most important—and as someone said this morning, they gave me rather a headache! but they were wonderful—but I want to deal with what would happen if in obedience or in conformity with his recommendation the Native Betterment Fund as started.

In 1933 there would have been spent on African education £73,082. There would have been spent on the medical services in this country—a service which I regret to say has been reduced more than any other service in this Colony during the last three years by no less than £51,092—the medical service would have had £115,194 to deal with. The Agricultural Department would have had £35,055, and the Public Works Department £24,061. Allowing for reimbursements for overhead charges of £121,085, there would remain at least £13,021 to be put into a reserve fund. Following the same line of argument, in 1934 there would have been spent on education of Africans £77,586; there would have been spent on medical

services, so absolutely necessary if this Colony in agriculture or anything else is to take the place we love to see it taking, £118,271. There would have been spent on agriculture £36,250, and on public works £16,000, with reimbursements of £20,200 for overhead charges, leaving a balance for the sinking fund or whatever name you like to give it of £92,291 from native taxation. In 1935 if the sum is realized that is put down from native taxation, we shall have £78,076 for education, £118,157 for medical, £36,005 for agriculture, and £16,400 for public works, a total of £249,638; the reimbursements for overhead charges would be £20,250, leaving a balance of £27,810 to be handed in to the reserve fund that would be established under this Native Betterment Fund. Now, Sir, that has not been done, and therefore when famine or any other distress comes upon the people of the country who subscribe this enormous amount of money, those responsible for their well being have to come to this House and rightly so ask for a sum of money to meet distress in certain districts caused by famine, caused by locust infestation, or anything else, so as to keep the people alive in their own villages and on their own *shambas* throughout the whole reserves, instead of having a fund totalling something like £50,000, perhaps more, to draw on. Instead of that, this fund has not been started, and the result is that they have to come and ask with their hats in their hands for an amount to be granted to relieve the suffering of the people.

Your Excellency, we have heard it expressed again and again in this House during the debate, if there is going to be an expansion of agriculture throughout the native reserves—and I am very glad indeed to see that hon. the member has placed three new officers to help in that work throughout the reserves—let it not be thought that the African, if I may be permitted to say so, has not been exporting. He has been exporting for years. He has been exporting through the Europeans. That is, he has produced in his *shamba* corn to practically supply the local market enabling the European to produce corn to export he has produced on his farm and in that way, although the African himself has not actually exported from his little holding, he has through the European whom he has helped or enabled, because he has supplied the local market, to export the corn from his farm. I think that is a very good thing, I think it is excellent that the African is thus able to contribute his quota to the prosperity of the country in this way. We were told yesterday that it does not cost the African practically anything to produce a bag of maize. I was amazed when I heard that, perfectly amazed. After all, it does cost the African something. It costs the African woman, who has to go into the garden with a hoe, and perhaps a baby on her back, to cultivate that land and

to keep the corn clean while it is growing. She has with her fellows to take the corn when ripe, cut it, and carry it on her back till there is a load of 60 or 70 bags, which have to be taken 3 or 5 miles before bringing it to the market where it can be sold. Is this no cost of production? And after she has received her Sh. 5 per bag, or Sh. 2 or Sh. 3 as the case may be, we are quietly told that the European producer has his machinery. Quite so. That he has ample labour. Quite so. And that he cannot compete with the native who produces Indian corn free of cost. But where does the poor African come in in production, and bringing it to market where it can be disposed of, I should like to ask? It is another strong argument for bringing into being as soon as ever it can be done the promised Native Produce Marketing Bill.

Then, Your Excellency, if I may deal for a moment with the medical side of things. I know a little about this, because while I was connected with the C.M.S. I happened to know something of what took place in hospitals. When you come to think of a country like this, with its three millions of population, or nearly three millions, with all the diseases which these people have inherited, and the legacy of diseases which they are inheriting to-day—brought to them by alien races, no small one—when you come to think that up and down this land are the poor lepers in their thousands who have to be taken care of or thought of, and then to think that the medical vote has been cut down to the extent of £57,002, leaving in many places these people in a state where they cannot be cared for or taken into hospitals and where they cannot receive the treatment necessary to their state, I should like to impress on Members, Sir, very much that if any department has to be cut down in the future the Medical Department should not be touched under any circumstances. I notice that in connection with the Infectious Diseases Hospital and leper establishment, that for the present year £200 have been taken off. I know something, Your Excellency, of the state of the lepers and the treatment that is being meted out to them in various cases. A short time ago here in Nairobi we had a sale of work at Woodlands, the home of the Rev. Canon Pitt-Pitts, to try and raise some funds to make it possible to keep at the Kalemie Hospital some 36 lepers, some of them far gone in the horrible disease, others with whom it is just beginning. Little boys and girls who are being brought in with the hope that at least the disease may be stayed. Owing to that effort, £100 was raised to assist those who were devoting their lives to working among the lepers, ladies brought up in refined English homes who are to-day going in to that leper camp, dealing with

these leprous women and children, and trying to alleviate as far as possible the horrible sufferings these people endure because of this disease at certain stages of its development. May I suggest to the Committee which is to deal with these Estimates, that it would be a very gracious gesture if instead of saving £200 on the leper camp they were to put 50-60 of this £200, that is £100 to the £100 already collected to enable those who are dealing with the lepers to deal with them in a little less difficult manner than they are at the present time? I throw that out, Sir, to the Committee when they are dealing with the medical vote.

I will not keep the House long, but I now come to the question of native taxation. I am going—I do not know whether I am in order in doing this. Your Excellency, or whether it is the way I should do it, but I want to put before the House the proposal that, for the present, native taxation should be reduced throughout the whole Colony by Sh. 2 per head. I can hear a sort of little whisper going around the House, and people will say to me: "How is that £96,000 to be met if such a wild goose proposal is taken into consideration for a moment?" I know, Sir, that I am thought more or less of a fool to propose it. But what I do say it this: I am convinced there would not be a falling off of £96,000 were that gesture to be given to the natives by the Government of this country. It would relieve the officers who have the onerous task of collecting this revenue, a task in which they have my wholehearted sympathy, a difficult task of which they would be relieved to a great extent. They would be able to go to these people and tell them: "Government realizes the plight you are in, they realize the difficulties you have passed through during the last few years, and they want to help you out for the time being until prosperity again comes into the native reserve, and they have decided that for 1934 and until better times come the native hut and poll tax will be reduced by Sh. 2 all over the country." I believe such a gesture on Government's part would result in greater willingness on the part of the people when notice is given that they have to bring their hut tax to the officer collecting it. I think, Sir, having just a ten shilling note to be able to bring that to the officer and hand it over would be a great help to them. They often get Sh. 10 but they want to get two more and do not know where, and one of the most painful things to me as I go round the country among the natives is to see a flock of goats being driven along the road before a man with a sort of blue blanket and certain letters across his chest, and, following in the wake of the goats, it may be ten or twelve natives going to see what will happen to their stock. I believe a great deal of that could be

relieved and done away with if this gesture were made by Government, and the total amount of the income from the tax would not suffer very considerably were that to be done.

I do not know that there is anything else. Your Excellency. The budget has been dealt with by able people than I. Figures have been quoted here until one wonders where they are! But I should just like to refer to this matter of the education of the African. I have worked among the Africans for thirty-five years, and again and again I have heard it stated that the educated African is an ass. Yes, I have, Sir. It is more than that—that he is a bad egg. It may be, but then this is not the only nationality in the country which has bad eggs, because we have a few others! But with regard to the education of the people of whom I am speaking, I have had it said to me by settlers. "Oh, yes, your mission boy is a rotter. Don't give me a mission boy. I would not have him near my place." Very often such statements are made that the education given to the African at the present time is of such a character as to disqualify him for the life he should lead in his native reserve. I challenge that statement! I believe the education both Government and their schools give at the present time, and the various mission societies that are dealing with Africans in their schools—I believe that all are honestly and truly trying to educate the African for his place, not in Nairobi, not on a high stool with two feet dangling under a table, but standing on those two feet in his own *shamba* or his own village, lifting his people and the children of those villages and those tribes on to a higher, cleaner, and more healthily plane than they have ever yet experienced. I believe of the Education Department and the various mission societies engaged in this work throughout the country, that is really the aim before them. Therefore I do believe, whether they be settlers or officials or missionaries, the true education of the African will not be interfered with so that the African may come into his own true place in the progress of the Colony, which, after all, is his home.

I do not think there is any other remark that I want to make, no more than that I would again press, and I do so earnestly—I do not think I have any persuasive powers but if I had I should like to impress on the finance board to put £100 or the £200 cut off from the vote for the infectious diseases hospital and lepers especially against the £100 collected at the fete held in Woodlands last month.

THE HON. THE TREASURER: Your Excellency, before the hon. Member replies there are certain matters raised in the course of this debate to which I should like to allude. The first has reference to the Revenue Estimates which the hon.

Member for the Rift Valley and the hon. Member for Nairobi North have accused Government of deliberately over-estimating in order to show a paper surplus of revenue over expenditure. To this statement Sir, I must give a categorical denial as it is completely contrary to the facts. Hon. Members know that estimation in these times is extremely difficult as it is just as important not to over-estimate as not to under-estimate, but to state that responsible officers of Government have so far forgotten their sense of honesty as deliberately to fake the budget is, in my opinion, a monstrous allegation.

Hon. Members have attempted to point their argument by drawing particular attention to the revenue estimates of Cusotms, native but and poll tax, petrol consumption tax, ivory sales and certain other subsidiary items. My hon. friend the Commissioner of Customs will explain the Customs position and my hon. friend the Chief Native Commissioner will explain the manner in which the native but and poll tax figure has been arrived at.

The petrol consumption tax has been called in question. The hon. Member for the Rift Valley and the hon. Member for Nairobi North are both members of the Standing Finance Committee and are both in possession of the figures in regard to collections during the first six months of the present year. They amounted to £31,442 and the collections for the second half of 1933 reached £37,389, making a total of nearly £50,000. With these figures before them, they will perhaps agree that the figure of £57,000 for 1935 is not wildly optimistic. They also know perfectly well that two ivory sales are held in the course of a year, one in May and one in November. At the sale held in May during the present year Kenya ivory realized the sum of £6,134, so that in this case also the estimate of £10,000 for the two sales does not appear to be too high.

The same argument can be applied to all the subsidiary items of revenue, full details of which have been shown in the financial statements which have been circulated among members of the Standing Finance Committee.

Particular objection appears to be taken by hon. Members opposite to the inclusion in the Estimates for 1935 of a sum of £66,000 in relation to the non-native poll tax, the objection in this instance being not to the estimate of the tax, but to the fact that it is included on the revenue side at all. The hon. Mr. Pandya divides the taxpayers of Kenya into three categories: the farming community; the commercial community and the African community. I am in some doubt as to the category in which the Civil Servant taxpayer is placed; but I have before me some figures in regard to the incidence of the non-native poll tax based on a somewhat

more elaborate classification which may be of interest to this House. The figures refer to the European taxpayers and leave out of account the basic poll tax of Sh. 30 to which I understand that particular objection is not taken. From these details which relate to the period from 1st January to 22nd October, 1934, it would seem that Civil Servants pay, in addition to the Sh. 30 basic rate, £4 16s. per head; farmers and planters on their own account, £1 12s. per head; farmers employees, £1 14s.; commercial men, £6 11s.; employees generally, £2 13s., and others £2 19s. per head; while, Sir, the total amount paid by farmers and planters on their own account amounts to £2,200.

It has also been reiterated, Sir, that the limit of taxation has been reached and yet I see week after week in the London Press an advertisement drawing attention to the attractions of Kenya, in which appears the following: "Kenya offering a livelihood in farming under the most pleasant conditions where congenial society is available and taxation is light"! It goes on to say "For further particulars apply to the Kenya Association (1932), P.O. Box 825, Nairobi." I believe, Sir, that that is a statement of fact, so far as it relates to the people to whom it is addressed, but if the views expressed in this House by the hon. Member for Nairobi North, who is himself, I understand, the Chairman of the Association, reflect his true opinion, then I say, Sir, that the advertisement should never have been inserted and immediate steps to withdraw it should be taken.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: On a point of explanation, Sir. That advertisement was not put in by myself or at this end, but by the London Office, and instructions were given two months or more ago to withdraw it!

THE HON. THE TREASURER: It would be interesting to know what the Chairman of the Association would have said two months ago had application been made to him for particulars!

In connection with taxation, the figure of £40 has been mentioned. I think the hon. Member for the Rift Valley (Lord Francis Scott: I said so.) has now agreed that this figure was considerably less. He would also agree, Sir, that a very considerable proportion of that is in respect of luxury articles. The actual position, of course, of taxation is: education tax Sh. 30 and the non-native poll tax. If a man has a motor car he naturally pays for it; if he indulges in luxuries he pays for them.

The hon. Member for the Rift Valley mentioned the cash shortage and referred to a sum of £375,000. This is not quite correct as he took no account of the improvement in certain directions such as the amount allocated, set aside for unallocated stores or the excess of deposits over advances. The actual position at the end of August 1934 was a cash shortage of £206,236—almost the same figure as in 1932—and of this sum reliance on loan funds was in respect of £20,000 and not £275,000 as stated by the Noble Lord. This position, which is obviously an unsatisfactory one, is, as most hon. Members know, in direct consequence of the assistance which has been rendered to the farming community, the reason being that agricultural advances of £110,000 and maize subsidies of £116,000 are frozen assets. I quite agree with the hon. Mr. Pandya that if these assets could be liquidated the position of the Colony would be greatly improved.

The hon. Mr. Pandya expounded what seemed to me to be quite a sound argument in regard to relating exports to expenditure, and I quite agree with him that in view of the large capital sum expended in the Colony an export in 1934 of less than £2,000,000 is a lamentable figure, but the capital sum has been expended and the commitments cannot possibly be escaped. I suggest to him, therefore, that in applying his argument he must take some account of the *entrepot* and carrying trade, and suggest to him that possibly the difficulty might be solved by an increase in exports.

I have no intention of replying in detail to the remarks made by the hon. Member for Nairobi North, as he says it is not a personal attack, but it is really a personal attack on my capacity to occupy my present post and my previous post as Commissioner of Customs. He may be interested to know that he has succeeded in wounding me deeply. When one has served Kenya to the best of one's ability for twenty-two years, of which thirteen have been occupied as head of a big department, one is a little sensitive of one's professional reputation, and to be told at the end of it, by a member of Your Excellency's Executive Council and a representative of what I believe is in part a Civil Servants constituency, that one should never have been promoted to a position of responsibility, is calculated to hurt. But there is one point upon which I will challenge him and that is in regard to his statement that I have never troubled to keep in touch with commercial opinion. (Major Cavendish-Bentinck: The word is succeeded not troubled.) It comes to the same thing. I have for many years been an honorary member of the Mombasa Chamber of Commerce,

the Associated Chambers of Commerce and the Indian Federation of Chambers of Commerce and I have spent many hours of my spare time attending their deliberations. I am also proud to say I have many many friends and acquaintances—I should say literally hundreds of people—in the commercial world, and if among that number there is not one who is prepared to come forward and to refute that statement, I shall be forced to agree with him that all my work in the past has been based on false assumptions and that indeed I am a dreamer.

THE HON. J. B. PANDYA: On a point of explanation, Sir, I have already spoken, but if I had not I certainly would not agree with the point of view of the hon. Member for Nairobi North.

THE HON. F. A. BEAUMER: Your Excellency, it was of intense interest to me to hear the hon. the Attorney General speak of a personal attack from this side of the House because for the whole five years I have been here the only personal attack I have ever heard in this House was from the Attorney General himself on me when he accused me of not representing Mombasa! I was awfully sorry too to see or at least I was pleased to see that my religious convictions were advertized by him because apparently he had been reading the unauthorized and my hon. friend has been reading the authorized version of the Bible, because they have two different versions. (Laughter.)

One other point he made, Sir, was that when Ed was taken off the income tax in England it was because they had balanced the budget, and I would ask him, Sir, never mind even if he reads the London papers, but to read the speeches in the *Hansard* of the House when it was admitted that the reason the British Government balanced the budget was because of the May Commission which cut down the expenditure of the Government to within the paying capacity of the British public. That is exactly what we want to do to-day, but, Sir, we do know and it has got to be admitted that we are prevented from that laudable ambition by the very system under which we are controlled and governed, and it does and it has done for years set me thinking—why is it that the Colonial Administration hates the country and the people of Kenya? It is a thing I can never understand. The people of Kenya have always stood behind the Government, fought with them, fed with them, worked for them and made sacrifices for all kinds of enterprises the Government have taken on, and yet there is that awful feeling of, I will say, contempt by the Government for the people of Kenya.

Now, Sir, I am going to prove it. You will remember a little time ago we had a visit from the Right Honourable the Secretary of State for the Colonies, and everybody who was at the interview with the gentleman will recognize that his calm and courteous manner and his dulcet tones persuaded the Elected Members that they were entirely and absolutely in the wrong. They did not admit it in front of him. The following day, Sir, you, from the Chair, read—I believe it was in his own handwriting—an instruction that the motion that was to be debated that day for the appointment of an Economic Reconstruction Committee was not to be allowed. But following the debate, Sir, in which Mr. O'Shea made one of the finest speeches I have ever heard in this House, you took personally a much appreciated and strong action—perhaps the strongest action a Governor has ever taken—you took the strongest action that a Kenya Governor has ever taken and you granted that committee; truly in restricted terms, but it was granted. Now the idea that I get in my mind is this: Why should the Minister of the Colonies have ever suggested in any conference with you in your capacity as representative of His Majesty the King—*are you responsible, is the Governor responsible to anyone—but the King and the people?* Is the Governor not the best to judge whether a thing is right or wrong?—Yet we always get this continual interference from officers at home. Shortly we will be receiving a pamphlet or memorandum issued by men in Nairobi which shows that the interference by home and the Colonial Office has lost a vast amount of money for this Colony. Your men are appointed from England—you have practically nothing to say about it—you are practically barred from using assets, the natural assets of this Colony, in appointing men to good and sound positions to which they have proved their right to occupy in your administration. All for what, Sir? All for some system of love of control made by politicians put into their positions by people who do not know Kilindini from Kilimanjaro. The system of selection, Sir, of cadets, of officers of this Government, is bad. They have no opportunity—not an equal opportunity anyway—of mixing with and knowing the people of this country so much as the people who are educated and born and live in the country, and their ideas are, Sir, when they come to this Colony, that they come to govern it. It is a wrong spirit. There is only one Governor and that Governor must be respected in all circumstances. Other people are pupils learning their trade all the way along. But, Sir, what is the real result and the actual result to men of the world who come to this country and study the Government official? I have heard it mentioned all the way round that instead of producing embryo Governors they produce synthetic gentlemen!

Now, Sir, we will turn for a moment to the actual budget position which actually, in my opinion, does not reflect the actual and proper position it should. The hon. the Treasurer has mentioned the item on the first page—Agricultural Advances, wheat and barley—and referred to them as frozen. They are worse than frozen. They have passed their freezing stage. They are dead and they should not have been taken as an asset, but as a write-off, and if you want corroboration of that read your Auditor's report issued in October I think, any way some months after the close of 1933. Therein he shows it straight to you and Sir, so far as I can find out, whilst you call them cash assets, they were never cash payments, they were allowances on the railway, allowances of freight and handling charges. I do not think there has been an actual bag subsidy.

THE HON. THE TREASURER: On a point of explanation, Sir, there was a definite cash payment.

THE HON. F. A. BEMISTER: To whom?

THE HON. THE TREASURER: To the Agency generally, to the exporter. Government made up the difference to the exporter. So far as agricultural advances are concerned, there was a definite cash payment to individuals, so that in both cases definite cash payments were made, and so far as the write-off goes it would of course be necessary to obtain the sanction of this House. In regard to that one hopes it won't be necessary to do so.

THE HON. F. A. BEMISTER: It may not be necessary but you have got to do it, because no matter how you look at it, you were told at the time by Major Grogan that this was more or less a grant and must be considered so, although it may not have been intended to write it off if things got better. The very terms of the advances preclude you having any hope at all.

There are only two more matters to which I wish to refer. The Revenue Estimates show an item of £35,000 taken from the water supply at Mombasa. The cost of running that water scheme is round about £8,000. I notice that you have not put in the appendix, I think it was "J", before, showing the actual profits you have made from the water. Now, Sir, there is also an item of interest which Your Excellency's Government without apparently the necessary sanction of this House has allowed to be handed back or excused to the Mombasa Municipality. I have seen, the motion to that effect. Now, Sir, it is really honest and just that you should take from Mombasa the full extent of the

money it pays for its water—the ratepayers pay for their water. That meant you should run the thing at your own expense, and adding £1,600 or £1,700—the Public Works Department can tell us the exact figure—for supervision charges the total working cost is £8,000. You have also taken the interest, some of it at 6½ per cent, on the amount you have charged, and you also include in that interest you are charging Mombasa on the £60,000 you have taken from the profits in previous years. Is that straight? Is that honest? People talk about faked balance sheets and they get annoyed but, Sir, show to this House the actual figures as you did last year—and you will, I take it, when the budget is completed—and you will see the money has been taken out for renewals fund, and interest as well is being paid, or apparently paid, and at the same time, Sir, you have spent £179,000 or £172,000—anyway, a few thousands do not make much difference—on an improvement which was a natural improvement, a national improvement. It was necessitated, it would not be libellous to say by misgovernment, but that is what I mean—by bad management in Mombasa. It was done with the sole control of Government, and I know the Commissioner for Local Government is going to say no, it was made by the District Board. It is quite true. I think we did, but as all the members are nominated by Government you can lay your life they agreed. Ever since, there has been an elected Municipality, or Municipal Board, and one of the chief men—and one of the greatest men Mombasa has produced, Mr. Percy Barry—opposed the payment of the interest.

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: On a point of explanation, Your Excellency, there is not and never has been an elected Board in Mombasa. The Municipal Board of Mombasa is nominated by Your Excellency.

THE HON. F. A. BEMISTER: After selection by the people? It is wicked to split hairs like that, it does not help anybody. If we are going to be serious for God's sake let us earn our money! If we are going to laugh, let us laugh! These gentlemen are nominated, then, but they are also selected by the people of Mombasa. In the previous Board they were nominated but not selected, and the chief men opposed this payment of interest from the work go, but never once, until the late Mr. Martin—I forget whether he sat as Acting Colonial Secretary or as Commissioner of Lands—admitted that Mombasa did have a genuine claim. Now, Sir, you will suggest that I am adding to your liabilities. It is true, it is perfectly true, but is it not better to get a clean sheet and

know where you are rather than go on from day to day begging, borrowing and stealing—you can apply which one you like to this item in Mombasa? Is it not far better to examine your figures, get your auditor in, let him tell you where you are, and then start and make a real clean sweep and put the whole place in better order?

For the Standing Finance Committee I should like to put one question to them, to examine the incidence of pensions. The hon. and gallant Member for Nairobi North mentioned an item which is in the pensions list which I had made a note of, and it is a very interesting question, Sir. A man retires from Government service, and as is always the case he goes on leave for a certain period, during which time he receives his substantive pay. You call it that, I should call it substantial too! He receives his £1,000 a year. While he is on leave, he has left his job, finished his work, and is enjoying himself or trying to in England, and he is receiving his £1,000 a year. A Commission sits, and decides that because of the extra cost of living in Kenya salaries are to be raised by 25 per cent. At once, Sir, that man has not finished his leave, but at once his pension is raised on a basis of the pay of the people who are suffering from expensive life in Kenya to £1,035, so that he is getting a bigger pension than he did a salary. I am not grumbling at him. I think he is very wise, but if it was a just addition I think it should have been for his services, although during the period of the extra cost of living in England the British Government raised the pensions of all Civil Servants who had been drawing pensions for twenty years. The thing is either honest or it is a mistake. I would commend it to the Standing Finance Committee to really examine the pensions list to see whether the same mistake has been made in the adjustments of these pensions.

THE HON. ISHER DASS : Your Excellency, I shall probably take another hour with my speech.

HIS EXCELLENCY : Perhaps it would be better if the Chief Native Commissioner were to speak now, and you commenced your speech to-morrow.

THE HON. ISHER DASS : Yes, Sir.

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER : Your Excellency, two hon. Members have said during the debate that the native hut and poll tax is too high, but we must, I suggest, be careful in talking about this because certain factors have to be borne in mind. The present system

of direct native taxation is a hut and poll tax and the basic rate has been proclaimed as Sh. 12, except in Turkana and Masai. That means that primitive tribes, for example, the Suk, may be taxed at the same rate as the natives of Kimba who obviously have more opportunities of obtaining money. As emergencies due to drought or locusts arise Your Excellency has legal authority to remit a portion of the tax, and this is frequently done, and district officers also have power under an Ordinance to make exemptions in the case of age or infirmity. But we have to base estimates on a potential full collection, and obviously it is reasonable that estimates should be based on the yield that might be obtained in a normal year. The figures for 1935 as shown in the Estimates are based on figures submitted by district commissioners; they are sanctioned by the provincial commissioners, vetted by myself, and ultimately are examined by Government and this seems, in answer to the hon. Member Mr. Pandya, to me to be a reasonable way of getting well-informed opinion as to the revenue estimated to accrue from such taxation. It is in this manner that the present figures have been compiled. It is said that the estimate of hut tax for 1935 is too high, but I would remind hon. Members that that includes arrears of tax for 1934. There are generally such arrears, because certain cash crops are reaped towards the end of a year and natives are given time to pay, possibly in the beginning of the following year.

We have no difficulty in collecting tax in a good year, but after a bad one there is considerable difficulty, and the three main reasons I should like to quote. The first is that in the case of a bad year it means inability to obtain money owing to the low price of produce and the difficulty of getting stock to the market. Secondly, we have, and this is a more recent development, passive resistance, which is generally found in those districts where one would think the natives are best able to pay. Thirdly, for reasons that I cannot explain entirely, the tax is now paid individually whereas it used to be paid communally. It is now very difficult to get a hundred per cent collection, and Government has considered the possibility of grading the tax in certain districts. Native wealth cannot be regarded as entirely in terms of cattle or goat currency, for in many districts, especially among the pastoral tribes, stock must be regarded as capital, and the disposal of stock in a pastoral tribe must mean a certain amount of impoverishment of the people.

As regards the reduction suggested by the hon. and reverend Member Canon Burns, if it was admitted that the present tax should be reduced by Sh. 2, it may be said there would be a reduction in the total collection of approximately

£100,000 which might conceivably mean a reduction in services rendered to the natives in their reserves. That point of view must always be borne in mind that if we reduce the tax we may have to reduce the services rendered, which is not in the best interests of the natives. In this connection I should like to quote from Mr. Moore's speech in the reply to the debate on the 1934 budget:—

"It is not to be wondered at that there were openly expressed suggestions that if Government were to act in an honourable manner it would reduce the hut and poll tax to a rate which would bear some relationship to the decreased value of produce and of labour. It was manifestly impossible for Government to do this without abandoning its policy of development and sacrificing services already established. A reduction of the tax from Sh. 12 to Sh. 10 would have meant a loss to revenue of nearly £100,000. Such a loss must have necessitated the closing of schools and hospitals and it was decided that the interests of the native population would be best served by maintaining the Government machine in commission even at the price of some inconvenience to those who supplied its running costs."

The hon. and reverend Member has suggested that a reduction in the rate of tax would mean more money, because it would be easier to pay and there would be fewer evasions and exemptions. There is a good deal in what he says, and I will quote from my annual report for 1933, which is in the press at the moment:

"It is unfortunately true that the payment of tax at Sh. 12 per hut and poll is now a matter of some inconvenience and, in some cases a matter of some difficulty, to the native population. It was inevitable that they should be smitten, with other communities, by the economic blizzard. It is probable, however, that they have suffered less than others: as was stated in the Annual Report for 1933.

"In ordinary life they are no worse off; food is plentiful; a month's work at Sh. 6 will buy more goats than a month's work at Sh. 12 used to. In fact there is plenty of everything except money, and the shortage is only really felt when tax collection starts."

This means that tax collection, although it inflicts no very great hardship on those who pay, is a worrying and exacting business and occupies much more of an administrative officer's time than it did in days of prosperity, with the result that he has less time to devote to the advancement of his district."

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I think that is a fair statement, Sir, and bearing that in mind, Government has initiated an investigation. No figures will be available for some months, but it may be realized that the position is being closely watched.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in replying to the criticisms which have been directed to the estimates of Customs and Excise revenue, I wish first of all to rebut the charges made by the Noble Lord the hon. Member for Rift Valley and the hon. Member for Nairobi North that these estimates have been manipulated. As your Excellency knows and as my colleagues know, these charges are utterly baseless.

These estimates, Sir, are based on figures which were submitted by me from the Custom House, where they were formulated after an honest and dispassionate analysis of the various factors likely to influence the course of trade during the year 1935, and without any regard whatever to the financial exigencies of the Colony. The figures prepared in the Custom House were subsequently examined by Government's financial advisers, when, after careful review, they were subjected to certain minor modifications, to which I agreed.

Having made my personal responsibility clear, and having repudiated the monstrous suggestion that these estimates do not represent an honest endeavour to assess the probable yield from Customs and Excise during the coming year, I will attempt, Sir, to explain the considerations on which that assessment was made.

As the hon. the Mover stated, the Estimates for the year 1935 exceeds the approved estimate for the year 1934 by a sum of £5,000, representing the difference between £647,500 and £652,500. Now, Sir, the point of that comparison is this. A year ago the figure of £647,500, for Customs and Excise was accepted by this House as representing a conservative estimate of the revenue prospects for the current financial year. That appeared to me, Sir, to be the necessary starting point in approaching the problem of estimating for next year, for I had to ask myself this question: has the failure of actual results to realize the expectations of a year ago been due to factors which are likely to persist, or to factors which may reasonably be regarded as abnormal or which may properly be discounted in formulating estimates for the year which is now approaching?

Rightly or wrongly, Sir, I arrived at the view, and in spite of everything that has been said, I still take the view, that the short-fall of Customs and Excise revenue amounting to about £25,000—it may now possibly be something slightly in excess of that figure—is attributable to causes which there

is every justification for believing will not recur during the coming year. That short-fall, Sir, has been mainly attributable to two factors—firstly, to the partial failure of the alternative duties imposed in 1933 to achieve their purpose of restoring the revenue contribution from textile and certain other commodities; and secondly, to the misfortunes which have overtaken the agricultural industries of the country through the onset of abnormal weather conditions.

As the hon. the Mover stated and as hon. Members are aware, the tariff adjustments recently effected will eliminate the first of these factors. It has been suggested by hon. Members opposite that these adjustments will only benefit next years revenue to the extent of about £5,000. I think, Sir, that I am in a position to satisfy the Standing Finance Committee that the benefit will substantially exceed that figure.

As for the second factor, Sir, I cannot, of course, forecast weather conditions any more than my predecessor could have forecast locust depredations or the velocity of the world economic cyclone. That sort of prescience is the prerogative of the gifted politician, while we belong to that infinitely lesser breed, the recalcitrant Head of Department! But as Your Excellency well said in the course of your address from the Chair, the law of averages must prevail, and it would be contrary to all financial precept to budget for recurrent revenue except in relation to what may be safely regarded as average cultural conditions.

I may here say, Sir, that I refused to submit my tentative estimates to Government until I had been furnished with an estimate of the probable value of agricultural exports from Kenya for the year 1935, and until I had ascertained the general outlook for production in Uganda for the same year. I will refer later to the significance of the Uganda figures, but I may say here that the estimated value of Kenya domestic exports for 1935 has been placed at £2,430,000, or approximately 22 per cent in excess of what at that time I considered to be the probable value of exports for 1934.

I therefore submit, Sir, that the Customs and Excise revenue short-fall for the present year—representing as it does about 4 per cent of the receipts originally estimated—has been due to remediable causes and to abnormal circumstances, and that the original estimate of £247,500, budgeted for a year ago, cannot properly be regarded as having been out of true relationship to the actual taxable capacity of the Colony.

Nevertheless, Sir, if we were relying only upon tariff adjustments and a modest measure of recovery in the staple industries to bridge even the relatively small gap of about £30,000 which separates actual receipts for the present year, i.e. £222,500 and the budget estimate for 1935, i.e. £252,500,

I am prepared to admit, Sir, that the latter estimate would be open to the criticism of erring on the side of optimism.

But that there are other and important factors, which must be taken into consideration in arriving at a balanced and reasonable view of the revenue outlook.

The hon. the Mover referred to one, and probably the most important, of these factors—the progress being achieved by the mining industry. It is perhaps fortunate for the case of the opposition that in this debate the hon. Member for Nyanza was muzzleed.

THE HON. CONWAY HARVEY: Could the hon. gentleman speak a little louder? I am sorry to say I missed that!

THE HON. THE COMMISSIONER OF CUSTOMS: I cannot imagine, Sir, that the movement of goods into the mining areas will be confined to duty-free machinery, astounding quantities of crude oil and a supply of survey beacons to demarcate an extended township area for Kisumu! The view I have taken of the pending developments in the mining areas, Sir, has not, however, been over- sanguine. What I have allowed for is this, that nothing reacts more quickly to the increased consumption of imported goods than the regular employment of labour, especially native labour, and that the labour which will be employed both directly and indirectly by expanded mining activity cannot fail to make a substantial contribution to Customs and Excise receipts.

Sir, in your address from the Chair Your Excellency referred to the measure of progress being achieved in the direction of native agricultural production—a development, Sir, which is putting ready money into the hands of a spending population.

There is also in existence a certain amount of what may be described as side-line development, tending to the expansion of purchasing power. If this side-line development is to be reinforced, as Government anticipates, by the large scale manufacture of bamboo pulp, it will acquire a revivifying significance which cannot, and should not, be ignored.

There is one further factor in the situation, Sir, which, to my mind, is of primary importance. I refer to the general improvement in the economic outlook throughout Eastern Africa as a whole. It is unhappily true that the staple industries of Kenya have so far been debarr'd from participation in that improvement; but it is happily true that the trade of Kenya is so inter-locked with the trade of its neighbours that the prosperity of any other territorial unit is bound to work to the advantage of Kenya as the established pivot of East African commercial activity.

The Noble Lord the hon. Member for Rift Valley and other Members opposite have stressed the theory that agricultural production is the only foundation of the economic life of this Colony. There can be no doubt, Sir, that primary production is the most vital element in the economic structure of Kenya. But the Colony's trade balance does not, and never has, relied upon primary production alone, but has always been substantially supported by invisible exports in the shape of our extensive commercial services. And in my view, Sir, it would be a grave error to under-estimate the contribution made to the national income by the commercial services which are centred in Kenya but operated to the general exploitation of East African trade. And, Sir, I use the word commercial service in its widest sense, embracing as it does the collection, storage, conditioning, transportation and financing of goods whether imported or exported overseas or elsewhere in East Africa.

Does it not count for something to the Colony's economic advantage, for example, that a large railway transportation organization serves important extra-territorial centres of production and import markets, and, from of the gross earnings of that service, pays out many hundreds of thousands of pounds a year in wages to the Kenya resident and the Kenya consumer?

My hon. friend Mr. Pandya in his speech, so exemplary in tone and so broad in outlook, ventured to draw a comparison between the costs of administration and the value of exports for various Colonies. In the course of that comparison he credited the neighbouring territory of Uganda with exports valued at some £3,500,000 in the year 1933. The hon. Member inadvertently failed to point out that figure of some £3,500,000 represented a value f.o.b. Kilindini. What that figure represented f.o.r. Kampala or Jinja I don't know. But I do know this, that by no means an insubstantial percentage of that 3½ million pounds represented payments for commercial and transport services between rail head and point of shipment. And further, that part of these payments found their way, through one channel or another, into the pockets of the Kenya consumer.

There is another way—admittedly of lesser importance but by no means negligible—in which the general improvement of East African economic conditions must react to the advantage of Kenya's national income. Quite a number of our staple agricultural industries are almost entirely dependent upon adjacent territories for the remunerative marketing of their surplus production. Improved conditions in these adjacent markets must, accordingly, be to the immediate advantage of those industries and indirectly to the benefit of the Customs and Excise revenue.

Your Excellency, I have now reviewed the main considerations which were in my mind when I formulated the estimates of Customs and Excise revenue which have been incorporated in the 1935 Budget. For the realization of these estimates, it will be necessary for the Colony to increase its imports of dutiable goods next year by about 4 per cent, i.e. as compared with the imports of the present year. No increase whatever is allowed for on account of receipts from Excise though the short history of this taxation points to the probability of expansion. Revenue estimation is not an exact science but is a matter of judgment and experience. I appreciate my lack of experience, but I did not fail to ascertain the views of persons interested in commerce, agriculture and mining.

I must leave it to the judgment of the House, Sir, whether, in spite of what has been said, these estimates may not be regarded as having been carefully framed on a reasonable basis.

I have no wish, Sir, to shirk shouldering my share of responsibility for these Estimates. But I feel that I am entitled to point out that they were prepared on the assumption that no extraneous psychological factors would be permitted to undermine that spirit of courage and confidence which is the very breath of industrial and commercial enterprise, and the necessary concomitant of capital conservation and replenishment.

The debate was adjourned.

ADJOURNMENT.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I have been asked by Members on this side of the House something which very likely Your Excellency has already done—that they were very anxious a cable should be sent to-day of congratulation to the Royal couple on their marriage.

HIS EXCELLENCY: I can tell the Noble Lord that that has already been done.

LT.-COL. THE HON. LORD FRANCIS SCOTT: You had not mentioned it in any announcement from the Chair.

HIS EXCELLENCY: We propose to sit to-morrow at 9 a.m. instead of 10 a.m.

Council adjourned till Friday, 30th November,
1934, at 9 a.m.

FRIDAY, 30th NOVEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 9 a.m. on Friday, 30th November, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 29th November, 1934, were confirmed.

MOTION.

DRAFT ESTIMATES, 1935.

The debate was resumed.

THE HON. ISHER DASS : Your Excellency, I wish in the first instance to give an assurance to you and the Members on this side of the House, the European Elected Members and everyone, that whatever criticisms I offer here or suggestions will be purely in the form of criticism and not as personal attacks on anyone because, Your Excellency, there is one thing that I always observe: that one should not, either intentionally or unintentionally, by his words or action hurt the feelings or sentiments of others.

There is one point that I wish to bring to Your Excellency's attention. I have noticed in this budget debate that Rule 47 of the Standing Rules and Orders has not been suspended, but hon. Members have been reading their speeches instead of delivering them. I suggest that in future, if this procedure is to be adopted, Members should circulate their speeches and they could be taken as read, thus saving the time and money of this House!

Now, Sir, the whole of the debate reminds me of a little story. A widow's case was being conducted by a very able advocate, who used convincing arguments and was eloquent in his speech, when she got up and excitedly said "Excuse me, Sir, I never knew I had so many troubles!" It has made me feel during this budget debate that we have so many troubles that we are in a deplorable plight. One would imagine that we are absolutely doomed, with no hope of getting up early to-morrow morning safe and sound! Yet I have always wondered, if the gentlemen on this side of the House were to move their seats to the other side, just across

this carpet, and the members from that side were to come over here, would the same speeches be delivered by the former then as have been delivered now? I do not think so, but that whatever has been said they would stand and justify the same budget which Government has presented this year. I do not know, however, about the attitude of the Government gentlemen if they were on this side! Probably they would take the attitude of the present Elected Members. But if my criticism does not meet with the approval of certain members, they can rest assured that it is being made with one object: that at least in the days to come I do not want as a young man—because I am the youngest member of the House—we young men do not want to be criticised by historians that we surrendered ourselves to the ideals of the older people and that whatever we did was not in the interests of the country. If unfortunately some of my ideas and criticisms do not find favour, I wish to assure members on this side of the House that they are being given simply because I believe, and honestly believe, them to be true, and are not given from a sense of favours to come from either side. The hon. the Colonial Secretary referred to the old dictum of cutting one's coat according to the cloth available. Personally, I go about life with one object: if I have not the money I do not think I ought to make a coat, much less find the cloth for it. Now I will say a few things, and I am sure the House will give me the same amount of patience that has been given others.

In the deplorable state of the finances of the country, it is no use for one on this side of the House to stand up and simply go on picking on an enemy and hitting him. The fact remains there have been three causes which have actually contributed to the present financial position of the country, deplorable position one may call it: The first is the unsound, unscientific, fiscal policy of the country; the second, the agricultural policy of the Government and of the European Elected Members; and thirdly, extravagance. These are the three causes. Members on this side cannot simply be lashed, but the fact remains that the people responsible for such a deplorable state of affairs and who are to be blamed are the members on this side of the House.

Referring to the first cause, the unsound, unscientific, fiscal policy of the country, Your Excellency, in 1924, 1925 and 1926, your Government—I do not mean you were here, Sir—the Kenya Government brought in legislation based on unscientific principles of taxation such as the education cess;

the poll tax, both at a flat rate of Sh. 30 for rich and poor. There was no agitation, there was no demand for a plebiscite or referendum to see whether people would agree to more scientific taxation. This was one of many other things which in the course of my speech I will refer to, and in 1932 when your Government saw the whole position and wanted to review the financial position of the country to put it on a sound scientific basis, what happened? I am going a little bit deep to expose the whole fibre of the agitation which occurred then and which deliberately brought the country to this present state of finance. In 1922, Government, with the approval of the Secretary of State, announced in this Chamber that income tax would be introduced. The Indian community held a mass meeting and I have here the notice calling it, signed by the honorary general secretary: "Mass meeting will be held on Sunday, 25th September, 1932, at 11 a.m. in the Patel Brotherhood Hall, Duke Street. Please inform your friends of time, date and place of meeting." That meeting unanimously passed resolutions in favour of income tax, copies of which were submitted to your Government and the Secretary of State for the Colonies, requesting them to introduce income tax, and congratulating them also on having announced its introduction, for this form of taxation is the only equitable form. Representations from different institutions were made to Government, and one morning in March or April we were informed by the local European members that there was going to be a meeting of citizens of Nairobi in the Theatre Royal at 5 p.m. to protest against the introduction of income tax in this country. It was published that that meeting was to be open to the public, and I wrote a letter to Capt. Schwartz, who was to speak on the subject and who was Acting Leader in those days of the European Elected Members Organization. I respectfully wrote him:

"Dear Sir, In view of the fact that you are convening a public meeting of the citizens of Nairobi where a resolution opposing the introduction of income tax in Kenya Colony will be moved for public discussion and approval, I shall be glad if you will confirm that I shall be permitted to oppose this resolution in the open meeting and will be given ample time to do so. Please confirm and oblige. Yours faithfully."

That was on the 9th of February, 1933. Your Excellency, instead of opportunity being given those who honestly believed and still believe in income tax—and if some members do not believe it I will, simply for the information

of those members, refer them to pages 357-8-9 of the 14th Volume of the 7th edition of the Encyclopaedia Britannica and to pages 456-7-8-9 of the 26th Volume of the 7th edition, where they can find for themselves what income tax is—I was given this reply to my letter:

"Mr. Isher Dass, c/o The East African Indian National Congress, Nairobi. 9th February, 1933. Dear Sir. Income Tax meeting. With reference to your letter of even date . . ."

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, has this anything to do with this debate?

HIS EXCELLENCY: The debate is pretty wide, and I shall not interfere.

THE HON. ISHER DASS:

"Dear Sir, Income Tax meeting. With reference to your letter of even date, the arrangements for the meeting are entirely in the hands of the Chairman, Major Grogan, to whom I will pass on your letter when I see him this afternoon. Yours faithfully, H. E. Schwartz."

To begin with, that meeting was a farce, but what happened? I will take the opportunity of explaining a little further about the circumstances which led to this deplorable state of the finances of the country. On the same day that the public meeting was held, the conveners and others called in the Superintendent of Police to their office and asked him if he had any authority to stop me going into the meeting and expressing my views on income tax most respectfully to the Indian and European public, and he said he had no authority to do so, that who came first would be served first, that is given a seat in the hall with liberty to speak with the permission of the chair. Finding that such a resolution as they proposed would not be carried in Nairobi at a joint meeting of Indians and Europeans—there was afterwards a plebiscite and referendum of business houses and elsewhere and signatures obtained of 2,000 out of a total population of 50,000 Europeans and Indians against income tax, which was one form of agitation—at 3.30 p.m. an hour before the meeting was to be held a handbill was issued which said:

"In view of certain misapprehensions which appear to exist, it is desired to make it clear that the public meeting called for this afternoon at the Theatre Royal

is confined to the European constituents of Nairobi North and South, and will not, on this occasion, be open to persons of all races."

That is the way these agitations were carried on against that principle, that absolutely sound and scientific principle, and which led to that referendum being presented to your Government against the introduction of income tax and suggesting they should consult only those wise men of the east and the west who were prepared to agree to such forms of taxation as they recommended.

The hon. Member Mr. Pandya in his eloquent speech suggested that the paying capacity of the country had been exhausted or spent. If it is exhausted to-day, then there has been no change since the beginning of 1933, when they accepted these unscientific forms of taxation instead of one that was scientific. That is a bit funny! People who cannot pay one come forward and suggest they are willing to pay six. I personally think that their generosity exceeds their beauty but that was not the case. The fact remains that those people who made fat incomes, have plenty of money, take all sorts of advantages from the constitution of the country, and in their walks of life exploit people for their income and their wealth, they do not want to pay; they want to shift the burden of taxation on to someone else's shoulders, thinking that those irresponsible or those sort of people have no organization of their own, no microphone of their own to speak loudly to Your Excellency and the Imperial Government. Actually, what is the position? Having accepted the six taxes, we are now given to understand that they think the paying capacity of the people is exhausted and that they must be removed. They knew perfectly well at that time that Government had a deficit in its budget and wanted money and that it had to be produced, because the Noble Lord and other members on this side of the House admitted they were agreeing to these taxes as temporary measures. What actually happened was that the money anticipated from this taxation has not been derived.

I am not suggesting that we should retain these taxes, but I believe—if my expressions of criticisms do not apply personally to certain people and to my colleagues also, even if my expressions are contrary to everyone's opinion, I respectfully place before the members of this House one dictum which I always value as the greatest wealth I possess in my life: "Every man worthy of the name should learn to stand alone, and do his own thinking, even in conflict with the whole world. Sincere thought, even if it does run counter

to that of others, is still a service to mankind." Even after finding out for themselves that these six forms of unscientific principles of having been accepted, have not produced the money to meet the deficit, they suggest further that the graduated poll tax should be removed and that the other taxes should be removed. In that case, where is the money to come from? Would they, if they were officials of Government, come forward and say that 75 per cent of their wages could be reduced, and that they as members of the Government or community were willing to sacrifice that? If they sat that side, yes, but it is only the difference of the carpet in the middle of the room. Unfortunately, in order to show their views to their constituents, they have to say "We will oppose this taxation and we don't care tuppence; it is Government's duty to find out where the money comes from," and, if Government does, again there is agitation.

I say one thing here and now: it is high time that in our poor state of finances all of us should at least as citizens of Kenya meet together and put this country's fiscal policy on a sound scientific basis. If we don't, we shall not do anything for as long as it remains on an unsound unscientific principle there is no hope of saving this country at all. I will suggest how to meet the budget, and as a practical man, and not simply because you are responsible for this state of affairs and in spite of the fact that you want to shift the burden on to the other side of the House and lash them.

Now with regard to the second cause, the agricultural policy. We have been told here by different members of the plight of the agricultural classes in this country. We have also been told that in all other countries where agriculturists are employed, that they are in a desperate state, so much so that the State has been forced to come to their assistance in order to save them. No member in this House can deny that the agricultural class of the white settlers has not been aided by the State with all the facilities in the power of Government. I will tell you of a few instances where they are being aided.

The first concession is that there is restriction of production of economic crops by the natives who actually own the land. There is in the Meru district a little experimental coffee plantation started by the natives under the Government. That is not enough. Up to this time no native has been allowed to grow sisal and coffee, and thus the white settlers have the sole monopoly of growing them and taking the benefit. Of course, the prices are not so good.

Secondly, most of the agricultural machinery is brought in Customs free. Then European farmers have a rebate on kerosene oil and so many other things; no land tax on undeveloped land holdings for the last thirty years, and according to the 1934 Agricultural Census Report land under cultivation is less; they do not pay any income tax; they have concessions in railway rates; and, Your Excellency, there is the Land Bank and Agricultural Advances and there are facilities given to them by administrative officers in getting cheap labour. They have all these concessions. Can anyone on this side of the House tell us that the agricultural class in England is given so many concessions? No. And with all this, what happens here? The agricultural class in this Colony is absolutely in a plight, and there is one reason, and that is that with the high cost of production they cannot compete against the market. Wheat from Australia is sold cheaper in Mombasa than wheat produced in Kenya, so are coffee and other things.

Your Excellency, most of the settlers here were not born settlers; most of them are retired Government servants and retired military officers. They are not settlers; they have managers and chief engineers and various other assistants on the farms and with that high cost of production they cannot expect to compete against the world.

In the House of Lords when speaking on the East African question on the 14th July, 1930, Lord Islington observed:—

"I think, however, a much wiser policy would have avoided all these difficulties and these violations of principle. We should rather encourage emigration not to these tropical countries but to our Dominions where you have white labour and thousands of square miles of fertile soil ready to be taken up. We have been attempting in East Africa the colonization of a white population. On the other hand in West Africa we have pursued the policy of development by the native producer. The economic results in East Africa have produced, and will continue to produce, friction and competition for labour. In West Africa you have contentment and prosperity throughout the country."

That is what he referred to; the two or three millions population of this country who were born agriculturists—if those people had been developed and had been made to develop they would have been a fine agricultural class who would have

compensated the interests of this country as well as at home. I suggest there is still time to-day and if you and your Government, Your Excellency, are very anxious to put the right agricultural policy on the right basis, then I say the way to avoid these millions of acres of land remaining undeveloped is either that Government should suggest a land tax on undeveloped land, or, that there should be a Bill passed in this House to the effect that there should be a free transfer of land between the non-native and the native, but with the definite provision that the natives of this country shall not be permitted to sell their land to non-natives, but they shall be allowed to buy land from the non-natives, and that there shall be a free transfer of rights among the non-natives. Then, Your Excellency, most of the settlers in Kenya Colony would be pleased to sell their land to these people to-morrow morning and get rid of it. That is the thing they should do. And one more principle is that no more land—I speak with authority when I say no man can misquote me in the paper—and that is that no more land should be alienated either to Indians or to Europeans or to any non-native community at all. This has been the policy of every right thinking man; established Indians have year after year advocated that policy. That is how the agricultural policy can be put on a sound basis.

The third cause of the present financial position, I mentioned, is the question of extravagance. Government is responsible for a good deal of that extravagance. To begin with, why not admit that the unofficial members are more responsible for this than the members on that (official) side? I have no brief to defend. I speak the truth. There were good years in 1924 and 1925. Well, these gentlemen (the Government) brought suggestions for increments to wages. They (the officials) said: "All right, Cheerio, boys, have 25 per cent!" They consented—and I want to know if there is any servant in this world, public or private, directors of a company or other people, who would refuse and when told: "Well, we want to give you 25 per cent increase for your meritorious service," reply: "Excuse me, I do not want it." Is there any servant who would say that? No. You (the unofficial side) were responsible for this extravagance. Not only that, but you have admitted how you brought funny suggestions to Government for your own benefit in the interests of the settlers and to help you. You had the finest recommendation in the personality of the late Lord Delamere. I mean he knew everything in the country. He was the oldest among

you all here and everything, that was done we find on the budget to-day with other proposals which have been brought in with your assistance, and you cannot shirk the responsibility. In fact you are to be blamed more, because you were responsible to your constituencies, while these gentlemen (officials) they were responsible to nobody and were simply public servants and if you had given advice they would certainly have heard you. I do not envy anyone on this side of the House; and it is said outside that it is better to remain free than to serve in Heaven!

Now, Your Excellency, having said all this about the three main causes which can be attributed to this deplorable state of the finances of this country, we hear a good many suggestions. And what unfortunate suggestions! suggestions which no one in this country with any sense would not deplore. The Noble Lord, (the hon. Member for the Rift Valley, said there were 1,100 Europeans, 1,200 Indians and 700 natives employed in the Civil Service—3,000—and he suggested, if I heard him correctly, some should be retrenched. Do we actually want retrenchment among these people? To put them on the streets and increase unemployment and then come and shout here that these people are starving? Is it a sound policy or suggestion to ask for retrenchment? There was another funny suggestion we heard yesterday morning, that civil servants, Asians and Europeans, were highly paid for the work they are actually doing. These people start in life, after completing their education with all responsibility to their parents for their future life, they start with only £220 per annum, and after years of service they get only £600, and the suggestion comes forward that their wages should be reduced, that they are highly paid! No such thing. If you had actually suggested or given us a complete scale of reductions in salaries of the higher paid services, one could see the force of that, of course, but not because we want forcibly to reduce the salaries of the higher paid officials. We would have appealed to their sense of proportion, for heaven's sake to help us, but when a man wants to come forward and hit below the belt in the ring it is very deplorable.

There was one suggestion, Your Excellency, which came from the Noble Lord. It was that in the interests of the natives, he wanted the immediate introduction of the Native Marketing Bill. I do not want to go into the unfortunate controversy of this Bill. The whole country and the Indian community have already expressed their opinion with regard to this Bill, and I can very safely say that most of the

members of your Government do not even think it necessary to bring in such legislation. I say rightly that we on this side of the House believe that the introduction of the Native Marketing Bill is only with a view to squeezing us out of the country where we have a right to live and prosper.

Now, Your Excellency, coming actually to the practical side of the whole thing. As I said I am not fond of simply telling a man how bad is life without giving him a chance to suggest something. I will come forward with a definite and practical suggestion in addition to the three I have already given, that if those policies which have been the cause of the ruin of our country were put right on a sound basis, I think the country will come through and be happy as other countries are. There is no reason for us to be downhearted in life. If bad days have gone, good days will come. The Colonial Secretary has asked for two or three millions. Thirty-three per cent of this could well evaporate and there would be no taxation. Remove this, what is going to happen? Do the business people in this country or anywhere else do business in a similar manner? No. Employers and employees all join together. They ask nicely and respectfully and appeal to them in the bad time to agree to some reduction. And then in their turn the directors themselves offer some sacrifice. That is the way. Now on this side of the House I did not hear one thing that we are prepared to come forward and suggest. With all the reductions in wages, with all the improvements to be kept up and retrenchments in service, hon. Members on this side should have come forward and suggested something on their part also. I fail to see such a sacrifice.

Now, Your Excellency, before I actually give a definite programme I should like to refer to the *Coast Guardian* newspaper which published the following:—

"Comparisons are odious but—! His Excellency the Governor does not believe that the taxable capacity of the Colony is exhausted. He cannot see how any further economies in administration can be effected without impairing the services of the country. The *Guardian* quotes these examples from the Colonial Office list and recommends them respectfully to His Excellency's attention:—"

Then follow a few comparisons of the salaries received by high officials in this country and in South Africa. They are:

Salary of His Excellency the Governor £5,000, with duty allowance of £2,500 and £1,000 as High Commissioner of Transport. Salary of Prime Minister of South Africa, £3,500.

Secretary of Agriculture, South Africa, £3,500. Director of Agriculture Kenya, £1,500.

Prisons Department, South Africa, Director's salary, £1,020. Commissioner of Prisons, Kenya, £1,000.

Director of Forestry, South Africa, £1,300. Conservator of Forests, Kenya, £1,200.

Secretary for Education, South Africa, £1,500. Director of Education, Kenya, £1,500.

Secretary for Finance, South Africa, £1,450. Treasurer, Kenya, £1,450.

Secretary for Public Health, South Africa, £1,400. Director of Medical Services, Kenya, £1,500.

Now, Your Excellency, as I said before, I do not wish to reflect on anybody and do not mean in the least to offend anybody, but in this serious time of depression and deplorable finances of the country, I wish to put forward most respectfully for the favourable consideration of the Government and this side of the House that we have no business to touch the people who get less than £600 in salary as most of them have earned this money after twenty to twenty-five years service and each man expects a good return for the labour he has been selling, because these people have only a few years more to live in life.

My suggestion is that on salaries of—

£651 to	£700	there should be a reduction of 6 per cent.			
£701 to	£750	"	"	7	" "
£751 to	£850	"	"	8	" "
£851 to	£950	"	"	9	" "
£951 to	£1,050	"	"	10	" "
£1,051 to	£1,150	"	"	11	" "
£1,151 to	£1,250	"	"	12	" "
£1,251 to	£1,350	"	"	13	" "
£1,351 to	£1,450	"	"	14	" "
£1,451 to	£1,550	"	"	15	" "
£1,551 to	£1,650	"	"	16	" "
£1,651 to	£1,850	"	"	17	" "
£1,851 to	£2,000	"	"	18	" "
£2,001 to	£2,200	"	"	19	" "
£2,201 to	£2,400	"	"	20	" "

This is a sliding scale and I think the level of salaries would still be more than and compare favourably with South Africa where there is a larger population and more revenue. I will give you the figures of how this scale would affect each member of the Civil Service receiving over £650 per annum. Those drawing a salary of

£600	"	"	£39	10
£700	"	"	£41	8
£720	"	"	£43	
£750	"	"	£50	8
£780	"	"	£52	10
£800	"	"	£62	8
£810	"	"	£64	
£840	"	"	£64	16
£850	"	"	£67	4
£860	"	"	£68	
£880	"	"	£70	4
£900	"	"	£81	
£920	"	"	£82	16
£960	"	"	£96	
£1,000	"	"	£100	
£1,050	"	"	£105	
£1,100	"	"	£105	
£1,120	"	"	£121	
£1,150	"	"	£123	
£1,150	"	"	£126	10
£1,200	"	"	£144	
£1,350	"	"	£175	
£1,450	"	"	£203	
£1,500	"	"	£225	
£1,550	"	"	£232	10
£1,600	"	"	£256	
£1,650	"	"	£264	
£1,700	"	"	£289	
£1,750	"	"	£297	10
£1,800	"	"	£306	
£1,850	"	"	£314	10
£1,900	"	"	£342	
£2,000	"	"	£360	
£3,100	"	"	£399	
£3,200	"	"	£418	
£2,400	"	"	£480	

And by this reduction, Sir, nobody would feel it and yet the salaries would compare favourably with the revenue and with the total population, everything taken into consideration.

Actually, if this scale was introduced, it would bring in a saving in different departments to this extent:—

Secretariat	£744	2
Local Government, Lands and Settlement	530	10
Government Press	150	8
Native Affairs	601	4
Provincial Administration	5,918	12
Treasury	577	16
Central Revenue Office	67	4
Customs	573	12
Audit	977	16
Judicial	2,330	6
Registrar General's	155	8
Legal	691	6
Police	716	12
Prisons (including vacant post to be filled in 1935)	152	10
Medical (Medical Division)	3,951	4
Medical (Sanitation Division)	746	8
Medical (Medical Laboratory)	730	2
Education, Administration	656	16
European Education	605	10
Education, Indian	530	

In this connection the Expenditure Advisory Committee suggested the replacement of European headmasters by Indians, but I do not know whether this would be accepted by Government or not although it is contained in the Report of that Committee.

Native Education	£286	10
Military, Northern Brigade Headquarters	310	16
3rd Battalion, Kenya	104	
4th Battalion, Kenya	104	
5th Battalion, Kenya	104	
Supply and Transport	68	
Mining and Geological Department	229	4
Post and Telegraphs	864	10
do. Engineering Staff	403	10
Survey and Registration	704	4
Agriculture	1,085	8
Division of Animal Industry	1,331	
Forests	344	8
Game	87	4
Public Works Department	1,461	14
Government Coast Agency	50	8

This will make a total saving of £27,900 10

Add to this a reduction of 10 per cent on all acting allowances over £100 £900

And I most respectfully put forward and appeal to Your Excellency also in this time of depression to offer a small sacrifice to the extent that the salary of your office be reduced from £5,000 to £3,600 and the duty allowance temporarily reduced to £1,400, making a total of £5,000, and with the £1,000 as High Commissioner the Governor will receive £6,000 instead of £8,500, a saving of £2,500 and that will bring the total savings to £30,700 10s.

To put the fiscal policy on a sound and scientific basis, I suggest these definite measures for the consideration of the Standing Finance Committee and Government: the removal of the non-native graduated poll tax by which Government will lose £66,000 provided in the Estimates; the abolition of the European and Asiatic Education cess as provided in the Estimates amounting to £20,000; that will be a total loss in revenue of £132,000. What should be done to meet this £132,000? Introduce the most scientific, sound and equitable form of taxation in this country—income tax—for which the whole Indian community and most members of the European community are willing. And I make a challenge here for the information of the hon. Members on this side and on the other side of the House that if Your Excellency does not believe the principle and were to challenge the truth of my statement, I will be prepared to pay the expenses of a referendum to prove the majority of the population would vote for income tax. I will pay the expenses of the referendum if anyone is willing to take up the challenge. A voice says: "How shall I meet the expenses?" It is no one's business, I will deposit it in the Bank.

The introduction of this sound and scientific form of taxation, income tax, will bring in £130,000; at least, that was the sum provided for when the Bill was moved. The reduction in salaries that I have suggested will save Government £30,700/10. Under "Other Charges", on page 27 of the Estimates, the amount in 1934 was £11,450 and for 1935 it is £18,501, on which there could thus be a certain reduction of £3,000. On page 81, I suggest the abolition of the Defence Force. The Noble Lord, the Member for the Rift Valley, gave us the wonderful suggestion for the consideration of Government and the Secretary of State, that by reason of the increase in the Royal Air Force in England a part of that force should be sent out here, the expense to be borne by the Imperial Government. But why do we want a Defence Force here? We are not fighting anyone. We have got the League of Nations! We are asking for peace and prosperity among all nations. Then why fight? Why have a Defence

Force at all? Do we fear invasion from any hidden enemy into this country, Abyssinia or someone? No. Then we don't want it, and we have the King's African Rifles, and now, when aeroplanes can fly to Australia in three days from England, we could quickly have enough bombers sent out here if there was any trouble! By the abolition of the Defence Force we would save £4,113. Another item on page 82 is the Royal Naval Volunteer Reserve, which cost £300 in 1934 and the estimate for 1935 is £803. Why do we want this Reserve? We have no navy in Kenya, and we would have this £803. The total revenue to be derived from the introduction of income tax, the reduction in salaries, and the abolition of these items, would be £168,624/16. That means there will be an increase in revenue to the extent of about £37,000. After all, members on this side of the House are human beings, and it is much better to build castles in the air than to lie low on the floor and not have them; it is much better to have estimates which can be realized than to have estimates which cannot.

There is one item on which we can save a good deal of money, but I cannot give it because I cannot work out the various details; it would take hours and days. That is, interest on loans. One suggestion from this side of the House was the conversion of the loans. The hon. the Colonial Secretary gave us to understand that before the due date nothing could be done. That is right; but, Your Excellency, I cannot understand one thing, and the hon. the Colonial Secretary when replying will probably give me the information. If I owe two hundred millions to someone in London, and I go to him and tell him that I will pay that sum plus interest to-day, instead of waiting till the due date, is there any legal method which prevents that person receiving the money? You float a loan of 3½ per cent, and now you go to your creditors and say "Take your money, because your money is carrying such a heavy interest, and the country cannot meet such a liability." No sensible creditor will refuse to accept, because he knows, having read the speeches, he knows that the country is in such a plight that he may not get ten cents, for he is an intelligent man and does not believe, as people in Kenya think, that the more a country is bankrupt the more the country is respected.

There is one more item. Something has got to be done when introducing income tax on the question of pensions. There are 168 people in every part of the world who get pensions from us, after retiring from the Service. I do not want, in the first place, to touch the man who has retired after thirty years service in the country if he is getting only

£200 or £300 a year, because £300 at the age of retirement is an ordinary amount for the existence of a family in England at £25 a month. Such pensions should not be touched. The tax should be applied to pensions above that amount on a sliding scale. There should also be provision to reduce pensions, for in times of depression, people who have been given pensions for war service have had them slightly reduced owing to the financial state of affairs. Something can be done there.

So far, we have a saving of £168,025/16, but there are five or six items on page 28 on which there can be savings. Under the Labour Section there can be a saving of £1,105 on items put in though there is such a serious depression. Why engage a new Chief Labour Inspector? We can, for one or two years, so long as the depression remains, do without him, or we can expect other members of the department to do a little extra work for us in the interests of the country and also of the taxpayers. Under Grants in Aid a saving could be made of £1,000 allotted to the sisal industry, and on page 40, Inspectors in Stock, £930; page 60, Senior Collector of Customs, and collections of Customs, £1,086; page 62, Chief Inspector of Police, £1,000; page 69, one Senior Medical Officer, £1,100; page 69, four Nursing Sisters, £1,085; page 69, Item 87, one Sanitary Inspector, £537; page 69, Item 95, two Sanitary Overseers, £500; page 69, Item 100, one European Assistant Surgeon, £500; page 100, Assistant Superintendant of Police and Chief Officer, £800; pages 101 and 102, £2,000; under Public Works Department on pages 105-6-7-8-9, making a total saving of £181,357/16. I have already suggested there will be a loss by the removal of the non-native poll tax and the education cess, and other unscientific forms of taxation, of £131,000, and there is a suggested saving of £51,000 of savings, which will be enough to cover all deficits. That is practical, and I suggest it should be done.

In conclusion, I wish to associate myself with the remarks of the hon. and reverend Member Canon Burns that as soon as the time comes and there is prosperity and we are in a better position something has got to be done, and should be done, in the interests of the natives by bringing in the Native Betterment Fund. They have priority of claim over all others.

In conclusion, there is one thing that I wish to point out, and it is this. The Noble Lord, the Member for Riff Valley, in the course of his eloquent speech, suggested that we were all unanimous on this side of the House. That is

very good. But, Your Excellency, if the leader of the European Elected Members simply expects us just to fight side by side or to be unanimous against a common imaginary foe on the other side of the House, we won't join him. If he means honest co-operation in the interests of the development of the country, we suggest that it is high time he gave us an opportunity or met us at a round table so that we can put our heads together to find a formula. But if his suggestion is to find someone here to join them for the time being, I shall not join on a common basis to fight imaginary enemies with anyone. I do think we should put our heads together, man to man, forgetting we belong to India or England, but remembering that we are all one. We are here as equal citizens. Even if we for a moment agree in any extravagance or expenditure with the members on this side of the House, there is one thing I sincerely deplore, that from the hon. Member for Nairobi North there should come such remarks as have been passed on the floor of the House against any Government or unofficial member. I hold no brief for the latter—I have never had the privilege of being properly introduced to him! but when the hon. Member suggests such remarks that as a reward for five years inaptitude this member has been promoted to be Treasurer of the Colony, or words to that effect, it is not dignified, Parliamentary language to be used by an able member on this side who expects us to join him in fighting a common imaginary enemy. In his excitement, probably, he went a little further, and suggested one remedy or one method, to meet the whole situation, the deplorable state of the finances of this country. The method suggested was, union among the three territories. I do not want to take up the time of the House unnecessarily. I would say but one thing, and that is that my community would never agree to the three territories being combined together. We do not approve of closer union of the three territories; and with all the power at our command, and the constitutional means in our power, we will oppose such closer union, because the three territories carry their own problems—native policies, policies of finances. I think that if we agree to differ that that point should be made clear.

That is all I have to say in this connection, and I hope when the budget comes before the Standing Finance Committee that instead of rushing it through all as citizens ought to join together and take a share of the responsibility for blunders which were committed in the past; for we who are responsible for bringing the country to such a deplorable state of finance as exists to-day should take steps to put our fiscal policy on a sound scientific basis.

HIS EXCELLENCY: If no other member wishes to speak I will call on the hon. the Mover to reply.

THE HON. THE COLONIAL SECRETARY: Your Excellency, a year ago when the Colonial Secretary was replying to the debates on the Estimates he was able to congratulate himself on the very kindly reception accorded to the budget. In fact, if honourable Members care to refer to the record of the debate, they will see the polite language used on that occasion and that he was handed bouquets from representatives of every corner of Kenya. I much regret that on this occasion I can lay no such flattering-unction to my soul. I have made a collection of some of the more picturesque epithets that have been applied to my budget during this debate. They are "appalling", "impossible", "fantastic", "preposterous" and "fraudulent". I am of course proportionately grateful to the hon. and rev. Member representing Native Interests for his kindly thought in offering me a word of appreciation.

As the responsibility for framing both budgets was mine, for last year I was Acting Colonial Secretary until almost the actual date before that magnificent budget was introduced, I am naturally bitterly disappointed at the reception accorded to the second one, and I am also not unnaturally a little bit bewildered to discover the reason for the change in attitude. Both budgets were framed on precisely the same lines and designed to meet almost identical obligations. The 1934 commitments, maintenance of roads and bridges, schools and hospitals as also for the administration of 3,000,000 natives, and the scheme for meeting these obligations was precisely the same as that reflected in the 1935 budget. One budget, however, was acclaimed as the epitome of all the virtues deemed as monument of unredeemed ineptitude. The other was compared as monument of unredeemed ineptitude. The first was welcomed as an attempt on the part of Government to meet the situation—the second is execrated as a dishonest attempt to evade it. It is difficult for me to believe that in the short period of one year I have degenerated from a prudent and honest counsellor to a fantastic and dishonest charlatan. There are no features in the preposterous budget for 1935 that were not present in the exemplary one for 1934. In the 1935 budget there is no new taxation, there are no new methods of raising revenue. The honest budget of 1934 provided for the same improper salary scales as does the fraudulent one for 1935. In both budgets the same amount is included under the head of non-native poll tax. As I say it is difficult for me to realize wherein lie the virtues of the one and the vices of the other.

I have said that the obligations to be met by both budgets are virtually the same. My argument in respect of each on which rests the whole of my case has been derided but I do not think it has been refuted. I have said that as a result of our past policy of expansion and development we inherited a legacy of expenditure which we cannot well avoid. If there is no truth in that statement my case obviously falls to the ground. In times like this no Government would be so insane as to demand expenditure the necessity for which cannot be proved. My contention, however, is that the necessity for finding the money to meet this expenditure does exist. That opinion was held by myself and others who were responsible a year ago for the framing of the 1934 budget. It was wholeheartedly endorsed by what was then known as the "Watch Dog Committee" and by every member of this hon. House. The only difference was that the Select Committee considered we had been rather unduly pessimistic, and as a result the estimated balance was increased in Select Committee!

The hon. Member Mr. Pandya objected to the order in which I explained that I endeavoured to meet the case, by finding out frankly what was the minimum expenditure this Colony could afford to meet and then endeavouring to find the best way to meet it. He said no sane individual would go about his business in that way; he would not say to himself "How much do I want to spend" and then set about finding how much he ought to make in revenue to meet it. Of course he would not if he had no embarrassments and no debts and was a free agent. My whole point is that we are not free agents. If a man has inherited debts, is it not his duty and his business and a matter of commonsense for him to set about seeing how he can get the money to meet those debts? Government, if it had had a clean slate, of course would have estimated in that order, it would have said what is a reasonable revenue and what it could afford. It has not, however, a clean slate, but a slate with commitments written all over it, some of them legal, such as loans and pensions, others of a kind which a prudent man would meet to avoid the wastage of his capital.

As a matter of fact I think the hon. Mr. Sharnaud-Deen has really though perhaps unintentionally put the matter for me in a nutshell. He recommended a return to expenditure on the 1923 basis because the country cannot afford any more. My argument is that that is impossible unless we are to waste money already spent. If we had only the amount of the 1923 expenditure we could maintain only the 1923 services. The hon. Member mentioned the Medical Department expenditure as having greatly increased. In 1923 there were only

three permanent hospitals serving native reserves, and five temporary ones in charge of Sub-Assistant Surgeons. Now there are twenty-three. I do not see how any one in his senses can suppose that we can maintain and staff twenty-three hospitals at the cost of three, and so we must either budget for the twenty-three hospitals or abandon them. That is what I mean by saying that the problem is not one of cutting our coat according to our cloth because our coat has been determined for us. The argument is still further exemplified by the fact that the cost of administration has actually gone down from £237,647 in 1923 to £223,895 in 1935. The hon. Member asked, if the administration can do this why can't departments? The answer is so obvious. The administration is to some extent a free agent having no assets constructed out of loan to be maintained or wasted. Expenditure on administration is conditioned by what the country can afford consistent with a reasonable standard of security. With departments it is otherwise. I have just instanced the Medical Department. The Agricultural Department's estimates for 1923 were £84,522, the estimates for 1935 are £125,480. The increase here is almost entirely due to native agricultural and veterinary services which in 1923 hardly existed. I do not see how we can now reduce to the 1923 figure for the Agricultural Department without abandoning or mutilating such services as research at the veterinary and agricultural laboratories or some other service vital to the progress of agriculture in this Colony.

In my opening speech I instanced the £300,000 spent on schools and the 2½ millions spent on roads and endeavoured to show the implications of this expenditure. For some reason I am totally unable to understand my good faith has been questioned for referring to them. I chose these two because they were very large and they seemed to me to be the best illustrations I could put forward of my argument. If expenditure of 2½ millions on roads does not imply some expenditure on maintenance then of course I have no case. But would Elected Members really applaud Government if with two strokes of the pen it erased on the expenditure side £57,000 for roads and on the revenue side the provision for non-native poll tax? If that were done then I think the budget might well be called fantastic.

The Noble Lord likened the Colony to an estate, and I think the parallel very apt. But if a man inherits an estate costly to maintain he has to decide whether he can afford to maintain it, whether he has to let it go to rack and ruin, or let it go and hand it over to somebody else. In the course of this debate I have received a great deal of abuse and very little help. To the abuse I don't propose to reply. As to

the help I might have received in the way of constructive proposals, such as they are they appear to resolve themselves into four categories: (a) reductions of salaries; (b) reduction of personnel; (c) default in payment of interest on loan; (d) an application for a grant-in-aid.

I propose to deal with these suggestions *serialim*.

(a) Salaries.—The Noble Lord who first introduced this subject explained that in doing so he was actuated by no personal feelings and certainly not by any animosity against the Civil Service. I hasten to assure him with all the sincerity of which I am capable—supposing that I am believed to be capable of any sincerity—that I unreservedly accept this explanation. I know perfectly well that whatever the Noble Lord recommended he was actuated by no motive for doing so other than the good of this Colony to whose interests he so wholeheartedly devotes his life. That is a matter of fact known to everyone and on that there are no two opinions. At the same time I would like to ask him to believe that when we speak of our salaries we are not actuated by merely selfish considerations of our own incomes. We also have to consider the effect on the Colony of any serious reduction in salaries. I hope, Sir, the Noble Lord will do me the credit of thinking I am trying to leave personal considerations out of the question and am reviewing the matter impartially. (Lord Francis Scott: Certainly). I think there is a good deal of misunderstanding of the whole question of salaries and I propose to consider it in some detail.

First, as to the salaries of the senior officers of Government. I suppose there is not one of us who has not wondered if we are really worth all we are paid. Government has considered this from time to time, and it was a great relief to a lot of us when the Expenditure Advisory Committee investigated this matter carefully, and, in paragraph 60 of their report, recorded their considered opinion that the salaries of the high officers were not unduly high in view of their responsibilities. I do not think that anyone can say that our responsibilities have greatly decreased since the report was signed. Next we come to general salary scales. The Noble Lord referred to a speech of his made in 1926 in which he supported the introduction of the revised salary scales. I think it worth while to go a little further into the matter and explain exactly why he supported them. Sir Edward Grigg in his address from the Chair said:—

"Our service and its conditions must compare favourable with the services in other Colonies of our own size and importance. The inducements offered to men of quality in the Indian service are beyond our reach, and

for a long time to come India will always draw most of the best men. But we can, I think, quite fairly put ourselves on a level with other Colonies of our own position and importance, and particularly with the West African Colonies, which compete for the kind of men who might come to us. In my negotiations with the Governors of Tanganyika and Uganda, who know West Africa very well, we decided to take the Nigerian standard as a rough guide in fixing the standards here, so that we might compete favourably with West Africa. There are two points in this comparison. In the first place, as things stand, salaries are much higher in West Africa than they are here, and we decided to bring our salaries up to the Nigerian standard, less duty pay. In Nigeria, special duty pay is given to all officers as a consideration for climate, in addition to very much more frequent leave. We thought it necessary to include in our revision of salary the special duty pay given in West Africa. We thought our salaries should compare with Nigerian salaries, less duty pay."

The motion for introducing the revised scales of salaries was moved by the hon. the Acting Colonial Secretary, and was seconded by the Noble Lord, Lord Francis Scott, who said:—

"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."

That argument, Your Excellency, does not appear to me to be based on ephemeral conditions. It makes no mention whatever of high or low cost of living. It is concerned merely with the necessity of competing on equal terms with other Colonies. In other words, the basis of the argument is the market price of an officer. There can be no stronger an expression than "absolutely essential", and if it was "absolutely essential" in times of prosperity that Kenya should be no worse served than other parts of the Empire surely that absolute necessity still exists. If the argument advanced by the Noble Lord had any validity in 1926, I suggest that its validity is enhanced in times like these. Then the question was, not whether Kenya could afford a good Service but whether, in any circumstances, she could afford a bad one.

Quite apart from this, the salary question is not one in which Kenya can stand alone. We are members of the Colonial Service, and the salaries which we receive are the basic salaries of that Service and are reflected in the terms offered to candidates for employment in the Colonies. I do not think hon. Members opposite would really relish a statement of terms offered to candidates to the effect that the salaries will be so much in all parts of the British Empire except in Kenya where they will only be half or three-quarters. I do not believe that they would really advocate conditions under which the first idea of every Civil Servant who came to Kenya would be to get out of it as soon as possible; and under which transfer from Kenya to a similar post in any other part of the Empire would be looked on as promotion, and would be. But taking these salaries as they stand are they really so exorbitant as is sometimes represented? Barristers and doctors and lawyers in Government service, after some years of service; may reach a salary of round about £1,000 a year. Add 40 per cent for pensions and hidden emoluments and that makes about £1,300 to £1,500. Are there no lawyers and doctors in private practice in this Colony who have ever reached or who ever hope to reach a salary of such dimensions? Moreover, it must be remembered that doctors and lawyers in Government service have surrendered any prospect or any hope of reaching those almost fabulous salaries which successful members of their professions may hope to attain in England.

"However that may be, as I have said, Kenya cannot alone in so far as the Overseas Service is concerned. Conditions for a Local Civil Service have been thoroughly examined. People say we have been too long, but the matter has been examined most exhaustively. As I understand it, the salary scales of this Local Civil Service are believed to bear a reasonable relationship to the salaries paid to people in similar positions in private or commercial work."

The Noble Lord, referring to what had happened in Newfoundland, held it up as, I think, a sort of warning of what might happen in Kenya. I think the Noble Lord was wrong when he said that Newfoundland had defaulted. He quoted from the speech of the Prime Minister. I have here the Report of the Royal Commission on Newfoundland which reported in 1933, and I have a few extracts which I think are relevant, and certainly deeply interesting. First of all on the question of default, as this covers both debt default and salaries:—

"It is not surprising, in view of the extreme gravity of the situation, that there should have been some witnesses who felt that, notwithstanding the moral obloquy

attaching to default, it was only in this direction that a solution of the Island's difficulties was to be found. The scheme generally favoured by these witnesses was that the Newfoundland Government should issue to the bondholders a statement explaining fully and frankly the financial position of the country; recounting in detail the efforts which had been made during the last two years, by the imposition of increased taxation, by the enforcement of drastic economies and by the strict control of all disbursements, to restore a budgetary equilibrium; and showing that in spite of these efforts, which had called for great sacrifices by the whole community, it was impossible for the country to continue to meet in full the interest payments on the public debt."

"No part of the British Empire has ever yet defaulted on its loan obligations; in the absence of any precedent, the consequences which would follow from a default by Newfoundland must remain to some extent a matter for speculation. But if no precedent can be drawn from the history of the Empire, instruction may be derived from the experiences of other countries, and it is clear from these that any plan of default such as that outlined above could only be approached with the gravest apprehension."

"The fulfilment of a private money contract depends, of course, in the last resort on the capacity of the debtor to pay, and the law provides accordingly for the bankruptcy of an insolvent debtor. But bankruptcy is at best an ugly word and carries a stigma which a nation even more than an individual would do well as avoid. Directly, or indirectly, national bankruptcy is liable to affect the fortunes of every citizen."

"We cannot indeed disguise from ourselves that default by Newfoundland, so far from providing a solution of the country's difficulties, would merely aggravate them. For any temporary relief which such a course might bring would be speedily counteracted by the destruction of the country's credit, and by the disastrous consequences which would inevitably follow from default on principal as well as on interest. Moreover, the situation in Newfoundland is already so grave that any further damage to the country's economic structure may lead swiftly to a financial collapse. For the Island to default on interest payments, if any other course is open to it, and risk the infliction of that damage, would be a suicidal policy."

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Your Excellency, is it not a fact that the Imperial Government took over the whole commitment of the Newfoundland loan, and it was agreed to in the House of Commons?

THE HON. THE ACTING COLONIAL SECRETARY: I was coming to that point, I am not exactly certain what happened. I think the Report was accepted, but I do not think the Imperial Government allowed Newfoundland to default, but to put things right they took over the payments.

LT.-COL. THE HON. LORD FRANCIS SCOTT: And changed the loan and raised a new one.

THE HON. THE ACTING COLONIAL SECRETARY: The following quotation is from the Report indicating the conditions under which the salaries, so-called, of the Civil Service were reduced —

"The evidence tendered to us from all sides and from responsible persons in all walks of life leaves no doubt that for a number of years there has been a continuing process of greed, graft and corruption which has left few classes of the community untouched by its insidious influences."

This is the main point with reference to salaries:—

"The Civil Service of Newfoundland exists only in name. In place of an organized service recruited by examination or otherwise under established regulations, there is a collection of individuals who for the most part owe their positions to political influence. There is no *esprit de corps*. Little regard is paid to the qualifications of candidates for particular posts. As we have said in Chapter V (paragraphs 229-231), the spoils system is in force, and it has been the practice for the party returned to power at a general election to find places in Government not merely for their political supporters but also for their friends and relations."

If public office were used, not for the performance and promotion of public service, but merely as a bribe for any who might vote for successful applicants and for the friends of those who so voted it is not surprising that the Royal Commission may have decided that the bribes in some cases were higher than the Dominion could well afford to pay. The simple fact is, Your Excellency, that conditions in Newfoundland at the time of the Royal Commission bear no resemblance whatever to conditions in Kenya to-day and I do not think

that any parallel can be profitably drawn between the remedies which the Royal Commission thought fit to recommend and the remedies which may be conceivable or desirable for conditions in Kenya.

The second suggestion was that Government cannot possibly afford so large a number of officers employed at present and the personnel must be reduced in number. Again, this is a matter which Government has considered through the Expenditure Advisory Committee, and the latter's recommendations for the abolition of posts appear on pages 148-153. I do not say that every single one was accepted, but I do say that every single one was exhaustively investigated and the vast majority, I believe, have been accepted. I do not see how Government can appoint a Committee every two or three years to examine exactly the same problem and in all probability come to the same conclusions. Nor must it be thought that under our laws as they are at present that reduction in personnel necessarily means economy. As a matter of fact, it often means an immediate increase of expenditure for the year in which an officer is retrenched. If a pensionable officer on retrenchment chooses to commute his pension, it costs Government quite a lot. The existing law is that he can take a quarter of his pension multiplied by ten and get it as capital, so that an officer retrenched with a pension of £400 can, if he likes, take £1,000 down and go on getting £300 a year as pension. It is quite obvious, therefore, that the retrenchment of a considerable number of officers who have opted to commute pensions must mean an immediate increase in Government expenditure. I will give one example. We will suppose that Government decided to retrench the Colonial Secretary, Senior Assistant Colonial Secretary, and two secretaries from the Secretariat. Their combined salaries at present are £4,000. Their commuted pensions and pensions payable in 1935, if two of them agreed to commute, would be £5,076, an immediate increase in expenditure of £776. From this it will be seen that to adopt the suggestion of comprehensive retrenchment will not necessarily mean a reduction in the expenditure estimates for 1935, but is much more likely to mean an increase, although of course if the posts were not filled it would be an ultimate economy. But if, after a year or two, the posts had to be re-filled, then of course the abolition would be the very acme of extravagance, because the Colony would be paying one man for doing a job and another for doing nothing.

The third suggestion of economy was some kind of default or delayed payment of interest on loans. I have to some extent dealt with this in the Report of the Newfoundland Commission. Government as yet has found no way by which

relief can be granted. I am afraid that I do not quite follow the argument of the hon. Member Mr. Jaber Dass when he asked me to give an answer to the question of what would happen if we offered to give a man his money back. I am not perfectly certain that that was in the nature of a question, but if I have £100 in gilt edged securities at 6 per cent which I understand would continue until 1946, I should not be happy to take it back if I could only get 3½ per cent for it in other gilt edged securities. As I say, at present Government have found no way by which we can obtain relief from these heavy loan commitments. It does not follow that no way will be found, but I do not see how we can possibly rely on any relief in the 1935 Estimates.

The last suggestion was that a grant in aid should be obtained. The hon. and learned Attorney General has explained that this would mean toing the line. I think, so far as Kenya is concerned, that that is probably a rather mild way of putting it. It would mean, as it seems to me, a very humiliating admission of failure; it would mean the abandonment of all we have striven for; it would mean, I should think, the suspension of our constitution and the surrender of all financial control. That seems to me to be a very heavy price to pay to relieve the European agricultural industry of approximately £2,300 per annum of non-native poll tax, that is, about Sh. 90 per head.

Your Excellency, as a result of this debate I still do not see that any acceptable alternative has emerged to the acceptance of this budget in more or less the condition in which it has been presented. The only possible alternative that has been mentioned so far seems to me to be a grant in aid.

I now propose to deal with a few specific points that have been raised in the course of debate.

It has been said that Government seemed determined to keep up expenditure. I wish I could persuade the House that the difficulty of Government has been to keep down expenditure. During the last two months, I have had to resist demands from all over the country for additional provision for medical and educational services, for improvement of roads, for construction of bridges, for more agricultural and veterinary officers, to say nothing of applications for loan money for buildings which are urgently necessary. I do not suppose that there is a single constituency or department which genuinely believes it has not been unfairly treated, and on top of this we have the recommendations of the Economic Development Committee for an additional expenditure of about £20,000 per annum.

It has been stated that Government does not do enough for agriculture, and that nothing has been done since 1930 with the exception of an under-capitalized Land Bank and a moratorium on mortgages. I believe there is a good deal of misunderstanding about this. The point has been referred to by previous speakers, but I will recapitulate. In 1930, the normal *ad valorem* import duty on the following commodities was increased as follows: Bacon and ham, 10 per cent; butter and cheese, 10 per cent; ghee, 25 per cent; wheat, 30 per cent; wheat flour, 49 per cent; timber, 20 per cent; and sugar, I believe, 48 per cent. Those increases tended to raise the prices of commodities for the benefit of the growers at the expense of the consumer. Then, by the Maize Subsidy Repayment Ordinance of 1931, there was a loan subsidy on that and other cereals imported. The amounts outstanding are, in respect of wheat £4,205, of maize, £111,460 and barley £425, a total of £116,000. In respect of the 1929-30 grain crop, £35,000 was appropriated from surplus balances, and £35,000 was provided by the Transport Administration, a total of £70,000, to enable a refund of railway rates and port charges.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Was that not all in 1930? It was passed in 1930.

THE HON. THE ACTING COLONIAL SECRETARY: Perhaps I was wrong in including that information, but they are still in existence.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I said they were officially introduced in 1930.

THE HON. THE ACTING COLONIAL SECRETARY: In 1931 the Butter Levy Ordinance came into being. In 1932 there was a refund of the whole of the duty on imported wheats, while railway rates on wheat grain were reduced to country produce rates. Grading and conditioning fees were reduced in 1932 and in 1933. Since 1930 the rebate on paraffin oil for agricultural purposes has amounted to more than £35,000. Agricultural advances are extant to over £100,000, and the Land Bank has lent half a million. Lastly, there are in existence the railway export rates.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Which have been raised.

THE HON. THE ACTING COLONIAL SECRETARY: But still in existence, the cheap export rates.

LT.-COL. THE HON. LORD FRANCIS SCOTT: More expensive than any other.

THE HON. THE ACTING COLONIAL SECRETARY: I have mentioned these in detail to show that Government has not been unsympathetic to the farmer, and that the amount of assistance given to agriculture is more than is generally realized.

The Noble Lord has asked when the Native Marketing Ordinance will be introduced. All I can say at present is that one or two clauses are still under discussion. It may be possible to introduce the Bill at the end of the session, but I rather doubt it.

The Noble Lord also asked why it was that the pensions of Civil Servants cannot be reduced. I am not quite sure that I can give the correct answer, but I think it is this. Pension terms are part of the conditions which we in the Colonial Service accept when we join the Service. Definite conditions are laid down and are to some extent part of the contract, that when we have done our service and retired we have fulfilled our part and Government has to fulfil the other. It is often asked why Army pensions are treated so differently. I speak with some diffidence, but I believe the fact is a regulation which I read this morning to the effect that retired pay will be given to officers in accordance with regulations made by the Army Council from time to time. The Noble Lord probably knows whether I am right or not! (Lord Francis: I know to my cost.)

The hon. and reverend Member Canon Burns has dwelt upon the burden of the hut and poll tax and the delay in the establishment of the Native Betterment Fund. The first point was dealt with by the hon. the Acting Chief Native Commissioner. I would only add that the fullest consideration will be given to his suggestion to reduce the rates of the tax, but I would ask him to bear in mind that in consideration of the amount paid native services have been fully maintained even in these difficult times. As explained in the memorandum on the Estimates, the amount provided in the budget for 1935 closely approximates to that due on the basis of Lord Moyne's proposals.

Your Excellency, I have detained the House a long time, but I was naturally anxious to say what I could in defence of a friendless budget. It might seem that this debate has resulted in an *impasse*. A genuine and radical difference of opinion exists between Government and the Elected Members, and each side thinks its proposals the best for the Colony. Government's view is that the time has not yet come—and

it is hoped it never will—when the structure which has been built up with such care and at such expense should be pulled down and a more modest structure substituted. The present structure has done much, in addition to achieving internal security, to foster production, trade, settlement, tourist traffic, and the general amenities of life. Government's opinion is that the structure should be maintained at the least possible expense and that we should not act too hastily during a time of bitter adversity which is due partly at any rate to temporary local misfortunes such as droughts and locusts. The Elected Members have, if I interpret their views rightly, maintained that the time has come when the structure should be pulled down, and we seem to have reached a deadlock. No doubt we shall be better informed of their wishes when the budget is before the Standing Finance Committee, and we shall find some means of keeping the public informed of what progress can be made, as they are the people who pay and who suffer. I see one ray of light. The Noble Lord prefaced his speech by doing me the honour of saying he believed that I had the interests of Kenya at heart. (Lord Francis: Certainly). Everyone knows he has, and I can speak for my colleagues. Kenya has a way of settling apparently insoluble difficulties some way or other, and if we start on our Standing Finance Committee with a realization of our common assets, our faith in the Colony and our will to serve her, we may possibly find a way out.

HIS EXCELLENCY: The question is, that the draft Estimates, 1935, be referred to the Standing Finance Committee.

The question was put and carried.

Council adjourned to Thursday, 13th December, 1934, at 10 a.m.

THURSDAY, 13th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 13th December, 1934, **HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.)** presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 30th November, 1934, were confirmed.

ORAL ANSWERS TO QUESTIONS.

SHOP HOURS ACT—EXTENSION TO MOMBASA.

No. 70.—THE HON. ISHER DASS asked:

"Will the Government please state if they have received any representation from Mombasa Indians for the extension of the operation of the Shop Hours Act to that town?"

If so, is the Government prepared to do so and when?"

THE HON. THE ACTING COLONIAL SECRETARY: Representations have been made by the Indian Youth League, Mombasa, to the effect that the working hours of clerks employed by Indian merchants of that town are excessive.

The matter has been referred to the Mombasa Municipal Board which has appointed a sub-committee to confer with the Mombasa Chamber of Commerce and the Federation of Indian Chambers of Commerce and Industry regarding the suitability of the Shop Hours Ordinance, 1925, or portions thereof, for application in Mombasa.

NAIROBI DISTRICT COUNCIL, INDIAN REPRESENTATION ON.

No. 95.—THE HON. ISHER DASS asked:

"With reference to my question No. 93 of 1934, and reply given by the hon. the Commissioner of Local Self Government, Land and Settlement in the affirmative, will the Government be pleased to state the date by which the appointment will be made?"

THE HON. THE COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Government is unable to give any indication at present when an Indian member will be nominated to the Nairobi District Council.

THE HON. ISHER DASS : Arising out of my question, Your Excellency, I was informed "in due course". Does that mean this year or next year?

INDIAN VISITING JUSTICES.

No. 96.—THE HON. ISHER DASS asked :

"With reference to my question No. 39 of 1934 and the subsequent representations made by me to the hon. the Colonial Secretary with regard to appointment of Indian Visiting Justices for the Prisons in Nairobi, Mombasa, Kisumu and Nakuru, will the Government be pleased to inform the date by which the appointments are likely to be made?"

THE HON. THE COLONIAL SECRETARY : His Excellency the Governor has caused further inquiries to be made into the daily average number of Indian prisoners in the prisons at Nairobi, Mombasa, Kisumu and Nakuru, and has ascertained that, with the exception of Nairobi, the numbers are not such as to warrant the appointment of Indian Visiting Justices to any of them.

The case of Nairobi is fully met by the fact that Mr. Abdul Wahid, as a member of Executive Council, is already, *ex officio*, a Visiting Justice.

MOTION.

SELECT COMMITTEE ON COFFEE INDUSTRY BILL.

THE HON. THE ATTORNEY GENERAL : Your Excellency, I beg to move that the Report of the Select Committee appointed to consider and report upon the provisions of a Bill to consolidate the law relating to the advancement and control of the coffee industry be adopted.

As hon. Members are aware, this Bill was referred to a Select Committee during the last session of this Council. It was impossible for us to report during last session because on going into the Bill we found many matters which we had imagined to be settled anything but settled, and never mind whose fault it was, there certainly existed some disagreement—or misunderstanding is perhaps the better way of putting it—between the Board and the trade. We therefore adjourned our meetings for two months in the hope that the Board and the trade would be able to come together in some agreed measure. Unfortunately, on the Committee meeting again just before the present session, we found that this had been impossible of achievement as things are at present, and we therefore decided to recommend to Your Excellency and the House that no change be made in the personnel of the Board as it exists under the present Ordinance.

That has necessitated, as hon. Members will see, a great many amendments to the Bill which is before them. Actually, about 80 per cent of the amendments are merely putting the Bill back in *status quo*; as it was in the Ordinance we are seeking to repeal. In other words, the trade will still have two representatives on the Board; The other small amendments I might refer to shortly. The first deals with the definition of "export", by making provision for Tanganyika and Uganda. We then altered the word "person" to "person" correcting a typographical error, and in section 6 the words "in size" for the word "deep" which refers to the lettering to be put outside shops and places of business.

There is a slight tightening up in section 15. As it was pointed out, it might be possible under the Bill as drafted for a man to escape punishment for using the registered name or mark of another properly registered coffee planter. Another amendment also means that within two months of the coming into force of the Ordinance, every person dealing in coffee will have to register his mark, and until that is registered that man will be unable to put a mark on his bags of coffee or whatever it may be he wishes to mark. There is provision in section 16 with regard to offences by a corporate body, indicating who will be responsible, and the last amendment deals with the question of existing licences, making provision that they shall remain in force, even though issued under the old Ordinance, until the usual date of their expiration.

These are the only amendments, and although the Select Committee think it probable that in the near future it may be necessary to re-amend the Ordinance, possibly with regard to the Board, we do not think it right to hold the Bill up with the many important provisions it contains from section 3 onwards; just because we cannot reach agreement with regard to the personnel of the Board. We therefore recommend the Bill as it stands to this House with these amendments.

THE HON. THE TREASURER seconded.

HIS EXCELLENCY : The question is, that the report of the Select Committee on the Coffee Industry Bill be adopted.

THE HON. A. C. TANNAHILL : Your Excellency, I am very glad that the hon. mover has explained that this Bill is, in his opinion, and in the opinion of the Select Committee, merely brought in as a *modus vivendi* to carry us over a very difficult period when the coffee dealers and the coffee producers might meet together and arrive at a more satisfactory

modus vivendi. I found it myself extremely difficult on the Select Committee to decide what was the right action, because there are many points in the Bill, several points, which I do not think are quite right. And yet, when the two parties who are interested in this Bill—namely, the dealers and the producers—are to a certain extent not in agreement, although they are the interested parties, it seems a little difficult to "hutt in" and suggest alterations with which perhaps they are not in agreement.

Now, quite definitely this Bill is designed for the producers, and equally definitely the producers are entitled to have the Bill as they want it, but they introduced another party into the arrangement, namely the dealers, and while the dealers are included in this arrangement quite definitely they also have to come into agreement. As a producers' Bill, as I said before, they are entitled to do what they like with their coffee, and from the information that came before the Select Committee one of the things that they obviously contemplate is marketing and dealing in coffee. It is to a certain extent provided for in the Bill. That is one of the difficulties that first occurred to me. If a body is dealing in the markets, I feel rather strongly that Government should not be mixed up in market dealings, and I think the Coffee Board, when it has time to get down to these matters, should very seriously consider, as also should Government, whether Government members should be on a Board which is marketing.

Under the provisions which had to be inserted in this Bill, one point that of course arose was that directly the Bill came in force the whole of the Coffee Board ceased to exist and a new Coffee Board had, somehow or other, to be got together. This is done by clause 3 (c): "The first appointments 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." I do hope that before the hon. and learned Attorney General replies, the hon. the Director of Agriculture will state quite definitely how he proposed to arrive at the recommendations which he is ultimately going to put forward to Your Excellency. I myself think that in regard to the coffee dealers he should make particular inquiry from the Coffee Trade Association of Kenya, recently formed and in full working order, and fully recognized by the existing Coffee Board.

Another point about which I was a little diffident but concerning which I was assured by the coffee producers that they considered it was right, is whether the Director of Agriculture is the right person to be the registrar. It seems to me, from a business point of view, that probably the right

person is some paid servant of the Coffee Board. I think that the Coffee Board would be well advised to consider that question.

Lastly, one very small point which deals with bilingualism. Section 5 of the Bill lays down that the register in which a dealer records his sales shall be kept in English or Kiswahili. I should imagine that every member of this House always looks a little distastefully on records being kept in more than one language. In regard to Kiswahili, the register is presumably to be a printed form. Its first column will doubtless be for the date, the second for the name of the purchaser, the third the address of the purchaser, and the last column will state in francs, pounds or hundredweights the amount of coffee sold. It is an absolute fact, Sir, that an Englishman filing in the register would write the date, the 13th of December, 1934, sold to John Brown, of Box 268, Nairobi, 1 cwt.; and the Swahili would use exactly the same words. Therefore I do suggest it is worthy of consideration whether it is necessary to introduce bilingualism into an Ordinance when obviously it does not serve any useful purpose.

I should like to conclude, Sir, by saying that I support the Bill, but quite definitely I agree with the hon. and learned Attorney General that I believe it is a Bill brought in to carry over a very difficult period and that shortly we shall see some amendments introduced.

THE HON. J. B. PANDEY: Your Excellency, I wish to say a few words in regard to the last point made by the hon. Member for Nairobi South. That is, with reference to keeping the register in two languages. I suggest that Gujarati should be added, but I think the hon. Member has slightly misunderstood the matter as it appears to me. He considers that the register will be a printed form. I do not think that this register is a return that must be made to Government, but a register in which a coffee trader is supposed to keep all the details of his transactions every day. That being so, it is a very good case for allowing dealers to keep their registers in their own language. I do feel, Sir, that while no doubt in this country many people do understand the English language, the people who deal in this kind of trade, particularly *bunt*, do not know it, and it would be of great assistance from the traders' point of view to allow them to keep their registers in their own language.

THE HON. CONWAY HARVEY: Your Excellency, as a member of this Select Committee, I have no intention whatsoever of making the slightest attempt to allocate blame to

anybody for the very long delay that has arisen in connection with arriving at our report. I think that on the whole it will be generally admitted a reasonably sound solution of a somewhat difficult problem has been arrived at, and I think that under all the circumstances, we were well advised to revert to the *status quo* so far as the personnel of the Board is concerned. I am, however, very glad indeed that we have at last succeeded in achieving on all other points almost completely unanimously which will enable us to correct a few anomalies in the existing law as it stands to-day and improve it in one or two small respects.

The main point of difficulty that has arisen has been a challenge to the effect that members of the Coffee Board should not embark on the very complicated matter of marketing their produce. I have no intention of occupying an inordinate amount of your time, Sir, in discussing this particular matter, but I wish to make it quite clear that the Board was primarily established to do everything they could think of in reason for the benefit of the coffee industry with which they are so closely identified, and, in reply to one point made by the hon. Member for Nairobi South, they never at any time contemplated the direct marketing of coffee. But, Sir, you will appreciate the paramount importance of a Board such as this doing everything it can to secure the best price to the planter for his produce.

A striking illustration of the need for improved marketing facilities has occurred in Nairobi during the last few days. A firm of merchant bankers received consignments of coffee from four planters—A, B, C and D. A and B had secured advances from the merchant bankers; C and D had not. The merchant bankers bulked the coffee, and secured an advance from the bank on the bulk consignment, thus pledging the planters C and D. A few days later they went into liquidation. Now, Sir, C and D are in a very difficult position obviously, and God alone knows what will be left for them when they have succeeded in paying the bills involved by legal investigations. And we all know how the predatory profession can pile up a bill of costs and you all know. "If you go to the Advocate Schwartz your money and you will part, Sir!" I therefore suggest it is not altogether unreasonable that planters should identify themselves with the important matter of marketing so long as they do it decently and honourably and in no way impinge on the legitimate functions of those engaged in similar work. I feel there is plenty of room for the maximum co-operation in this matter; and I feel certain that that essential co-operation will not fail to be forthcoming.

I should, Sir, like to support what the hon. Member for Nairobi South said in regard to the nominated personnel of the Board about to be established, and I feel quite sure the Director of Agriculture will use his discretion and consult the interests who are to be represented in this body before making recommendations to Your Excellency for the names of gentlemen to be so nominated. Dealing with another point, the Director is quite the right person to be the Registrar of Brands and anything else under the Ordinance. This matter was fully discussed at the time of the passage of the original Ordinance, one reason being that he must inevitably be brought into very close contact in administering the Ordinance with the Board and other Government departments; we felt that for the time being anyhow, as Government has such a very deep interest in this matter and other Government departments are involved, it might be better for such a register to be housed in another Government department.

On the subject of bilingualism, again I should like to mention the fact that it was very fully debated in this House when the original Ordinance was passed, and there was a very definite reason given for allowing traders to keep these records in Swahili—in the interests of the coffee planters and native traders. The majority of such people who will be required to keep records are those who come down from the north and purchase *buni*, which is dried cherry coffee, from Nyeri and Thika planters, and sometimes as far as Kiambu, and it would be a great hardship on the natives to be compelled to keep records in a language they do not understand, which might prejudice the sales of coffee by European planters at a time when it is in the interests of all of us to do everything reasonably possible to secure for them the maximum return. I sincerely trust the Report will be unanimously accepted in the form in which it is presented to this House.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I can readily give the assurance asked by the hon. Members for Nairobi South and Nyanza. Before recommending the appointment of members of the Board, I propose to consult the interests concerned, and in the case of the two members representing the trade I propose to consult the Coffee Trade Association of Kenya.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I feel that the points raised in debate have already been dealt with. The only point outstanding of importance is that of bilingualism, which I think can be answered in a few words. It exists in the present Ordinance, it has worked extremely well, and the Committee saw no reason for making any change.

The question was put and carried.

BILL.

THIRD READING.

COFFEE INDUSTRY BILL.

THE HON. THE ATTORNEY GENERAL moved that the Coffee Industry Bill be read a third time and passed.

THE HON. CONWAY HARVEY seconded.

The question was put and carried.

The Bill was read the third time and passed.

MOTION.

SELECT COMMITTEE REPORT ON INTERPRETATION (DEFINITION OF "NATIVE") BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee appointed to consider and report upon the provisions of a Bill to amend and define in more precise terms the definition of the expression "native" be adopted.

This Committee, Sir, met after the second reading of this Bill in order to meet the experts who were to give their opinion with regard to such details of the Bill as the meaning of the word "Amhara". As hon. Members are aware, the point there made was that the word "Amhara" might give a wrong impression in appearing as it does in brackets after the word "Abyssinian" in clause 2 (a) of the Bill, and after listening to all the arguments on both sides the amendment which is before the House was made, namely, that in addition to the word "Amhara" the words "Tigre and Shoa" should be added. I think for the information of the rest of the House, who may have been as ignorant as myself of the exact meaning of those words, I should explain that these three names indicate the three ruling tribes of Abyssinia and do not indicate the whole of the Abyssinian race. It would therefore be quite true to say when referring to Abyssinians that there were many Abyssinians who did not belong to any of these three tribes. But it is also abundantly clear that it is only these predominating tribes who live in those three places mentioned that should be granted the privilege of being known in this country as non-natives. I think to the uninitiated that was the net result of the arguments which were put before us, and the amendment which has been made will achieve that object.

The next amendment was made to clause 6 on the representations of the Labour Department. It is entirely their business to administer the Native Registration Ordinance as you all know, and they pointed out that there might be

difficulties if we made it necessary for the Governor in Council by proclamation to declare tribes to be natives from time to time and that they were quite happy with the definition of the word "native" as it appeared in the Bill. We therefore deleted from the Bill clause 6 with the necessary renumbering of the remaining clauses.

The point was taken by the hon. Elected Member representing Arab interests that the words "Mohammedan subordinate court" which occur in the present section 8 of the Bill were a misnomer. He said Mohammedan indicated a religious sect rather than the sect which was obligated to be presided over in the subordinate courts and we accepted in the place of the word "Mohammedan" the word "Muslim".

We then made a new section 9 with the provision for the Supreme Court to make rules prescribing the procedure to be followed and the fees to be paid in respect of the applications which would be made under paragraph (b) of section 9, which hon. Members on reference will see is the section which deals with a person who makes application to a court to be declared to be a non-native.

All the other amendments, Sir, refer to the Schedule and only to the last four items of the Schedule. These items were gone through very carefully and the amendments we think are necessary are such amendments as to bring under the Arab Courts at the Coast, for instance, Comoro Islanders and Malagasies.

Subject to these amendments and subject to the amendments of which I have given notice, I beg to move the adoption of the Report. These latter amendments were circulated to members to-day, and I should explain to the House that they came in, after the Committee had submitted their report, from the hon. Arab Elected Member for the Coast. They are perfectly reasonable and only deal with Arab courts, and I understand they are agreed to by the Select Committee. There is very little except that it does bring in the Comoro Islander and the Malagasy where he desires into the purview of the Arab courts at the Coast. Subject to those I beg to move the adoption of the Report.

THE HON. THE TREASURER: I beg to second.

HIS EXCELLENCY: The question is, that the Select Committee Report on the Interpretation (Definition of "Native") Bill be adopted.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, as a member of the Select Committee appointed to examine the provisions of this Bill, I naturally rise to support it.

I want to make it clear to this House that the reason why I am a signatory to the report on this Bill as regards the definition of the word "Abyssinian" is because I do not want any misunderstanding as regards my attitude to arise thereover in the future.

Now the original word that was put in brackets after the word "Abyssinian" was "Amhara" and the Select Committee, after hearing the evidence of the expert brought there by the Government, agreed to include the words "Tigre and Shoa" with the word "Amhara"; and with that definition of course I am in agreement, but it does not in itself in particular go quite far enough for me, and the reason why I agreed to sign this document was because we on this side of the House, equally with those on the other side of the House, are firmly convinced that it is necessary to have a Bill more precisely defining the definition of the word "native" for the purposes of law and order and other things. But the definition of the word "Abyssinian" includes various tribes that from time to time have been conquered by these three ruling races and if you will remember when we were dealing with the Carter Commission Report, one of the points which were made and to which all Elected Members subscribed, was that Marsabit had been occupied by alien tribes, that is to say, Abyssinians, and if I may be allowed to quote what I said on that subject, it was:—

"It goes on to say without any attempt at justification or explanation that Marsabit has since been occupied by other tribes and therefore is forfeit to Samburu. But why? Who are these other tribes, whence did they come, by what right do they usurp Samburu territory? Are they even inhabitants of Kenya, are they not Abyssinian by origin?"

Now I want it to be clearly understood by this House that my signature to the Select Committee report is qualified by that, because we have every hope that in the future the Leroghi Plateau will be occupied by a small and happy collection of white homesteads. And nothing I can do or say beyond the signing of this report which is subject to the qualification I have mentioned can in any sense imply a change of opinion on that.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I am glad this matter has at last been settled and I trust finally. It will not, however, I know meet with the approval of all those concerned, but at the same time those people must realize that it is beyond the power of this Council to make nationalities. If they have a claim to be something that people say they are not; they have now the

opportunity under paragraph (b) of section 3 of appearing before a magistrate of the subordinate court and proving their nationality, which I hope they may succeed in doing.

HIS EXCELLENCY: If no other hon. Member wishes to speak I will put the question.

The question was put and carried.

BILL.

THIRD READING.

INTERPRETATION (DEFINITION OF "NATIVE") BILL.

THE HON. THE ATTORNEY (GENERAL): Your Excellency, I beg to move that the Bill to amend and define in more precise terms the definition of the expression "native" be read a third time and passed.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

ASIAN LOCAL CIVIL SERVICE.

REPORT OF THE CIVIL SERVICE BOARD ON PROPOSED TERMS AND CONDITIONS.

THE HON. H. G. PILLING: Your Excellency, I beg to move the motion standing in my name:

"That the Report of the Civil Service Board on proposed terms and conditions for an Asian Local Civil Service be approved, subject to the substitution in Recommendation 10 of eighteen days for fourteen days as the period of local leave to be granted."

Hon. Members of this House will recall that early in this year in May in the course of the debate on the motion on Sessional Paper No. 1 of 1934, relating to the establishment of the European Local Civil Service, the hon. the Colonial Secretary informed the House that it was Government's intention, so soon as details of that Service had been disposed of, to provide suitable terms of service for an Asian Civil Service. That undertaking is now being given effect to in the motion before the House to-day.

I do not wish to take up the time of the House unduly, but it may present a clearer picture of the matter now under consideration if I outline briefly the steps leading up to the present Report.

In the year 1931 the Committee now known as the Fitzgerald Committee, appointed to examine the present terms

and conditions attached to European appointments in the Kenya Civil Service, added a rider to its Report as follows:—

"As a rider to this Report, the Committee wish to state that the conclusions which they have reached in regard to the possibility of establishing a Local Service for Europeans on revised conditions point to the necessity for prosecuting an inquiry on similar lines into the terms and conditions on which Asian Civil Servants are employed. The Committee consider that these should be examined without delay with the object of attuning them to conditions as they exist in the Colony to-day."

As hon. Members are aware, the Fitzgerald Committee was followed by the Merrick Committee with terms of reference as follows:—

"To examine, to report upon, to schedule posts and to draft Regulations, having regard to the principles laid down by Executive Council at its meeting of the 7th January, 1933, for the inauguration of—

- (a) a Local European Service; and
- (b) a Local Asiatic Service

applicable to Government servants not employed by the Kenya and Uganda Railways and Harbours Services."

This Committee submitted their recommendations regarding the formation of a European Local Civil Service, but before they could produce their Report on the Asian Service Mr. Merrick was transferred to Uganda and Mr. Biss succeeded him as Chairman. The personnel, too, of the Committee was modified by the addition of two Asian officers as representing the Asian Civil Servants, and there was also one change in the personnel by the appointment of Colonel E. M. Ley rice Major Cavendish-Bentinck who was no longer able to serve.

That Committee reported in November, 1933, and their Report is known for facility of reference as the "Biss Report", although its full title is the "Report of the Local Asiatic Civil Service Committee". This Report was circularized to all heads of departments and their views were collated and laid before Executive Council, and Council thereupon advised that this Report should be referred to the *ad hoc* Civil Service Board appointed to consider the Report of the Local European Civil Service Committee, with the same terms of reference exactly except the substitution of the word "Asiatic" for "European" wherever it occurred. The Executive Council also advised that the personnel of the *ad hoc* Civil Service Board should be increased by the addition of an Asian member. The Report now before the House to-day is the outcome of the labours of this Board. If hon. Members will turn to

the Report itself they will find in paragraph 4 of the Report that the Board have indicated the principle which guided them in arriving at their recommendations, viz. that as between Europeans and Asians a fair and reasonable relationship, based generally on existing conditions, should be maintained in any new terms and conditions to be introduced.

Your Excellency, I will now take *seriatim* the terms of reference to the Board and endeavour to indicate in what respect these recommendations differ from those of the Biss Committee, and also at the same time to show how the terms and conditions now proposed for adoption for the new Asiatic Service compare with the existing conditions of service for Asian Civil Servants at present.

Speaking broadly, it may be said that the Board endorse the main principles laid down by the Committee and that the points of difference are of a minor character.

"Terms of Reference No. 1" is in regard to the posts to be included in the Local Civil Service. The Board recommends that certain posts should be deleted from the list of posts scheduled by the Committee. Hon. Members will, I am sure, agree that it is more convenient and economical to obtain the services of carpenters, tailors, and blacksmiths at current market rates than to appoint individual craftsmen to be members of the Civil Service. They have also recommended the addition of two posts of agricultural assistant and sub-draftsman. The omissions require a little explanation because they seem obviously posts which should be included in the Service. The explanation is a simple one and it is that those posts were not in existence when the Committee sat.

"Terms of Reference No. 2 (Salary Scales)"—The Service will consist of three classes:—Learners, Clerical, and Non-Clerical. Appendices I and II of the Report show how the proposed salaries in the case of the clerical staff compare with those recommended by the Biss Committee and, in the case of the non-clerical posts, with existing salaries, I do not propose to take up the time of the House by referring to the various differences which occur here and there. These appendices speak for themselves but it might assist hon. Members to appreciate the effect of the proposals if I indicate briefly how the salaries proposed in Column II of Appendix I compare with the salaries paid at present.

Leaving aside for the moment the Special Grade posts, the Asian clerical staff is now in four grades:—

- 4th grade salary £90 by £4/10 to £120.
- 3rd grade salary £126 by £6 to £162.
- 2nd grade salary £168 by £9 to £210.
- 1st grade salary £228 by £12 to £300.

It will thus be seen that the minimum salary under the new proposals will be the same, viz. £90 per annum, but that grades 4, 3 and 2 have been combined to form Grade II with a maximum salary of £240, as compared with the existing maximum of £216. This maximum is more favourable than the grades-to-day in so far as an officer may reasonably expect to reach it after sixteen years' service, provided of course he is competent to pass the efficiency examination at the end of his seventh year of service. The qualifying examination to pass this efficiency bar covers the actual duties performed by the officer and should present no difficulty whatever to an officer of average ability and application, qualifications which, of course, Government has a right to expect. The incremental scales in the new scales are definitely more favourable to officers than those ruling at present.

For Grade I the same maximum salary of £300 per annum has been retained as at present.

In addition to these two grades, provision has also been made for a limited number of Special Grade clerks. The new proposals provide for a commencing salary scale of £418 to £418 to £372 by £18 to £408, with an efficiency bar at £372. The maximum salary for these posts at present is £360.

The opportunity has been taken to regularize the conditions of entry into the Service. At the present time, youths of school-leaving age are taken into the Service as vacancies occur, at a commencing salary of £48 per annum in most cases. The qualifications which these entrants are now required to possess are those laid down in the Report for entry into Grade II of the Learner Class. A subordinate grade has also been created to meet the requirements of the more technical departments in regard to apprentices. The maximum age of entry into this grade is fifteen years, and no special standard of academic qualification is insisted upon.

"Terms of Reference No. 3 (Conditions of Transfer for Serving Officers)."—There is really very little for me to say on this because with one exception the principles laid down and approved by this House in the case of the European Local Civil Service have been adopted in the present Report. That is, that:—

"Officers on transfer should not be put in a generally less advantageous position than that in which they stand at present."

I propose therefore to refer only to that point of difference. In the case of the European Service, locally engaged officers of less than six years continuous service as at the 1st of January, 1933, are required to accept the new terms of service if they wish to continue in employment. The Board have

recommended that in the case of Asians the period of continuous service should be eight years, a difference of two years between the period of service within which an officer qualifies or otherwise for compulsory transfer into the new service. The reason for this difference is that in both cases, the normal period of two tours of service has been taken as the determining factor, the normal tour of a European being three years and of an Asian four years.

If I might digress for a moment, I should like to explain to the hon. Elected Indian Members that, following the principle for the European Local Civil Service, the recommendations in the Report do not affect officers who have already acquired pensionable status, unless they voluntarily elect to transfer to the Asian Local Civil Service. In this connection I desire to invite the attention of honourable Members to paragraph 8 (5) on page 5 of the Report which reads:

"If a pensionable officer is promoted to a post included in the Local Service, such officer should retain his pension rights as personal to himself."

It is the intention of Government to treat Asian officers holding pensionable status who are selected for promotion to posts in the new Service in the same manner as their European colleagues who may be similarly situated in the European Local Civil Service. What this treatment will be was laid down in Sessional Paper No. 1 of 1934 which received the approval of the House. I will quote the relative extract:—

"In the event of officers at present serving on a pensionable basis being selected for promotion to posts scheduled for inclusion in the European Local Civil Service, corresponding to posts at present carrying pensionable status, they will, on promotion, retain their pensionable rights and other privileges at present attached to their service, and as an arrangement personal to themselves enter the salary scale laid down under the existing regulations for the pensionable office in question."

Of the clerical and learner staff now serving, only 107 out of a total of 860 will be affected by the new terms of service and these are officers who are serving on purely temporary agreements. Of the officers other than clerks, approximately 150 out of 890 will be required to transfer compulsorily to the new Service. In their case also no possible hardship will be done since under the terms of the agreements under which they are now serving, or in view of the nature of the posts which they are now occupying, they would have little or no prospect of ever attaining pensionable status under the existing conditions. In fact, the introduction of the Asian Civil Service will greatly benefit those officers, since they will

be afforded an opportunity of contributing to the Provident Fund which forms an integral part of the Asian Civil Service. I have given this explanation in order to remove any suspicion that the adoption of this Report will be to the detriment of any officers at present in Government employment.

"Terms of Reference No. 4."—This is divided into a number of sub-sections. In dealing with the creation of the Learner Grades, I have already referred to the "Conditions of Entry" recommended by the Board and it is therefore unnecessary for me to traverse the same ground again. I should, however, mention that it will not be necessary in all cases that candidates should pass through the Learner Grade. The Board has recommended that direct entry into Grade I should be permitted, but only in exceptional circumstances and when the candidate possesses the necessary qualifications, or the equivalent, for passing the efficiency bar at the £140 stop.

The next is the question of leave. Honourable Members will observe that it is only in connection with the Board's recommendations regarding leave conditions that Government has thought it desirable to make any amendment to the Report and that is the substitution of eighteen days for the fourteen days local leave. I may inform honourable Members that the existing Leave Regulations provide for a tour of forty-eight months in the case of permanent and pensionable officers who have served continuously for eleven years or more, while for such staff who have not completed eleven years continuous service the tour is sixty months. In both cases the leave granted is at the rate of two and a half days per month for each completed month of service and the time spent on the voyage is additional.

For the temporary non-clerical officers the tour is sixty months irrespective of the length of service, and the leave period is six months on half pay at the end of this time. Also again additional leave is granted in respect of the time spent on the voyage.

The Biss Committee recommended that twenty-four days leave should be granted annually, of which seventeen might be accumulated. That is to say, there would be seven days local leave and seventeen days vacation leave, which could be accumulated up to a period of four months. The Civil Service Board recommended for the reasons given in the note on page 8 of the Report, the grant of fourteen days local leave and twenty-two days vacation leave. The motion now before the House provides for giving still more favourable terms by the substitution of eighteen days for fourteen days local leave, making the period of local leave for Asians the

same as for the European Local Civil Service. Vacation leave has been retained at the twenty-two days recommended by the Board.

The Board's proposals also contemplate the grant to officers of one-sixth of the cost of a return passage to India for each year of residential service, and a family passage allowance of £8/10 each way once during each period of six years.

The revised conditions are admittedly not so favourable as those existing at present, but having regard to all the circumstances they are undoubtedly reasonably generous. I have already said that the Report affects only a small proportion of officers now in the Service, and those who are not affected will remain under the same terms of service. The new conditions will, however, apply to all future entrants into the Government Service. The great majority of these new entrants will be local youths. For many years past recruitment from India has practically ceased. To-day, the only officers engaged from India are for posts which require technical qualifications. At present, the number of these engagements does not exceed one or two a year. In a few years, therefore, the Asian Civil Service will be almost wholly composed of Kenyan Asians. They will be able, under the proposed leave and passage regulations, to pay a visit to India once every six years and to spend there a holiday of 124 days on full pay. In order to meet possible criticism, that the Report provides for a tour by Asians of six years instead of the present tour of five years I wish to state categorically that this is not so. In future, there will be no such thing as a "tour" as it is now understood. Subject, of course, to the exigencies of the Service, officers will be able to take leave after whatever period of years of service they wish. They will not of course be eligible to receive the full cost of a return passage but only a proportionate amount, according to the number of years actually served.

I now turn to the question of "Quarters". The principles approved for adoption in the European Local Civil Service have also been incorporated in their recommendations. Those officers who by their agreements or existing terms of service are entitled to free quarters or allowance in lieu, will continue to be given free quarters or to receive a personal consolidated allowance. Those officers who are not now entitled to quarters or allowance and new entrants into the Service, will not be given these privileges, and if they occupy Government quarters they will be required to pay rent for them based on percentages of their new salaries. The percentages are those fixed in the case of the European Civil Servants under similar conditions. Those on temporary agreements, if they

cannot be provided with quarters, will be given a consolidated allowance of £21 per annum.

The other matters covered by this term of reference can be dealt with speedily.

Medical Attendance.—This will be free to officers and their families as in the European Local Civil Service.

Travelling and Motor Allowances.—Also the same as in the case of the European Local Civil Service. The Asiatic Civil Servants will be granted allowances at the rates prescribed by general regulations applied to all members of the Service.

Acting Allowances.—The Report endorses the Biss Committee's recommendation that no acting allowances should be paid.

Letters of Appointment and Discipline. are the same again as for the European Service. They will receive letters of appointment clearly setting out terms and they will be subject in matters of discipline to the Governor.

Age of Retirement.—Officers in the Asian Civil Service may retire or be retired at the age of fifty and may not in any case remain in the Service after reaching fifty-five years of age. Opinion will doubtless differ on whether this earlier age of retirement is more or less favourable than those laid down for the European Civil Service, both overseas and local, where the age of voluntary retirement is not reached until fifty-five years.

Provident Fund.—In Appendix III of the Report is a draft Bill to provide for the establishment of a Provident Fund. I do not propose to refer to the principles or details of the Bill—which has been circulated—since they will be fully dealt with by my honourable and learned friend the Attorney General who will shortly introduce a Bill and will explain the principles and details of that Bill.

Your Excellency, if I have taken up too much of the time of the House by too much attention to details, my excuse is that I have to the best of my ability endeavoured to show that the Board have, in their recommendations for the Asian Civil Servants, maintained a fair and reasonable relationship, based generally on existing conditions, as between Europeans and Asians.

Your Excellency, I beg to move.

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

Council adjourned for the usual interval.

On resuming.

HIS EXCELLENCY: The question is, that the report of the Civil Service Board on the Asian Local Civil Service be adopted.

THE HON. J. B. PASNYA: Your Excellency, I do not wish to take the time of the House by repeating the arguments I had advanced at the time the European Local Civil Service Scheme was before this House. I, however, still maintain the principle that it is wrong to divide the Local Civil Service into racial groups. The basic principle for recruitment of public services in any country and more so in a colony with mixed communities like Kenya, should be cheapness combined with efficiency. But in this country we find that artificial barriers based on race and colour have been created as a result of which we have now three distinct branches of service, namely: European, Asian and African, each one receiving a graduated scale of salary not based on its merits or efficiency by any examination or test common to all but in terms of race to which they belong.

The first thing which strikes any one when he examines European and Asian schemes is the glaring difference in the opportunities provided to rise to the higher posts in the Service. In the case of Europeans an ordinary clerk in any department can in course of time expect to rise to be head of the department but, as far as Asians are concerned they are supposed to remain subordinates and clerks. However bright an Asian may be, and whatever his intelligence and ability, he could not possibly rise to anything beyond a mere clerkship. With in my own personal knowledge there are a number of Asian officers who could fill any position of responsibility with credit and efficiency, but on account of racial barriers against them they have no chance to go forward.

Now, Sir, this humiliation based on race and colour is very galling to the self-respecting Indian race in this country. I do not understand why it should be taken for granted, as appears to be the case in this scheme, that no Indian of education and ability is capable of filling a post of officer's grade in these Services. We have to-day in the country fine, intelligent young men who are educated in our schools, and some of them go to England for higher education. Can any one say, with fairness that whatever examinations they pass or whatever qualifications they possess, whatever standard of capacity and character they may have, they should not be given an opportunity to rise to officer's grade in their own country? I use the words "their country" advisedly, because I assert that we who are here in this country have adopted this country as our home and it is much more so for those

who are born and educated in this country and for whom this Local Service is intended. I could understand even examinations in England as a basis of qualification in order to get a right type of man for officer's grade, but this permanent stigma of inferiority could not be allowed to pass without a protest in this House.

In this connection it is ridiculous to suggest that we cannot get a right type of man in this country. If in India there are men who have risen to posts of trust and the greatest responsibility under the Crown such as Governors, Ministers, Chief Justices of the High Court, heads of departments, and to posts carrying very great responsibilities, it is insulting to suggest that no Indian can be found in this country capable of filling an officer's post even in the Local Civil Service. If a race is capable of producing leaders of men fit to occupy the highest posts in the Empire, it is equally capable of producing such men in all places. But even if it is contended that local Indians have not sufficient education or experience, I contend that it is only practical training which makes a man fit for such posts. Mr. Lionel Curtis in his book "The Problem of Commonwealth" writes:—

"In the first place exercise of responsibility tends to increase fitness for exercising it, as everyone finds in his own experience, it is in having to do things that a man learns how to do them and develop a sense of duty in regard to them."

These are words of experience and wisdom. The hon. the member mentioned that the guiding principle in regard to this scheme has been to maintain a fair and reasonable relationship between the European and Asian services. If this principle had been incorporated in the Asian scheme, they would have provided certain posts of officers' grade carrying a higher salary which should have been kept open to competition to everyone without distinction of race or colour. But, Sir, we do not find that.

In regard to the Local Civil Service, the Rt. Hon. Sir Phillip Cunliffe-Lister, Secretary of State for the Colonies, in his interview with the Indian elected Members on 14th February, 1934, is reported to have said:—

"So far as the local services are concerned I am entirely prepared to leave these matters in the hands of the local government knowing that they will pursue one consideration only and that is, the interest of the country and the efficiency of the service with which they are charged."

When the Secretary of State said this he had clearly at the back of his mind these Local Services, because he made it

quite clear in his interview that he was not prepared to consider any change in the Colonial Overseas Services. He said:

"I must say that so far as the senior posts outside the Local Civil Service are concerned, that is a matter which I cannot let out of my control and I have no intention of changing the basis of the great administration service of the Colonial Empire upon which indeed the whole of its justice, its administration, and its material prosperity depend."

This shows that the Secretary of State for the Colonies wishes to treat these two Services entirely separately, and therefore I could not see any justification for Government to deny the Indians any opportunity to rise to higher posts in the Local Service of the country.

With regard to the question of the interests of the country which the Government is supposed to have at heart, during the debate when the European Local Civil Service Scheme was before us in May last, I gave certain figures which indicated that if this differentiation was done away with the country could save a sum of not less than £100,000 per annum, and this could have been done in the last few years. In these days of stress and financial difficulty this amount is not a negligible one. The question of services revolves around our capacity to afford such services. All of us like to employ in our households the servants of our own race, but we do not do so in this country because we could not afford them, and we have to be satisfied with less efficient but less costly native services. In the same way the interests of the country demand cheap and efficient services, and it is not in dispute that Asians have been found efficient as well as cheap.

The whole issue of revising the present terms for both Europeans and Asians was raised on the ground of economy and that the financial position of the country did not justify rates of salaries and other privileges which may have been justifiable in more prosperous times. In revising the scheme for Asians, the Civil Service Board appear to have been guided by the principle of maintaining a fair and reasonable relationship based generally on the existing terms between Europeans and Asians, but the point I wish to make is that the Board seems to have entirely forgotten that the scales of salaries approved for both Europeans and Asians in 1930 were reduced drastically in 1923 in so far as the Asians were concerned but the salaries of the Europeans were substantially increased in 1926.

The hon. Attorney General is reported to have said in the budget debate that I had suggested in my speech in that debate a cut of 33 per cent in the salaries of Civil Servants. I should like to take this opportunity to say most definitely that I

never suggested such a thing in my speech. What I said was entirely different. I do not wish to speak at length on this point in this debate because I shall have the opportunity to deal with that and other points at the time the motion for adoption of the Report of the Standing Finance Committee comes before this House. But I mention this point here to emphasize that such a suggestion could not have come from me, because in regard to Asian Civil Servants I am aware of the fact that their salaries have already been reduced since 1923 to such an extent that they could not stand any more reduction. In support of this I will now give comparative scales of Europeans and Asians for 1920, those in force at present and new ones as now proposed for clerical services:—

A. EUROPEANS

Grado	1920	1926 or present	New ones as approved
"C"		£180-20-240-18-300	£160-15-210-240-20-420
"B"	£250-15-400	£300-18-300	
"A"		£300-18-480-20-500	£440-20-520-10-000
Special	£400-20-500		£220-10-000

B. ASIANS

Grado	1920	1923 or present	Now as suggested
IV	£90-9-144	£90-11-120	£90-8-140-12-230-
III	£150-12-216	£120-9-162	10-240
II	£228-18-306	£108-9-216	
I	£312	£228-12-300	£258-12-300
Special	£420	£300	£318-18-372-18-408

It is clear from this that while the European branch of the Service received substantial increases at every revision, the Asian branch seems to have got the reductions. It will be observed that Asian service for all practical purposes has been treated at par with local conditions for a long time, and no further adjustments are therefore possible without inflicting hardship. The present Asian scales are not higher even in comparison to services outside Government. At present an Asian official if he passes the prescribed examination is eligible, and practically every one does, on completion of one year's service he immediately rises to £120. In the new scale it will take him over five years to reach that figure.

The hon. member made a point that the grade of rising to £340 compared very favourably with the old conditions, but he omitted, or forgot, to mention that at present the

scale for clerical services is a long grade rising from £90 to £300 with an efficiency bar at certain stages. The new scale provides for rises up to £340 and that is the only normal rise a clerk is supposed to go to. First grade and special posts are provided, but they are so few that in many instances clerks would not, I am sure rise to any higher than £240.

Now let us examine what is the result of the desire on the part of the Civil Service Board to maintain parity on the basis of existing terms between the Europeans and Asians. I now quote the scales affecting various posts:—

NON-CLERICAL SERVICES

A. EUROPEANS

Post	Present Scales	New Scales as Approved
Foresters	£200-18-300-18-480-20-500	£260-20-480-20-540
Asst. Inspectors of Police	£200-18-372	£260-20-420
Laboratory Assistants	£254-18-390-18-480-20-500	£300-20-480-20-540
Dispensers	£300-18-300	£360-20-480-20-540
Examining Officers (Customs)	£300-18-390-18-480-20-500	£360-20-480-20-540
Asst. Accountants, P.W.D.	£426-18-480-20-600	£600-20-600
Draughtsmen, P.W.D.	£480-20-600	£300-20-660
Asst. Surplts., Prisons	£300-18-354-18-390-18-480-20-500	£360-20-480-20-540
Librarian (Agriculture)	£300-18-390	£360-20-480-20-540

D. ASIANS

Post	Present Scales	New Ones as Suggested
Asst. Foresters	£120-12-240	£106-8-138 and £146-12-230
2nd Grade Asst. Sub-Inspectors of Police	£150 fixed	£106-8-130
Sub-Foreman, P.W.D.	£108-9-216 and £228-12-300	£146-12-230
Issuer of Medical Stores	£228-12-300	£146-12-230-10-240
Sub-Draughtsmen (Survey)	£228-12-300	£146-12-230-10-240-12-300
Sub-Draughtsmen (Survey)	£228-12-300	£146-12-230-10-240-12-300

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A. EUROPEANS

Grade	1920	1920 or present	New ones as approved
" C "	£250-15-400	£180-20-240-18-300	£150-15-210-240-20-420
" B "			
" A "			
Special	£400-20-300	£300-18-480-20-600	£440-20-620-10-000 £320-10-080

B. ASIANS

Grade	1920	1923 or present	Now as suggested
IV	£90-0-144	£90-0-120	£90-8-140-12-230-10-240
III	£150-12-210	£150-0-192	
II	£228-18-300	£108-0-216	£252-12-300 £318-18-372-18-408
I	£312	£228-18-300	
Special	£420	£360	

It is clear from this that while the European branch of the Service received substantial increases at every revision, the Asian branch seems to have got the reductions. It will be observed that Asian service for all practical purposes has been treated at par with local conditions for a long time, and no further adjustments are therefore possible without inflicting hardship. The present Asian scales are not higher even in comparison to services outside Government. At present an Asian official if he passes the prescribed examination is eligible, and practically every one does, on completion of one year's service he immediately rises to £126. In the new scale it will take him over five years to reach that figure.

The hon. member made a point that the grade of rising to £240 compared very favourably with the old conditions, but he omitted, or forgot, to mention that at present the

scale for clerical services is a long grade rising from £90 to £300 with an efficiency bar at certain stages. The new scale provides for rises up to £240 and that is the only normal rise a clerk is supposed to go to. First grade and special posts are provided, but they are so few that in many instances clerks would not, I am sure rise to any higher than £240.

Now let us examine what is the result of the desire on the part of the Civil Service Board to maintain parity on the basis of existing terms between the Europeans and Asians. I now quote the scales affecting various posts:—

NON-CLERICAL SERVICES

A. EUROPEANS

Post	Present Scales	New Scales as Approved
Forsters	£300-18-390-18-480-20-600	£200-20-480-20-540
Asst. Inspectors of Police	£300-18-372	£360-20-420
Laboratory Assistants	£354-18-390-18-480-20-600	£260-20-480-30-540
Dispensers	£300-18-390	£360-20-480-20-540
Examining Officers (Customs)	£300-18-390-18-480-20-600	£380-20-480-20-540
Asst. Accountants, P.W.D.	£428-18-480-20-600	£600-20-660
Draughtsmen, P.W.D.	£480-20-600	£600-20-660
Asst. Supts., Prisons	£300-18-354-18-390-18-480-20-600	£360-20-480-20-540
Librarian (Agriculture)	£300-18-390	£360-20-480-20-540

B. ASIANS

Post	Present Scales	New Ones as Suggested
Asst. Forsters	£120-12-240	£100-8-138 and £140-12-230
2nd Grade Asst. Sub-Inspectors of Police Sub-Foreman, P.W.D.	£160 fixed £108-0-216 and £228-12-300	£108-8-130 £148-12-230
Issuer of Medical Stores Sub-Draughtsmen (Survey)	£228-12-300	£140-12-230-10-240-12-300
Sub-Draughtsmen (Survey)	£228-12-300	£140-12-230-10-240-12-300

One can see at a glance that the European servants have a substantial increase in their emoluments, whereas those of the Asians have been lowered. It was supposed the new terms would save the country a 15 per cent in the form of house allowance and a further 5 per cent in the form of contributions towards the provident fund schemes. From the figures I have quoted in respect of the clerical services it is sufficiently demonstrated that in the case of Europeans this cut of 20 per cent in their emoluments is entirely restored to them by an equivalent rise—and even more in some cases—in their direct salaries. On the other hand, the Asian staff is asked to suffer the 15 per cent cut in the form of house allowance and a 5 per cent cut in the form of contributions to the provident fund scheme and in addition their salary scales have been substantially reduced. May I ask where is the fair and reasonable relationship, based generally on existing conditions between European and Asian services which was supposed to be the case according to the hon. mover? Comments are superfluous on such a manifest piece of injustice to the Asian service.

Coming to the details of the privileges of the Services, the present length of tours for Europeans is four years for those below nine years service and three years for those over nine years service; for Asians five years for those below eleven years service and four years for those over eleven years service. In spite of persistent protests this difference has been arbitrarily maintained, but as far as local services are concerned I cannot see why. But what we actually find in these proposals as far as Europeans are concerned a tour of four years, the maximum at present in their case is fixed, while the Board has recommended a tour of six years for Asians, an increase of one year over their present maximum, against no increase in case of Europeans, or a difference of two years as between Europeans and Asians against one as at present. This appears to be very unfair and I suggest that instead of six years the tour should be reduced to five years for leave.

With regard to the family passages, there should be no qualifying age limit to earn this concession. The Board recommends the age of twenty-five years, and in case of Europeans it is thirty. The primary object of this concession is to render financial assistance to the officers, and this object will not be achieved because in the case of junior officers whose scales of salaries are very low in the early years of their service, they would be deprived of this assistance.

With regard to the recommendation of the Board, clause 8 (7), of a consolidated allowance of £21 per annum in respect of quarters to those who are entitled to free quarters or an allowance in lieu thereof this hits most hardly those officials

who have been drawing a higher rate of allowance. As an instance, the rates to-day are Sh. 35 per month for single men and Sh. 65 per month for family men. The new proposal will hit hard the family man who cannot afford to suffer this loss. I submit that sympathetic consideration should be given to this point.

With regard to transfer of officers from present to the new terms, clause 8 (D) says: "Officers of less than eight years' continuous service as at 1st January, 1939, should be required to transfer to the new terms of service." I take this to mean that those officers who have not completed eight years' service but who are confirmed and placed on the permanent and pensionable status would not come under the new scheme. It is not quite clear, and I shall be glad if the hon. mover when replying to this debate will inform me what is clearly meant by this clause.

The Board recommends that in case of officers at present on fixed salaries, the new rates be paid to them from the date of commencement of the new terms. This would be quite all right in case of European service, because scales for them are higher than at present in force, but in the case of Asians it is not so. As an instance, Second Grade Assistant Sub-Inspectors of Police are to-day on a fixed salary of £150 per annum, but according to the new terms their grade is £100 to £130. I should like to ask what will happen in such instances?

The Board has accepted a very desirable principle in clause 8 which reads:

"The first and most important conclusion was that officers on transfer would not be put in a generally less advantageous position than that in which they stand at present."

I think, according to this principle, in the case of the Assistant Sub-Inspectors of Police I have quoted, they should be promoted to the higher grade of £146 to £182. When replying to the debate I shall be glad if the hon. mover would clear the position.

With regard to local leave the original proposal was for fourteen days but I am glad to see that this motion proposes to amend it to eighteen days, the same which is enjoyed by the European service. I wish the same sympathy and consideration had been extended to the other details of the scheme.

With regard to learner grade the proposal by the Board is to have two grades with £90 to £48 and £72. I do not see any necessity for these two grades and the scale is also very low. I suggest that there should be only one grade for

learners £18 to £20. At the same time I hope it will be so arranged that the learners will not have to wait indefinitely for a long time to get into the regular grade.

Another point which I should like to mention is that these learners should not be kept indefinitely or for a long period in this grade. Sir, to-day in this learner grade there are a number of clerks who are working as regular clerks and reliefs of ordinary clerks who have a grade and their position particularly is very unenviable. They have suffered for a very long time and I think justice should be done to them. In this connection I should like, in order to give the House an idea of the misery from which these clerks have been suffering, to quote an extract from one of their letters:—

"I joined the department five years ago, and I passed my clerical staff confirmation-examination. I am now working at a salary of Sh. 140 per month. I have applied many times regarding my long leave and grade. I believe these application have been thrown in waste paper basket as no reply is ever received. Once I met personally the head in my department, who instead of giving me any hope, threatened me that I will be no more in this department if I will write any applications in future. I returned with a sob and did not write any more applications. I am a married man with wife and daughter and in a very desperate condition."

I make no specific complaint in regard to any of the departments with regard to this position, but I do submit, Sir, that whilst inaugurating this new Service from 1935 this sort of difficulty should be settled and that these clerks who have been serving the Government long and very faithfully should be given the grade to which they are due and the long leave to which they are entitled.

Now, Sir, one word more before I conclude. In this country we desire a common citizenship—Kenya citizenship—which will give to all races and all sections of the people residing in Kenya, equal rights and equal opportunities to develop their capacities and to progress without any hardship or any hindrances on various racial grounds. We have emphasized our adherence to this principle time and again, and I am sure that we are not going to be tired emphasizing it again and again on all suitable occasions, because we believe it to be the only suitable solution of many of the ills from which this country is suffering.

It is a forlorn hope to get the principle of equal opportunities for all on a standard of qualification and examination to be recognized by the Government for the Civil Service in this country, but I do not think that it is too much to ask

for the same fair and just treatment for the Asian Civil Servants, and in doing this I desire to appeal with all the earnestness I can command that the Local Asian Civil Service should have the same leave and other privileges as those granted to the European Local Civil Service.

THE HON. SHAMSUD-DEEN: Your Excellency, although my friend the hon. Mr. Pandya just now said that we should take the opportunity to emphasize these points on every occasion when there is an opportunity of doing so before this House, I doubt very much whether we can do much by reiterating points which have been reiterated so often:

I think that this Report could be very properly headed as a Report of the terms and conditions for the drawers of water and hevers of wood, for the Indian Civil Servant amounts to nothing more nor less.

Talking of principle, it does appear to me to be a rather strange and ironical exposition in view of the theory now being inaugurated in England as regards India taking a part in the Empire, that nationals of the latter country should be for ever doomed to occupy subordinate posts here at all times in spite of any qualifications they may have. This, Your Excellency, is a peculiarity of Kenya Colony only. I notice that in Tanganyika Territory the Government has established—although it is just the commencement of it—that the colour of a person or his nationality will not be a bar to his rising to a higher position. In reading an important paper a few months ago I noticed that a native had been entrusted in Tanganyika with the position of an officer's post—I think that of a Deputy Registrar. I have seen in the adjoining colonies—in the French Colonies—that Africans hold commissions in military ranks. In the Portuguese Colonies, Indians have held the position of a Chief Justice and I believe there are still some Indians who hold the position of Attorney General and other high posts.

It is no doubt a very strange thing that so far as India is concerned, the same Government in London should have the power of sending out Britishers to occupy the highest posts, but in this Colony those posts be limited to a particular race. I am very sorry we are always accused of referring to this racial question, but this very Bill is based on a racial basis. The hon. the mover will think probably that the Asian Civil Service and the European Civil Service are practically based on equality, and if there are any differences they are very wide indeed, but the fact is that there is a dead stop to an Asian in the subordinate service—he cannot rise. An Indian may be a most eminent lawyer but he cannot be a magistrate or law officer in this Colony; and as I say it is hardly any use repeating these points over and over again.

But from an economical point of view I submit we are committing a great mistake in giving preference to these racial feelings. The other day I saw the work of an Indian contractor who was having all his stones dressed by native labour. I was rather surprised and asked him why I did not see any Indians, and he said a stone dressed by a native was as good as that done by a European. I submit that even Indians can be just as good. As I said the other day, a letter typed by an Indian is as good as one typed by a European, and if we can pay less for that there is no reason why we should not adopt that principle.

The hon. the mover also said that recruitment from India had ceased. It may be that Indians are not actually recruited from India, but they find their way to this Colony and they are invariably taken to fill the vacancies by the influence of friends already in the Service. I submit we ought to embody something in this Report that there should be a regular Civil Service Board and when a vacancy occurs it should be reported to that Board and the Board should invite applications and hold examinations and give the position to the person who qualifies. At the present moment when a vacancy occurs it is simply surreptitiously filled without anybody knowing until afterwards. That is one important fact that ought to be embodied in the Report. When I say that, what I am trying to advocate is a preference for the Indian youths who have recently passed examinations, for some of them by no means a mean accomplishment, but in fact what happens? What happens is that they are offered the very generous and liberal scale of salary and allowances of £2 a month and then, even if taken as learners, they are subjected to the process of waiting for a very long period indeed, and there is no opportunity for the development of the genius who might be able to get out of the ordinary rut of life. I have known European Police Constables in this Colony rising up to the position of Superintendent, but the Indian Sub-Inspectors who have worked here for thirty to thirty-five years have never risen above the post of Sub-inspector. That I submit, Your Excellency, will remain in the history of this Colony as a very unenviable record.

With regard to leave there are many anomalies in this Report. On page 22 of the Report the proposed Ordinance for a Provident Fund provides certain classes of servants who will not be entitled to contribute to the Provident Fund.

HIS EXCELLENCY : I would remind the hon. Member that we are dealing with the Provident Fund at a later stage and perhaps you will formulate your questions on that later.

THE HON. SHAMSUD-DREH : I thought it formed part of this debate; if I have an opportunity of referring to it later I will do so, but I thought I should be in order to say that. There are so many other anomalies in the Service. For instance, I know that there are Europeans and Indians performing identically the same duties. In the Estimates you will find there is a European Assistant Surgeon and an Indian. The European is pensionable and the Indian is not. The salaries are always unequal, the European being much higher. Then there are such people as compounders who have worked in the Colony for as long as forty years and have occupied a whole district as the medical medium—call him superintendent or officer in charge—looking after a very large population of natives and have even been treating Europeans, but still on a non-pensionable basis, and it is very doubtful if they will come into the category of the Service at all. These are the anomalies which ought to be removed.

There are so many points of detail which I do not propose to go into; but one is rather striking on the estimates, and I refer to the estimates for 1923. I have always considered that 1923 was an attractive stage of life in this Colony, but to-day the new Service will give them smaller wages than in 1923 although the expenditure generally of the Colony cannot be brought back to the same state as 1923. It is rather strange that Indians' salaries should be reduced even compared to that period.

All I can say is that although these inequalities can be perpetuated owing to the inferior position occupied by the Indian in this Colony, they still leave a very burning spot in the hearts of those occupying them because no amount of argument will convince them that because they belong to the subordinate race they will always remain subordinate although doing the same kind of work.

DR. THE HON. A. C. L. DE SOUSA : Your Excellency, I did not really intend to speak after the very lengthy and exhaustive speech made by the hon. Mr. Pandya on the subject, but I think that in the introduction made by the hon. mover no reference was made as to why Government did not take into consideration the suggestion made by the only Asian member of the Board in his Minority Report.

I also find, Sir, that so far as we are concerned with the Report, there is no indication that Government have taken any notice whatsoever of the very able memorandum presented to them by the Asian Civil Service Association on the subject. I have that memorandum before me here and I should be glad

to give it to the hon. mover for his information. That is a pity, because I am anxious that I should not repeat here all the grievances we have.

Quite a new principle seems to have been introduced in the matter of this service. Not only have the services been divided into water-tight compartments, but also an entirely new principle established. It is said that the Board have agreed to a principle of a reasonable relationship. By relationship is understood that there should be two different services for the two races; and by reasonable is meant that what is good for one race may not be so for the other. That is how I understand this principle of a reasonable relationship. I do not wish to refer more to these things because they have always been unpleasant to me, but I must say the responsibility belongs entirely to Government.

The hon. Mr. Pandya referred to a statement of the Secretary of State, and I am glad he did it because it shows that the Secretary of State was willing to put in your Government's hands this question of the local services. I referred to that in the course of the debate on the European Local Civil Service Bill when it came up for discussion. If it is the intention of your Government to refer this matter to a Select Committee I think a lot of time might be saved by not getting into details, and if I had that assurance, I would rather not go further. I just want to know whether it is possible to discuss these things in a Select Committee.

HIS EXCELLENCY: Government does not propose to refer this matter to a Select Committee.

DR. THE HON. A. C. D. DR SOUSA: There are certain points which I will have to refer to for the consideration of this House. I am taking the smaller details because I do not think we can go into the bigger ones. There is the question of Government quarters which, when occupied by Government servants, will have to be paid for on a certain scale. My interpretation of this occupation of Government quarters on a certain rental is that the contribution which Government is supposed to make to the Provident Fund will be adequately met by the amounts that the Government will collect in the form of rents. You will be collecting a large sum of money in the form of rents for houses at present occupied by Civil Servants, and as such you are giving out by one hand readily what you will be collecting now every month from the Civil Servants in the form of rent.

There is also the question of Letters of Appointment referred to on page 9 of the Report which leaves the matter in the hands of the department with a clause that removal

from the Service should be within the power of the Governor. I understand the existing practice is that such matters are referred to the Secretary of State and I think that this practice is very good inasmuch as it gives greater security to the members of the Service as, I understand, is the case with the European Local Civil Service.

There is a question mentioned, Sir, in this memorandum as to acting allowances. Now, Sir, I am sure some of the heads of departments, hon. Members present in Council, will bear me out that additional services reflect a great deal on the health and the amenities of every servant and they are a frequent recurrence. Whenever members of the staff go on leave no additional provision is evidently made for these people to be relieved and I think, Sir, there should be an acting allowance for their doing the duties of their colleagues—possibly on a reduced scale, not the same as for a European perhaps, or even a lump sum—as an encouragement and as recognition by this Government that these extra services ought to be paid for and not to be taken as a free contribution.

There was a statement made here that there are no tours of service because the service is going to be a local service and the members are going to be Kenya-born. I think the hon. mover said it should be possible to take leave after one year because provision is made for twenty-two days annually. It means, theoretically at least, that a member can take his leave every year. Now, Sir, is it suggested that for the sake of exigencies of the service a member may be given vacation leave on these terms after a year's service? Is it suggested on the other hand that it will be possible for a member to be kept ten years for the sake of the service without having his vacation leave? Or is it not fair to mark down at what time they should be entitled to vacation leave? That is a point, Sir, which needs looking into because the Service as it exists to-day is very much dissatisfied with the terms of the long leave.

The passage expenses are also mentioned here—164 per cent of the cost in respect of each year of service. In the case of Europeans I think it is 25 per cent. I think a certain amount of consideration is due on this score and again, Sir, the starting salary of £90 per annum is considered to be too low even for to-day requirements. The 1920 scale minimum was £128.

I am very sorry to refer to these minor particulars, but I think it is the only opportunity to put them before you and I do hope that both the minority report of the Board as well as the memorandum which I am willing to place in the hands of the hon. mover will receive the consideration of Government.

THE HON. ISHER DASS: Your Excellency, I do not think I will take the time of the House in going into the details of this Report. Nearly every point has been touched upon by the other hon. Indian Members.

There are one or two points I will simply refer to and the first is that I am really surprised that no European Elected Member has thought fit to say one word. Probably it may be due to the fact that they in their opinion thought it was absolutely reasonable and quite a decent Report containing terms of service as good as the terms of service for Europeans. If that is their contention that the terms of service are the same as for Europeans, then I will ask them one question and I hope one of them will give me an answer: "Would they accept these terms for their own race? If they are as good as the terms for Europeans, would they have accepted them, if these terms were offered to them?" I think I would rather leave it to them to answer that.

The second point is, do they think that these terms are deliberately put up by the Government based on a racial basis and treating the citizens of one Colony on a racial difference? And this is the greatest injustice. And may I ask another question: Do they believe that if injustice is done to one section of the population, they should actually sit here and look at our faces and let the injustice be done and not utter a word? And then at the same time when the opportunity comes they should get up and say that they are speaking on behalf of all the sections of the population of the country? Those are the questions I have put and I hope they will be answered by the Members on this side of the House. The same questions I would respectfully put to the Government also and I hope that the hon. the mover will answer them. But, as I said, I will not take the time of the House. There is one more point which I would like to ask, and I hope that an assurance will be given from the Chair or from the hon. the Colonial Secretary. Is it the definite policy of Government to treat the Indian community on an inferior basis and to divide the country or the population into watertight compartments purely on a colour or racial basis? If that is the policy then I think of course it should be made clear to the community, as the Secretary of State in his interview made it absolutely clear that he leaves this question entirely to the local Government. Why has the local Government not acted in accordance with that advice, and thought fit that in the interests of economy and efficiency also there should be only one Local Civil Service, because the Government expects from every man who joins, whether European or Asian, that he shall qualify and that he

will submit to an examination, and if he has the qualifications then he is a fit person, and if he does not then he does not join. From where comes the question of a separate European Local Civil Service and Indian Civil Service, and then probably in a few years time, Sir, another kind of Civil Service? That is all I am concerned with, and I hope I will have the satisfaction of an answer to the questions I have raised.

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

THE HON. H. G. PILLING: Your Excellency, I should like to make it quite clear at the outset that the two Committees who considered the question of both the Local Civil Services did not view the matter solely from a philanthropic point of view. They set out deliberately with the object of trying where possible to effect economy in the cost of future administration.

Dealing with the points raised by the hon. Member Mr. Pandya, the division of the Services into racial groups was, I think, his main one. I should like to refer to what was said by the then Colonial Secretary in the debate in May last:

"I feel that all of us here regret very much that any question of racial discrimination should have been raised on a measure which I believe, and honestly believe, does not raise any discrimination at all. . . In dealing with the problem in two parts rather than in one part, we are merely following precedent that has been established in the case of the Overseas Service.

For pensionable officers, whether European or Indian, they both obtain pension rights under existing Ordinances. The general basis of these Ordinances is the same, but they are secured, for what are quite obvious and not discriminatory reasons, in separate Bills."

I think that stands good to-day, and it is unnecessary for me to add anything to it.

Another point raised by the hon. Member was the lack of opportunity for Asians to advance in the Service. That point is rather outside the scope of the motion before the House. It is a bigger and wider issue than the Report has attempted to deal with. The Board was concerned solely with the terms and conditions to be applied to the two Services. It simply took the position as it found it, and dealt with the terms of recruitment and employment of staff for certain classes of work. There is nothing in the European

Local Service which prevents Your Excellency or the Secretary of State appointing an officer from that Service to one of the higher grade posts if he is considered suitable and fit for that post. I have been unable to find anything in the present Report which prevents Your Excellency or the Secretary of State from similarly appointing to a post any member of the Asian Civil Service who is considered to be fitted for that post. As far as the two Local Services are concerned, the position is exactly the same.

With regard to the new scales of salaries recommended in the Report, as I already said; it was not the intention to increase salaries: the scales were fixed as the result of a great number of inquiries from commercial and professional houses as to the emoluments paid for a similar class of work. Government is entitled to obtain similar services for the same emoluments as professional and commercial houses. I may mention that the hon. Member, Mr. Pandya, in quoting the scales applicable to Europeans, appears to have been incorrect. The actual scales are: C Grade, £180 to £300; B, £240 to £300; A, £240 to £500.

As regards the question of relevant salaries I have here a book from which, with the approval of the House, I should like to read one or two extracts without comment. It is entitled "The Secret of Japan's Trade Expansion," the book has been circulated with the authority of the Japanese Government, and the writer is endeavouring to refute the allegation that Japan's commercial success was due largely to the very low rate of wages paid to the operatives in the factories. The intention of the writer is to show that the Japanese worker, although receiving actually a less cash amount than his competitor in in the West, is really getting a higher wage. He says:—

"The money wage alone does not govern the happiness of the workers. The question is: how far can the worker satisfy his wants with the wages he earns? Again it cannot be said that the workers in one country lead a lower life than those of the other country simply because the former dispense with what the latter regard as necessities. It is quite natural that one nation should have a different mode of life from others which have different climates, customs, tastes, etc."

Again:—

"National habits and needs were different in Japan from those of a western country, and a mere monetary comparison of wage rates was therefore almost meaningless.

The question is whether his cultural desires are high and, if so, whether he has means to satisfy them, and then, to what degree. It is difficult to define what constitutes cultural desires. But it is equally difficult to give a definition of the standard of living. The difficulty is not limited to the comparison of degrees of cultural wants. Even a comparison of necessities of life is not easy."

That is one point of view. As I say, Sir, I leave it without comment.

A further point regarding the length of tour was raised. I tried in my opening speech to emphasize the fact that under the new terms of service there would be no such thing as a tour of service. In future an officer would not be obliged to remain in the Colony on a three, four, or five years, or six years' tour of service as the case might be. Under the new conditions, an officer, subject to the exigencies of the Service, will be able to take leave after two, three, four or five years, or even one year if a sufficiently lenient head of department will allow him to go! It cannot therefore be said there is any substance in the contention that Government is deliberately trying to make a six years tour for Asians.

DR. THE HON. A. C. L. DE SOUSA: On a point of explanation, Your Excellency, I wanted to know whether, under these terms of service, it is possible for an officer to be kept ten years on the pretext of the exigencies of the Service, or even fifteen years for that matter, without going on leave?

THE HON. H. G. PILLING: I hardly think, Sir, that that point requires an answer, because it postulates an inhuman Government, an inhuman Colonial Secretary, or an inhuman head of department! The hon. Member Mr. Pandya also raised a point regarding the age limitation in the matter of family passages. There I think the balance is in favour of the Asian. An European officer will not qualify for family passage allowance until he has reached the age of thirty years. In the case of the Asian he will qualify for a family passage allowance when he has reached twenty-five years. The provision takes into consideration the different characteristics of the two classes of officers.

As regards the point raised in connection with Terms of Reference No. 3, namely the salary scale at which an officer will transfer to the new Service, the point is covered in the Report itself. Paragraph 8 (2) of the Reports reads:—

"In the case of officers on incremental scales the old salaries to be drawn from the appointed date until the

next incremental date when the officers will proceed to such step in the new scales as will give them not less than the salary which they would have drawn under the old rates of pay."

There is no intention that when an officer transfers to the new Service he should receive any more salary than he does at present; the intention underlying the creation of local services was not to increase expenditure on staff but to effect economies where they could reasonably be effected without hardship to individuals.

The hon. Member Mr. Pandya also raised another point with regard to the learner class, and suggested Government might well eliminate the subordinate grade and provide for a minimum salary of £48 a year. I should like to point out that the subordinate grade, or Grade I, in the learner class is definitely to meet the case of apprentices. It is well known that in many walks of life not only does an apprentice get no salary while learning his job but often he has to pay for the privilege of being trained. The Board has recognized that the youngsters who will be taken as apprentices will not be in a position to keep themselves or to pay anything towards the cost of training, but I think that the considerations to which I have referred do provide justification for Government fixing a lower salary in the case of apprentices. For the first two or three years a boy in a technical department is worth practically nothing, and recognition has been given to that in fixing the salary scale. As regards promotion of learners, I am able to give an assurance that when the Service is brought into force and consideration is being given to transfers to it, every case will be considered on its merits, and if there are any individual cases of hardship which have not been able to get past the barrier of an unsympathetic head of department, they will receive consideration from whatever body is dealing with the transfers.

I must apologize, Sir, to the hon. Member Mr. Pandya if I have omitted to reply to any other of the points which he raised, but he shot them at me so rapidly as if out of a maxim gun that while I was noting one down another may have been raised without my recording it.

THE HON. J. B. PANDYA: On a point of explanation, Your Excellency, when the hon. Member referred to the fact that I was incorrect in quoting the European salaries, I was referring to Appendix I of the European Civil Service scheme, and I am absolutely correct.

THE HON. H. G. MILING: I must apologize to the hon. Member in that case. I am not quite familiar with all the details of that Service and my information was that they were incorrect.

The hon. Member Mr. Shamsud-Deen raised one point, in connection with the method of appointing Asian Civil Servants. He said that at the present time it was a rather hole and corner method, that officers used their influence to obtain appointments for their relatives, and that equal opportunities were not given to all candidates. As Your Excellency is aware, when the two Local Services are in being, it is the intention of Government to appoint a Civil Service Board which, if it does not actually deal with matters of detail, will at any rate exercise a supervision over general matters. If there do exist any hole and corner methods regarding appointments it will be open to any person to write to the Board and ask that opportunity be given officers of the Services or the general public to know when vacancies exist so that persons who wish to apply may be able to do so. I am not certain whether the Board will be responsible for the actual making of appointments. They may or may not. But there will at any rate be a Board to regulate such matters, if they do not accord with approved procedure.

As regards anomalies in the Service to which the hon. Member Mr. Shamsud-Deen drew attention, especially in regard to different rates of wages, I have already read certain extracts dealing with the question from a different standpoint, and I submit that no answer is required other than that to be found in those extracts. He also raised a point that certain officers may be in the Service for a great number of years and not be pensionable at the end. He instanced the case of compounders. That question was one of the anomalies which the introduction of the Local Service scheme is intended to remedy. You will find under Appendix II that provision is made for compounders and others to become members of the Asian Local Service, when they will become eligible to contribute to the Provident Fund, in the same manner as other officers. A great deal of stress was laid on the difference in salaries in 1923 and those now proposed that there has been a downward tendency for Asian salaries since that period. My information on that point is that the higher scales quoted by certain hon. Members were due to special circumstances which I saw described in a local paper not long ago, as a period of monkeying with the financial position; the higher scales were due I understand to the conversion of the rupee into the

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shilling, which made it necessary to pay a higher rate of salary at that particular period. That may be the explanation why salaries were higher then.

The hon. Member Mr. Shamsud-Deen raised a point of detail about the pensionable status of European and Asian sub-assistant surgeons. The present position is that at present all are pensionable, whether European or Asian. One point in connection with the proposed terms of service I should like to make; that is, as I mentioned in my opening speech, there is a comparatively small proportion of the present Asian Civil Service staff who will be affected by the Report. Those who will not be affected with continue on their present terms of service. The new terms will of course apply to new entrants. I do not think that in laying down new terms which persons can either elect to take or not, injustice is being done to anybody. If persons consider the terms of service are not sufficiently attractive, they have the option of taking up other forms of employment.

The hon. Member Dr. de Souza asked that Government should consider the Minority Report, as well as representations by the Asian Civil Service Association. I can assure the House that those representations have been fully considered by the Governor in Council, and one result was the change in the period of local leave which forms part of the motion now before the House. He also said Government was getting back on the swings of house rent what it would lose on the roundabouts of Provident Fund. As I have already explained, this Government did not direct the Board to consider terms which were more generous than those which then obtained. The new conditions will not affect those actually serving at present, who are entitled to quarters. New entrants may in certain cases be required to occupy Government quarters if they are available, but if they do, they will have to pay a small percentage of their salary for the benefit they are receiving in return, viz. the accommodation. I do not think any hardship allowances, no hardship will be caused because these allowances have as a matter of fact been cancelled since the beginning of 1933, so that in this respect there is no change under the new terms.

I do not think any points were raised by the hon. Member Mr. Isher Dass which call for a reply from me. They referred to questions of policy which were outside the purview of the Committees appointed to consider the European and Asian Services.

The question was put and carried.

BILLS.

FIRST READING.

On the motion of the hon. the Attorney General, seconded by the hon. the Treasurer, the following Bills were read a first time :—

King's African Rifles (Amendment No. 2) Bill.

King's African Rifles Reserve of Officers (Amendment) Bill.

Liquor Bill.

Post Office (Amendment) Bill.

Licensing Bill.

Notice was given to move the second reading at a later stage during the session.

Council adjourned till 10 a.m. on Friday,

14th December, 1934.

FRIDAY, 14th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m., on Friday, 14th December, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 13th December, 1934, were confirmed.

ORAL ANSWERS TO QUESTIONS.

REMAND PRISONERS—INTERVIEWS BY ADVOCATES.

No. 102.—THE HON. ISHER DASS asked:

“Has the attention of the Government been drawn to the fact that an Advocate was refused permission by the Prison Authorities to see one of his clients in the Arson Case on the 27th November at 8.30 a.m.?”

If the reply is in the affirmative will the Government please state reasons for this action?”

THE HON. THE ACTING COLONIAL SECRETARY: It is regretted that, owing to the misreading of an order by a junior officer, an Advocate was refused permission to see one of his clients on 27th November at 8.30 a.m.; but was requested to return later during the visiting hours appointed for the public. By 10.45 a.m. on the same day a letter of explanation of the error had been received in the office of the Advocate in question informing him that Advocates could have access to their clients at any time of the day.”

NAIROBI PRISON—VISITING HOURS.

No. 103.—THE HON. ISHER DASS asked:

“Has the attention of the Government been drawn to the fact that the Nairobi Prison Authorities have withdrawn the facilities hitherto afforded to the visitors of the accused in the Arson Case now in prison on remand, by curtailing the hours of visit to only two hours in a day (including lunch hours) namely between 1 and 4 p.m.?”

If the reply is in the affirmative will the Government please state the reasons for such an action, which is definitely prejudicing the accused in the said case in preparing their defence?”

THE HON. THE ACTING COLONIAL SECRETARY: Government is aware that owing to the shortage of staff it has been necessary, except in the case of Advocates, to curtail the visiting hours at Nairobi Prison to between 1 p.m. and 4 p.m. daily (except Saturdays and Sundays, when no visits are allowed). As this limitation does not apply to Advocates it is not considered that it can in any way prejudice the preparation of the defence of any prisoner confined in the Prison."

MOTIONS.

ENTERTAINMENTS TAX ORDINANCE, 1931.

THE HON. THE TREASURER: Your Excellency, I beg to move that the Entertainments Tax Ordinance, 1931, as amended by Ordinance No. XLVI of 1933, shall remain in force until the 31st day of December, 1935.

Section 10 of the Principal Ordinance, Sir, provides that the Ordinance shall remain in force until the 31st December, 1932, and shall then expire, provided that the Governor may, by proclamation, with the approval of this Council declare that this Ordinance shall remain in force until a date to be fixed in such proclamation. This House has previously approved the extension of the Ordinance in respect of the years 1933 and 1934 and the motion now before the House seeks to provide for its further extension to the 31st December, 1935.

As regards the financial results of the operation of the Ordinance, I might say that in 1933 a sum of £4,550 was collected; in 1933, £4,600; and in 1934 the estimated yield was £4,600, but up to the 30th September a sum of £4,160 had been collected, an increase of 29 per cent over the previous year, and it is anticipated that the total yield of the present year will be in the neighbourhood of £5,500. The estimate for the year 1935 is placed at £5,000.

So far as the operation of the Ordinance is concerned it works smoothly and the cost of collection is extremely small. I beg to move.

THE HON. THE ATTORNEY GENERAL: I beg to second. The question was put and carried.

LOAN FUNDS—REALLOCATION, MAKUPA CAUSEWAY.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following motion:

"Be it resolved that this Council hereby approves the expenditure of a sum of £900 upon the purpose specified

in the Schedule hereto as a charge against Loan Funds and further approves provision being made therefor by a reallocation of the amount from—

Communications: Feeder Roads ... £900

SCHEDULE.

Communications: Makupa Causeway ... £900."

Your Excellency, this motion proposes to transfer a sum of £900 from savings on the Feeder Roads of the Sub-head Communications of the Schedule to the 1930 Specific Loan Ordinance to the item Makupa Causeway of the same sub-head.

I do not propose, Sir, to take up the time of this House by going into a detailed explanation of the reasons for this transfer because it has been fully explained to and considered by the Central Roads and Traffic Board and it has the full support and unanimous and unqualified recommendation of that body.

Briefly put, Sir, the reasons for this requirement are that there is less to carry to completion the permanent roadway across the causeway and the approaches to it. The Municipal Engineer who will carry out the work is short of the required sum by £800 and this sum can be found from savings on the Feeder Roads programme. The reason why he is short of this sum is twofold. Firstly, it has been necessary to maintain a temporary road on the causeway during the period the bank has been settling. As is well-known a bank of this kind requires some years to achieve stability and it is not advisable to construct permanent works until that stability has been achieved. Secondly, it is now considered beneficial to use *muzachi* stone for the foundation course of the road in place of the cheaper but less efficient coral rag which was originally proposed. The bank has now ceased to settle, the permanent pipelines for the work have been constructed and the Municipal Engineer is anxious to complete the roadway.

Your Excellency, I beg to move.

THE HON. THE TREASURER: I beg to second the motion. The question was put and carried.

LEVIES ON SALARIES.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to 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, 1935."

Your Excellency, the conditions which render it desirable to continue the operation of these two Ordinances are thoroughly well known to every hon. Member of this House and I do not propose to detain Council by referring to this motion.

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

THE HON. J. B. PANDYA: Your Excellency, in this connection I should like to say that while the necessity of such a levy is realized as far as Colonial finances go, I cannot understand why there is such a necessity in the case of the Transport Services, because the Railway is now working at a great profit and I do not understand why a levy is necessary for a small sum of £24,000. The Railway should not take this away from the salaries of the Railway staff.

Another point is that these levies should not be levied on the salaries of those receiving less than £500 and over that amount there should be a sliding scale. That would be a fair consideration for the levy. If we are going to continue it every year then I think something like this should be considered by the Government.

THE HON. THE COLONIAL SECRETARY: Your Excellency, with regard to the sliding scale that has nothing really to do with the continuance of the Ordinance. It is always possible at any time to alter the scale. The motion is for the continuance of the two Ordinances and has nothing to do with the actual amount that can be levied.

With regard to the question of the continuance of the levy regarding the Railway, I can only say that the Railway Estimates have been approved by this House and that those Estimates contemplated the continuance of the Ordinance and the scales at present in force.

HIS EXCELLENCY: The question is that the Levy on Official Salaries Ordinance, 1931, and the Levy on Salaries (Transport Services) Ordinance, 1931, be continued for the year 1935.

The question was put and carried.

PENSION—MR. A. M. CHAMPION.

THE HON. THE TREASURER: Your Excellency, I beg to move the second motion standing in my name:—

"This Council approves the payment of an unreduced pension of £891-5-0 a year to Mr. A. M. Champion who is retiring from the Service of this Colony with effect

from about the 8th of July, 1935, in lieu of a reduced pension of £668-9-0 a year and a gratuity of £3,223-3-0."

It is on all fours with many other motions of a similar character which have recently been before this House. Mr. Champion is on the point of retirement and he originally opted to receive a reduced pension and gratuity. He now wishes to revoke that option and it is considered to be in the interests of Government that he should be allowed to do so.

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

The question was put and carried.

PENSIONS AND GRATUITIES.

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

"Be it resolved, that this Council approves the expenditure of £10,000 on the purposes specified in the Schedule hereto as a charge against the revenue and other funds of the Colony:—

SCHEDULE.

Pensions and Gratuities	£3,000
Commuted Pensions	£7,000
	<u>£10,000."</u>

As hon. Members are aware a motion was approved by this Council on the 2nd August of the present year approving an appropriation of £15,000 additional for the provision of Pensions and Gratuities and Commuted Pensions. At that time it was stated that a close computation of the requirements under this head was quite impossible because it depended upon the death of pensioners, retirements on the grounds of ill-health in this and in other Colonies and so on, which we could not possibly compute closely. It is now proposed, Sir, that a further additional provision of £10,000 should be approved: £3,000 of which is in respect of Pensions and Gratuities and £7,000 in respect of commuted pensions. The £3,000 is made up almost entirely of gratuities paid in consequence of the death of officers, and commuted pensions, as I say, is in respect of unexpected retirements.

Your Excellency, I beg to move.

THE HON. THE ATTORNEY GENERAL: I beg to second.

The question was put and carried.

CARRIAGE OF GOODS BY MOTOR (PROHIBITION) ORDINANCE,
1932.

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

"Whereas it is provided, *inter alia*, by section 12 of the Carriage of Goods by Motor (Prohibition) Ordinance, 1932 that the said Ordinance shall continue in force until the thirty-first day of December, 1933:

And whereas it is further provided in section 14 of the said Ordinance that the Governor may, by proclamation, with the approval of the Legislative Council, declare that the said Ordinance shall remain in force until a date to be fixed in such Proclamation:

And whereas by Proclamation No. 13 of the 19th day of December, 1933, the Governor with the approval of the Legislative Council declared that the said Ordinance should remain in force until the thirty-first day of December, 1934:

Now, therefore, it is hereby resolved that this Council approves the issue of a proclamation declaring that the said Ordinance shall remain in force until the thirty-first day of December, 1935."

Here again the arguments in support of this legislation have been debated *in extenso* in this House and I see no point in detaining Council by going over the ground again. The Ordinance is fulfilling the purpose for which it was enacted and conditions are still such as to render it desirable that it should continue in force for at least another year.

Your Excellency, I beg to move.

THE HON. THE TREASURER: I beg to second.

HIS EXCELLENCY: The question is, the motion for the continuance of the Carriage of Goods by Motor (Prohibition) Ordinance, 1932, be adopted.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Sir, I rise to support the motion.

There is one point on the motion I have been asked to bring up. As the Ordinance stands to-day if anyone wants exemption under it, it has to be sanctioned by the Governor in Council and sometimes it does happen that comparatively small movements as far as the Railway are concerned occur which require immediate sanction to be given. I have been

asked whether there should not be some method in the Ordinance by which the powers of the Governor in Council may be delegated so that such emergency questions can be dealt with immediately.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I think I can give the assurance to the Noble Lord that you have already that provision in the law which could meet such an eventuality, namely in the Royal Instructions, where matters have to be referred to the Governor in Council, and if it is not convenient or possible to hold Council immediately, provision is made that the Governor may give such instructions as he thinks necessary and report immediately when the first Council meets. In cases of that kind, Your Excellency, you can act on your own and report to Council.

MAJOR THE HON. F. W. CAVENDISH-BRENTNOK: Your Excellency, I am pleased indeed to hear that assurance which the hon. the Attorney General has just given, because the Nairobi Chamber of Commerce wrote and inquired whether such a provision did exist and a letter in reply was sent informing them that the powers were more or less confined to the Governor in Council.

THE HON. J. B. PANDYA: Your Excellency, I rise to oppose this motion and I do so on three grounds. Firstly, because it gives the Railway a monopoly in transport; secondly, because it affects the revenue of this Colony; and, thirdly, because it deprives the people from getting employment and making a living.

Dealing with the first ground—the principle of monopoly in transport—I should like to say that a year before this legislation prohibiting motor transport was passed, there was a committee which set to inquire into the situation and which was presided over by the then Attorney General and investigations were made on this subject. The hon. the General Manager of the Railway at that time submitted his views to this Committee and the Committee in their Report disagreed with the principle of giving protection by the prohibition of motor transport and I will read an extract from that Committee's Report. The Committee observed:—

"That no Board should have the power completely to prohibit motor traffic for hire or for reward on any road in the Colony except in the case of unreasonable damage to road surface, a power which is already given by the Road Protection Ordinance, 1924. The effect of prohibiting the carriage of goods by motor between Mombasa and Nairobi would be to give Railway administration practically a monopoly of the carriage of goods, for by reason of their taper rates from Nairobi, Eldoret and Kisumu,

the administration can compete on more equal terms with motor competition other than Mombasa. We are strongly of the opinion that there is no justification for giving any such monopoly, but that, on the contrary, fair healthy competition is as good for the Railway as it is for the community generally."

Now, Sir, I do not see any reason why these principles and policy should not hold good even now, and much more so now, because the Railway finances show a very great improvement and the primary reason for this monopoly was due to the position of the Railway finances in those days and it was considered that it would be absolutely necessary to prohibit this transport in order to give them the revenue.

Now, Sir, according to the General Manager's estimate in those days the loss in revenue to the Railway was estimated by him for road transport between Mombasa and Nairobi at £40,000 and on other roads at £25,000, a total of £65,000. This figure was disputed in a memorandum submitted to the Government by the Federation of Indian Chambers when they estimated it to be £37,500. But leaving that aside, even if we take the total loss to the Railway as £60,000, the position to-day is that the Railway shows a good surplus. Bulletin No. 13 which has been issued by the hon. the General Manager during this session gives the actual working results for eight months in 1933, after deducting provision for depreciation the net revenue charges show a surplus of £234,165 and in eight months actual working in 1934 on the same basis the surplus is £304,788. Now, Sir, the point I wish to make is that the Railway in 1934 is showing a surplus of £300,000 over eight months and on that basis about £400,000 for twelve months, and even if we take into consideration the small loss of £65,000 due to motor transport competition, I think it is not quite fair and I do feel that there is no necessity to continue the prohibition of motor transport when the finances of the Railway are in this improved position.

Sir, the argument that is usually advanced is that the reduction in cost of transport by road is not passed on to the consumer and I must definitely refute that statement. I have the details here which I do not wish to repeat, but they conclusively prove that reductions in cost of such transport have been usually passed on to the consumer in the way of lower prices for the articles.

With regard to the present position of road transport, again according to Bulletin No. 13 issued by the hon. the General Manager last month, he says—

"It has come to notice that some of the motor cars arriving at the Port from overseas have been assembled at Mombasa and then driven to Nairobi. It is also

alleged that certain high rated goods have been imported into the country via Lamu, and brought to Nairobi by road at rates just below that charged by the Railway. It is difficult to see how this can be a profitable undertaking, but as the traffic passes over roads not scheduled in the Ordinance, the law is not infringed. It may be necessary to ask for assistance to prevent the intention of the Ordinance being evaded in this manner."

Now this shows, Sir, that the Railway having got practically the prohibition of the transport on the main roads, contemplates extending this further to other roads such as those mentioned in the Bulletin. It stands to reason and it is obvious that if the people can get these high-rated goods via Lamu on roads, the condition of which we need not describe here—I think to describe them as roads is a mistake, they are nothing more than mere tracks—but, with all those difficulties, if any one can afford to bring certain classes of goods to Nairobi cheaper than the Railway, then it is quite obvious and it proves that the Railway is taking full advantage of the monopoly given to them.

The second point I wish to make is that it affects the revenue of the Colony. If this prohibition were removed then the revenue which the Colony would receive through Customs, licences and petrol tax and other things would be about £12,000 to £15,000. This is a direct loss to the revenue of the Colony and when we see to-day strictly speaking the very difficult circumstances of the Government's finances, I should like to ask whether we are justified in carrying on this sort of thing and suffering the loss to our revenue in addition to the small but by no means insignificant other losses in revenue through Customs and other taxes.

The third point I should like to make is in regard to the increased employment of the people if motor transport is not prohibited. It would, in my opinion, give employment to about 500 more people, and in these days that is not a small thing. In addition to that, I suppose it would indirectly give employment to garages and workshops which would be able to employ more men also. Thus, indirectly, the Customs revenue would benefit by an increase in the purchasing power of the people. If we take all this into consideration, in my opinion there is a good case for doing away with the prohibition of this motor transport. Therefore I oppose the motion, Sir.

THE HON. ISHBR DASS: Your Excellency, the hon. the Colonial Secretary has told us that the object with which this Bill was brought into force has been fulfilled, or it is fulfilling its purpose. If the measure has fulfilled its object, then it is high time it was removed, as the hon. the General Manager

of the Railway has told us that during the last eight months the Railway has made a tremendous amount of profit. If the measure is only fulfilling its purpose, then I contend that that purpose has been fulfilled, and that the Ordinance is only being retained as a mere source of more income at the expense of the poor people of the country. In 1931, when this legislation was brought in, the representative of the Railway told us in Select Committee presided over by the then Attorney General, that the total loss to the Railway was to an extent of some £50,000, because I was present, and gave evidence before the Committee, and I definitely remember the amount. Not once, but a number of times the figure was quoted. I, on behalf of the Transport Association, gave evidence, and quoted some figures. As the hon. Indian Member has explained the whole thing, I will go a little further and prove that the sum of £50,000 was just an imaginary one. After three years, we were told a week ago that the profit the Railway had gained by the prohibition of this traffic was to the extent of about £100,000—that is, it has doubled in the last four years. In the memorandum submitted by the Transport Association it was made clear that the Railway is run for the benefit of the producers. In the first two paragraphs it said:—

“It is generally admitted that the Inter-Colonial Railway policy is mainly directed to the development of the producer-interest, i.e. the assistance of the farmer, and the non-official representatives on the Railway Council, at least so far as Kenya is concerned are representatives of the farming community.

It should be emphasized that there is a strong and influential body of public opinion whose voice is not heard on the Railway Council, who hold the view that such assistance as the European and native producer deserve and should get should be by direct Government subsidy and not by the indirect method of using the Railway for purposes of protection and development. Should this view be adopted, it would or could then be made quite clear.”

That was actually what was suggested by the Transport Association in their memorandum.

Coming to the £50,000 saving, Your Excellency, as I have suggested, if the object is fulfilled it is high time the law was repealed and motor transport be permitted again, and if the object is still being fulfilled it is at the cost of hundreds of people, and poor people particularly. I gave the Committee figures in 1931 that there were 200 lorries on the road between Mombasa and Nairobi, Voi and Eldoret, and, each costing £200, that was a total of £40,000. Chassis and box bodies

built cost a total of £6,000, and spare parts, tyres bought every year, replacement of breakages, etc., accounted for another £100,000. The petrol consumed by these lorries per year was 600,000 gallons, and at Sh. 2/60 per gallon that is £75,000, with oil, grease and so on another £5,000 or a grand total capital expenditure of £136,000. If we deduct £3,000 as the cost of labour of making the bodies, that leaves £133,000 as the total amount involved, and this amount was spent by poor people. On this we can calculate very easily that at 10 per cent duty on petrol, oil, grease and so on—although of course some articles come in duty free—the general revenue of the country is losing £20,000 per year, or £163,000 is the actual expenditure, while we were given to understand in 1931 that the total loss to the Railway was £50,000. I cannot for a moment believe—and I am sure no Member on this or the other side of the House would honestly believe—that any trade or business carried on with a total expenditure of £163,000 would fetch £50,000 profit. If that were so, the people actually driving the lorries would have been rich, but the Government knows the state of affairs of those poor people.

The actual loss to the Railway then was to the extent of something about £25,000 altogether, nothing more, and that statement I made before the Select Committee, but it was said “If we say it is £100,000 then it must be £100,000,” or £50,000 whatever the figure was, because coming from departments it must be taken as Gospel truth! On the other hand these lorries must employ at least 500 boys, whose wages, if they were paid at the lowest possible rate of Sh. 15 a month, would come to £4,500 a year, and 200 Indian drivers, with maximum salaries of Sh. 160, would cost £18,000 a year, or a total of £22,500 as actually the wages earned by these 700 people. If the measure is fulfilling its object at all, it is only at the cost of these poor people. It is high time, even in a depression, that we agreed to remove this prohibition, for there would not be a loss to the Railway, while these people would be earning their living instead of starving in the streets. Government is well aware of the unemployment position of the country. I think it is high time something should be done, and this motion should not be agreed to, I hope hon. Members on this side of the House will not vote for it, and I appeal to them to vote against it because, after all, it is a question of life and death of 700 people and their families.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I shall not attempt to oppose this motion, but there are one or two things I want to make clear. I stated when the Railway budget was before the Council that I looked upon the

Railway as another form of taxing machine. That has been denied by the hon. the General Manager, but this is a case where it is quite obvious that it is a taxing machine. One point that I had in mind at that time was this particular Ordinance which we are now asked to continue. By imposing it, we have diverted revenue from the Central Government of the Colony into Railway channels. That is number one.

Number two: We have done that by taking motor lorries off the road, and in that way losing what we should have got through Customs on spare parts, tyres, oils, fuel, etc., for the use of that transport. It is quite obvious that many thousands of pounds would be going into the central revenue but which now, owing to this Ordinance, goes into Railway channels.

Nevertheless, I support the motion. I believe we are more or less indirect shareholders in the Kenya and Uganda Railways and Harbours, and we have to support it. Nevertheless, it is very disconcerting when we realize that we are more heavily taxed. It was indicated when the Ordinance was first passed that by agreeing to it the Railway would get £60,000 to £80,000 extra revenue, which would help the General Manager to cut down the Railway rates. But what has happened? During the past two years there have been increases of Railway rates, especially the country produce rates, while the internal rates on produce from upcountry to Nairobi have been considerably increased, as well as on the minor products of the country, to the detriment of the producer. It is strangling the producer, to enable the Railway to make these profits, to a considerable extent.

I should also like to know what legislation has been passed in Uganda in co-operation with Kenya in protecting the Railway by a similar Ordinance? We were told that it was hoped Uganda would co-operate and do something to help Kenya out.

In the General Manager's Bulletin No. 13, is a rather interesting item which I noted yesterday, on page 3, paragraph 123:—

"The working of the Carriage of Goods by Motor (Prohibition) Ordinance, 1932, has been generally satisfactory, but it has come to notice that some of the motor cars arriving at the Port from overseas have been assembled at Mombasa and then driven to Nairobi.

There is nothing in the Ordinance which prevents this being done, but it is a matter of some surprise that purchasers have been willing to take out as new cars which for the first 500 miles of their life have been driven over a road which in parts at least cannot be considered

good. It is also alleged, that certain high rated goods have been imported into the country via Lamu, and brought to Nairobi by road at rates below that charged by the Railway.

It is difficult to see how this can be a profitable undertaking, but as the traffic passes over roads not scheduled in the Ordinance, the law is not infringed. It may be necessary to ask for assistance to prevent the intention of the Ordinance being evaded in this manner."

I think that that paragraph discloses a rather curious complex on the part of the Railway, that you can land a car at Mombasa but you are prohibited from driving it to your home. The note I made against the final sentence was this— "And compel motor cars to travel up by rail. Why own a motor car? Let the Railway carry you!" That is the absurd assumption; Your Excellency, that you cannot drive your car from Mombasa, and it does pre-suppose that if you drive a car down and back you are infringing the Ordinance. I am sorry, really, for this complex, but it is there: It is not mine, but is apparently the General Manager's complex! I shall not keep the House further, but I hope we shall be told what the adjacent territories have done in the way of co-operation.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I do not pretend to be able to speak on very many points, but there is one point in connection with the Railway distribution rates which affects the natives.

HIS EXCELLENCY: Is it connected with this matter of prohibition of motor transport? The motion before the House is for the continuance of the prohibiting Ordinance.

THE REV. CANON THE HON. G. BURNS: It affects the matter as far as the profits made by the Railway form an element in connection with the question whether this Ordinance should be retained or not.

HIS EXCELLENCY: I do not know what the hon. Member has to say, but I have called his attention to the terms of the motion.

THE REV. CANON THE HON. G. BURNS: The question in my mind, Your Excellency, is that the Railway having made all this profit, partly owing to the fact of the motor traffic being taken off the roads, there should be consideration given to the native producer in the movement of his produce along the Uganda Railway. That is the only point that I wanted to make.

One other point I might mention. The hon. Member Mr. Isher Dasa has given us elaborate figures with regard to the profits that might accrue to the Colony through the placing of these lorries on the roads again. But he failed to give us one that I should be very grateful to have; that is, the cost of the upkeep of the road from Mombasa to Nairobi should these lorries be allowed on the road again. That is one of the things I should like to have some information on.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I do not wish to be drawn into long debate on this question, because the proper place to have brought the matter up was, of course, in connection with the Railway Estimates, when the whole argument as to why we need this extra revenue could have been properly debated. But I can perhaps tell the hon. Member for Trans Nzoia that the Uganda Government has in fact introduced legislation protecting their boundary from wasteful road competition. They have supported us to that extent, while the neighbouring territory of Tanganyika has adopted similar measures. I think that is the only point I need deal with, Sir.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, hon. Members who have spoken against the motion have confined themselves almost entirely to matters of principle. The principle, in spite of attempted arguments against it, was accepted by the House in December, 1932, and again in December, 1933, and no reasons have been adduced to show that it should not be equally acceptable in December, 1934. The only factor that has been adduced which might be material to the situation is the improvement in Railway finances. In answer to that, I say that I think it would be a pity to withdraw a measure that has been so instrumental in restoring those finances to prosperity. The hon. and reverend Member representing Native Interests asked a question as to the cost of the upkeep of roads from Mombasa to Nairobi if a number of lorries were once permitted over them. Obviously he cannot expect me to give him the details, and it would probably work out the cost of additional maintenance consequent on every additional lorry. But the fact remains that the more lorries there are on the roads the more the maintenance of the roads must be, so that the revenue that may be lost in the way of Customs duties on spare parts, tyres, and that kind of thing must be offset to some extent by saving in expenditure on roads.

The question was put and carried.

BILLS.

FIRST READING.

On the motion of the hon. the Attorney General, seconded by the hon. the Treasurer, the following Bill was read a first time:—

The Stamp (Amendment) Bill.

Notice was given to move the second reading at a later stage of the session.

SECOND READINGS.

KING'S AFRICAN RIFLES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I move that the King's African Rifles (Amendment No. 2) Bill be read the second time.

As hon. Members are aware, this is really a domestic Bill affecting the Kings African Rifles only. It has been introduced at the instigation of the Secretary of State in order to bring the law here into line with the Army Act at home, and with a similar Ordinance in West Africa. It requires little explanation except to say that it closes a loophole which those who administer this particular section of the Ordinance consider necessary. It defines more clearly what will happen to a soldier who is absent from duty without leave from various causes set out in section 64 of the Principal Ordinance. A man absent without leave or detained in prison or for some reason absent for two hours one day might have claimed that only a proportion of his pay for that day should be taken, and this amendment is to make it clear what whether he is away first for a period of six hours he will lose his pay and second if by being away for only ten minutes he causes another soldier to turn out and do his duty his pay will be stopped in the same way.

THE HON. THE TREASURER seconded.

The question was put and carried.

KING'S AFRICAN RIFLES RESERVE OF OFFICERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I move that the King's African Rifles Reserve of Officers (Amendment) Bill be read the second time.

This Bill is designed to produce an economy which is quite obvious to those who have read the Bill. It is thought by those in authority in the King's African Rifles that it is unnecessary to pay high rates of pay to those officers on the

reserve when they join for their training for a month or two. The rates laid down are that in the case of Government servants they will only get Sh. 10 a day; in the case of an officer who has served with the Regular or Indian Army he will get the same rates as an officer of a similar rank in the King's African Rifles; all other officers at the rate of £25 a month as subalterns and £40 per month as captains. Roughly speaking, that will reduce the cost by about half.

THE HON. THE TREASURER seconded.

The question was put and carried.

POST OFFICE (AMENDMENT) BILL.

THE HON. THE POSTMASTER GENERAL: Your Excellency, I beg to move the second reading of the Post Office (Amendment) Bill.

This Bill has been found necessary because of an omission in section 10 of the Principal Ordinance which was enacted earlier in the year, and I would like to say at once that the Post Office accepts entire responsibility for the omission.

Section 10 of the Principal Ordinance was intended to confer on the Governor in Council power to fix rates of charges in respect of all classes of Post Office business, but as the section stands at present this power is limited to the fixation of rates of postage. Clause 2 of the Bill now under consideration broadens the scope of this section 10, so as to cover such charges as money order commission, fees for registration and insurance and similar services. Clause 3 reduces the minimum surcharge on insufficiently prepaid correspondence from 10 cents to 5 cents, and is in conformity with an international regulation recently introduced. Although this reduction will have little practical effect, it will I am sure be welcomed as a gesture of Government's willingness to reduce taxation wherever possible. Section 4 of the Bill has little practical effect as it is intended merely to bring the working of section 20 of the Principal Ordinance into conformity with the other sections of the Ordinance, and clause 5 is merely a rectification of a printer's error in the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL seconded.

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

THE HON. A. C. TANNAHILL: Your Excellency, I am not going to oppose the Bill; but I do want to call attention to section 4, which the hon. mover has just mentioned has little

practical effect. Unfortunately, I can substantiate what he says in that respect. This clause is to provide that compensation may be payable and that rules shall be laid down showing how compensation may be paid. As far as I have had any practical experience of this compensation, the rules seem to lay down that under no circumstances whatsoever shall compensation ever be paid! I have had cases of registered letters arriving which have looked as though they have obviously been tampered with. I have taken them to the Postmaster General unopened, and opened them in his presence. I have discovered that the contents were tampered with and certain sums of money removed, and I was told by the Postmaster General that "Very sorry, but under the rules we cannot give you any compensation because here is the cover complete." I do suggest, Sir, that that merits further reconsideration when perhaps more rules are being drafted.

THE HON. THE POSTMASTER GENERAL: Your Excellency, the situation to which the hon. Member has so feelingly referred has nothing to do with this particular amendment! This is a matter of the charges that shall be payable. The matter to which he refers was the conditions under which compensation could be paid. We had a certain amount of sympathy with the hon. Member, but that, Sir, was as far as we could go! The Bill deals with the necessity of bringing a section into conformity with others of the Ordinance, and does not affect the point raised by the hon. Member.

The question was put and carried.

The House adjourned for the usual interval.

On resuming.

THE LIQUOR BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to provide for the control of the sale of liquor.

I move this second reading, Sir, with some confidence. The Bill before hon. Members follows exactly the recommendations of a committee which sat during the middle of this year and reported to this House and the report of which was adopted unanimously. There were, of course, I know, certain criticisms and hon. Members were told on that occasion that as the report would be reflected in a Bill they would be able to raise all those points when the Bill came before the House and the Bill now is before the House in the form in which I have drafted it, following the recommendations of the Report.

In particular I would say that there were certain criticisms made by the hon. Member for Mombasa and it must not be taken for granted that those criticisms and suggestions have been turned down but that I felt it my duty not to insert any ideas of my own or of his into a Bill which was alleged to be implementing the report of the committee. You will therefore find the Bill in exactly the same form as that suggested by the committee. The same remarks apply to the hon. and rev. Member's criticisms which he also reserved.

I do not intend, Sir, to take up the time of the House very long because as you know this committee sat in public, everyone heard the evidence given, the report has been published and we have had a debate on the report and it must of necessity be a matter for reiteration anything that I have to say to-day. But I will just shortly mention the amendments which are introduced in the new Bill in order to direct hon. Members' minds towards them.

The first amendment deals with the definition of the word "meal" which becomes necessary now in the Ordinance because of the extension which you will find later on in the Bill which is given from the hours of 11 p.m. to 12 midnight to those who are partaking of a meal.

The next amendment refers to what is commonly known as "nips". It was pointed out that some people were importing in small bottles amounts of liquor which could be taken at one time and thereby defeating the whole object of the Ordinance. We therefore declare that those nips shall not be of less than half a pint, which means a considerable amount.

The next refers of course to the licences and I would like to make it quite clear that the committee that sat upon this question and recommended this Bill had no intention of raising the revenue beyond that which was already raised under the old Bill, but there were certain adjustments necessary and after carefully considering the case of the licences in the towns and in the country, we came to the conclusion that it would be only right to raise those in the towns and reduce those in the country. Hence the fact that you will find that in Nairobi and Mombasa it has been raised to £60 per annum and in the country, speaking broadly, it had been reduced to £35.

We then seek to stop what was alleged to be an interference in the rights of the licensee who had a full licence, against those persons who had theatre licences and apparently were opening the theatre bars to the public in general. We have therefore in the Bill provided that they will only be able to supply members of the audience and the artists on the stage and I inserted on my own—I am afraid I must make this confession—you will see in the Bill words which were

not mentioned in the committee—the employees of the theatre. Otherwise you have everyone in the theatre able to get a drink except the unfortunate employees. That of course will be subject to your confirmation.

We then altered slightly the licences with regard to late hours. We altered them to Sh. 15 per hour in the towns and Sh. 10 in the country. It had been pointed out that the owner of a licence might wish to extend for one hour and he would have to pay Sh. 30. We therefore made it competent to obtain a temporary extension for periods of one, two, or three hours but not beyond 2 a.m.

We then tightened up slightly the law relating to canteens and we made it so that a canteen which is run by the members for themselves should not have to pay a licence, but wherever it is being run by an outsider with the object of profit for himself, he would have to take out a licence, and we made provision for a Sh. 10 licence with regard to camps.

I then come to clubs which you know was debated at some length in the report and you will see there that we have inserted a very small fee for clubs. I understand that there has been some criticism about the smallness of this fee and I may say at once—I think I am speaking on behalf of that committee—that we only inserted that small fee in order to bring them within the purview of this Ordinance at all. Instead of having another Clubs' Licence Ordinance or whatever it would be called we thought it would be appropriate by inserting a clause in this Liquor Licensing Ordinance to bring clubs within its purview. We made provision that clubs can only be searched by police officers on the written instructions of the Commissioner of Police and we also tightened up the provisions relating to the rules of clubs. It had been pointed out to us that many clubs had rules which permitted the public too easy access. We did not accept the fact that many clubs did, but we admitted the possibility that one or two might, and we have therefore inserted in the Ordinance certain rules which every club will have to make and which they will have to follow if they wish to retain their licence.

The next question which is also one which was debated is with regard to employment of natives in bars. Having heard all the evidence the committee came to the conclusion that they could see no difference whatever between a boy carrying the drinks to the customer and the boy behind the bar who poured out those drinks, and we therefore see no reason to differentiate in the Ordinance, namely, that the barman should not be a native.

We also have met the wholesale dealers and the general dealers by forbidding clubs to sell for consumption off the premises.

With regard to closing hours there are two points of importance and the first is that we have extended the closing hours from 11 p.m. to 12 midnight whenever liquor is being served with a meal. It was represented to us that many people who came in to the cinema or theatre and who wished to have a meal after the cinema were unable to get a drink with that meal and we therefore provided in the Ordinance that if any person is partaking of a meal in a licensed house, that up to the hour of 12 midnight he will be permitted to have a drink.

We have also tightened up the restrictions in the licensed house itself by saying that those who were living in the hotel will not be able to treat their friends except during permitted hours. We were told that the law was being evaded by having one person registered as the holder of a room in the hotel and that drinking could go on all night if so desired. We are not at all sure that it does happen but we think it quite right that there should be a provision in the law to prevent it.

We have not adopted what is called the "bottle shop system" from South Africa. The committee were of the opinion that it was only fair and right that the grocers should be permitted to sell liquor as part of their business provided they had the necessary licence, but we do make this differentiation; that where the Shop Hours Ordinance is in force, that those places who sell other things besides liquor will have to close at 6 p.m.

The times have been extended during which liquor may be sold on Sundays from 2 p.m. to 3.30 p.m. and we make a similar extension with regard to Christmas Day and I am afraid that in doing that we had in mind, and I think we were all unanimous in this respect, that after all if this country is going to permit people to drink, and we have not arrived at the stage of prohibition yet, there is really no reason why we should insist on them drinking at times inconvenient to them, and we therefore suggest that as travellers have stated just after 2 p.m. not being able to get drink at hotels say be permitted to do so up to 3.30 p.m.

The principle is introduced that Christmas Day is more a day of jollification than the other two days referred to and we have therefore permitted the extension of hours at night parties on Christmas Day and it seemed unfair that they should have to close down at 9 p.m.

Provision has been made with regard to the exclusion of certain medicated wines as recommended by the committee. Where such wines contain more than 2 per cent alcohol it will be possible for the Governor to proclaim them as being included in the definition of "liquor".

We also make provision that when application is being made to the licensing court for a licence that plans will have to be submitted.

Those, Sir, are the main points in the new Bill and I may say at this stage that the Bill, with Your Excellency's permission, will be going to a Select Committee and any further points can be taken up there. I beg to move.

THE HON. THE TREASURER: I beg to second.

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

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, this is a very complicated Bill on which the people feel very strongly. I have a number of points to bring up but I think they are nearly all Select Committee points and I will see that they are brought up there.

There is one matter of principle which I would like to allude to in this Council and that is the power of justices to renew or refuse licences. If you are the owner of property such as a hotel which has a licence, part of the value of that property naturally lies in the fact that it has got a licence. In England the licensing justices have not got the right to refuse a licence except on certain grounds which are specified, mostly on the ground that the business is ill-conducted. If they consider there are too many licensed houses in a neighbourhood they refer the matter to another court—the compensation court—and thus the owner of the property does not feel that he might possibly be at the mercy of a court, which is subject to change from year to year and always has a right of appeal. Here, Sir, we have not got that safeguard. We have to ask for renewals every year or six months and one has no right of appeal whatever. I suggest, Sir, that when this Select Committee does inquire into this matter, that that aspect should be taken into consideration.

THE HON. SHAMSUD-DEEN: Your Excellency, if the hon. the Attorney General had not said that he was not responsible for introducing any new features in this Bill, I should have certainly complimented and congratulated him on this Bill which I think has been framed after a good deal of trouble and painstaking. I really think that it does bring our liquor

laws up to date in the manner that the country demanded. It does bring out a lot of anomalies which are at present in our laws but I should like to introduce one point into the Bill and that is on broad principles that as far as possible no more licences should be granted in towns like Nairobi for instance. I am sure that we have already got the reputation of being very thirsty people in this Colony and to prevent an unnecessary increase in the number of licences a very useful clause to be inserted would be one by which we could give local option to districts to restrict or refuse licences if they considered it necessary. I do not like the idea of people going dry but some restriction is necessary. I gave an instance of this before the Committee and before this House but I am sorry it was not accepted. I would still like to see that instead of raising the licence fee by £10 new licence fees should be doubled so that we should have no more shops in these places; we have more than enough. It is no use increasing the fees and asking the old licence holders to pay more. The people who have been dealing for thirty or forty years I think should be looked upon as unavoidable but we must try to stop further licences and I do hope when the Select Committee consider the matter that these points will be taken into consideration: first, local option by districts; and secondly, increasing the licence fees for new licences.

LT.-COL. THE HON. J. G. KIMWOOD: Your Excellency, I am very pleased to see that there is an attempt to improve the liquor laws of this Colony. Firstly, I should say with regard to the drafting the Bill, I would much prefer to have seen it drafted like the legislation in other Colonies; copies of which I have here before me. They deal with hotels under a comprehensive head and clubs and other forms of licensed houses and if you want to see the legislation in regard to them, you have only to look up that particular part of the Ordinance. But in this Bill you will find in different places references to clubs and you do not find the regulations referring to clubs consolidated.

With regard to the principle, Sir, I was always under the impression that this Committee was first appointed with a view to improving the law generally and also with a view to seeing whether the different forms of licences were contributing to the revenue, otherwise it was a financial measure, about the amount charged for clubs you might just as well see nothing at all. In this Ordinance we are talking about the amount charged for clubs you might just as well wash it out from a financial point of view. In England, Sir, the law there is that a club pays 1½ per cent on all liquor bought for sale to the members of that club and I can't understand why the Government has not, as on many previous occasions, introduced the laws of England and embodied them

in this Ordinance. It seems to me a very fair method of charging for a licence based on turnover and I am perfectly certain from my knowledge of the trade that it would work very fairly.

Now, Sir, in South Africa the law there is almost identical for clubs and hotels; all pay £100 for the initial grant of a licence; the club has to go to the same licensing board or committee as the hotel and pay £50 yearly for its renewal. To all intents and purposes they are restricted to the same hours as a hotel and the club also pay the same extension fee as the hotel. So you see if we come into this Colony one finds clubs in places like Nakuru and Kitale competing against hotels and this competition is most unfair. They are allowed to keep open the whole 24 hours of the day; there is practically no legislation to control them. I can prove and I am prepared to put it on oath before the Committee that they do on scores of occasions and are still doing catering for the general public and not for members. There is an instance of one club which makes a practice of holding a sweep the night before the races take place in their own area, but they run it for the benefit of the club itself, not for the Jockey Club; and I have known from my own knowledge—I have been there—for the general public to be admitted and to be served and pay in cash or cheques or both.

Then you have the anomaly again of the system of reciprocity which clubs get away with. The reciprocating members of a club signed the book or not; mostly they did not sign. There is one club run on very fair lines and I am not prepared to criticize it, but other clubs are most unfair. What should be done before this Ordinance is passed is to have it amended on the basis of English law and for clubs to pay 1½ per cent on all liquor bought for sale to their members. If that is adopted I would go further and suggest—I am taking the middle course—and base it on the South Africa law. Why there is a difference here I can only put it down to the club complex. You talk about the club and your house. All I can say is that I have been in several and I should be very sorry to see the same things happen in my home as happen in clubs! In justice let us review the whole and be fair to the whole and I see no occasion at all to exclude clubs. We want revenue and I submit with all sincerity that this is a fair opportunity to get revenue under this Liquor Ordinance.

The Elected Members thought that my name should not go forward as a member of the Select Committee. I do not mind but I think they were also unfair. After all, although I own a hotel I do not run that hotel and the licence is not in my name. (A Member: "You take the profits"). It is run at a loss.

To take this House, both sides of the House are interested in clubs and I dare say the hon. Members opposite, especially, they are all interested in the Nairobi Club and have probably got debentures in it or are members and I think hon. Members on this side are members of one club or another. I am a member of about five. I believe in clubs provided they function as clubs but not as hotels without a licence; then they should be taken seriously and that you will tighten up this Ordinance both from the revenue point of view and from the administrative point of view. I think there is one rather foolish clause here and that is that no police officer under a certain grade can enter them without written instructions from the Commissioner of Police. Surely that is not intended. How are you going to get instructions from the Commissioner in Nairobi to enter an outside club. The idea is that if anything is wrong and the law is being broken in that club, that somebody can report it and the Commissioner of Police in Nairobi is the only man authorized to give permission to a police officer to enter that club! The club complex defeats the intention. I suggest it should be altered to the principal police officer in the area in which the club is situated and no club which is being run on club lines would object. People respect the police at any particular time in uniform. I have been in many clubs scores of times and some of them are run if not on perfect yet on sound lines indeed and one cannot complain, but those are not all, and those run on sound lines have nothing to fear.

It is my intention to give evidence before the Select Committee, hence I am not wasting the time of the House by quoting the details of this rather lengthy Ordinance. I do not agree with the suggestion that the hotels in Nairobi and Mombasa should pay increased licensing fees under this Ordinance simply to give a reduction to houses outside. It is obvious that the smaller houses outside the coast town and capital are handicapped by being charged a flat rate than the larger houses with a larger population.

There is no definition in this Ordinance of a bona fide traveller, which is rather astounding. I have had practical experience; on more than one occasion I have travelled from Kisumu and reached Nairobi on a Sunday a quarter of an hour before opening time, and could not be served. I have travelled over 200 miles, and there is nothing in this Bill that I should be treated as a bona fide traveller and served. That anomaly should be removed by defining what is a bona fide traveller, or on the railway, inasmuch as you can get served at any hour of the day or night provided the dining car is attached to the train, or if you arrive at a station you

are served as a bona fide traveller. You can get in the train at Kikuyu, eight miles out, and come to Nairobi, and you are a bona fide traveller, but there is nothing in the Bill to define a bona fide traveller by road, even though you travel all day.

Then there is the question of extensions, Your Excellency, and according to this Bill the extension will be increased and the hours of opening cut down. Many outside hotels have a cinema once a week, one of the small amenities given during the course of the year, and it is necessary for the hotel in some cases to take out an extension to cover themselves after the cinema is over; for it invariably finishes after 11 o'clock, the closing hour. The result is that the hotel is handicapped by having to take out fifty-two extensions at Sh. 30 for an hour or an hour and half, and very often the money taken does not cover the cost of the extension. It is simply taken out to meet the law and the wishes of the guests. It is a big handicap which wants considering.

It is also proposed to increase the closing time by one hour. Personally, I think that is a mistake, and I am speaking from experience. No outside hotel wishes to keep open after 11 o'clock, and we have not asked for it. If this Bill passes, they can keep open to 12 o'clock, but they will still close, and many of them would close before 11 o'clock if they were allowed to do so. By giving that extra extension of one hour, which is absolutely useless to them, two hours are put out in the morning that are useful to the travelling public and the community generally who come into a township at 8 a.m. to do their business. Now they will not be able to get a drink till 10 a.m., and it is proposed to compensate the hotel for that by allowing the hotel to keep open one hour more at night when they do not wish to keep open.

There are many points in this Bill, Your Excellency, but there is just one that I will mention before I sit down. I will take up the time of the Select Committee rather than the House to convince them, I hope, of many things which could be of advantage to the Colony. I am going to refer to the composition of the licensing committee as detailed in the Bill. Its set forth very clearly that nobody interested in the trade should be eligible to sit on a licensing committee. I do not wish to contest that, I think it fair and reasonable that they should not sit as interested parties. But there are other interested parties, who are interested against the trade yet who are allowed to be appointed on the committee. I say that is wrong; they should not be allowed to be appointed. Those who are definitely in principle and in their ideas and convictions opposed to granting any licences whatever, should not be eligible any more than those interested in the trade. A

licensing committee should be an independent body, neither for nor against, people who can go there with an open mind, but it should not include those who have publicly expressed their determination to close every hotel in the Colony and are unreasonable as opponents—it may be reasonable from their own convictions—while sitting on the Committee and who would want to refuse every licence. These people have already made up their minds, so that why should they be allowed on a committee? I can produce three Ordinances of different countries where this sort of people are prohibited from being appointed, in common with people who are interested in the trade.

I hope, Your Excellency, that this Bill when it comes back from the Select Committee will be more acceptable, and I will assist as far as I can by attending the meetings of that Committee.

MAJOR THE HON. G. H. RIDDELL: Your Excellency, I rise to oppose this Bill, and I wish at the outset to make it clear that in doing so there is no violent disagreement between my colleagues and myself, because this is a parochial matter and of course we take our own individual personal views. Before I start to tell the House the reasons which actuate me in opposing this Bill, I should like if I may to trace shortly the history which led to the committee being appointed.

Subject to correction, Your Excellency, I believe you were approached in the first instance by the Hotel Keepers' Association, to which I do not belong. I have made it my business to find out what the association consists of. I find that at the present moment the membership is representative of twenty-three hotels. Therefore, without labouring that point further, Your Excellency will realize now, whether you realized it then, that the association has only a membership of twenty-three hotels when there must be at least seventy hotels, probably nearer one hundred, who are not entitled to speak on the hotel trade as a whole.

But I realize, and I am sure that all Elected Members do, that in calling this Committee together Your Excellency was actuated with the sole idea of trying to remove anomalies in the existing law. To that I naturally subscribe. I should like to declare myself, as I declared myself when registering my opposition to the finding of the Committee, that I think the time chosen, having regard to the terms of reference, is nothing less than a tragedy to this Colony. When I was opposing the Report of the Committee, I said that I objected to the terms of reference being so restricted as to prevent your getting a proper picture as a whole of the condition of licensing in this country generally. But, Your Excellency,

at the time I made that statement I did not thoroughly understand, although I should have realized, the appalling financial condition of this country, and now I realize that terms of reference restricted to prevent the Committee from cutting down the Estimates of Revenue are in fact just, and I withdraw what I said in my opposition to the findings of the Committee.

The real reason why I am opposing the Bill is this: that some day in the future, when conditions have improved, when we can sit round and take a broad view of the matter before us, it may cross the mind of somebody—perhaps the next Member for Kiambu—that it would be a good thing to open up this country in the same way that most countries have been opened up, for tourist traffic, and one of the first things he will find, if he thinks on these lines, is that there are no hotels in the outlying districts to support him in his desires. That is because, as I pointed out—and I do not want to labour it again—the licences as regards outlying hotels are absolutely prohibitive. The proof is that from here to Arushu there is no general retail licence anywhere on that high road to cater, with the exception of a small hotel some miles from this capital; to wit, my own.

As the general public view the Report of the Committee intimated by the Bill before the House, it is a dog fight between the clubs and the hotels. I said before and I say again, I am not in agreement with the hon. Member Colonel Kirkwood, but I believe myself that clubs are of the greatest value to the country.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Sir, I never said they were not!

MAJOR THE HON. G. H. RIDDELL: I withdraw, Sir. I stated in my remarks before, and I state them again, I consider the onlying clubs of the greatest value to the country, and I am glad their privileges have not been curtailed in any way. But there are certain anomalies still to be removed, and I am very glad that Government will appoint a Select Committee to go into them, because if they had not done so I am afraid that I should have been standing here talking easily until the luncheon hour was reached! But I do not want to inflict upon you a spate of Oxford English such as you are accustomed to hear from our honourable Indian friends.

As regards the Bill before us, it seems to me as a matter of principle to be right—and I am sure the hon. and learned Attorney General will agree with me—that if you put up the price of hotel licences in the capitals or elsewhere you must safeguard them against unfair competition from clubs. In

this Bill I can find no provision—and I stand to be corrected by the hon. the Attorney General if I am 'wrong—which curtails in any way the power of anybody to form a night club in this or any other town outside and to keep it open all night in the way that that particular form of club is restricted in England. One of the ways by which this form of club is restricted in England is by forcing them to keep open for the benefit of their members twenty-four hours a day. This is really a question which I will deal with in committee. I only call the attention of the House to the principle involved.

As regards the 12 o'clock privileges, or the so-called privileges, I should like to know also from the hon. the Attorney General whether it is or is not a fact that if midnight privileges, or so-called privileges—because I do not consider them privileges in any shape or form—are granted, owners of licenced premises are forced to keep open until 12 o'clock? for that is the law in England. Is it obligatory for a hotel to keep open? If so, it is a hardship to all out-lying hotels, and how that crept into the Bill I do not know, because in Nairobi itself I have had representations from some of the biggest hotel keepers to say they themselves do not want it.

Another small point I should like to raise is with regard to the fees chargeable for proprietary clubs. It is only a small point, but a proprietary club pays the same amount in a township as a hotel pays, that is £30. I am extremely glad that I have not to keep Council for any length of time over the detailed provisions of this Bill, inasmuch as they go before Select Committee. Another point of principle that I wish to raise is contained on page 33 of the Bill:

"The holder of a General Retail Liquor Licence may hold an Hotel Liquor Licence or Café Liquor Licence in respect of the same premises for the same period, without the payment of any sum in addition to the fee paid by him in respect of his General Retail Liquor Licence."

That is in fact incorrect, because when a liquor licence is applied for there is a fee of Sh. 10 attached to it, and in addition if you want a hotel licence there is a stamp duty of Sh. 10 to pay. Therefore the statement contained in this paragraph is not actually true. I know that my friend the hon. the Postmaster General gets away with it and not the Administration, but it seems to me it is just as well to register a small objection to the fact that whenever we get a licence of any sort there are these hidden methods of abstracting further money from us, because I can find nothing in this Bill in justification for charging stamp duty of Sh. 10 on general retail licences and additional stamp duty in respect of

hotel licences, when it is definitely stated here there is no further charge. That is all I have to say, although I shall have a great deal more to say in Select Committee, Sir.

THE HON. ISHER DASS: Your Excellency, I rise to oppose this Bill. In fact, I believe in total prohibition, but I am sure that if I moved the total rejection of this Bill and the introduction of prohibition, probably in the whole of the House I would not find one member to second my motion! I am perhaps glad, because after all each one likes his little drop every day! As I have stated, I would not find a seconder for prohibition, but there is one thing I am anxious to say. In 1933, there appeared in the *Daily Express* newspaper an article by someone describing certain towns in high altitudes such as Nairobi, Johannesburg, and Simla and other places. I have not the article with me at the moment, though if anyone wants it I can get a copy, but it depicted this town in an awful manner, for which the writer had justification, as he gave facts. He stated that a population of 6,000 Europeans, including women and children, and 12,000 Indians, including women and children, consumed more alcohol than any town in the whole world with that amount of population. Nor has that been contradicted, Your Excellency. I say that he was absolutely right, because the number of licenced houses, restaurants, theatre bars, eating rooms, and so on really surprises one; for it really seems as if people have nothing else to do but simply drink.

There is one thing which I can do. There is an institution in Nairobi town which to the best of its ability looks after the welfare of the citizens irrespective of race. Called the Kenya Citizens' Welfare Association, it is not too much for me to suggest that if the Bill is referred to Select Committee that their recommendations which they have sent to hon. Members should be considered by that Committee, who should give those recommendations due consideration. And I have authority from some Indian friends, members of the Association, to press that the suggestions of the Association shall be given greater consideration than any others.

There are five or six of these suggestions, and the first has reference to the licencing of clubs: "The fee suggested is quite inadequate." Clubs in some cases I understand also do quite a business, in that instead of providing a little festivity for members now and then members have the privilege of bringing a guest. The next says: "That the prohibition of the employment of African natives as barmen should be applied and enforced in all places where intoxicating liquors are sold." At least if we have become so used to liquor the people of

the country should be saved as far as possible. I am strongly in favour of the recommendation concerning the week-day closing hours, for no more facilities should be offered for the sale of liquor. No more facilities should be granted at all, and the recommendation of the Association is: "That the permitted week-day hours under general retail, restaurant or cafe licences or clubs, except for residents, shall be restricted, in Nairobi, to nine per day, as in England. The earliest opening hour to be 11 a.m. and the latest closing hour 11 p.m. In the provinces, the hours should be restricted on week-days to eight. The earliest opening hour 11 a.m. and the latest closing hour 10 p.m. A compulsory break (for the sale of intoxicants only) of not less than two hours, commencing after midday. Clubs should conform to the same hours as other licensed premises in their respective districts." It sounds reasonable that in a day of twenty-four hours, if the working hours are nine the hours for consuming liquor should not be eleven. A man can work hard for eight or nine hours, and have two hours pleasure, but not twelve hours pleasure after working nine hours.

I understood the hon. member to say he agrees with an extension of hours on special days like Christmas Day and Good Friday. I have been under the impression, although for some years I have not believed in any religion, that these days were supposed to be religious festivals; but not that they were days on which people should get drunk. Fancy any Government suggesting that the hours should be extended! I should think, in fact, that the position would be quite the reverse: that people would be expected on such important days as Good Friday and Christmas Day to go to church and observe their religion and do whatever was possible for the purification of their souls instead of going to bars the hours of which are to be extended for the purpose! I do not see any sense in that.

The hon. Member Mr. Shamsud-Deen has suggested that there should be local option in residential areas; and that is in accordance with a suggestion of the Association: "The inhabitants of all residential areas should be given the power to veto by popular vote the issue of liquor licences in their respective neighbourhoods." That is a fair and reasonable suggestion.

Another suggestion is with regard to workers in aircraft and transport companies: "This is referred to in paragraph 36 of the Royal Commission Report. . . . The recommendation of the Royal Commission England and Wales 1929-31 is to the following effect—Aircraft

and transport companies, including all public transport services throughout the Colony, should require total abstinence from intoxicants during hours of duty, from drivers, pilots, guards, and conductors." This is very reasonable. People in whose hands lie the safety of passengers should be debarred from taking any liquor during working hours.

The last recommendation of the Association is with regard to liquor advertisements: "There seems to be reason to think that a considerable number of advertisements are designed to attract the rising generation. Our general conclusion is that there is cause for alarm in this flow of advertisement. It should be illegal to publish advertisements which contain statements which amount to palpable scientific untruths or make use of anonymous medical testimony." That I think is a most reasonable suggestion also. You find at cinemas day after day advertisements stating "Good for your health and wealth to drink whisky," "Don't be vague, drink Haig." I think all the suggestions of the Association are most reasonable, and should be given due consideration by the Select Committee.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, speaking on behalf of myself and on behalf of the hon. Member for Mombasa who is not here to-day, and on the understanding that this Bill is going to a Select Committee, we propose to support it.

The reason it is going to a Committee is particularly with reference to Mombasa and the special conditions that prevail there are different to what they do up here. As will be seen in the memorandum that was sent to the Licensing Committee which did not meet in Mombasa, that Report of the Mombasa Licensing Committee was forwarded to them, and in this memorandum it puts forward very clearly what the desires of the people of Mombasa are.

One of the particular reasons, Sir, they have is the competition which prevails in Mombasa with the ships that come into Kilindini Harbour and which have no licence whatsoever. I think, Sir, I am right in saying that this is about the only part of the world probably, except a free port, in which this prevails. In this Bill I see it puts in that there is a steamship liquor licence but this only refers to steamers on the lakes and there is no reference to steamers using Kilindini Harbour whatsoever. This certainly does not against the hotelkeepers to a certain extent. In a letter which the Manager of the Union-Castle Line wrote at that time he quite agreed that there should be some restriction put on steamers and he did ask that if it could be arranged that the sale of

liquor on board ships could be made on Sundays, Christmas Holidays and Good Fridays as on other days, he was sure it would be to the advantage of everyone and he did not think the hotelkeepers themselves would make any objection—at least that is what he was informed—because, as he said, many of their ships arrived on a Sunday and large numbers of the public came down to meet their friends and in the heat of the day it would be a very distinct hardship if these people could not be supplied with drinks.

Another thing, Sir, is that the opening hours on Sundays and holidays should be based on tropical conditions and not on Nairobi circumstances. The Coast Licensing Committee recommended 9 a.m. to 9 p.m. but inquiries from the licensed victuallers resulted in the alteration of 10 a.m. to 2 p.m. and 6 p.m. to 9 p.m. which hours will suit everybody.

With reference to the small hotels that exist on the Coast, that is at Malindi and such places, we think they should be given the benefit of the lowest rate possible for country hotels and in this connection I hope more hotels will be started along those roads and unless they could get the very lowest rate given them, it will be very hard for them to keep going at all.

LT. COL. THE HON. LORD FRANÇOIS SCOTT: I feel, Sir, that my honourable and learned friend who moved this motion may feel that it is time somebody rose to support him a little bit more and as I was a member of the Committee over which he presided extremely ably and most patiently, I should like to say that I do support this Bill as it stands.

At the same time there have been three points raised this morning with which I am in sympathy and points which I hope will be dealt with when it goes to the Select Committee.

The first point which is a very important one is the one raised by the hon. and gallant Member for Nairobi North, that people who have invested a large amount of money in the property of a hotel or something of that sort should not be liable to have the renewal of their licence taken away at the whim of possibly cranks who might at the time get into possession of the Licensing Board. I do not wish to go into the details of that but I think they should be given some security which I believe could be brought into this Bill.

The second point is the one raised by the hon. Member for Kiambu that if these midnight privileges are extended as proposed in the Bill it should not be compulsory on all hotels to keep open. I am sure that could be made clear and I am sure it was not intended.

The third point is the one raised by the hon. Member for the Coast that the hours in Mombasa might be slightly different to the hours upcountry.

Apart from those three points, Sir, I support the Bill.

THE HON. CANON THE HON. G. BURNS: Your Excellency, I find my position rather a difficult one. My friend (the hon. Isher Dass) a moment ago suggested that if he proposed prohibition he would have no one to second him. I can assure him that he would have made a great mistake. I most certainly would have done so although it would be a forlorn hope. This Colony, Your Excellency, has an asset and the greatest asset that this Colony has is a sober people. Whether it has that asset now or not, I leave it to hon. Members to decide. But that it should be made possible and easier for that state of things to be changed is to me beyond comprehension.

I am here in this House, Your Excellency, as one of the representatives of the African people. Of course I know the shibboleth that in the House we all represent them. Well they may but I represent them in a particular way and the thing of course which hurts me most in this Bill, knowing the African as I do and having considerable experience of the effect of liquor on the African and seeing some of the sad thousands that have come to my own personal notice through the use of liquor by the African, one of the things that hurts me most is that the bar should be thrown open for the African to become a barman. In the various hotels in Nairobi I have spoken to several people about this and they tell me: "Oh, but this is happening to-day." I mean in the clubs and other places the Africans are not only carrying drink round to those who order it and going to the bar and receiving the order given, but they themselves are selling liquor and are acting, so I am told, as barmen in some of the clubs. Well, I am not going to say anything nasty about clubs. I do not know anything at all about them. All I do say is that if it is so and that clubs are able to obey the law which prohibits the employment of African barmen in a hotel, then the sooner the clubs are brought into line the better I would like it.

With regard to the African becoming a barman I do want, in all sincerity and with all the emphasis I am capable of, to say in this honourable House that we are going to do to the African one of the greatest injustices that we have ever perpetrated upon these people: Municipalities and other bodies at the present time are dressed beyond measure at the sale of various forms of liquor such as methylated spirits, etc. to the African at the present time. They have made that an

excuse for opening the African beer shops in the various sections where these beer shops are operating to-day. But I should like to state here and to state it without any fear of contradiction, that when an African once gets the taste of European spirituous liquors, he has no more time for his African beer. It does not, as one put it, touch the spot. And the result of that, Your Excellency, is that those people will go to those who have no conscience will provide those Africans with spirituous liquors. They can go and buy a bottle of liquor from a friend. They will bring it and hand it over to the African and he and his friends will go, as was expressed by the hon. the mover, for a jollification. In that respect I have known Africans holding good positions in this Colony, trusted and respected by those of their superiors over them, whose whole lives have been ruined and destroyed from getting the taste of spirituous liquors, and once having tasted they get them at any cost.

I am told that the members cannot see any difference between the boy carrying round liquor to those who are reclining in their easy chairs in the club, or the boy behind the club bar dispensing that liquor. I do not understand such arguments at all. But not only are we putting that boy in the place where, if he has the will to do so, he can easily, for a time until he is found out, take some of that drink in bottles or put it into a bottle and slip it into a place where he can hide it until his friend comes and goes away with it; at the same time that African is also responsible for the cash or will be when he is made a barman, and it is not Your Excellency, the barman in the responsible clubs of the Colony or in the well run hotels of the Colony, but these Africans will be barmen in every little petty hotel or saloon shop where drink is sold in the whole of this town, as we have heard just now; and therefore we are placing the African in a place of temptation, which we, as a superior people supposed to be acting as trustees for them, have no right, I submit, in placing the African there.

When he has taken his place intelligently and is able to resist the things that we have brought into his country and are more or less forcing on him, it will be for him to decide whether he will or will not.

I have stressed this very very much and I would like to appeal to the sense of the whole House and every hon. Member of the House not to place this great temptation in the way of the African at the present time until he is in a better position to resist such temptation. I know of course that I will be told "You are a missionary, why have you not done better." As to that, I am not responsible to this House for my work

as a missionary. I know the African and his weakness and I know the temptations we are going to impose upon him if we allow him to become a barman.

There are very many points in this Bill that I should like to deal with, but as it is going to Select Committee I will not take up the time of the House for very long. There is one point that my hon. friend the Member for Trans Nzoia brought up which I wish were true. He objected very much to those who were opposed to the sale of drink being allowed to be members of the licensing committees. But alas! that is not so, for section 12 (c) of the Bill disqualifies from appointment "Any paid officer or paid agent of any partnership or society interested in the sale, or the prevention of the sale, of intoxicating liquor." This I take to mean that any temperance advocates or those connected with a temperance society will be debarred. Here again we have a strange thing. Although a temperance person or one connected with a temperance society or welfare society, whatever the term may be, is to be debarred from being a member of the Board, yet a member of a club can be on that Board. I do not know how you are going to manage because with all the restrictions in section 12 I do not see where you will get a board from. However, for the comfort of my hon. friend his point is met there.

With regard to clubs and the amount paid in licences, I understand that in England it is the custom that clubs pay Government according to the amount of liquor sold by the clubs; that is they pay excise on the liquor sold. If that is so, I do not see why a similar system should not obtain in this country. I cannot understand, Your Excellency, why on a restaurant car on the Uganda Railway running to the Coast for the accommodation of passengers on that car, the management of the Railway should have to pay £15 in the way of a licence fee, when a club only pays £3. I do not exactly see it. The club is there for the accommodation of its members. We are seeking to get revenue from every source we can, and here, surely, is a very legitimate way by which we could increase the revenue a little. Why should clubs and their members have privileges that the travelling public on the Uganda Railway, or at least the Railway that supplies the travelling public with these facilities, are not in a position to have?

With regard to licences on a railway station, I understand it is very definitely laid down that only bona fide travellers can be served, a point brought up by the hon. Member for Trans Nzoia, that travelling by train was lawfully using railway premises for railway purposes. The law is a most extraordinary thing. If a passenger going to Mombasa or

Uganda has a friend coming to see him off, will he be prohibited from taking that friend into the bar on a railway station and treating him before they said goodbye to each other prior to the train moving off? Is the friend a bona fide traveller, or one for whom provision has been made by such a licence? I know these are minor points, but they impress me very much.

With regard to temporary extension licences, we read in section 10 (16) (a) that they may be granted by "a district commissioner to the holder of a general retail liquor licence or of a restaurant or cafe liquor licence and shall authorize the sale of liquor between the hours of 11 o'clock at night and 2 o'clock in the morning on any particular day specified therein: provided that no such licence shall be granted in respect of a Sunday or Good Friday. There is no restriction there of the number of days when such extended licences may be given. If the district commissioner thinks well he can grant to the holder of a licence, whoever he may be, an extended licence six days a week if he so wishes. The cinema people turn out at 11 o'clock, and instead of making their way home and getting to bed as they ought they have the possibility of going to these places where an extension licence has been granted and remaining there if they feel so inclined drinking and taking part in whatever amusements may be provided until 2 o'clock in the morning. I have lived twenty-six years in Nairobi, and I have seen and know some of the saddest cases possible for us to imagine taking place—not of Africans now—but of Europeans, owing to these late hours and the possibilities that are opened up to the young people of this country. I do appeal very strongly indeed to the members of this House, not to help our young people down by doing this sort of thing. I know there are occasions—I am not foolish enough not to know it—when an extension might be necessary, but I do feel very strongly that there should be more restriction based on a certain number of nights, whether in the month or week, or whatever it may be, beyond which number extensions should not be granted.

One other point before I close, Sir, and that is with regard to the transfer of a licence from a house in Nairobi out to Parklands or somewhere similar. That transfer may be made without giving the people of the district the opportunity of saying they will or will not have it, that they do not want such a place there. I feel very strongly that such transfer should not take place without a new licence being asked for and the people of the district given the opportunity of saying whether or not they want it. The last point I want to speak about concerns the hours on Sundays, Christmas Day and Good Friday. To me it is a very sad thing that the hours should be made longer on those days when people can go and get

drunk, and I hope if I am on the Select Committee which deals with this Bill, to put before them what I feel very strongly, that on Sundays and Good Friday such places should only be opened from 12 to 2 and from 6 to 9 p.m. That gives those who want to enjoy—as they call it—these places five hours in which to do so. There are other sections of the community who have some claim to consideration with regard to the quiet of these days. On Christmas Day, when jollifications take place, I quite see that they may need a little extension, as far as 10 o'clock, and I would be prepared to agree to that, but on the other days I feel very strongly that those who go to their places of worship at 10 or 10.30 and again in the afternoon—not very many then I am sorry to say—should have those hours kept quiet, that the quiet of the Sunday should not be disturbed by those who wish these hours to be made longer.

These, Your Excellency, are the main things I wanted to speak about. There is much more I should like to say, but perhaps I shall have the opportunity in Select Committee to put matters before the other members. But I do appeal very strongly with regard to the native and his position so far as this Bill is concerned. He is connected with and involved in it in every way—long hours, extension licences and so on, because he has to remain willy-nilly and servo those trying to make profit out of this thing that is doing so much harm in this country.

The debate was adjourned.

Council adjourned till 10 a.m. on Saturday,
16th December, 1934.

SATURDAY, 15th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Saturday, 15th December, 1934, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., O.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 14th December, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following Paper was laid on the Table :

By THE HON. THE COLONIAL SECRETARY :

Report of the Standing Finance Committee on the Draft Estimates of Revenue and Expenditure for the year 1935 including a Minority Report.

MOTION.

Notice of the following Motion was given :

By THE HON. THE COLONIAL SECRETARY :

That the Majority Report of the Standing Finance Committee on the Draft Estimates of Revenue and Expenditure for the year 1935 be adopted.

BILL.

SECOND READING.

THE LIQUOR BILL.

HIS EXCELLENCY : The debate on the motion to read the Liquor Bill a second time will now continue.

THE HON. CONWAY HABVEY : Your Excellency, I had no intention of taking part in this debate but my muzzle having been temporarily removed at the Nairobi Club last night to enable me, Sir, to drink the health of all those citizens genuinely concerned with the welfare of Kenya in a foaming flagon of Kenya lager admirably served by a fine specimen of African humanity, I feel that I cannot but make a few brief comments on this Bill.

I did intend, Sir, to have a shot at the Canon but it is a little hard firing at an invisible target. However, I shall do my best to hit the spot.

Knowing my predilection for temperance my friends may possibly be surprised to know that I intend to support this Bill wholeheartedly and I should like to assure those antagonists of this measure that no less than nine out of eleven European Elected Members have announced their intention of doing the same.

This Bill as has already been explained is the result of an exhaustive inquiry by a very representative committee which I feel sure considered in very considerable detail the many points that have been raised. Now in any case we must all agree, Sir, that it does represent a very great improvement on existing legislation, especially in one respect with which I am particularly concerned and wholeheartedly welcome the admission of the principle for the first time that country hotels in sparsely populated areas are differentiated in the matter of licence fees from hotels in closely populated urban areas.

I feel sure, Sir, that the hon. and learned mover will see that full consideration is given by the Select Committee which is to be appointed to the three most excellent points detailed by the Noble Lord and the two very good points introduced by the hon. and gallant Member for the Coast.

There is a good deal in what my hon. and gallant friend, the Member for Trans Nzoia, said about conditions in regard to hotels and clubs, but I feel, Sir, very strongly that the majority of his points can be quite easily met by efficient administrative and police action.

I have tried to follow my hon. and gallant friend, the Member for Kiambu, whose speeches are almost invariably a model of lucidity, but on this occasion I am afraid I failed to catch his point. It may however have been due to my density or it may have been due to the fact that my brain was in a fuddled condition owing to the alcoholic fog that permeated this debate, and I am sure my gallant friend will forgive me for saying that at the conclusion of his remarks I was reminded of the proverbial Irishman who does not know what he wants and won't be happy until he gets it.

Now, Sir, I must deprecate the growing tendency of my hon. and rev. friend greatly to overstate his case. He drew a harrowing picture of what might happen if native barmen took to drink. I could draw an equally harrowing picture of the wrong turning and worshipping unduly at the shrine of Bacchus. There is no need to do that. These things do not happen. Native barmen do not, as a rule, take to drink, Sir.

MAJOR THE HON. G. H. RIDDLE: On a point of order, Sir, is there such a thing as a native barman? He says they do not take to drink. It is against the law for a native to be a barman.

THE HON. CONWAY HARVEY: The hon. and rev. gentleman, Your Excellency, in drawing his most harrowing picture spoke with some authority in saying that he had worked amongst natives for a very long period of time. Well, Sir, I should like to remind him that many of us have lived and worked amongst natives for more than a decade longer than the reverend gentleman. I myself have spent a very large amount of time during recent years in clubs which employ native barmen and I have never seen or heard of a case in which natives have been guilty of purloining the liquor or misbehaving themselves in any way and I think it is a thousand pities, Sir, that this avenue of employment should be denied to the African.

Now, Sir, let us look facts squarely in the face, be reasonable and interfere as little as possible with the lives of people whose ideas do not entirely coincide with our own, so long as they behave in an orderly manner. And we must recognize that people can be made neither sober nor virtuous by legislation.

THE HON. A. C. TANSNILL: Your Excellency, as a member of the committee, I would like to say first that the terms of our reference were the control of the sale of liquor and not the prohibition of the sale of liquor. The honourable, learned and patient chairman of that committee had, on more than one occasion, to call the attention of witnesses to this rather important fact. Thanks to him and to our most excellent Secretary, Mr. Gurney, I do believe the committee has evolved a Bill which immeasurably improves the existing Ordinance for the control of the sale of liquor.

Now, I also, with my honourable friend who has just spoken, very much regret that the hon. and rev. member for Native Interests is not present to-day, because he really did very grossly overstate his case. He took up most of his speech in regretting that this new Bill allowed natives to serve liquor. Well, of course, they have been serving liquor in clubs for very many years and I gathered that he was afraid that they would be contaminated and lose morale and so on by being in close proximity to drink. But every hon. Member of this House will realize that the native knew all about drink centuries before we came into this Colony. And in

regard to native barmen I do happen to have had control of a small club bar and the native barman who is employed is a man who has had his character very critically examined and by ordinary methods his work is controlled and examined very very carefully, so that it is almost almost impossible for that native to get away with the club liquor.

Now the other point and really a very important point arising out of all this is that apart from barmen there are the waiters who go up to the bar and take drinks to members. Well they also presumably are equally mixed up in the drink practically the same as the barmen and it seems to me a thousand pities that the hon. and rev. Member should have argued that this form of employment, for which the native is so eminently suited, that he should be deprived of it.

I also wish to put in a plea for a very large number of the hon. Members of this House; that is, that we suffer from being members of clubs. It was apparent from the evidence given before us that the hotel-keepers had what one might almost describe as a superiority complex—I am not sure if it was superiority or inferiority complex! The point of a members' club is, of course, that it is members who have banded themselves together so that they may meet and incidentally—quite incidentally—obtain a drink when they want it. We made very exhaustive inquiries and believe there is not one single members' club in Kenya where drinking is the main object. We believe it is in every case merely the subsidiary object—the main objects are generally sport and recreation; drink is a very minor point indeed. We were bombarded with extracts from the Royal Commission Report dealing with the inequities of clubs in general, and of course what obtains in England in a rather minor degree actually does not happen in Kenya, and I do not believe it will happen. The argument was put forward that the club was competing with the licensed dealer. Of course, Sir, that is quite wrong. If you carry that to its logical conclusion we ought not to give a dinner party because we are possibly competing with the hotel which provides for dinner parties. The thing is monstrous if individuals cannot arrange to meet together and provide facilities for such a meeting and the necessary liquid refreshment!

Having completed our Report, the hon. and learned mover produced a Bill to carry out the recommendations of that Report, and directly this was published for general information, of course, a very large number of people were able to sit down, examine it in detail, and find minor—I believe minor—alterations which were worthy of consideration, and I am

delighted to see it has been agreed that this Bill goes to Select Committee. I do think there may be probably a few minor alterations required, but not many. There is one point which has come to my personal knowledge at the recent meeting of the Licensing Court in Nairobi, where the learned profession with great unanimity tried to prove that the Court was not capable of refusing to grant a renewal of a licence. On looking through the Ordinance it was obvious they could not renew a licence if the holder of the licence had done certain things which would be very stupid if he did do them, but I think possibly the Bill may be improved by setting out a little more explicitly than it does at present how far the Licensing Court may go in refusing to renew a licence to a man who may have spent thousands of pounds in making provision for that licence and has already had one granted him.

There is another point on which I believe the Bill may be made a little clearer, and that is concerning the obligations of licence holders. I have it at the back of my mind, but am not quite sure about it, that a licence holder in England is bound to keep his hotel or his bar open during the hours laid down in the Act at home and that if he does not do that, if he refuses to supply drink when called upon within those hours, he runs a very grave risk of having his licence taken away. I have been told, but have not seen the Act, that if a licence holder wanted to close earlier on a certain day he has actually to apply to the Licensing Court to enable him to close for certain hours. That, I think, requires a little further explanation in the Bill, because we do know that some of the hours while convenient perhaps to the country are not quite so convenient in Nairobi. I heard one of the leading hotel-keepers in this town say that the old Sunday hours of opening, from 12 to 2 and 6 to 9, are absolutely all right for Nairobi. When it was pointed out to him that it was not quite so convenient for the travelling public in the country districts, he said "Well, there it is," and it is possible there may be some method by which the closing hours may be adjusted for various districts as we have adjusted the licensing fees.

In regard to temporary extensions. A small point that I was asked about and could not answer was this: Supposing a hotel has got an extension, for some banquet or function, and the hotel hours are extended to say 1 o'clock. Supposing a casual passer-by comes in between the hours of 12 and 1, is he permitted to get a drink because the hours have been extended? That I believe could be covered when the temporary extension is granted by laying down on the grant of the temporary extension the use for which that temporary extension is granted.

I am hoping I may be able to give evidence on certain points before the Select Committee which have been brought to my notice by members of my constituency.

THE HON. R. W. HENSTED: Your Excellency, I do not consider that I am an expert on liquor licensing and I do not propose to speak on the Bill in general. There is one question on which, as a representative of Native Interests, I think I ought to say a few words—the question of the employment of native barmen. The hon. and reverend Member Canon Burns has spoken very strongly against that, and there is also strong opposition from other people, and I hope their views will be considered in Select Committee. At the same time, I am bound to say that native barmen have been employed in clubs for a great many years, and I have never noticed that employment has had any denormalizing effect on them. If it had had that effect, I should have been the first to oppose this employment in the Bill. So far as my experience goes, native respectable class of natives, and I have never heard or seen a case of drunkenness among them. As the hon. Member for Nyanza said, they perform very efficiently a useful service, and I see no reason why they should not be employed in hotels and in other bars.

THE HON. THE ATTORNEY GENERAL: Your Excellency, whatever may be said about this debate, all must agree that it has been an extremely happy and spirited one. But there are one or two things which it is extremely difficult for me to understand: why this Bill should be opposed by anyone, except with regard to one or two items, as compared with the old measure which we are amending? How anyone can think of rejecting this Bill, when it would only mean that the existing Ordinance would remain in force, is really beyond my comprehension. We have been told that everyone here suffers from some complex or another—you have the teetotal complex, the club complex, and the pub complex—but the real trouble about this Bill is that it was designed by a committee of moderate men whom I suggest had very few complexes at all. I should like to say at the outset, though I cannot speak naturally for the whole of the Committee which will be appointed after the second reading has been agreed to, that I think probably all the points raised by the Noble Lord and met in Select Committee. I think there is a great deal to be said with regard to a licensing court being able to refuse to renew a licence when just cause has been shown why it should not be renewed.

We have heard a great deal on the point of the native barmen. I do not intend to worry the House by saying anything more, except that if we are to be consistent and say there shall be none in clubs or pubs, let us go further and in our own private houses lay down that no native should be allowed to serve drink at all. It seems absurd for anyone to say it is impossible to have a native serve in a bar, where everything is carefully watched and checked, but that a native should be permitted to serve in the house where he is employed and where we know he can get away with a great deal more if he desires than he should.

One small point was made by the hon. and reverend Member Canon Burns yesterday in which, referring to the law on the subject, he made a slight error. I understood him to suggest that no one who is interested in teetotalism is allowed to serve on a licensing court. As a matter of fact that is not so, because this prohibition refers to any person who is paid as a servant of a teetotal institution; he is forbidden to serve in the same way that a person who is interested in a licensed house is forbidden to serve on the court.

I regret that the hon. Member for Trans Nzoia disliked the Bill to such an extent that he could not understand it. I can only presume that he is not able to understand the present one because in form it follows the existing Ordinance exactly except where additions have had to be made. But I can promise him that in Select Committee I will see if I cannot add a great many more side notes, which do not form any part of the Bill but which are useful to guide those who wish to find the exact section they want to consider.

I do not think any serious points of principle have been raised in debate. Of course, you have on one side those who think there should be no pubs at all, and I am certainly surprised to hear from the hon. Member Mr. Isiah Dasa that it was seriously stated in a paper (that Nairobi, Simla, and Johannesburg were the three worst towns in regard to drinking in the world, or at least the Empire). The person who wrote that letter could have travelled very little indeed, because from my personal observation of Nairobi I could point to many towns not only in Africa but in other far more civilized places where drunkenness is far more prevalent. Every one of the points raised in regard to advertisements and so on by those in opposition to the Bill have been most carefully considered by the Committee with the exception of the point which I mentioned at the time and which I hope the Select Committee will accept an amendment on; otherwise I do not think there was a single point raised that was not debated on at some

length, and you may therefore take it you have the unanimous opinion of the whole Committee, which I think has been quite rightly described as a very representative Committee, as being against each and every one particular point. It must be realized that we were not called on to consider doing away with drink altogether, nor to restrict it, but to make it easy of access compatible with good law and order. As we all know, at home, in England, it has been quoted to me in the course of debate, there are all sorts of little privileges given the trade. It was true up to a few years ago, and I believe it to be true now, although I was not able to look into it in the interval, that in the immediate vicinity of Fleet Street where the newspapers are printed the pubs are open all night, but nowhere else. There is an example of people who are adapting themselves to conditions. What this Committee is saying in this Bill is that we are endeavouring to adapt the law to the conditions that exist in Kenya to-day. I certainly agree that something might be put into the Bill to say that if a licence holder does not wish to keep open from 11 to 12 he need not be bound to. Actually, in my opinion, as it is only a permissive section, permitting him to serve drinks with a meal, I am of the opinion at the moment that he would be able to close, but if there is the slightest doubt about it we can clear that matter up in Select Committee.

I do not think, Your Excellency, that I can serve any useful purpose by going into the innumerable points raised.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL moved :

That the Liquor Bill be referred to a Select Committee consisting of the following :—

The hon. the Attorney General (Chairman).

The hon. the Treasurer.

The hon. the Acting Chief Native Commissioner.

The hon. Member for Mombasa.

The hon. Member for Ukamba.

The hon. Member for Nyanza.

Dr. the hon. A. O. L. de Souza.

The Rev. Canon the hon. G. Burns.

THE HON. THE TREASURER seconded.

The question was put and carried.

BILLS.

THE HON. THE ATTORNEY GENERAL moved :

That this Council do resolve itself into a Committee of the whole Council in order to consider the following Bills, clause by clause :—

The King's African Rifles (Amendment No. 2) Bill.

The King's African Rifles Reserve of Officers (Amendment) Bill.

The Post Office (Amendment) Bill.

THE HON. THE TREASURER seconded.

The question was put and carried.

Council went into Committee.

In Committee.

The King's African Rifles (Amendment No. 2) Bill.

The King's African Rifles Reserve of Officers (Amendment) Bill.

The Post Office (Amendment) Bill.

were considered clause by clause.

THE HON. THE ATTORNEY GENERAL moved that these Bills be reported to Council without amendment.

THE HON. THE TREASURER seconded.

The question was put and carried.

Council resumed its sitting.

His Excellency informed Council that the following Bills had been considered clause by clause in Committee of the whole Council and had been reported to Council without amendment :—

King's African Rifles (Amendment No. 2) Bill.

King's African Rifles Reserve of Officers (Amendment) Bill.

Post Office (Amendment) Bill.

THIRD READINGS.

The hon. the Attorney General moved that these Bills be each read a third time and passed.

THE HON. THE COLONIAL SECRETARY seconded.

The question was put and carried.

The Bills were each read a third time and passed.

Council adjourned till 10 a.m. on Monday, the
17th December, 1934.

MONDAY, 17th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Monday, 17th December, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 15th December, 1934, were confirmed.

BILLS.

FIRST READINGS.

On the motion of the hon. the Attorney General, seconded by the hon. the Colonial Secretary, the following Bills were read a first time :

Non-Native Poll Tax Bill.

European Civil Service Provident Fund (Amendment) Bill.

Notice was given to move the second readings at a later stage in the session.

SECOND READINGS.

LICENSING BILL.

THE HON. THE TREASURER: Your Excellency, I move that the Licensing Bill be read a second time.

The object of this Bill is to give effect to the recommendations of the Committee appointed to revise the Licensing Ordinance of 1933. I would therefore invite the particular attention of hon. Members to the Report of that Committee as the Bill now before the House is identical with the Bill appearing as the appendix to the Report. The Committee appointed by Your Excellency to investigate this matter was a very representative one composed as it was of five unofficial members, namely, a nominee of the European Elected Members, a nominee of Nairobi Chamber of Commerce, a nominee of Mombasa Chamber of Commerce, a nominee of the Indian Federated Chambers of Commerce, and Mr. Gill, a prominent financial man in this town, with the Solicitor General, the Chief Native Commissioner, and myself.

The Report of the Committee is signed by all the members with the exception of the nominee of the European Elected Members who was ill at the time but who, I understand,

agrees with the main principles of the Report, and he can perhaps explain himself his attitude towards the Bill. It is also subject to certain limited reservations by the hon. Member Mr. Pandya in respect of retail traders' licences and exchange bankers. The Report, therefore, reflects the considered view of the accredited representatives of wide trade and professional interests in the Colony. In view of the detailed explanations contained in the Report, a lengthy exposition appears to be unnecessary at this stage, and as I have Your Excellency's permission for stating the Bill will be referred to Select Committee it may suffice if at the present time I confine myself to the main principles underlying the measure now under consideration.

Paragraph 5 of the Report explains that from experience of its working, the present Ordinance "lacks balance, is administratively extremely difficult of proper application and is unequal in its incidence, the principle of setting-off one tax against another and the inclusion of a relatively high fee for any unspecified business in particular militating against the measure as a competent instrument for the licensing of trades and professions". As an example of the inequality which arose from the setting-off system under the present Ordinance, it may be stated that a licensed turf accountant, by reason of the fact that he holds a turf accountant's licence, may not only carry on an insurance business and that of a lodging-house but under the same licence may carry on the business of commercial traveller, manufacturer's representative, and a variety of professions! An extreme example of the set-off system is in respect of an electric distribution licence which would entitle the holder of the licence to conduct every sort of business other than that of an oil company or architect or surveyor. This is obviously unfair to the individual specializing in only one trade or profession for which he pays a relatively high licence. The charge of Sh. 100 for "any other business" is equally unfair as applied for example to a struggling small-trader or barber, especially when it is remembered that a fee of only Sh. 30 is charged for a retail trader conducting what might well be a very profitable business.

Having arrived at the conclusion that drastic amendments to the structure of the Ordinance were necessary, the Committee was faced with the formidable task of completely re-framing the measure, and this task was not rendered any more easy by an almost complete lack of response to the public appeal for evidence. I am, however, satisfied that the structure of the Bill now before the House is sound, although certain details in the schedules may require further consideration.

As indicated in paragraph 8 of the Report, the main principles on which the present Bill is framed are the restriction of licences to trades or professions specified and the removal of the fee of Sh. 100 for unspecified businesses; the elimination of the previous differentiation between wholesaler and retailer and importer and non-importer; provision for the issue of certain comprehensive licences rather than application of the principle of "set-off"—this latter follows the practice in other countries which adopt a trades licensing system; very much increased powers of inspection and supervision; the schedule of licence fees chargeable under the Ordinance framed will have due regard to fees chargeable under other Ordinances but will not supersede or interfere with the fees leviable under other Ordinances; the schedule of fees based on stocks is carefully graduated and applied to stocks held during the currency of the licence; authority is given for payment of half-yearly licences if the annual fee is Sh. 300 or more; and provision is made for transfer of licences to other premises or persons.

Paragraphs 14 to 51 of the Report explain the detailed provisions of the Bill, and therefore it becomes unnecessary at this stage for me to explain them further, although of course I shall be happy to explain any details to the best of my ability if required to do so in the course of the debate. There is, however, one point upon which I propose to touch, and that is the question of yield.

As I have already indicated, the measure has been completely recast, and by the elimination of the fee for "any other business" many occupations at present chargeable at Sh. 100 cease to be chargeable under the Bill now before the House. In addition, certain other fees have been reduced. In the exemptions of businesses, for example, a professional hunter, a petty retailer not carrying stocks, or an owner of a taxi or lorry driver are no longer chargeable. Fees in respect of businesses such as secretary, bookkeeper, photographer, and the class of trader carrying stocks between £100 and £1,000 are reduced. At the same time, the larger businesses will be called on to pay enhanced fees based on the scope of their activities. It was felt by the Committee that any increased revenue accruing under the Ordinance would result from a complete and satisfactory application of the provisions of the Ordinance rather than by creating any increase in the fees chargeable. I may say that every endeavour will be made to secure a full and proper application of the new measure.

So far as the yield is concerned, a close estimate is impossible until some experience of the working of the Ordinance is obtained first, but I am reasonably certain that

it will be less than half the sum originally mentioned when the provision of a Traders' Licensing Ordinance was first suggested.

As stated in paragraph 54 of the Report. Your Excellency, the main object of the Committee has been "in the direction of framing a workable measure with reasonable and equitable schedules of fees, due regard being had to the revenue position, and although no guarantee can be given, we are confident that a proper and full application of the measure now submitted will result in an improved revenue yield from this source without imposing any undue hardship on individuals."

THE HON. THE ATTORNEY GENERAL seconded.

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

LT.-COL. THE HON. LORD FRANCIS SCOTT: Sir, it was generally agreed that there were many deficiencies in the Licensing Ordinance, 1933, and the European Elected Members were in entire agreement with the proposal that a Committee should be appointed to deal with that Ordinance with a view to amending anomalies, rectifying inequalities and preventing evasions. At the same time, Sir, it was not visualized that the opportunity should be taken of very materially increasing the taxation on the commercial community which in effect this proposed Bill does do, as according to the Estimates of Revenue for 1935, if this Bill becomes law, it is estimated there will be a 50 per cent increase in the returns under this heading. For that reason, Sir, the European Elected Members cannot support the Bill as it stands to-day, but they are prepared to support it if it is referred to Select Committee in the hopes that during its passage through such a committee such injustices or hardships which are involved in the present schedules can be rectified. I should also like to say, Sir, that there seems to be a certain amount of amendment required to the Bill as many of the sections as drafted do not seem to quite achieve the results intended.

These, Sir, are all matters for the Committee, and I do not wish to delay the House by touching on any such details which can be more properly dealt with in Select Committee. I therefore only touch on the main principles, and I trust that during the course of the debate this morning every hon. Member who speaks will confine their remarks as much as possible to the main principles of the Bill rather than go into all the details which, if every Member touched on them would keep us occupied here for a great many days.

THE HON. J. B. PANDYA: Your Excellency, this Bill increases the taxation on the commercial community, and I should like to take the opportunity of informing this House that there is very strong public opinion and feeling that the taxable capacity of the country has already been overstepped and that all measures of new or renewed forms of taxation should be most definitely opposed.

Before I go into the details I should like to say a few words on the general and broad issues of taxation involved in this Bill. I was a member representing the Federation of Indian Chambers on the Trade Licensing Committee, and I have signed the Report subject to the minute of dissent I appended to that Report. I do not wish to repeat all the arguments I have advanced in that dissenting minute but I should certainly like to say that this Bill does quite definitely increase the taxation on the commercial community only. I stress this word only, for as I will explain later it does not increase the taxation on the other classes of the community. There are supposed to be adjustments, but there is a clause in each schedule which says that every licence issued shall authorize the carrying-on of the business described in such licence. This definitely means that firms having more than one kind of business will have to take separate licences and pay separate fees. The comprehensive licence is provided for, but the fee is Sh. 1,200, or double the highest fee in force at present.

In 1934, this source of taxation is supposed to bring in £23,000, whereas in 1935 on the basis of this Bill the amount estimated to accrue from this source is £50,000, which is over 50 per cent more than 1934, but in comparison to 1930 it is about 150 per cent more. The point I wish to make is that during this period, the retained imports of Kenya have gone down by 82 per cent, so that we should in fact have a reduction in this form of taxation, but on the other hand this Bill will definitely increase the taxation of the commercial community. Sir, I do not wish to repeat what I have said in my budget speech on the economic position of the commercial community in this country. I spoke at length at that time and I do not wish to repeat or quote any figures which give a headache to certain Members of this House, headaches which in my opinion might be due to various other reasons which I would not like to disclose here! But I should like to emphasize that imports to-day, only 38 per cent in comparison to what they were in 1929, prove we are not in a position to bear the burden of taxation proposed by this Bill.

I think it is recognized all round that the commercial community is very hard hit by the depression, and many of them are largely living on capital or credit. I speak with

personal knowledge on this subject, and I also claim to speak on behalf of the Indian trading community which have very large trading interests in Kenya. I should like to emphasize that this measure of taxation will be a difficult burden on them. Looking at the schedules, the professional class will pay about the same fees as before, the hotels and boarding houses will pay even less. I am not against these reductions, I think they are quite fair, but what I am complaining about is that the schedules show a great increase on the commercial classes which I consider very unjust and unfair.

A great statesman in India, the late Mr. Gokhale, founder and head of the Servants of Indian Society, of which the Rt. hon. Mr. Sastri is now the head, in one of his budget speeches in the Indian Legislative Assembly, said:—

"The state has to look at the whole scheme of taxation from the standpoint of the comparative ability of different classes to pay their particular share of the total revenue raised from the community. In judging the comparative ability of different classes to pay, the point to be really considered is whether the scheme of taxation as a whole hits only one class harder than any other class."

There is no doubt that this measure of taxation hits the commercial class as a whole harder, but if we divide that class into two, it hits the Indian commercial class who have large trading interests in this country a great deal harder.

Now, Sir, very often an argument is advanced that this trading licence fee is not a tax on the trader because it can be passed on to the consumer. I should like to contradict that argument most definitely. It is known to every business man that the trading licence fee is a charge on profits and cannot be passed on to the consumer. Profits are governed by competition, and traders do not take these kind of charges into consideration when they fix a selling price. It may be argued that trade is given a relief to the extent of £10,000 by the withdrawal of the package tax. In reply I should like to say that it is not a relief to the trader but it is a cost of article by the trader and is passed on to the consumer.

Now, Sir, coming to the details I must admit in fairness that this measure has certain features of improvement to the benefit of the commercial community. As an instance, the present law has a clause that any other business not mentioned in the schedule, pays a fee of Sh. 100. This created a good deal of hardship but the new Bill accepts a principle, a very desirable principle, that those not included

in the schedule are free. Though the schedules are pretty exhaustive and I do not think any one is likely to escape, still it is an improvement. The gradation of fees between the Sh. 30 and Sh. 450 licence was very desirable and necessary, and though I am not satisfied with what is recommended in the majority report still I do feel it is a great advancement. The principle of transfer of licence which was not incorporated in the present law has at my request been included in this Bill, which I consider to be an advantage to the commercial community. But seeing all this, and agreeing there is a great improvement in the details, it is still difficult to agree with the Bill as a whole, in view of the high fees which are part and parcel of this taxation measure.

Now, Sir, in regard to clause 1 of the Schedule C, I have suggested in my dissenting minute that the petty trader should be allowed to keep stocks up to £100. I should like to say a few words on this because it is most important from the point of view of the Indian trading interests. The present Bill provides a limit of stocks up to £75. Now, Sir, those who do not know the difficulties of this class of trader might consider this small difference of £25 to be very insignificant and not worth much attention, but I feel very honestly and I wish to impress upon this House that this difference of £25 in keeping stocks is very material to this class of trader. In addition they perform a very useful service in serving the natives in very small centres, and in living so far from the real trading centres they have to keep stocks to satisfy the many small demands of their customers. I do feel that it is not possible for this class of trader to maintain their trade and to serve their customers within the limits of stocks prescribed in this Bill, and I think if we were to increase it to £100 it would satisfy this particular class of trader. Failing this, naturally they would have to pay the higher fee which is proposed in the second class, namely Sh. 75 per annum, and I think that would create a definite hardship on them. To-day these traders can keep stocks up to £150 but I have suggested £100 as a sort of reasonable compromise.

In Schedule C, clause 2, I have suggested in my dissenting minute five grades, whereas the Bill provides for four grades and briefly, Sir, I am of the opinion that those whose stocks do not exceed £300 should pay Sh. 50; stocks not exceeding £500, Sh. 75; not exceeding £1,000, Sh. 200; not exceeding £2,500, Sh. 400; and for stocks over £2,500, Sh. 600. In my opinion even if this scale was extended it would not materially affect the Government revenue, but it would only mean to a great extent adjustments between the various classes of traders in the schedule.

In Schedule C, clause 5, I want to make only one point which is in regard to the business of an exchange banker, whose licence before was Sh. 600 and which it is proposed to increase to Sh. 1,000. This appears to me to be most arbitrary and unfair and I can find no argument to justify this increase, because these exchange bankers to-day are limiting their business to the exchange of Bombay currency and their margin of profit is very small. They do definitely serve the Indian community and are very useful and obviate the great difficulties of family remittances to India without all the formalities which would otherwise be the case. In this connection I am not clear as to whether this fee of Sh. 1,000 is for the whole Colony or for each place of business. I should like to hear from the hon. member when he replies to the debate as to what is actually intended in this provision. If it is meant for each place of business, the point I wish to make is that there should be a provision for a lower fee for branches. In the case of banks we have got that facility, for branches pay Sh. 500 each and the head office pay Sh. 4,000. So in this case also if it is intended that the branch should pay, the fee should not be more than Sh. 100 for such branches.

Now, Sir, a point which has been represented to me after the publication of this Bill and which was not brought to my notice when we were considering this Bill in the Trade Licensing Committee is in regard to Schedule C, clause 3, the carrying on of the business of a manufacturer. Where the gross receipts exceed £5,000 per year the licence fee is Sh. 750. It has been represented to me that this would be a very great hardship for maize millers. There are a large number of maize millers in the country whose stocks would be naturally something like £5,000 per annum; but this is a kind of trade in which the difference between the price of the raw product and the finished article is hardly more than the cost of the maize and the additional actual grinding cost. Now, Sir, the point I wish to make is that the maize stockists would not pay any licence fee under this Bill, but the maize miller would pay, if the stocks increased over £5,000, a licence fee of Sh. 750. This is going to act very unfairly on this particular class of manufacturer and what I wish to submit, Sir, is that the Select Committee should give consideration to this point of view and either have another grade between gross receipts of £5,000, and say £10,000, or have a special separate clause for maize millers.

There was one point in Schedule B, clause 3, which I was asked to make on behalf of the business of assessors or valuers in Mombasa. They say that the fee of Sh. 200 which is prescribed in the Bill is very unfair to them because

many of them do not receive Sh. 200 as their fees in the whole year. So therefore this class of people also requires consideration.

There was another point which I was asked to make in regard to the Indian physicians who are allowed to practise in their own community and are given a licence under the Medical Practitioners Act. According to the clause in this Bill all those who are given a licence under this Act are to be taxed Sh. 300. This would be very unfair to this class of small physicians who only practise among their own community. I am informed that in clause 17 (2) there is power to exempt or reduce fees for any class by the Licensing Commissioners and I hope, Sir, that when application is made, if we do not make any special provision in Select Committee, that favourable consideration will be given to this point of view.

There is a suggestion in the Report of the Trade Licensing Committee about the appointment of an unofficial Licensing Commissioner. I have already made that point in my dissenting minute that we are opposed to that suggestion. This is an administrative measure and as far as the Indian trading interests are concerned, they do not want the unofficial side to meddle in an official measure. The Licensing Commissioners are supposed to administer the law fairly and I do not think, Sir, the influence of an unofficial Trade Licensing Commissioner would be acceptable to us. If, however, such an appointment is contemplated by Government, I should like to make a point that the Indian trading interests will press for representation on that Board.

DR. THE HON. A. C. L. DR SOUSA: Your Excellency, I only wish to refer to the point made by the hon. Mr. Pandya in regard to the licensing of physicians.

Now, Sir, it seems that the taxation of the professions generally and of physicians in particular seems to have been inspired by similar legislation in South Africa and Mauritius, and the Report does not make it clear to us what the practice is for the licensing of medical men in particular in other parts of the Empire. I do not think conditions of life in Mauritius and South Africa are comparable with those obtaining in Kenya. However, it is only a matter of principle and I think I have got to disagree to the taxation of doctors especially. Somehow or other the members of the committee forgot the ministers of religion because there are missionaries who, if they do not get a salary, nevertheless receive the means of living and clothing which many of the practising doctors cannot afford to have.

There is another point, Sir, which I would like the hon. mover to explain in replying to the debate and that is how far the medical profession is protected from Government servants, that is Government doctors.

HIS EXCELLENCY: This has nothing to do with the Bill now before us.

DR. THE HON. A. C. L. DE SOUSA: It has in this sense, Sir, that both the private doctors as well as Government doctors derive their living through the profession which is being taxed. I see that the practising advocates serving in Government and the Railway are exempted from the tax and I do feel that it is very likely that doctors in Government service are going to be exempted. And not only that, those who do purely and simply Government service and have in addition private practices are in competition with the private profession. And, if I may, Sir, give another example, if the Government are in search of revenue, the members of the committee seem to have forgotten a peculiar type of physician whom the Government have encouraged in opposition to the medical profession, especially the Indian, and that is the Hakim and Waid. It seems strange that Indian doctors who are catering for the needs of a community which in its great majority is poor, doctors who attend their patients in their homes for a fee of no less than Sh. 2 or even Sh. 1/6, who daily attend very many cases in the consulting rooms without an examination fee, that this Government should have for some years encouraged the practice of uneducated persons to carry on small shops scattered all over the Indian residential and commercial areas and do their business and to have forgotten to include them in this measure. I think the Indian medical profession and the European medical profession too have been very unjustly treated in this taxation especially as their work is of a nature different from that of other professions.

You know, Sir, there are doctors who are practising in the reserves not because they want to practice but because it is necessary for them to practice. I see that provision has been made for Your Excellency to give exemption, but I fear, Sir, that well over 50 per cent of the profession will have to be exempted by Your Excellency. Not only the ordinary doctors and the doctors who have retired, but the specialists whose experience is of such great use to the physicians here, and also have been brought in under this taxation.

I would like to have an assurance when the hon. the mover replies, that opportunities will be given by the Select Committee for such members of my profession who may wish

to place the case of the profession before it. This profession was very rightly excluded last time, and just because the other professions kicked up a row the doctors had to be brought in. I said last time the question of doctors was considered on its own merits and I do wish, Sir, that the question should be considered on its own merits and not in connection with any other trade or profession.

THE HON. A. C. TANNAHILL: Your Excellency, I am going to adopt the suggestion put forward by the Noble Lord and not deal with the thousand and one objections which have been placed before me by the Chamber of Commerce to the schedules of this new Bill. I wish, however, very strongly to attack the principle of this Bill. This Ordinance has been a licensing ordinance since 1910 and as a licensing ordinance designed, as I can say quite definitely at the start, for the protection of the public and the trade, it fulfilled a very useful purpose and was recognized, by the traders as fulfilling that useful purpose. Time and again, Sir, you will know that the commercial community has approached the Government urging that the Ordinance then in existence might be amended to give further protection not only to the trade but to the public. The whole principle of the Ordinance up to 1933 was licensing, giving a licence to permit a person to trade, and laying down certain obligations on that trader which he should observe. Now, Sir, quite definitely and without any subterfuge the Government has introduced this Bill as purely a taxation measure. It has removed, as far as I can see, several of the means which protected the public. The old Ordinance laid down that traders should keep proper books of account which could be examined at any time and if they did certain things they would have their licences taken away.

In regard to the general principle of the schedules, the Government appears to have forgotten that we are a very small community in this Colony, that practically every trader and every professional man has to carry on various forms of business. It is impossible, because of the limited scope, to specialize in one trade and depend on that to get a living. The old Ordinance did recognize that to a point and gave permission for the bigger to include the lesser. This new Ordinance has taken out every form of business and profession and put on a special licence fee and the matter has become impossible. I would like to endorse what the hon. the elected Indian Member said that the taxable capacity of the traders and the professions has been absolutely reached, and

I would like to sit down with this point very strongly emphasized, that it is impossible in this small community to attach a tax to every form of business or profession.

THE HON. CONWAY HARVEY: Your Excellency, while in complete agreement with what the Noble Lord said, in the interests of those I represent, namely, the coffee planters of Nyanza and elsewhere, I should like to mention one or two points quite briefly for the consideration of the Select Committee.

I should like to know, Sir, is it intended that coffee planters situated in places like Kaimosi, we will say, who raise and grind a small quantity of their produce for sale to the goldfield and other adjacent markets, in view of section 17 (1) (a) will be called upon to take out a licence under this Bill?

Another case, Sir, which is of very considerable importance and which I do not intend to labour to any extent here, is the case of a coffee planter who owns a small factory in a distant settlement like Sotik and who hulls a very small quantity of coffee for his neighbours who are also coffee planters. It is very important for these people to know whether it is contemplated they would be exempted from the necessity for taking out any special licence under the powers with which the Governor is endowed under section 17 (2).

The third point, Sir, to which I am quite sure the hon. mover can reply quite easily, is the position of Land Bank valuers. Under Schedule B (3) it would appear that these gentlemen who work for a very, very low rate of pay, will be called upon to pay a fairly heavy licence fee. I am in a position to know, Your Excellency, that Government has considered this point. I have, Sir, been asked to ventilate it here, and we should welcome an assurance from the hon. mover in due course that it is contemplated that His Excellency the Governor in regard to this class of person will exercise the powers with which he is endowed under section 17 (2).

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I should like to endorse what the hon. Member for Nairobi South has said with regard to this Bill. I was myself a member of the Committee that framed the Report because I was unwell at the time it was supposed to be signed, but also because I asked the Committee to let me know precisely in what respects this new Ordinance would increase taxation. Now we all agreed on that Committee that

the Ordinance which was in force, last year was highly unsatisfactory and we all agreed and I still agree that a re-drafted Ordinance was necessary in order to make the collections equitable and enforceable in law, but I do not agree that this is to be regarded as an increased measure of taxation.

The trading community I think, certainly the European trading community, are in complete agreement that there should be some form of provision for licensing businesses for the purpose of protection of themselves and the public. Last year or the year before last they agreed they would do their utmost to find more money to carry on Government, but this new Bill provides for finding very much more money, which the trading community, I submit, are quite unable to pay.

The chief trouble with this draft Bill lies in the schedules and I think and hope that the Select Committee will find ways and means of making an all-inclusive licence obtainable at a reasonable fee. As has been pointed out, a great number of people who are struggling to carry on business to-day will be caught under this new licensing in Schedules B, C and D, and that, Sir, is obviously unfair and would entail their paying fees which they are quite unable to find under present difficult circumstances. I know several cases of people who are occupied in the business of timber, which is one I am particularly acquainted with, whose fees will have been raised from a few hundred shillings to £130, and those people have been just carrying on at a loss, barely able to keep their businesses going out of capital during the last three years. Therefore, I am quite opposed to the schedules unless they are considerably altered from what they are in this Bill.

THE HON. SHAMSUD-DEEN: Your Excellency, I do not wish to take up the time of the House, but I do think that these various measures are merely ramifications of an unscientific fiscal policy. This Bill, for instance, is merely another way of taxing income of people; instead of one practical, honest tax Government is resorting to various means of finding money. This Bill I consider one of those means, for it is nothing but the theoretical capacity of a person to pay. Then we have the non-native poll tax, although that is more in keeping with the capacity of a person to pay. I submit, Your Excellency, that at a very early date the incidence of taxation in this Colony should be investigated, so that we could wipe off all these small measures from the statute book.

THE HON. F. A. BEMISTER: Your Excellency, I should like to support very sincerely the view of the two hon. Members for Nairobi. This system of taxation was one of the alternatives, I believe, suggested by a committee of what we

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can call big business men. Some of their names have been mentioned by the hon. the Treasurer this morning. We can see how reliable big business opinion is. The estimate of revenue was £112,000 in 1933, and the result was £40,000. If you examine the schedules, you will find big business has protected itself right through the whole show. You have suggested in this Bill that a man manufacturing £5,000 worth of stuff should pay Sh. 750, that is, a man who has risked his goods on the market and taking the loss on goods going wrong. Yet you have a concessionaire company which makes electric light and that sort of thing. I believe their turnover is a little more than £5,000, but they pay Sh. 1,000 under the schedule so far as I can make it out. Other big businesses are paying exactly the same fees as compared with people who do perhaps one per cent of the relative trade.

I am sorry to have to break away from the remarks made by my colleagues, but I must do so, for although the Bill raises more revenue I cannot believe it is the best basis of taxation. The idea put in front of this very Committee which suggested these taxes was a method on the basis of a sales tax. Here you estimate to get in £50,000, but this is discriminatory taxation, taxation which bears very heavily on one section of the community. Yet a sales tax could be spread over the whole community, and at half per cent on the turnover of the trade would bring in nearer £70,000 to £80,000. It would remove all this hardship on the small trader, it would not increase the price of goods at all. I will instance one suggestion which I made to you not long ago, to put 20 cents on petrol, but you all laughed at me. The price was then Sh. 2/25—some called it rabbits out of a hat, others rats. But you did put it on. The price was then Sh. 2/25, and to-day it is Sh. 1/00 at the Coast. This proposed system of taxation is what I would say, without any disrespect to them, taxation by irresponsible authorities, by people who are not responsible and whom the inhabitants can get at and criticize and throw out of any public position. That sort of system is wrong. I opposed it at the time, the system of graded taxation by irresponsible people and imposed by people who could have appeared as witnesses but who should not have been judges as well.

Council adjourned for the usual interval.

On resuming.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am opposed to the Bill in its present form, I am opposed to it in so far as it is increased taxation by means of which Government hope to get, I believe, another £20,000 more than

last year. I am not opposed to it as a licensing Ordinance provided that certain anomalies and the taxation part of it is removed when it is brought back to this House.

Last year, I took up a good deal of the time of the House in advocating that the medical profession should not be taxed; that if they were, they should not pay a flat rate, because I considered it iniquitous that medical officers practising in Mombasa and Nairobi should only pay the same fee as those in the upcountry townships. I am well aware that there is a covering clause, that they may apply for reduction or exemption, but in reference to that provision I doubt if they will avail themselves of it; quite a number will not practice. We had it in evidence last year when the Committee was sitting that there were certain consulting doctors in this country, more especially in Nairobi, and they definitely stated that if they had to pay a licence they would not practice. I think it would be a great loss to Nairobi, and Kenya generally, if their services were made unavailable to the community. They stated, and it can be referred to in the evidence of last year's Committee, that if the £15 flat rate was passed for medical officers they would not practice, and that they would not ask for exemption. I do not propose to go into details, but one has to state points to clarify the issues, and I do hope this matter of the licensing of medical men will be seriously considered. I cannot see why the rate cannot be £15 for Mombasa and Nairobi, and £5 for elsewhere, or some similar medium, without compelling them to go to the licensing authority to ask for remission or exemption, because many will not do it, and we do not wish for a moment to lose their services. I see that it is also proposed to licence veterinary officers. I should have thought it would have been more reasonable and fair, and far better for the country, for Government, in the case of veterinary officers retiring from the Service, to subsidize them to remain here and practice, not to tax them.

Studying the schedules, I have come to the conclusion like so many others that the nigger in the woodpile is covered up in the schedules. I would like to see Schedules A and B combined, with a clause that the greater licence should cover the lesser. That would remove some of the anomalies, and I do not think would create any. Take, for instance, a building contractor having to pay a licence of £15, and another of £10 if he makes bricks. I have no objection to a licence for the manufacture of bricks for disposal, but it is unfair to tax a contractor who makes them, especially in the outside districts. It is another £10 on his business, and in many cases if not all small contractors upcountry do not make bricks for sale but for their own particular business. That I hope will be considered by the Select Committee.

There are many more points in the schedule, but I hope they will be dealt with in Select Committee and afterwards in this House if they are not removed by that Committee.

THE HON. THE TREASURER: Your Excellency, most of the points raised in the debate are, I think, matters for committee. I should just like to point out once more that this Bill is the outcome of the deliberations of a Committee which was, in respect of five members, unofficial and, in respect of three, official. The whole thing was gone into carefully and, as I say, if there is any inequality in the schedules it can be rectified in Committee.

So far as yield is concerned, it certainly seems to me some notice should be taken of the offer of Nairobi Chamber of Commerce in the middle of last year. They were prepared, they said, to offer Government £92,000 in lieu of income tax. The outcome was a Bill, I think personally an imperfect Bill, the result being instead of £92,000 only £30,000 accrued. That, of course, was a mistake. But to put the amount back to £50,000 under this Bill does not strike me as being additional taxation considering the other offer made. The hon. Member Mr. Pandya, a signatory to the Report, referred to this new Trade Licensing Ordinance the package tax. So far as Government is concerned, the package tax has nothing to do with the licensing of trades and professions; it was necessary for reasons that we know that the package tax should be repealed. He also related the tax to the retained imports in Kenya. He will agree with me that in a country where a big entrepot trade is conducted it is necessary to take the total trade because the retained imports are one thing and the entrepot trade, reaching a million and half pounds, must be taken into account if you are dealing with the trade of the country.

THE HON. J. B. PANDYA: On a point of explanation, that is only 50 per cent. But it does not make much difference.

THE HON. THE TREASURER: With reference to the remarks in regard to petty traders, I would like to point out once more to the House that in respect of traders holding stocks between £150 and £1,000 there is a definite reduction in the amount of the tax. So far as exchange bankers are concerned, in the view of the Committee the position should be adjusted to some extent as between the bankers proper and the exchange bankers, representations having been made that the latter were engaged in the only paying part of banking at the present time.

The case of medical practitioners was touched on, and I should like to assure the House that full use will be made in regard to the exemption clause 17 (3), and also in regard to valuers of the Land Bank to whom the hon. Member for Nyanza drew attention. It was considered by the Committee that ministers of religion should not be charged a fee, and I imagine that is the view of this House. The hon. Member for Nairobi South indicated some alteration in principle. I did not quite follow what it was, but I am quite certain that as between the Ordinance of 1933 and this Bill of 1934 no alteration in principle whatever has taken place.

THE HON. A. C. TANNAHILL: On a point of explanation, I said 1910.

THE HON. THE TREASURER: The instructions to this Committee were to examine the provisions of the Licensing Ordinance, 1933.

It was also suggested that Government had forgotten that this was a small community. In that regard, this Bill took into account the recommendations of what is really an unofficial Committee. The hon. Member for Nyanza referred to the Land Bank valuers, and with that I have dealt, and the matter of coffee roasting by planters for their friends. Under the Bill as it is framed they will be chargeable, but that is a matter which can be reconsidered in Select Committee. The hon. Member for Nairobi North suggested there should be an inclusive licence. He was a member of the Committee also, and it is a point which can also be reconsidered in Committee.

The hon. Member for Mombasa, I think, made a mistake in regard to the electric light licence—(Mr. Bemister: Quite right, I looked at the wrong line!) He also referred to a sales tax but, as he knows, the administration of a sales tax is particularly difficult when it comes to the *dukas* trade, where it is virtually impossible. It was tried in Tanganyika but had to be abandoned. The hon. Member for Trans Nzoia mentioned veterinary surgeons; under the 1933 Ordinance they were chargeable with a fee of Sh. 300 which is again proposed. He also drew attention to contractors making bricks for their own purposes. A fee would not be charged in regard to making them in connection with the operations conducted by that contractor.

Those are the only points, Sir, that I need reply to now.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE TREASURER moved:

That the Licensing Bill be referred to a Select Committee consisting of the following:—

The hon. the Attorney General, Chairman.

The hon. the Treasurer.

The hon. the Acting Chief Native Commissioner.

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

The hon. the Acting Member for Nairobi South.

The hon. Member for Kiambu.

The hon. Member for Trans Nzoia.

The hon. J. B. Pandya.

The hon. R. W. Hemsted.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

ASIAN CIVIL SERVICE PROVIDENT FUND BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to establish a Provident Fund for Members of the Local Asian Civil Service of the Colony and to provide for contributions to such Fund by members of the said Service and by Government.

This Bill, Sir, has already in principle received the sanction of this House, I might with safety say at once—on the last occasion when the Report was moved and adopted, and on the first occasion when an exactly similar Bill was adopted for the European Civil Service.

I do not intend to waste the time of the House to any extent because the Bill now before hon. Members is exactly the same as the Bill which was passed last session I think with regard to the European Civil Service.

Section 3 establishes the fund and tells you what the Treasurer has to do with it and when he has to put in his return.

Section 4 sets out what the contributions from the members of the fund shall be and it is, as I say, the same as with the European Civil Service, namely, males 5 per cent, and females 7 per cent. Some slight explanation of that should be given as it would appear that the females have been treated more hardly than the males. Actually it follows the Report and the Report explains that they think that this is the fairest percentage because in the case of males they have in addition

to subscribe to the Widows' and Orphans' Pensions Fund up to in some cases 5 per cent, so that the male contributor in the Service would be contributing 10 per cent in one form or another, 5 per cent Provident Fund and 5 per cent Widows' and Orphans' Pensions, and females a flat rate of 7½ per cent all through.

Section 5 sets out the usual provisions which you will find in every Bill of this description, namely, who shall be a contributor, while those under 17 shall not, nor will those over 50 years of age; learners are precluded and those with a salary of less than £80 per annum.

Section 6 is probably the most important section in the Bill and for want of a better name I will quote what it was called in the last debate on the European Bill—"the nest-egg section"—and that sets out what Government will give to the contributor, and, read together with the schedule, you will see that for the first ten years Government gives pound for pound with the contributor. After the tenth to the twentieth year Government gives £150 for £100 and after that two to one, namely £200 for £100.

The various provisions occur there in regard to people getting married and so on.

You will notice also when you come to section 7 that no provision is made for any gratuity from Government in favour of those who retire from the Service under four years. After that in the case of retirement or death the contributor or his legal representative will get what the contributor subscribed himself plus the amount that has been subscribed by Government to the Fund on his behalf during the time he has been in the Service. If dismissed, of course, Government has the right, as it has in the Pensions Ordinance and every other Ordinance dealing with this kind of thing, to withhold all or any part of the contributions made by it.

Government also has the right under section 9 to deduct any amount which is owing to Government at the time of his retirement by the contributor himself.

There is a provision in section 10 for a small gratuity to be paid if a contributor has been in the service fifteen years and the last section of any importance deals with the non-assignability of monies paid in the fund. This is most necessary. As hon. Members realize, the object of this fund is that when a man leaves the Government he will not be on the streets without a penny and if we were to allow him to assign during the time he is in the Service we are afraid that many people when they come to the end of long service will find they have nothing to draw.

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

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

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, the terms of this Bill considered by themselves are as far as my information goes fairly satisfactory to the Service. I understand that the Asian Civil Service Association has expressed its views on this subject, but there are one or two things which I feel I must bring to the notice of the hon. mover for his favourable consideration in Select Committee.

There is one thing and that is the question of gratuities. Now, Sir, the Local Asian Civil Service is more or less on the lines of the Railway Asian Service in which the gratuity is based on fifteen days' pay for each year of service whilst the proposed terms now provide only for one week's pay for each completed year of service as mentioned in section 10. That, I think, Sir, is the point raised by the Association, and it is true that it seems worth consideration.

Another point is as regards the contribution made to the fund which in the case of which I am speaking is 5 per cent. It is true that the male Civil Servants will have to contribute to the Widows' and Orphans' Pensions Scheme but considering that his salary is so low as compared with the European, at the end of a period of fifteen or twenty years he will have accumulated a very small sum which will hardly be enough for his old age and the maintenance of a family. It is suggested, Sir, by the Association and I would like to point it out to the Select Committee that the contribution should be 7½ per cent.

These points have been already submitted by the Association and my information from the members of the Association is that the terms generally are acceptable to them with the exception of one or two items.

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, I have very little to reply to. This question of gratuities as the hon. Member quite rightly says has been raised by its members themselves and quite naturally they think they should be higher, which is a very human feeling, and I am most sympathetic with it. I can only say that it has been considered and that is the amount recommended and it is similar

to the one in the European Bill, and I think you will all agree there is not a very substantial argument raised except the usual argument that we would like more.

With regard to the other point—the question of 7½ per cent as contribution—I think I explained that the unfortunate man who we were told had a very small salary will already be paying 5 per cent to the Widows' and Orphans' Pensions Fund and if you add another 7½ you then have him paying 12½ per cent. The Committee considered this very carefully and gave it as their considered opinion that a man should not be called upon to pay more than 10 per cent at any time, and I think on the face of it that seems a very reasonable conclusion to come to.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Asian Civil Service Provident Fund Bill be referred to a Select Committee consisting of the following members:—

- Myself (as Chairman),
- The hon. T. Fitzgerald,
- The hon. H. G. Pilling,
- The hon. Shamsud-Deen, and
- The hon. J. B. Pandya.

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

The question was put and carried.

THE STAMP (AMENDMENT) BILL.

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

This very short Bill, Your Excellency, is designed to cover what is considered to be two loopholes. They are quite different and distinct.

The first is with regard to the word "gift". As it appears in the Ordinance at present where a piece of land has been conveyed for love and affection it should pay what is known as *ad valorem* duty. In a conveyance, however, if there is a stated amount in money this is always taken as being the value of the land with the result that where, for example, a father is giving a son an estate, if he puts in the conveyance that this is being conveyed for love and affection and ten shillings, the ridiculous position arises that he pays

stamp duty on Sh. 10 even though the estate may be worth £10,000. This was never the intention of the Ordinance. It was an evasion which has crept in through some smart advocate who saw this way of getting out of it, and it is only an ill-advised client who goes to the wrong man who pays the full amount!

The second amendment which is I suggest also necessary is because of a mistake of ten years ago. It occurred in this way. Some Members are aware that about 1923 the duty on a conveyance and on a mortgage was exactly the same—2 per cent. In 1923 for a very good reason it was thought that the duty on a mortgage was too high and it was reduced from 2 per cent to $\frac{1}{2}$ per cent, but the draftsman forgot, I suggest, I have no proof of it except that no mention was ever made of transfer of shares in the debate, that in another place in the schedule occurred the words that on transfer of shares the amount payable should be half that on transfer of shares with the result that immediately the duty payable on transfer of shares went down from 1 per cent to $\frac{1}{2}$ per cent being half of what the new mortgage rate was, namely $\frac{1}{2}$ per cent, and it is for that reason that the amendment is before you now which will bring the duty back to what it was in 1923, namely 1 per cent.

THE HON. THE TREASURER: I beg to second the motion.

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

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I am not going to refer to the first part of the Bill, but on the second part of the Bill I think it is entirely wrong that this amendment which may or may not have been brought about as the hon. mover suggested, should now be proposed, as it will bring up the amount payable on transfer of shares to double what it is in neighbouring territories, where it is $\frac{1}{2}$ per cent and not 1 per cent. I shall move an amendment to that effect in the committee stage of this Bill.

THE HON. F. A. BEAUMER: Is it permissible to suggest other amendments in the Stamp Ordinance while this Bill is being discussed?

THE HON. THE ATTORNEY GENERAL: I am afraid it would be quite impossible to deal with other amendments in this debate.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, there is very little for me to reply. The Noble Lord has told us that he is going to move an amendment in committee stage and I think I can with safety say that that amendment will be accepted.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that the House resolve itself into a committee to consider a Bill to Amend the Stamp Ordinance clause by clause.

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

The question was put and carried.

Council went into Committee.

In Committee.

THE STAMP (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 3.—Amendment of Article 59 of Schedule to the Principal Ordinance.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I beg to move an amendment that in the Schedule the word "quarter" be substituted for the word "half".

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that this Bill be reported to this House with the amendment of the word "quarter" for the word "half" where it occurs in the Schedule.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Stamp (Amendment) Bill has been considered clause by clause in committee of the whole Council and has been reported to Council with an amendment.

THIRD READING.

THE HON. THE ATTORNEY GENERAL moved that

The Stamp (Amendment) Bill be read a third time and passed.

THE HON. THE TREASURER seconded.

The question was put and carried.

The Bill was read a third time and passed.

Council adjourned till 10 a.m. on Wednesday,
10th December, 1934.

WEDNESDAY, 19th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Wednesday, 19th December, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRN, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of 17th December, 1934, were confirmed.

NOTICE OF MOTION.

Notice of the following motion was given by the hon. the Colonial Secretary:—

"Be it resolved, that a Select Committee of this Council be appointed to make recommendations to Legislative Council for measures of economy which, if adopted, will result in a net reduction amounting to not less than £100,000 in the net annual expenditure of the Colony, and that the following honourable Members be appointed to serve on the said Committee:—

The hon. the Colonial Secretary, as Chairman.

The hon. R. W. Hemsted.

Major the hon. F. W. Cavendish-Bentinck.

Major the hon. Sir Robert Shaw.

The hon. Shamsud-Deen."

ORAL ANSWERS TO QUESTIONS.

GOVERNMENT INDIAN SCHOOL, THIKA.

No. 99.—THE HON. ISHER DASS asked:

"Will the Government be pleased to state if they have received any representation from the Indian community of Thika requesting the Government to build a stone building for the Indian School to replace the present wood and iron building and was any promise given by the hon. the Director of Education that a stone building will be built next year and that provision will be made in 1935 Budget? If the reply to the above is in affirmative has any provision been made and if not why not?"

THE HON. THE COLONIAL SECRETARY: 1. Representations were received but no promise was given by the hon. the Director of Education. The Indian Association, Thika, was,

however, indicated that Government would consider the demand for the Thika School building to preparing the 1935 Estimates.

2. As regard the second part of the question, I would refer the hon. Member to paragraph 149 of the Report of the Standing Finance Committee on the draft Estimates for 1935.

WATER SUPPLY, THIKA.

No. 301.—The Hon. ISAIAH DAKA asked:

"Has any representation been made by the residents of Thika for the provision of the water supply; if the above is in affirmative, what action the Government has taken?"

The Hon. The Director of Public Works: Representations were received in September, 1933, from thirty-three residents of Thika for the provision of a water supply.

For information as to the action taken, I would refer the hon. Member to paragraph 148 of the Report of the Standing Finance Committee on the draft Estimates for 1935.

NOTION.

STANDING FINANCE COMMITTEE REPORT ON DRAFT ESTIMATES, 1935.

The Hon. The Colonial Secretary: Your Excellency, I beg to advise that the Majority Report of the Standing Finance Committee on the Draft Estimates for 1935 be adopted.

The Committee, Your Excellency, reviewed in detail the Estimates of Revenue and Expenditure. As the variations proposed by the Committee in respect to the figures appearing in the Draft Estimates have been fully explained in the Committee's Report, I do not propose to take up the time of the House by entering to them in detail.

The amendments in the Revenue Estimates which the Committee propose appear on page 19 of the Report. They amount to a gross addition to the extent of £34,369 and a total net addition of £14,265. The main additions are in respect of Stamp Duties, £24,000; Estate Duty, £24,000; Customs and Mining Fees, £5,000. The reasons for which the Committee felt justified in recommending these increases are given in the Report under their respective headings.

Under Expenditure, information which became available since the Expenditure Estimates were drafted has indicated that gross reductions might be reasonably accepted to the

amount of £4,320. These gross reductions, however, become a net reduction in gross expenditure of £283 only and a net reduction in net expenditure of £1,263, mainly by reason of the following increases that had to be made in the Expenditure Estimates as drafted.

Prisoners' Food, £3,000: This increase is quite unavoidable owing to the increase in the number of prisoners, an increase which unfortunately shows no sign of vanishing; an increase of approximately £700 under the Trade and Information Office which the Committee accepted on the grounds that it was unreasonable to withhold from Colonel Knaggs supplies which were essential to him to make a success of the office to which he has recently been appointed or to starve the office of the Kenya Association which the Committee understood to be doing very valuable work. Another increase is the sum of £360 for the appointment of an agricultural officer for the native cotton industry in view of increased revenue from the increased cotton tax to which reference is made in paragraph 14 on page 3 of the Report. It is proposed that this new cotton officer will be employed in the Coast Province. A further increase is the sum of £375 for an air ambulance, the proposal for which is explained in paragraph 91 of the Report. The Committee felt that this expenditure is justified, for it will enable sick persons of all races who may be dangerously ill in out-districts to receive treatment which otherwise could not be made available.

Your Excellency, I deeply regret that this Report is not a unanimous one. Three of our members—the European Elected Members—in circumstances which are explained in the Report, after attending four meetings decided that no useful purpose could be served by their continuing to take part in our deliberations: They, therefore, left the Committee and they have presented a Minority Report. The reason for their secession was that they demanded as a necessary antecedent to their continuing to serve on the Committee that I, as Chairman, should accept on behalf of Government their ultimatum that the Expenditure Estimates should be reduced by £100,000. That ultimatum I was unable to accept. I had hoped that they would have been able to safeguard their position by making it quite plain that they objected to the whole principle of the budget as drafted but that they would, nevertheless, give me the benefit of their advice in attempting to effect some improvements in it in the event of Government feeling compelled to pass the budget more or less in its existing form. They, however, decided otherwise, and the five of us who were left had to do the best we could without them. The Revised Estimates are the best that we have been able

to produce. I was unable to accept their ultimatum for reasons which are briefly indicated in the Majority Report. I propose now to elaborate these reasons.

The majority of the Committee felt that this £200,000 reduction must come from somewhere, and we could not see immediately where it was to come from without great damage to the Colony. In the first place, we had expenditure on native services. As pointed out in the Memorandum on the Estimates, the figure allowed for native services, even as it is, is slightly below the figure recommended by Lord Moyne. I believe that every hon. Member accepts the Moyne figure as a fair and reasonable one. It follows then that any considerable reduction in the amount allowed for native services would be inequitable and unjustifiable.

Next we come to services which are essential for the maintenance of internal security, services such as Police, Prisons, Justice, and Administration. It will be admitted that none of these services can be reduced below a reasonable level of safety, and I believe that level has already been reached. So far as Justice is concerned, we are told that we ought to have at least one more judge and at least one more resident magistrate so soon as ever we can afford it. The Police vote was reduced to such an extent that it has been found necessary by universal consent to augment it. The secretaries to the Minority Report agree that reductions cannot well be made in this department. It is common knowledge, unfortunately, that the Prisons are overflowing and the surplus population has to be accommodated in temporary camps. The Administration has been reduced to a figure below that recommended by the Expenditure Advisory Committee. It is difficult to see how any considerable economy can be safely effected in connexion with any of these essential services. Neither does the Treasury nor Audit apparently present a fruitful field for curtailment of expenditure.

There remain non-native services and certain common services such as Forests, Game, and Publicity, and the Mines Department, which, though not essential to internal security, are nevertheless very material to the Colony's prosperity. The administration of the Game Department has, I believe, earned the admiration of the world and, in any case, it brings in more revenue than it costs. Provision for Forests, I understand, is on a very modest scale when the potential value of our forests is taken into consideration. Provision for increased publicity, as I have already explained, was agreed by the Standing Finance Committee, and I do not think that at the present juncture any hon. Member would advocate reduction in expenditure on our mining industry.

If these premises are proved, or even considered reasonable, it seems to follow that the £100,000 must somehow or other be found from services in which the European and Asian public are directly interested. These services are Education, Medical, Agriculture, and Public Works. In a previous speech I referred to the obligation on the part of Government as the trustee of public property to preserve the public assets. My argument appears to have made little or no impression, though I believe it to have been a sound one. I now propose to amplify it, rather from the point of view of a taxpayer who is directly concerned than from the point of view of Government as the public trustee.

I do not think that I can do better than illustrate my argument from a recent issue of a widely read local periodical. The paper is called the *Kenya Weekly News*, and the issue dated the 7th December, 1934. The Editor starts with the usual kindly reference to the budget for 1935! The particular epithets used on this occasion are "callous" and "brutal". I merely mention this to show that the Editor does not appear to have lost his form! A few pages later on there is an excellent article on the Nakuru Government School. The article is unsigned, and presumably represents the views of the Editor who presumably represents the views of his public.

The kind of comment that I would have expected would have been something like this:—

"Government, with a brutal and callous disregard of the impoverished condition of the pockets of local taxpayers, has insisted on the maintenance at Nakuru School of a standard of efficiency far beyond anything this bankrupt Colony could afford."

But what do we get? We get this:—

"Kenya has reason to be proud of the provision for State education. The buildings at Nakuru and other centres, the type of education provided and the rate of fees charged compare favourably with those of colonies of much older foundation. The schools were established when times were good but, while effecting the economies demanded, Government has been careful to maintain their efficiency during the long years of depression."

I doubt if a more graceful compliment has ever been paid to Government, or if a more comprehensive encomium of Government's recent policy and in particular of the 1935 budget, could have been compressed within so small a space. Here we have no criticism of Government's improvidence, no castigation of reckless extravagance, not even a reluctant admission that in these difficult times provision must be made. Instead, we have the triumphant challenge flung to the world

that Kenya has made provision. I thank the Editor for his admission that the necessary economies have been made. I thank him for his appreciation of the fact that efficiency has been maintained. Above all, I thank him for the words—

“Kenya has reason to be proud of its provision for State education.”

On another occasion, a few days ago, I said that we people of Kenya are so accustomed to abuse of every sort and kind—and in this I include my hon. friends opposite—that we are rather apt to get an inferiority complex, and we begin to wonder whether we can ever do anything right. I said I thought the time had come for Kenya to make a good deal more of its achievements, and that the time had come to boast to the world that we were some good. I congratulate here the Editor of the *Kenya Weekly News* on taking up the line which seems to me to be exactly the right one, and I think he has done good service to the Colony by this article. I hope we shall have some more!

However that may be, it seems to be quite clear that the efficiency of the Nakuru School and other schools is regarded as a matter for satisfaction. It is a reasonable corollary that if that school were closed, or if the standard of efficiency were impaired, it would be a matter of dissatisfaction. If this cut of £100,000 entailed any curtailment of the Education vote, it seems to me that would be fraught with very grave danger to the Colony, and I did not feel that Government could, on the spur of the moment, accept an ultimatum which might have that effect, the effect possibly of closing the school at Nakuru about which I have been reading, possibly closing schools elsewhere, possibly halving the staffs and half feeding the children.

The argument for efficiency in the schools is of course equally applicable to arguments for the maintenance of our other assets such as roads and bridges. In 1923 we had 4,000 miles of roads and we had provision for maintenance at £10 per mile. The Director of Public Works now has under his charge over 10,000 miles of roads and provision for maintenance at £5/10 per mile. I asked him what would be the immediate result of halving the provision for maintenance of road and bridges? He replied that quite definitely and without doubt it must mean the closing of certain roads. The Director of Public Works has over 500 bridges to maintain, some of them of a temporary character. Failure to repair one bridge might mean the closing of many miles of road. It was quite impossible to estimate in the short time at our disposal what would be the resultant damage to the trade and commerce of the Colony, if the acceptance of the ultimatum meant

a reduction in the vote for the maintenance of roads and bridges, and it seemed to us at least probable that some such reduction would be inevitable. We felt we must know more about it. It might mean, for instance, that the interests of the Coast would have to give way to the interests of the Highlands, and we wanted to know whether the Coast would agree to that. It might have meant the interests of the agricultural communities would have to yield to those of the mining industry, and we would like to have had the views of the agricultural communities concerned in the event of such a tragedy becoming inevitable.

Next we come to the Department of Agriculture. For years it has been preached to me that this is essentially an agricultural country, and I have been given to understand that provision for agriculture is shamefully inadequate in comparison with the provision for other services. In any case, that appears to be the view held by the Economic Development Committee which has submitted recommendations which, although there has been no time to examine them, yet appear to entail an additional annual expenditure of something in the neighbourhood of £20,000. It does not seem very probable that any considerable reductions can wisely be made in the expenditure on agriculture.

Lastly, we have the Medical Department. The greater amount of that expenditure is of course incurred on native services and as I have already explained cannot very well be touched. There is, however, certain expenditure on European hospitals, laboratory services and research institutions. The value of research is I believe universally admitted, and again I do not see how very considerable economies can wisely be made in medical expenditure.

In view of the above considerations, it seemed to the majority of the Committee that £100,000 could not be saved from the Expenditure Estimates without very grave sacrifices on the part of the general public, and the Committee felt that it could not accept the proposition, which would involve such sacrifices, unless it had information that the public were willing to endure them and advise as to which sacrifices would be the most tolerable.

It is significant of the difficulties with which Government was faced that almost every concrete proposal submitted to it from outside sources was a proposal not for economy or decreased expenditure but for increased expenditure, whether those proposals came from Elected Members or public bodies or private individuals.

Among the proposals for increased expenditure which I have received during the preparation of this budget and subsequent to its drafting have been the following:—

Under "Education" there have been demands for funds to provide for compulsory education for European children; more money for scholarships both for Europeans and Asians; money for physical training equipment for the Indian Girls' School at Mombasa; and money for a new Government Indian School at Thika.

Under "Agriculture" we have recommendations of the Economic Development Committee which, if adopted, would probably entail increased expenditure to the extent of about £20,000 per annum.

Under "Public Works," there has been a request for funds for water supply at Thika; for a market at Kisumu; for increased expenditure on roads in the mining areas and on the road from Kericho to Lumbwa, while the Trans Nzoia District Council have complained that their road grant is inadequate.

Under "Medical" there have been requests for a cottage hospital at Kitale; for increased provision for nursing sisters in Nairobi; for increased funds for leper hospitals; for increased accommodation at Mathari Mental Hospital, and for better hospital accommodation for Asians in Nairobi.

Under "Police," I have been asked for money to re-open the police post at Solai, for a police station at Makuyu, and for police protection of trade centres.

Under "Publicity," as I have stated, an increased amount for advertising in London and for clerical assistance in Nairobi has been given.

I have had complaints that the sums provided in Draft Estimates for grants both to the McMillan Library and the Natural History Society are inadequate. I have also had requests to increase the salaries of certain deserving officers of Government.

In effect, criticism of this budget seems to amount to this. The total sum provided for expenditure is much too large but the individual items which go to make up that total are too small.

In connection with this total expenditure it may be worth while to endeavour to correct what appears to be a very popular error—namely, that the cost of this Government is over £3,000,000. I have here two recent copies of issues of certain organs of the local Press. The first is dated the 15th

December and quotes a statement to the effect that the cost of the Kenya Government is £3,200,000. The cost of course is not £3,200,000, but rather less than £2,200,000. The second is dated the 17th December and contains the following passage:

"The Government of Kenya proposes to extract from the people in gross revenue next year £9,240,000."

The revenue which Government proposes to extract from the people of Kenya is as stated on the outside cover of the Draft Estimates for 1935—£2,159,032—and in case there should be any mistake about that and somebody should not see the outside cover, the figures are repeated again as large as life on the inside. The trouble is this: In both cases I have cited these fictitious figures are used as figures for comparison with figures of other territories and in both cases they are used to the disparagement of Kenya. It is, I think, a matter for legitimate comment that organs of the public Press which so lightly take upon themselves the duty of informing public opinion should be unable or unwilling to read the document which they are pretending to expound, although that document has been public property for a month. The £9,240,000 figure is of course an accounting figure which is explained in simple language for anyone who wishes to understand it in the preface to the Estimates on page 5. To those of my critics whose stock-in-trade is a power of invective rather than a capacity or even a desire to assimilate facts, the conviction of a 50 per cent error amounting in round figures to a sum of a million pounds is possibly a matter of no moment. But it did seem wise to make some effort to attempt to correct this error in the interests of those members of the general public who would like to know the truth if only they were allowed to.

As I have said, Your Excellency, the total expenditure in the Draft Estimates and in these Revised Estimates is slightly over £2,000,000 and this is criticized as being excessive, but when any one of the component items of this total comes under review it is criticized as being too small. But it follows that if the sum total must be reduced then one or more of the items of which it is composed must be reduced still further below its present inadequate level.

The view of the Committee was that it would not be possible to take £100,000 off services without hurting someone and, before we could agree to the principle, we wanted to know who was going to be hurt and how badly he was going to be hurt. In order words, if some part of the social anatomy has got to be mutilated, we wanted to know what part could be mutilated with the least damage to the whole body. If we could get willing victims for the sacrifice, we wanted to know who were the volunteers. If it was necessary

to exercise compulsion in spite of the wishes of the people, then we wished to know in what direction that compulsion had best be exercised.

These, Your Excellency, are some of the reasons for which the Committee felt that it could not very well accept the ultimatum of the European Elected Members. In other words, we felt that we could not accept it without a fairly clear idea of what its effect would be on the various communities concerned.

I am, however, authorized to state that Your Excellency is as anxious for any reasonable economies as is any Member of this honourable Council—(Hear, hear!)—and that with a view to leaving no stone unturned to secure such economies as may be practicable, Your Excellency yourself proposed the appointment of a Committee with reference to which I have already given notice this morning. I am also authorized to state that every possible assistance will be given to that Committee by Government in its investigations and I am to assure the House that the fullest consideration will be given by Government to every single recommendation that that Committee may make. The fact that I was unable on behalf of Government to accept without question the demand that expenditure should be immediately reduced by £100,000 does not mean that I should not welcome such reductions should they prove to be practical propositions and I can assure Council that when this Committee meets the co-operation of myself and my colleagues, the Heads of Departments, will not be lacking.

In view of the imminent appointment of this Committee I do not propose to consider at any length the proposals for economy outlined in the Minority Report of the Standing Finance Committee, for these proposals will of course be reviewed in detail by the new Committee. I merely wish to explain why it was that the majority of the Committee felt unable to accept the proposals without further examination. The proposals are those which appear at the bottom of page 29 and on page 30 of the printed Report of the Standing Finance Committee.

These proposals are briefly:—

Firstly, a reduction in the activities of the Public Works Department. This department is responsible, among other duties, for the maintenance of £2,000,000 worth of public buildings, 10,000 miles of public roads, 500 bridges and numerous water works besides the operation of the Colony's water laws, to say nothing of geological and hydrographic investigations. Before Government could consent to the abolition of this department or to any considerable reduction in

its activities, it would have to be assured that the Colony's assets would not thereby be wasted and this seemed to be a problem which would involve lengthy and detailed investigation.

Secondly, a reduction in the total vote of the Agricultural Department. I have already explained that another proposal is to increase the expenditure on the Agricultural Department, and in any case it seemed to the Committee to be dangerous to cut down this vote to any considerable extent until we had some idea of what would be the resulting damage to the agricultural industry as a whole.

Thirdly, we have Mr. Hemsted's scheme for the administration of the Northern Frontier District. Mr. Hemsted would be the first to admit that his scheme could not be considered apart from military and political considerations and I do not think that he ever imagined that Government could adopt it on the spur of the moment and without further examination. It is, of course, unnecessary to assure him that it will receive full consideration by the new committee.

Fourthly, there is a suggestion of a percentage cut in the expenditure of certain departments. The Treasury and the Police are specifically exempted. I cannot help thinking that in practice it will be found that a number of other departments such as the Audit, the Judicial and Legal, Mining, Prisons and the Trade and Information Office, will have to be similarly exempted. This means that the percentage on the remaining departments will have to be of considerable magnitude and it was difficult to estimate what would be the effect on the services concerned. The effect might be very damaging and the proposition consequently needed very careful and detailed investigation.

Fifthly, there is a proposal to make renewed representations to the Secretary of State for further consideration of the Colonial Loan position. It seemed to us that any such representations were unlikely to come to fruition in time to affect the 1935 budget.

Lastly, it is suggested that if the foregoing proved insufficient either normal increments of pay of Civil Servants above a certain scale be temporarily held up or a further levy be made on salaries upwards of £600 per annum. This again is a matter both of equity and of policy which could not hastily be decided and would necessitate reference to the Secretary of State.

I now propose to refer briefly to the comments of the Minority Report on the Revenue Estimates.

The Report shows that in the opinion of the signatories the Government estimate of revenue is too high by something over £70,000. The main factors in this excess are £21,000 under Customs and Excise and £43,000 under Licences, Duties and Taxes. This is of course an honest difference of opinion and either side may be right. The estimation of revenue is not an exact science. It is perfectly true that in late years Government estimates of revenue have not generally been realized. We have however had to contend with abnormal conditions in the way of drought and locusts. Government did not estimate for these abnormal conditions and cannot well be blamed for not doing so.

During the five years 1924-28 there was in every year an excess of actual over estimated revenue averaging something over £200,000 per annum. During those five years the total excess of actual over-estimated revenue amounted to over £1,000,000. The argument against this year's estimate of revenue appears to be that, having been generally wrong for the last six years, Government is likely to be wrong for the seventh year. I prefer the argument that I have recently seen suggested that if Government goes on long enough it is bound to be right some time, and I believe that there is a reasonable hope that we are going to be right next year. After all, as I have said, the estimation of revenue is not an exact science. The Railway estimates for this year were approved by persons who may be assumed to be reasonable and prudent: they were at least approved by the Railway Council and by this House and already they have shown an error of nearly a quarter of a million pounds, fortunately on the right side. But if any one had told us a year ago that our Railway estimates were going to be exceeded by over £200,000 there is no single one of us who would have believed it. It is just possible that Government may also have erred on the right side in the Estimates of Revenue for 1935. If only we are fortunate in erring to the extent of even 10 per cent of the Railway error for this year, or of the Government errors for any of the five years from 1924 to 1928, and realize therefore £20,000 only over and above the amount for which we have estimated, we shall probably bitterly regret it if we have too hastily ruined the machine on whose operations the prosperity of this Colony depends. In these days we may do quite as much damage by under-estimating revenue as by over-estimating it.

Quite frankly, our Estimates of Revenue depend on normal climatic conditions. We have almost forgotten what that means, but surely we must have normal conditions some time, and is it really gambling on an outside chance to base our Revenue Estimates on the assumption that at long last we may get a normal year

Whether we are right or wrong the Government must be carried on. It was the business of the Standing Finance Committee to review the Draft Estimates and as a result of that review to produce to this House figures which reasonable men might anticipate would be realized. The majority of the Committee have done the best they could, and the figures which are the result of our work are the best that we could produce. We have had no alternatives suggested to us, no alternative details. I therefore commend to the House the Report of the majority of this Committee as representing the considered opinion of prudent persons as to what may reasonably be anticipated as likely to eventuate under what may be regarded as normal conditions in 1935, coupled with the assurance that every consideration will be given to any proposals for further economies that may be submitted to this honourable House by the Select Committee which I hope this Council will agree to appoint.

Your Excellency, I beg to move.

THE HON. THE TREASURER: I beg to second.

HIS EXCELLENCY: The question is, that the Majority Report of the Standing Finance Committee on the Draft Estimates for the year 1935 be adopted.

Council adjourned for the usual interval.

On resuming.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Sir, I rise to oppose the motion before the House.

The hon. Member who moved this resolution has put up no case that requires any reply at all. He has merely reiterated the old standpoint that certain expenditure has been incurred and cannot be reduced. Not one word has been uttered as to the capacity of the Colony to stand the heavy overheads which are entailed by this expenditure. (Applause.)

Sir, I think I have made my position clear enough on this subject. I spoke at great length in this House on the original motion dealing with the Estimates. I have since in conjunction with my colleagues made my case amply clear in the Minority Report which is before the House and therefore, Sir, I have nothing further to say on the main question of these Estimates, with this one exception; that having heard the very provocative and obstructive speech of the hon. mover, I am more than ever convinced that we were entirely right in withdrawing from that Standing Finance Committee.

Sir, when you met the Elected Members and told us it was your wish to appoint this Committee with the definite object of finding reductions in expenditure of a sum of not less than £100,000, we accepted that, Sir, as a genuine gesture on your behalf of wishing to take us into co-operation and to make a really determined effort to reduce these heavy overheads.

I was prepared, Sir, on behalf of my colleagues to accept that gesture, but it is no good disguising facts, that the speech we have listened to this morning has made our position almost impossible. The hon. the Colonial Secretary devoted the whole of his speech to showing that it was simply a waste of time, a farce and quite ridiculous to appoint any Committee to try and make any reductions in expenditure.

Now, Sir, what I was going to say was this: that on behalf of Elected Members, I thank you, Sir, for having listened to the voice of the people and for having taken this practical step to enable the country to make a start in recovering its economic equilibrium. We were prepared to accept your offer and to co-operate to our utmost in finding the necessary economies on the distinct understanding that it was a genuine effort on Government's part at economy. I believe, Sir, that was your intention, but the speech this morning is devoted entirely to showing that it was not possible to reduce expenditure by a single penny in any direction, and when one thinks that that hon. Member is to be the Chairman of this Committee, how can we believe that this is a really genuine effort and not merely a trap to ask us to come in and then for Government to turn down everything and say it is impossible? (Hear, hear!)

If it is to be of any effect, it must be understood that all Heads of Departments must be given definite instructions to assist in this effort in every possible way and that any wilful obstruction will be severely dealt with by you, Sir. It will be a pure waste of time and effort unless this is clearly understood, as passive resistance on the part of Government officers will frustrate what I believe was a genuine gesture, Sir, on your part to bring about what the whole country is united in demanding.

On our side, if we accept this offer we are earnestly determined to find the necessary economies which we consider absolutely essential and to refuse to be put off by the obvious difficulties. We realize that the resulting economies will entail certain curtailment of services and the public must, on their part, be prepared to make sacrifices and put up with less full services than they have been accustomed to in the past.

In the process of reconstructing the country's financial position it must be obvious that the first step is to reduce expenditure. Accordingly the proposed functions for this Committee will be entirely confined to that aspect of the question. If and when, however, the economies have been effected which bring expenditure down well below the revenue, then of course the natural corollary is a reduction in taxation, and I trust that in his reply to this debate the hon. the Colonial Secretary will give an assurance on Government's part that such is their intention. Relief in taxation stimulates production and trade and so the wheels of commerce revolve more quickly and general prosperity follows. I trust, Sir, that the truth and importance of these facts are realized by Government.

What I have to say, Sir, is, to put this question quite clearly, we were prepared to do our utmost to help Government, but if Government start in on this Committee with the firm intention of achieving nothing, then obviously I say it is quite impossible for us to co-operate.

THE HON. A. C. HOBY: Your Excellency, I rise to oppose the motion before the House. I have listened to the speech of the hon. the Colonial Secretary and I deplore that such a speech should ever have been made, because it displays to my mind the mentality of a very honourable official, who has served this country for twenty years and takes a Government point of view and a Government point of view only, regardless of the economic position of this Colony.

Now, Sir, to anyone who has studied the financial history of this Council during the last few years, is it surprising that there should be violent criticisms hurled against this budget? And, Sir, there have been criticisms from this side of the House, and I would especially refer to that criticism which was offered in the speech of the hon. Member for Nairobi North. Sir, it is a matter of very deep regret to us on this side of the House that that criticism should have been taken as a personal attack upon one of the Governments' officers on the other side. Sir, we as Elected Members, were definitely associated with that speech—(hear, hear)—and I should like to make that position clear.

Now, Sir, what was the contention in the speech of the hon. Member for Nairobi North? It was that this was a manipulated budget. Now, Sir, when I listened to the hon. the Colonial Secretary replying to these criticisms, I considered he really made a frank admission to us that that was the case, inasmuch as he said in framing these Estimates that it was not a case of cutting his coat according to the cloth, but it was a case of finding sufficient cloth to make the coat.

Now, Sir, when he also talked about inherited expenditure, is there any doubt in the mind of an ordinary man after the speech of the hon. the Colonial Secretary that he regarded expenditure as definitely fixed and not reducible beyond a certain point? Sir, I think that was the definite impression that he gave on all, and it was a case of finding revenue to foot the bill. Now when the bill was presented to the House it contained expenditure and revenue to the tune of something over £2,000,000, and I will try and keep to the net figures. There was a balance, Sir, of the amazing figure of £2,000, being a surplus balance, to which was added at a later date £15,000 making a surplus balance of £15,000. Sir, I leave it to any man who listened to that speech not to have it quite clear in his mind that the revenue figures had been adjusted to meet the expenditure figures.

Sir, I for one associate myself entirely with the speech which was made by the hon. Member for Nairobi North in criticising these budget proposals and I consider that that criticism was absolutely justified.

Now, Sir, the motion before the House is the adoption of the Majority Report. Sir, I vigorously oppose it and I support the Minority Report. In dealing first of all with the revenue side of the budget I consider that this has been framed in far too optimistic a manner remembering, Sir, that this country has faced six years of consecutive deficits. I do not wish to quote a whole lot of figures, but the fact remains that the proposed expenditure for 1935 is still in excess of the year 1934 which resulted in a deficit of approximately £54,000. Now, Sir, I see the expenditure for 1935 envisages an increase in expenditure and I believe, Sir, this to be an impossible figure. I believe, Sir, that if we go on like this and adopt these budget proposals now before the House, there is only one inevitable result and that is another deficit.

Sir, what is the position of the producer in this country? We all say that the wealth must be produced from the soil. And what is the position here, whether the producer be a native or an Indian or a European? On the other hand you already have had a request from the representative of the Native Interests for a reduction in the native hut and poll tax and, Sir, I believe that to be justified; and, on the other hand, what is the position of the other producing communities? They have faced during this last year a further steady decline in commodity prices and to-day in this Colony I maintain that the agricultural producing industries are being carried on on a totally unremunerative basis. Now when you look round the world to-day I do not think anyone can view with any serious optimism at all the outlook as regards the markets for this Colony's products. But in spite of this and in spite

of the completely altered world conditions, I contend Sir, that Government continue in complete disregard of these dangers to budget on a scale which must eventually result in disaster to this country.

Sir, I may be accused of being either a defeatist or a pessimist. Sir, I am neither. I have been in Kenya for thirty years and if I was either of these I should never even have survived. I am here representing a farming community and when you look at the budget proposals, what is there in these proposals that leave the slightest hope of any financial assistance being given to any economic reconstruction scheme which may be approved of in this country? Sir, there is none. We are informed by the Secretary of State that we are no longer credit-worthy or words to that effect, and it is not possible or advisable to go into the market to raise any loans for this Colony for such a purpose as to increase the capital of the Land Bank, which I maintain is essential to this Colony.

Sir, you have a lot of good people in this country who have come out here and settled and who are determined whatever happens to hang on and stick it out. You have also a rising generation in this country and towards them you have your definite responsibility. (Hear, hear.) You, Sir, have travelled round this country. You have seen some of these settlers with their backs to the wall who are determined that whatever happens they will not give up the fight. What is their position? Are they to be left high and dry with no hope whatsoever, while Kenya flounders along directed by a bureaucratic Government which turns a deaf ear in many cases to their requests? And in this connection, I wish specially to refer to bond interest and the attitude towards the loans of this Colony. Sir, I say we cannot accept that position. We have got to go on fighting and we have got to demand, Sir, a further measure of control over our finances, and that is the root of this thing before the House.

Your Excellency, I had the privilege in 1917 of being one of the first Nominated Members of this honourable House and when I look back to those early days and the problems which had to be faced then, there is one thing that always comes to my mind and that is that great statesman, the late Lord Delamere, advocated for this country the advancement of white settlement and a further control in the finances of this country. (Applause.) Sir, it is this we ask: that we should be allowed to share with Government in a far greater sense the control of the finances of this country. When you think of the trust and those principles which that wonderful man handed down to us, I can assure you, Sir, they will never be betrayed on this side of the House.

Now, Sir, I am sure we all regret and deeply regret the position we were faced with last week when it was a complete *impasse*. Now what was the cause of that? It was this: the opinions of the unofficial Members on this side of the House came into direct conflict with the opinions on the other side over this one great principle which we think is absolutely urgent and necessary for the welfare of this country and that is the reduction of expenditure. That was a very difficult position for all of us and one which is not good for the Colony. If this Colony is to be carried on, it is essential that a spirit of co-operation and good faith and confidence should exist between Government and this side of the House. (Hear, hear!) And I believe, Sir, that the action which you took, Sir, and which I would wish to thank you very much indeed for, namely, the appointment of this Committee, was an action dictated by one idea only, namely, to serve the Colony in its very best interests. (Hear, hear!)

Now, Sir, I for one was prepared to offer the Government every possible help and co-operation in dealing with the many difficult problems which that Committee would have to contend with, because it is quite clear that if that Committee is to accomplish the purpose for which it is appointed, it will mean very considerable sacrifices on all sections of the community with the prospect of curtailing of services. But, Sir, what is the position? We have listened to the speech of the hon. the Colonial Secretary on this subject and, Sir, to say that we are disappointed would be indeed to express the position slightly. We are left in no doubt from that speech because I do not think there was any room for doubt. We are left with a definite understanding that Government are not going to co-operate with this side of the House on this. Expenditure is to be regarded as fixed and is on no account to be reduced beyond a certain point.

Now, Sir, if that is the atmosphere which such a Committee has to contend with, I maintain that that Committee can only end in a complete disaster and again bring about the position when Members on this side of the House will have to withdraw. (Applause.)

MAJOR THE HON. G. H. RIDDELL: Your Excellency, I rise to oppose the motion before the House, and in doing so I wish to associate myself with every word that the previous speaker has made clear to you. I am also thankful to him for his remarks inasmuch as they lighten the burden that would otherwise be on me of repeating what he has said.

During the whole of this budget debate we rank and file of the party—and I use the word party to indicate the European Elected Members on this side of the House—have sat silent

and have listened to what has been said for or against us, and we have done that as a matter of high policy and in order to make assurance doubly sure that our opinions were got over for us in a way in which we considered they could not be misunderstood by the other side of the House. In other words, as expressed by an hon. Member opposite in what I considered to be a provocative manner, we were muzzled. But now we are muzzled no more. If in taking off the muzzle some hard words are used, it is because in effect our hearts are hard. I do not, however, intend to make a provocative speech, but, instead of using the word muzzled, I should like to quote a small stanza from Lewis Carroll:

"The time has come," the Walrus said,

To talk of many things:

Of shoes—and ships—and sealing wax—

Of cabbages—and kings."

I want to go back a year and to trace as well as in me lies the passage of what has led up to the dreadful position in which we find ourselves to-day.

A year ago we were getting ready for a fresh election, and those candidates who proposed to offer themselves for election to this House were forming their programme. A general election every now and then, is a great benefit not only for the country but also for the Government, because it allows Government to see the platform on which members who are elected have stood. There was a singular unanimity, if Government noticed it or had taken it to heart, in the manifestoes that were put out by the successful candidates, giving thereby complete pointers to Government as to the position of the Elected Members who were returned and the position they were bound to adopt after the election. The position taken up by all successful candidates was very much the same. We said we would have no further taxation. We said we wanted to balance the budget. We said what was a corollary—that these two things could only be effected by economies. Surely that was a clear pointer to the Government! Now, in the Council as elected, a new factor arose, and the hon. the Colonial Secretary, in expressing surprise that the budget for 1935 received a completely different reception from the 1934 budget, ignored that new factor. And the new factor is this: that we realize, and realize up to the hilt, the feeling of the old saw "united we stand, divided we fall."

We therefore on election set to work among ourselves to elect a Leader and a Whip. It may come as a surprise to many of my listeners here to know that this is the first

Council in which we have ever had an elected Leader. The late Lord Delamere was never elected Leader—he was the Chairman; there is a distinction between the two. Very soon after our election we came to an agreement among ourselves that we would formulate a comprehensive policy as regards finance, as regards taxation, and as regards native policy, and that, believe me, if you know the various conflicting interests of Elected Members representing different constituencies, is not accomplished without sweat. None the less, with the firm intention of carrying that policy through, we met on many occasions, and we came to an agreement as regards these lines of policy among ourselves, and, as regards finance, Your Excellency, the result was given to you in two or three sentences by our elected Leader last May, so that Government have had full warning, if they had heeded that warning, as to our intentions.

Now we wish to give a warning to Government and, believe me, it is a warning, and it is in no sense a threat. It is a warning especially to those Members on the other side of the House who have spent their lives working in this country. Here and now I should like to say that I have never subscribed to the opinion expressed in this House, to my regret, that we look upon the other side of the House as an alien bureaucracy. I do not agree with that standard, and remembering John Ainsworth and many other notable officers of thirty years ago I consider the old official and the new official, in so far as he did his work towards the benefit of this country, is entitled to consider himself just as much a pioneer as I consider myself. But my warning is this, that as a result of a policy of the last three years, during which time I have taken an active part in public affairs, I have seen this House drifting slowly but surely into two opposite political camps. I say to Your Excellency here, now and at once, that the fault for that position does not lie with us: it lies with the Government side, and I say at the risk of using another epithet to add to the numbers we have used that this position cannot continue. It is a negation of good government, and it is in fact a contemptible position. While we are kept in this country in a permanent minority, and our only means of expression on decided opinions is by coming right out into the open, standing shoulder to shoulder and using expressions which are hard and which we have to use, and which we regret, and to decide on an action which if carried out will throw this country into such continuous strife and complete chaos—we do not want to do that, we dread it, but if we cannot get our principle over in any other way that is the line we shall have to adopt.

Remember, when I am issuing this warning that we have had in the last two months an experience of the way in which our reasoned arguments are taken by Government; I refer to the Carter Land Commission debate. There we were altogether, we spoke as one man; we put up our then acting Leader, whose speech was studied line by line, sentence by sentence, word by word, in exactly the same way as our case was put up by our Leader and our Secretary in this debate. For five or six days we spoke and, with one notable exception, we spoke in favour of the Carter Commission Report. We elaborated it in every way we could.

HIS EXCELLENCY: The Carter Land Commission Report has nothing to do with this motion?

MAJOR THE HON. G. H. RIDDELL: I was saying . . .

THE HON. SHAMSUD-DEEN: On a point of order, Your Excellency, the hon. Member should remain sitting while Your Excellency is speaking.

HIS EXCELLENCY: Yes, when the Chair is speaking. I wish the hon. Member to keep to this motion as far as possible, not the Carter Commission Report.

MAJOR THE HON. G. H. RIDDELL: I wanted to make the point that we are united, and when we are speaking with one voice we expect—nay, demand—that Government should answer the points we make, or at any rate come into full debate with us, and if that is not done then when we come forward as we do now with the same arguments and the same organization we come forward obviously with certain reserve; that is, that we recognize further action other than reasoned argument will eventually have to be taken.

I want to reiterate again what the hon. Member Mr. Hoey said, that good government in this country can only be accomplished by complete co-operation between the Government, the settler community, the Elected Members of all races, and the indigenous peoples. I want to say one more thing, and that is that I am sure all Elected Members appreciate that in effecting economies of £100,000 in this recurrent expenditure great, very great, difficulties lie in our path. The fact that Your Excellency was ready to agree to reducing expenditure by that figure is in no sense a triumph, a political triumph, or any other form of triumph, to us on this side. If this Committee does sit, we shall put forward our own point of view with the utmost of humility and we shall try in every way in our power, provided the Committee sits under the terms named by our Leader, to co-operate with Government

by all the means in our power. But I should like to make one small point as regards the idea of cutting down expenditure. I believe, Sir, and it is a personal opinion, although I believe it is shared by my colleagues, that the cutting down of expenditure does not necessarily mean either the sacrifice of services or reduction of efficiency: I believe, and I am ready to put forward arguments for my belief, that the Agricultural Department and the Veterinary Department can be ruthlessly cut down and at the same time their efficiency increased.

In conclusion, Sir, I should again like to emphasize what we have already put before this House: to the effect that when these economies have been effected it naturally means that the taxation from which this country is suffering will be automatically reduced.

THE HON. SHAMSUD-DEEN: Your Excellency, I think we are suffering from the ordinary chaotic circumstances which are the natural resources of poverty-stricken families: the taxable capacity of the Colony has reached its limit, and Government cannot reduce their expenditure because they have been accustomed to the environment of the good old times of luxury. We want increased services; we do not want to pay income tax, we don't want to pay the non-native poll tax, yet we don't want to have a deficit in our budget. If I may get away from the oft-repeated proverb of the cat, I think it appears to me a case of our wanting to eat our cake and still have it. It is evident that these two positions cannot be reconciled.

As far as this Report is concerned, I personally think it is thoroughly unsatisfactory, and it is almost absurd to report to this House the paltry reductions suggested in the Report. To my mind, Your Excellency, it exposes one inherent defect in the very constitution of the Standing Finance Committee: it is unable to sit down, and, in the course of a week, overhaul a budget of which unofficial Members have not had any intimation whatsoever. I think even the best expert—even if Lord Moyne himself were asked—could not overhaul such a budget in seven days. It is impossible.

But the whole situation was very happily solved this morning, by the announcement by the hon. the Colonial Secretary regarding the appointment of an Economy Committee. I have not the least doubt in my mind that if such an announcement had been made while the Standing Finance Committee was sitting, the European Elected Members would not have walked out. But it was due to the unfortunate position taken up by Government that they were left no alternative but to walk out. I feel that had I been a member of that Committee I should certainly have signed the Minority

Report, and though the hon. Member Mr. Pandya has signed the Majority Report it amounts in fact to a separate Report, because he differs from almost every one of the recommendations of the Majority Report, as he asked them to embody his disensions.

It is most unfortunate, Sir, that the hon. the mover of this motion dwell upon certain points which really gave an appearance to the House that although Government was going to appoint this Economy Committee they had prejudged the case and had made up their minds to frustrate the recommendations which might be forthcoming from the Committee. I think, however, we must make allowances for the reconstruction and retying of speeches which have to be made after certain announcements are decided upon. I personally think that that speech was composed before Government made up their minds to announce the appointment of the Committee. In any event, it was very unfortunate, because all those remarks were unnecessary. After this announcement, Government ought to give a free hand to the Committee, and I have not the least doubt in my own mind that Government are going to stick to its pledge and give every possible assistance and consideration to the recommendations of that Economy Committee.

Again, if the motion for the appointment of the Committee is passed by the House, I have not the least doubt that the Committee will be able to cut down expenditure by £100,000 without interfering with efficiency or curtailing the services of the Colony. I am not trying to believe my own dream, but I have had experience of such a Committee in 1923, when we cut down the budget of the Colony to the extent of about a quarter of a million, if not more. I have not been at all impressed with the argument that Government have got certain assets to be maintained and that that is the reason for their inability to reduce expenditure. I have explained in my previous speech—which I will not repeat—that there is no excuse, no argument, against the fact that there has been a regular process of increments which have doubled the wages of Government servants since 1923; and if it is found necessary we shall probably have to ask the Colonial Office to find jobs for some highly-paid officials in other Colonies which can afford to pay them, not being in such financial straits as we are.

Your Excellency, I must say that I am not carried away by what has been described as the provocative remarks made by the hon. the Colonial Secretary. I really think that Government have given a very earnest proof of their anxiety and earnestness to help in cutting down expenditure. I expect Government will appoint this Committee, not calling on it to cut down expenditure to the extent of £100,000 only, but I

think that having done that they will have gone as far as the European Elected Members expect them to go. After that, I think if we vote against this budget and against this Report, we shall be adopting a policy of negation. After all; the whole fault lies in the construction of this Standing Finance Committee. Government have said "We are going to appoint an Economy Committee, we have referred the budget to the Standing Finance Committee, we have had the Expenditure Advisory Committee—what do you want us to do?" Government say that the budget must be passed, and with the assurance now given I do hope that the European Elected Members, and also my colleagues, some of whom seem to be of different opinion—and although we have been notorious almost for non-co-operation, for walking out and fighting with Government and adopting separate policies—and although it has been my pet idea to defeat Government on some occasions by the unofficial votes, I really think that this is not the time to adopt that attitude but that in view of the assurance given by Government this morning we shall be doing the country a great service to see the budget through. We can then go on fighting with Government for as long as we like. I have therefore made up my mind to vote in favour of the motion, although I should also like to vote against it, but in view of what has happened this morning I do not think I can consistently go on with the same attitude that I adopted in the beginning.

There are certain things which I think it would be wrong on our part to try and ignore. The fact is that this Government since 1930—I shall be excused for again and again referring to 1930 because I really feel that was the year when the finances of the country and the expenditure were brought on to an absolute business basis which should never have been departed from—but since 1930 not less than half a million pounds increase has taken place in ten of the departments referred to by Government as reducible expenditure. From 1930 to 1935 Government has made an effort to decrease this expenditure by about a quarter of a million. The position at the present moment seems to be that Government appear to think they can do no more, but we say there is room and that they must cut down expenditure. Government resembles a person brought up in a very luxurious environment, accustomed to having sumptuous dinners with drinks of many courses, and when asked to economize cuts out drinks and one course, and thinks he has gone the limit! We think that in hard, bad times, it is not asking too much to limit ourselves to one course, and I know that some of us probably have to live sometimes on meal-meal or a cob, or something of the sort. We cannot get away from the fact, Your Excellency, that the official Members of the House do not to-day share a

fraction of the anxiety shared by the unofficial community. They do not know what the effect of this terrible financial disaster is. When they are asked to forego 5 or 10 per cent of their salaries, they think they are asked to submit to a sacrifice almost incalculable, but in unofficial circles people have come down to a limit that would not be even thought of by officials.

I have heard a large number of remarks as regards inflated Estimates of Revenue and so forth, but if I put myself in the position of the hon. the Treasurer I do not blame him for putting in inflated Estimates of Revenue because people do not want to pay any additional taxes, they do not want a deficit in the budget and, after all, he has got to reconcile the budget in some way or other; even if he is rather optimistic in his estimates he should be sympathized with rather than criticized.

I have also a point to put before the House. I do not wish to take up the time of the House with others to which other hon. Members may refer, but there is just this one that I wish to speak about. It concerns Nairobi Municipality. In the budget I find that notwithstanding representations made to Government, Government propose to continue to pay to the Municipality only one-half the tax collected from road licences, instead of two-thirds as heretofore. Whatever misunderstandings there may be regarding this non-native poll tax being temporary or permanent or alternative or not, there was not the least doubt in the mind of the Municipality, at any rate from the official correspondence with that body, that that cut of two-thirds to a half was only temporary. With the increased demands upon the Treasury of the Municipality for the various services, it is no less than a breach of faith that, after being told this was a temporary cut, that it should continue to be as permanent as the non-native poll tax is going to be.

I shall conclude, Sir, by saying again that we ought to ignore the remarks of the hon. the Colonial Secretary and take Government's assurance on its face value, and give a fair trial to this Economy Committee which I am quite certain will bring down the expenditure by more than £100,000, or at least the desired £100,000.

THE HON. ISHER DASS: Your Excellency, when speaking on the budget I made it absolutely clear that the causes responsible for the deplorable state of affairs of the finances of the country were due to three main reasons. First, the unsound and unscientific basis of our fiscal policy; second, the agricultural policy of the country; and third, extravagance on the part of the Government.

I had made up my mind to oppose the adoption of the Standing Finance Committee's Report for reasons which I will state now, but I am likely to change it afterwards. The first reason why I made up my mind to vote against it was that in my experience of a few years I have never seen in an Assembly or a House where I have been in the capacity of a visitor, representative members insulted more than they have been insulted in this House by the submission of this Report in respect to the gross savings in expenditure of the country, when we are given figures by the Standing Finance Committee which has wasted seven days with only a net saving of £282 on £9,000,000! If we calculate this, it works out that for every £11,400 there will be a reduction in the opinion of the members of the Standing Finance Committee of Sh. 20. If we go a little further it means Sh. 1 on every £570. If we were to ask a commercial house to reduce expenditure, would it be dignified on the part of the directors to come to the shareholders and say they will reduce Sh. 1 in every £570 of the expenses! And if we do not take the gross expenditure figures but take the net figures of £2,159,032 and work out the ratio on that it comes to a saving of £1 on £7,656. I think the expenditure itself involved in those seven meetings would have been saved if there had been no meetings at all of the Committee, or if we were told that they were unable to agree to any reduction in expenditure to the extent of Sh. 1 even. I think we are intelligent people, duly elected representatives of the country, we would have thought at least Government cannot see its way to reduce, but when the Standing Finance Committee brings a figure of £282 reduction in a gross expenditure of £9,000,000 it seems to me they think we are a lot of fools. That is one reason why I had made up my mind to oppose the adoption of the Report.

The second reason was that—I will not take much time of the House by going into details—they gave us to understand that the item £13,000, probably through an oversight, had been overlooked, and now they say £13,000 more revenue can be found easily and means by which it can be found. Of course on the revenue side there were only two items which were reduced and I think it will amaze most of the Members of this House that one of the increases suggested on page 19 of the Report (Item 14) Estate Duty, which was £10,000 will now be £12,000. Probably during the seven days meetings they must have received from some unknown source knowledge of the death of some person from the estate of whom £2,000 would be received. Then there is a little increase of £50 in boarding fees for Indian Schools, and I might assure hon. Members and the Director of Education that there are more chances of receiving less revenue from this

source because this year the Khoja or Ismailia community have built a wonderful boarding house of their own and will provide facilities to the boys of their own community, so that it is likely there will be a less number of boys boarding in Government schools than is anticipated.

The third point why I had made up my mind to vote against the Report is that on page 8 (paragraph 66) of the same Report it states that "the Committee was informed that the reduction of four officers was in respect of the Allidina Visram High School, Mombasa, and Mr. Pandya questioned the wisdom of this economy. The Chairman pointed out that, in the opinion of the former Director of Education, Mr. Scott, the reduction could be made without impairing efficiency." Now this is very unfortunate because when I suggested, speaking on the budget, that comparing the wages paid to the higher Administrative Officers in South Africa, the time had come when we should appeal to the common sense or ask the hon. Members on the official side of the House to at least forego part of their salaries, we are told instead that there will be a little saving by the removal of four teachers from the Indian School at Mombasa. In one instance the hon. the Colonial Secretary has suggested how could he possibly accept any reduction in education without thereby curtailing the efficiency of the department, and here in paragraph 66 of the Report is something different. I am sure that what he says he does not mean.

The fourth point is with reference to paragraph 84 on page 10 of the Report under the Head of Medical Department. I wish all on this side of the House to pay a bit more attention to this paragraph because this paragraph reflects the amount of disabilities and hardships my community have to suffer at the hands of the Government sometimes. The paragraph reads:

"Dr. de Sousa, in evidence, and Mr. Pandya informed the Committee that a grievance existed amongst the Indian community in that operations on Indian women were performed in the presence of adult male Africans. The Director of Medical Services explained that if this were to be rectified immediately it would be necessary to increase the staff of nursing sisters by one. However, there were a number of African women in training and they would in due course become available to assist at operations. The Committee, whilst sympathizing with the wish of the Indian community, felt that the present state of the Colony's finances did not permit of an increase in the staff of nursing sisters. Mr. Pandya considered that the appointment should be made."

"A proposal by Mr. Pandya that £100 should be provided for temporary assistance at such operations was investigated by the Director of Medical Services and reported by him to be impracticable."

Very deplorable, very disgraceful! And I cannot say more than that, that the ladies of any race should be operated upon in the presence of adult males belonging to another race and that the Government should be unable to find the comparatively small amount of £100 to provide one Indian nursing sister or at least a European or an African. There was no question of the appointment of any particular race. What more could be said than this? and I hope it will be an eye-opener to all the hon. Members on this side of the House and particularly my Indian friends as to how our grievances are met at the sympathetic hands of the Government.

Your Excellency, we do not want sympathy. We want rights. We want our legitimate grievances to be redressed. Mere words and lip sympathy will not take us far and will not keep us from suffering.

There is one thing more and that is on page 12 of the Report. Though I suggested that the Government should save the amount of £4,112 by the abolition of the Kenya Defence Force, yet no consideration was taken of it. There is one thing I wish to ask and that is: What is the Kenya Defence Force meant for? Because it does not allow any non-European to become members. So far it is only confined to Europeans. May I respectfully ask, Your Excellency, if the hon. mover will assure me whether if this force is intended to fight some enemy who attacks us, then is it the intention of Government that only the Europeans shall fight and we will be asked to sit at home? But if in the future, as in the past, as citizens of the same Colony we have to fight shoulder by shoulder, then why is it the force is only meant for Europeans and not for Indians? There is one thing I wish to say, Your Excellency, and that is that I wish intended to do with such a force at all, if it is only intended to fight the African in the event of their asking for their rights in the future.

The sixth point was there was an unfortunate incident which I wish to refer to that happened a day or two ago when the hon. the mover of the motion to adopt the Asian Civil Service Report used some very unfortunate words. We are used to such insults and treatment by the official Members when asking for something for the Indian community, but at least those expressions were unwarranted and unexpected; and I may quote it for the information of hon. gentlemen: that

at the conclusion of his speech he said if the terms of service are acceptable let them join and if they do not want to they need not join. These expressions are nothing but an insult.

HIS EXCELLENCY: That has got nothing to do with the Report of the Standing Finance Committee. Will you confine yourself to the debate on this subject?

THE HON. ISHAR DASA: Your Excellency, I was only putting that forward as a general issue.

These are the reasons, Your Excellency, that absolutely made me decide that I should not vote for the adoption of the Report. In addition to what happened this morning we have been given a very lengthy speech by the hon. mover, the Colonial Secretary, in which he said there is only one man in the whole of Kenya to-day who deserves all sorts of congratulations from him and that was the Editor of the *Kenya Weekly News* at Nakuru, probably because he has spoken in favour of the budget; probably he has complimented the Government and that is why he has received return compliments. But what about all the other Editors of the different newspapers in Kenya who have not expressed or paid compliments to the budget or the Government? What have they got? Not a word.

It reminds me of a nice story of a man lying ill in bed and he had a few friends to see him and everyone said he should be kept under certain restrictions and not given food and not to expose himself, and there was one miserable person who knew he would not survive who said, let him have the cakes to-night. The patient said, please listen to that man because he was the only one who said something nice. That is why I think the Editor of the *Kenya Weekly News* is the only person to receive these congratulations, because the others have not spoken in favour and it does not suit the hon. mover.

He has told us in his lengthy explanation that the Public Works Department could not be reduced. He spoke of 24,000 miles of beautiful roads in Kenya. If we have any reduction the roads will not be kept in good order. In fact, if visitors ever come to Kenya who happen to have visited Uganda and they are asked the difference, the first thing they tell us is that the roads in Uganda are better than the roads in Kenya. And I myself have travelled the whole of Kenya and I have never seen those beautiful roads except in the township areas.

Another thing we were told: How could there be any reduction in the Education Department and in the Medical Department and others. With regard to the Education Department I have just quoted paragraph 66 of the Report. With regard to the Medical Department expenditure I have

already mentioned this and now in the end it is a very funny thing he himself, the hon. mover, suggested that on the other hand we have been asking for an increase in the Medical, Education, Agricultural and Public Works Departments, etc. Yes, we have, but tell us how much we have got? Beggars have to ask and they have to ask for days and days and nothing comes of it.

Having said all this, Your Excellency, I will now just confine myself to only three of the causes and conclude. When I spoke on the budget I said the first was the unsound and unscientific fiscal policy of the Colony. Having heard two things this morning I have made up my mind that I will vote for the adoption of the Report with all the reservations I have made before as to why in the first place my opposition to the budget was purely based on the three principles I have mentioned.

Dealing with the third reason, that is extravagance, I am glad that Your Excellency has thought fit to make an announcement this morning of the appointment of an Economic Committee with the definite terms that they must reduce expenditure or suggest methods of reduction to the extent of £100,000 and I think that the European Members asked for a similar amount of reduction. I think that is a very good gesture on the part of Government that they realize that there is something wrong and there is extravagance so far as Government expenditure is concerned. I think the personnel appointed to that Committee should satisfy every sensible man.

With regard to my second reason—the Agricultural policy—I have made it definitely clear that this is also one of the chief causes for the present deplorable state of affairs. I do not want to go into details as I gave the reasons last time, but there is one thing I will say we can do. I am not quoting this but I am giving in addition to what the European memorandum submitted by the Rongai Valley Association is represented by the Noble Lord. I think that district of the Minority Report made by Mr. Puri, a member of that Committee, and I will quote an extract from the Association's "Only 12½ per cent" Apparently the European gentlemen in their own Report have accepted this. I do not know how, but speaking of the Land Commission Report I was challenged as giving imaginary figures. The Land Commission

"Only 12½ per cent of the land alienated to the Europeans has so far been brought under cultivation. Put into other words the European section settled in the

highlands are permitted to hold away from all prospects of cultivation and development 89 per cent of the finest and most productive of the agricultural land of the Colony, and for this service of hoarding land and withholding it from economic exploitation and use it receives bounties, subsidies, loans and freedom from taxation. This state of affairs in Kenya ought to be remedied at the earliest possible moment. As a first measure of reconstruction all the land that cannot be handled by European settlers should be given up by them to the Crown, the productive capacity of such land should be assessed in its potential money value and a tax on all uncultivated land on the basis of the assessment indicated above should be levied. Such a tax has been suggested by Europeans themselves and justified by arguments. Extracts from the memorandum by Rongai Valley Association are quoted below:—"

HIS EXCELLENCY: What has this got to do with the Standing Finance Committee's Report? It seem to me you are getting off the subject.

THE HON. ISHER DASS: I was referring to this policy. It is high time that the Government should recommend that it comes to the purview of the Secretary of State for the Colonies because that is the main cause of the present state of affairs. I have all along maintained, Your Excellency, that the policy of this country should be remodelled on some other lines, because the country is suffering from the speculation in undeveloped land.

HIS EXCELLENCY: I give a ruling on this, that it is out of order. You are getting far beyond the debate. You must stick to the Report of the Standing Finance Committee.

THE HON. ISHER DASS: Then, Your Excellency, I will only say that when dealing with the first point, that of the unsound and unscientific fiscal policy of the Colony, the European Members themselves also suggested that in addition to bringing in the present form of taxation on a purely sound and scientific basis, there should be introduced a land tax in order to improve the finances of the Colony and that was why

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Sir, the hon. Member is reading an extract from a memorandum put up by one association of this Colony which is not representative of the whole of the European community.

HIS EXCELLENCY: The hon. Member must really confine himself to the debate on this Report. I cannot have you becoming so irrelevant as you are now.

THE HON. ISHEN DASS : With regard to this point, which is the last, although the hon. mover has not given us any definite assurance with regard to the recommendation that you or your Government may think fit to make to the Secretary of State, still I hope that at least I am entitled to remind Your Excellency of what you said in your opening address from the Chair on the first day and that was —

"Finally, I desire to say that the more I consider the present financial position and the Colony's fiscal system, the more I am forced to the conclusion that any system of taxation, which attempts to support the Revenue by imposing undue and vexatious burdens on certain sections of the resident community, and at the same time, with a full appreciation of all the circumstances, fails to call upon absentees and others deriving their incomes in whole or in part from Kenya to bear their proper share in the expenses of Government, is and must be inequitable and fundamentally unsound. I therefore believe that if we are ever to afford relief to the sorely pressed agriculturalist and others from certain of the taxes now in force, we should take immediate steps to place the fiscal system of the Colony on a more scientific basis which will have proper regard not only to the yield from taxation but also, and more particularly, to the incidence of that taxation."

Your Excellency, before I conclude, I will simply say this, that although a very good gesture has been made by your Government in appointing a Committee to reduce the expenditure by £100,000, I hope that your Government will see fit to recommend to the Secretary of State for the Colonies that the time has come when the fiscal policy of this country should be absolutely put on a sound and scientific basis.

MAJOR THE HON. SIR ROBERT SHAW : Your Excellency, in the former debate on the Estimates the opinions of hon. Members on this side of the House were expressed by the Noble Lord, the Member for Rift Valley, and the hon. Member for Nairobi North, in two speeches in which the financial policy of Government as contained in the Estimates was completely denounced. With that with I entirely associate myself. At the same time, on that occasion we on this side of the House were in effect supporting the motion before this House, that is to say, the motion that the Draft Estimates should be referred to the Standing Finance Committee. To-day, the position we find is that an unrepentant Government has brought a very friendless budget back to this House, if possible in a worse form than it left us. Now, Sir, we are opposing the motion before the House uncompromisingly,

because we believe the Estimates do in effect reflect the policy of despair. I call it a policy of despair, because it is based on the principle that we in this country must sit with folded hands and shoulder this inherited expenditure from the past as if we had no power ourselves to deal with the matter and that we are not allowed even to attempt to shake off the stranglehold of inherited commitments which are destroying the economic life of the country. We, Sir, are not going to be parties to such a hopeless condition of ineptitude as that.

To-day, I had hoped that with the announcement made by the hon. the Colonial Secretary as regards the Committee Your Excellency desires to have appointed to inquire into the question of economy, he would have been able to say something which might to some extent have cleared the atmosphere. I regret to say that his speech as far as I am concerned has merely destroyed that hope. If when referring to that matter, which he did at some length, and also referring as he did to the rough outline of suggestions for economy included in the Minority Report, he had been able to say anything which suggested that the proposal to appoint this Committee was in fact a genuine realization on the part of Government that expenditure must be cut down then, Sir, that alone would have been a tremendous gain to this country, for it would have meant in the first place that Government at last realized that this country can no longer continue to bear the burden of the present taxation, that it cannot continue to bear that burden without risk of the destruction of its industries, and that tax-relief must be granted. In that connection, when the hon. gentleman referred to the necessity of maintaining the present Government machine in more or less its present form in order to preserve the assets which have been built up in this country, he ignored entirely, as far as I could make out, the main asset of this country, this matter of something like twenty million sterling or more of private capital invested in the country and on which the whole of the resources of the country depend.

Leaving that aside for the moment, let there be no doubt about this: this country cannot continue to bear the present burden of taxation, and the necessity for economy is caused by that fact, and if a reduction in expenditure of £100,000 or more is achieved then the first result of such savings must be taxation relief. I personally, Sir, regard the proposal to appoint the Committee to investigate such savings as tantamount to proposing a Committee to be able to show Government how taxation relief can be granted. Furthermore, if we can make this Committee a genuine thing, there is another aspect of it which to my mind is of great importance. I am prepared to admit, Sir, that the present machinery of Government is probably not capable of being very greatly reduced

in cost without causing it to fail more or less to function. Therefore, if it suggested there must be an economy of £100,000 it follows that Government recognizes that machinery must be reconstructed. Yet, in the speech made by the hon. the Colonial Secretary this morning, I heard not one single word or even a suggestion of the idea of reconstructing that machine which every hon. Member hoped to hear. All he could do was to hold up the same old machine, the same old form, item by item, and point out that it was already reduced to skeleton form and therefore reductions were impossible. I would ask you if such an exposition of the present situation is of the slightest value to us on this side of the House? There is a further point of considerable interest. In those oft-quoted six years of over-expenditure, it is worthy of note that in the first of these six years, our peak revenue means that in these optimistic and specious days we have built up in this country a Government machine that we could not pay for even at the peak of prosperity. There is little hope of paying for it in these days of depression, and what possible hope is there for paying for that machine again in its present form unless we reconstruct it? Surely Government must realize this necessity? Surely they must realize in the position of the country to-day it is little short of ridiculous to think otherwise? that the whole life of the country has had to reconcile itself to these new and completely unprecedented conditions? In those rich days we were all importing money and spending money in this country and encouraging Government to do the same. We have learnt our lesson, readjusted our methods completely of industry, production; our standard of living we have even had to re-adjust to the new circumstances, yet Government themselves form, so that when prosperity returns it is once more in the same old manner.

It had been my intention had the hon. the Colonial Secretary been able to introduce, shall I call it, a slightly more congenial atmosphere into the debate, it would have been my intention in a spirit of optimism to enlarge a little on the possibilities of reconstruction which would be worth considering and which might inspire us with a little hope for the future. I am afraid, Sir, it would be a waste of time—and it will be a waste of time naturally until something has been done, something has been said, which will show us that any recommendations we have to make will not merely be lightly listened to and then ignored but will be accepted by Government as the basis of this reduction of expenditure which this country has got to have. The Noble Lord has given a gesture of help in regard to the matter, a gesture

which was absolutely genuine. II, Sir, that gesture is going to be mangled by the machinery of Government so that it becomes nothing more than the means whereby a Micawber Government can gain a little more time to waste, it will be a bitter blow to the people of the country with consequences which I prefer not to contemplate to-day.

THE HON. R. W. HEMSTED: Your Excellency, in supporting the motion before the House I should first like to compliment Government on the extremely expeditious manner in which the Report of the Standing Finance Committee was produced. The Committee in its attenuated form only finished its deliberations on Monday evening, the 10th; the Report appeared in galley form on the 13th, and was laid on the table on the 15th. That reflects great credit on Government.

In spite of the fact that I have been resident for thirty-five years in this country—or possibly because of it—I remain an optimist. We have had a succession of bad years, but we must budget for a normal period, and in my opinion there will be a gradual improvement. Other countries such as South Africa are having increased prosperity, and I think prosperity in other countries must sooner or later react to the benefit of Kenya. As the hon. the Colonial Secretary said, it is not possible for Government to budget for an abnormal year. We may have droughts, floods, locusts, or earthquakes, but unless the unforeseen happens I consider the Revenue Estimates for 1935 are justified. As regards the Revenue Estimates, I do not propose to go through them item by item, but I will select one or two items which have been criticized by Elected Members.

I refer first, Sir, to the native hut and poll tax. Those estimates are based on the estimates of administrative officers, district officers who, I submit, are the only people who can judge what the tax will bring in. I have been criticized because I have not supported my colleague here in recommending a reduction in the native hut and poll tax. If the reduction which my hon. and reverend friend advocated had been made it would result in a loss of £26,000 in revenue, and that I think would have created an impossible situation. At the same time, I must agree that the natives generally—I think I have the support of Elected Members in this, for they have said the same thing themselves—are taxed to their fullest capacity, if not beyond it. But I think I am also right in saying that Government is considering the question of the incidence of the native taxation, and that in some cases, I believe in Masai, Kamniaid and Elgeyo, the tax has already been reduced from Sh. 12 to Sh. 6. But it is not quite so

simple a matter as it seems, this reduction. We have in the Kiambu district a comparatively wealthy native community owing to the proximity of the Nairobi markets. In North Nyeri we have a much poorer section of the Kikuyu tribe. I think the Kiambu natives will have no difficulty in paying the present tax, but possibly those at North Nyeri or Fort Hall may find considerable difficulty in doing so. Again, I quote the Kavirondo districts. In North Kavirondo I think the natives may be said to be fairly prosperous owing to the mining activities in that district; in Central Kavirondo they are also prosperous owing to the proximity of the Kisumu markets. But in South Kavirondo I think they are less prosperous owing to their distance from markets. I have heard it said that the native in South Kavirondo has to produce a ton of maize to pay one tax; the natives of North and Central Kavirondo could possibly pay the tax, but I doubt if the natives of South Kavirondo can continue to do so without hardship. The whole incidence of native taxation seems to me to require very careful consideration, but I cannot see how we are to reduce it in the 1935 Estimates without a curtailment of native services as the hon. the Colonial Secretary has said.

With regard, Sir, to the question of taxation, such as the non-native poll tax, the petrol tax, licences, and levies on official salaries, it does appear to me that this cannot be avoided at the moment, but I think the earliest opportunity should be taken to modify them. It seems to me, Sir, that some of these taxes do violate some of the fundamental principles of taxation, and one of those fundamental principles is that it should be in proportion to wealth. As regards the professions, I do not think we can say that accountants or doctors or dentists or even lawyers are particularly wealthy men.

Your Excellency, in your opening speech you mentioned the question of income tax. I cannot see many of the objections that have been made to it. It is the one tax which I think may be considered as proportionate to wealth. It would not, I think, hit the struggling farmer so much and would provide relief for people with large families. It is a form of taxation which I believe I am right in saying has been adopted in all civilized countries. One of the main objections which I have heard is that Government would constantly be adding an extra sistance, but as Government officials would be the first to feel the effect of income tax and hesitate before constantly increasing the tax. Your Excellency also referred I think to the question of people at home—retired officials and so on—who draw their income from

Kenya. We have a good many people who live in Great Britain, the Irish Free State, Jersey, and other places who, if income tax were introduced here would contribute something to the revenue of Kenya. It would possibly appeal to some hon. Members if they realized that some of our most ardent critics would be contributing to that revenue! I would support income tax if fair in its incidence and not unduly heavy.

As regards expenditure, I do not think it is fair to accuse Government of extravagance. Economies during the past five years have been effected, many economies, and I think I would say that expenditure has been reduced almost to the danger point. Some departments are, I think, carrying on with very great difficulty, and we have stations where there is one administrative officer only when there should be more, and that officer is carrying on under very difficult conditions. Some hon. Members have advocated the abolition of the Public Works Department. Well, Sir, I do not think that that is a measure which should be seriously contemplated because it would not result in any economy. We should have to pay pensions to retrenched officers, and their passages home. If I may say so, Sir, I think the Colony gets very good value for its money from the work of this department, and when I say that I speak as a settler.

Nevertheless, Sir, I am of opinion that considerable economies are possible, if a long range well-considered plan and some reconstruction was adopted. For instance, I have put before the Standing Finance Committee certain suggestions with regard to the re-organization of the Northern Frontier District. I could not say how much that will result in economy, but I think it would be very considerable and would not act detrimentally to native interests. I will not weary the House with going into details of that reorganization because I hope it will be considered by the Committee which Your Excellency has proposed.

Another suggestion which I put before the Standing Finance Committee was the unification of certain services such as agricultural animal husbandry and education. I think animal husbandry and agriculture may be considered as education in its wider sense. We have many excellent schools under the Education Department. Some of these schools teach animal husbandry, and some of the best work I have seen in agriculture has been taught by officers of the Education Department. That is one scheme whereby certain economies could be effected. I think also that our veterinary services are unduly expensive considering the low export value

see of cattle and that the amount of dairy produce exported from the country is extremely small. I think that without curtailment of native services to any extent there should be some reduction in the veterinary services as early as possible. The hon. Member for Ukamba submitted a memorandum which I saw and put up certain proposals for the reconstruction of the Veterinary Department, and there is a good deal to be said for some of the recommendations which he made. I do not wish to criticize the Veterinary Department at all, but I would quote the case of the Masai who, ten or twelve years ago, were a wealthy tribe comparatively, and they paid Sh. 20 tax to Government without any difficulty. They now appear to be reduced to a state of poverty and their tax in these Estimates has been reduced by, I think, £5,000. I do not say, of course, that the Veterinary Department is responsible for the comparative pauperization of the Masai, for the tribe has been through very bad drought in their district, but if a little more vision had been shown them by the department the position would have been better. It is no use telling the Masai, for instance, that they have too many cattle and eradicate disease, and then keeping the district in permanent quarantine. Cattle may not die of rinderpest or anthrax or any of the diseases which appear in epidemic form, but they do of starvation after having reduced the country to a state of desert. I do think some reorganization of the Veterinary Department might be made which would effect considerable savings.

I will also refer to the question of the Kenya and Uganda Railways. The Railway was some years ago made a separate organization, separated from the rest of the Colony, but it does seem to me that Government suffers for the benefit of the Railway, and when it was originally constructed the Home Government spent something like six millions, and large sums have been spent since that time. When the reorganization was effected, apparently Government was made liable for the pensions of employees of the Railway, and I see by the Railway Estimates that Government is responsible for £13,720. Those pensions would seem to be a fair charge against the Railway as it took over all the assets.

Again, I see on page 84 of the Draft Estimates that the Colony guarantees in respect of branch lines, the Nanyuki extension, Thomson's Falls branch, Nisumu-Yala branch, and Yala-Butere branch, amounting to over £31,000.

THE HON. STRAUSS-DEEN: On a point of order, I should like to ask if the hon. Member is criticizing the Majority Report which he signed?

HIS EXCELLENCY: I think, the hon. Member is in order.

THE HON. R. W. HEMSTAD: I think these charges appear to be fair charges against the Kenya and Uganda Railways.

Another point in regard to the Railway was referred to by the hon. Member Mr. Pandya, and that is the motor transport: I am not an advocate of wasteful competition, but Government certainly does suffer. The earnings of the Railway, due to the elimination of motor transport, have been increased by about £65,000, but Government has lost considerable revenue in licences, duty on petrol, spare parts, tyres, and so on. I do not think this is the place to criticize the Railway expenditure, but from a perusal of their Estimates which passed this House recently I think some economies are possible in the Railway and that the relationship between the Railway and Government requires some reconsideration.

I will now refer to page 66 of the Draft Estimates, where contributions to local authorities are shown as amounting to £83,000. I would compare the District Councils with the Local Native Councils, and there is one great difference between them. Local Native Councils levy a rate but receive no grant; District Councils receive a grant and levy no rates. I believe these District Councils were set up as a result of a Commission generally known as the Fechtman Commission, the recommendation of which was that rates should be imposed by District Councils. So far as I know, except in the case of Nairobi and Mombasa, no rates are imposed. They still receive very considerable grants from Government, and I do think some economy is possible in connection with this matter.

That is all I have to say as regards the Estimates of Revenue and Expenditure, but I wish to comment on Your Excellency's reference in your opening speech on the question of native production. I think that that is one of the most important things, for the wealth and prosperity of the native population is essential to the wealth and prosperity of the country. We have in this country something over three millions of natives, and only a few thousands of other races. If I have worked it out correctly, the native population amounts to 97 per cent of the population of Kenya. Generally, I think I may say, the natives tribes in Kenya are an intelligent, industriously thrifty people. They have valuable land, and vast flocks and herds of cattle, sheep and goats, but generally speaking, they have a low standard of living, and their purchasing power is very small. Certain economic

figures were given the Kenya Land Commission, relating to the purchasing power of the natives, and they showed that after paying their taxes the natives have very little free money for the purchase of such things as clothing, furniture or implements, or for the building of better houses or anything of that sort. I think that probably the Kikuyu tribe is one of the most wealthy of the tribes. The figures for a family of five given the Land Commission were as follow: Kiambu district—free money after paying taxes and feeding themselves, Sh. 148 per annum; Port Hall district, Sh. 68; Nyeri district, Sh. 41; the average throughout Kikuyu was Sh. 73. I think the other tribes have even less than that, and some have practically no free money. They have no reserves, and it does happen that sometimes Government is asked to vote them famine relief. I do not think that in recent years native revenue has shown very much expansion. The taxes are not so easy to collect as they used to be, and I think it is quite possible that the natives are over-taxed. I hold that the prosperity of all races is interdependent, and that no country can be really prosperous while over 90 per cent of the population have a low standard of living and small purchasing power. If the natives were more wealthy they could probably pay the present tax without much difficulty, and they could certainly contribute a great deal more in indirect taxation and railway rates, but they can hardly hope for more schools and hospitals and better social services while they remain so comparatively poor. I think it is the first duty of Government to develop the potential wealth of the natives. I do not say that Government is not fully alive to the question and that a great deal has not been done, but I do think a more vigorous and intensive campaign is necessary. We made a bad start as regards native production in this Colony owing to the opposition of the Europeans. The Europeans feared, I think, that native production would interfere with the supply of labour, but that was a long time ago, and now a more reasonable spirit prevails, and hon. Members on this side of the House are as keen on native production as I am.

Now, Sir, during the last ten years or more a great deal has been done by administrative officers and by agricultural officers in the native reserves, but at the same time the amount of exportable produce as shown in the Agricultural Census for 1934 is still lamentably small. The agricultural exports of native origin are shown there for the year 1933 as £355,500 which includes hides and skins. I think that is very poor in comparison with Uganda which I understand exports something like two or three million pounds. As regards cattle the natives possess very large herds but there has been no

development and it is a vicious circle. The natives accumulate vast herds of cattle in good years and in bad years they may lose perhaps 50 per cent, sometimes even more than that of the cattle, and the hides are left to rot on the ground; the losses in recent years must have been extremely heavy without any benefit to anyone.

We have a great many technical officers to advise and demonstrate—veterinary and agricultural officers. I am not criticizing their work. I think a great deal of excellent work has been done by them, but I do not think we are going to make very much progress by merely showing the natives how to grow beans, cotton, maize and coffee, etc. They can learn very much of this on the farms but I think what is required is some greater stimulus to induce them to plant more and we also require better market facilities. The officers in the best position to apply that stimulus to natives are the administrative officers—(Hear, hear!)—and I regard it as imperative for an adequate staff of administrative officers to be maintained. The cotton production in Uganda, I think I am right in saying in very largely due to the administrative officers. They have a great many duties to perform and I think in some districts are seriously overworked. I think in a few years Government will have to consider very seriously increasing the staff of the administration.

THE HON. MEMBER: Are you going to go on for any length of time?

THE HON. R. W. HEMSTED: I do not think I shall be more than a few minutes, Sir.

When I say that a more vigorous campaign is necessary, I refer to the communications in the native reserves and would instance South Kavirondo which is one of the districts that has a very large population—over 300,000 I think. There is no telephone and no telegraph line although it has been frequently advocated by administrative officers. I think things like that are essential because merchants cannot get in touch with the markets and the development of the district is hampered by the lack of communication. I admit, Sir, that the money cannot be found for this in 1935 but I think the earliest opportunity should be taken of finding it.

Your Excellency referred in the course of your opening speech to the Economic Development Committee under the chairmanship of Mr. Sandford and I hope and believe that communications in native areas will be considered.

Of equal importance is the encouragement of European settlement and closer settlement. The European Highlands have not been developed as they should be and in saying that I imply no disparagement of the settlers. In the course of the debate on the Land Commission certain figures were given; some by one hon. Indian Member who said that only 11 per cent of the European lands were developed. The Noble Lord said I think, something over 50 per cent were developed. I do not think any of those figures can be considered as very reliable but I would refer—I am sorry to refer to the Land Commission again—to the evidence of Mr. O'Shea who said there were something like a quarter of a million squatter cattle in the Nzoia Province alone and that Kafir farming was prevalent. Well, Sir, I think anybody who knows Mr. O'Shea will agree that he does not make wild or inaccurate statements and that his figures probably are right.

I think this is a very urgent need. We have an area of 12,000 square miles with a population of between 2,000 and 3,000 and the cost of services in such sparsely populated areas is entirely disproportionate to the population. The Railway will serve 3,000 or 4,000 people as easily as 300 or 400 without a large increase in the cost.

I think similarly to the natives, Europeans can hardly expect or hope for more or better services while they remain such a small community and while production is so limited.

In regard to the safeguarding of the European Highlands, as is probable as a result of the recommendations of the Land Commission a more vigorous campaign should be undertaken to encourage closer European settlement.

I welcome, Sir, the Committee which Your Excellency proposes to set up because I do think that economies are possible on some of the lines that I have advocated, that is the reorganization of the Northern Frontier, unification of educational services and railway expenditure and contributions to rates. I admit that probably they are not possible in the very near future, but they require the most careful consideration and I hope, Sir, that these questions will be considered by the Committee which Your Excellency has set up.

THE HON. THE ATTORNEY GENERAL: Your Excellency, before the House adjourns I crave the indulgence of the House, not for two or three minutes, but for thirty seconds exactly, and that is to remove at once from the minds of hon. Members any idea that this Committee which is being appointed is not a genuine Committee which the Heads of Departments on this side of the House will not give every possible assistance to.

The Noble Lord in his speech inferred or suggested that there might be some wilful obstruction and I can assure him that as far as Heads of Departments are concerned, acting under Your Excellency's instructions, every possible detail they have at their command will be put before the Committee.

I sincerely trust that the spirited speech previously made by the hon. the Colonial Secretary this morning in defence of his budget, will not be interpreted as an attack on the future efforts of that Committee.

The debate was adjourned.

Council adjourned till 10 a.m. on Thursday,
20th December, 1934.

THURSDAY, 20th DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Thursday, 20th December, 1934, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 19th December, 1934, were confirmed.

ORAL ANSWERS TO QUESTIONS.

SURPLUS LOCOMOTIVES.

No. 97.—THE HON. ISHER DASS asked :

"Will the hon. the General Manager be pleased to state :

- (a) Names of the stations at which the surplus locomotive engines are stabled.
- (b) The number of locomotives at each station.
- (c) The dates of stabling.
- (d) The total cost of the engines stabled at each station.
- (e) The action the Government intends to take with regard to their future disposal?"

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS :

(a) The locomotives which are at present not in service are stabled at Makindu, Nairobi, Kajjado, Nakuru, Eldoret, Sagana and Gilgil.

(b) The number of such locomotives stabled at each of the stations mentioned is as follows :—

Station.	No. of locomotives stabled.
Makindu	16
Nairobi	15
Kajjado	20
Nakuru	1
Eldoret	1
Sagana	11
Gilgil	5

(c) Thirty-five of the engines have been stabled since 1931; fifteen since 1932; one since 1933; and eighteen have been stabled this year.

(d) The total original cost of the engines stabled at each station was:—

Engines stabled at	Total original cost.
Makiindu	£113,944
Nairobi	121,611
Kajiado	163,160
Nakuru	11,089
Eldoret	6,473
Sagana	95,288
Gilgil	42,514
	£553,098

(c) The Railway Administration has for some time been endeavouring to sell such of these locomotives as, because of their age, size and other conditions, are no longer capable of economical working under existing conditions. The remainder will again be brought into service as and when traffic increases.

MOTIONS.

STANDING FINANCE COMMITTEE'S REPORT ON DRAFT ESTIMATES, 1935.

HIS EXCELLENCY: The debate on the motion to adopt the Majority Report of the Standing Finance Committee will now continue.

THE HON. J. B. PANDYA: Your Excellency, I should like to say a few words on the Majority Report of the Standing Finance Committee which I have signed subject to certain reservations in that Report. In my budget speech I made two points quite clear: one, that the taxable capacity of the country had already been overstepped and that I was opposed to the new or renewed forms of taxation; and, second, that the Government expenditure should be substantially reduced.

Now, Sir, in this connection I consulted my constituents at a public meeting held in Mombasa on the 9th December after the adjournment of the Standing Finance Committee when the European Elected Members had retired from that Committee, and these two principles were endorsed by my constituents. With regard to withdrawal and non-co-operation, it has always been my conviction that it is most effective when that weapon is used by the people on a Government composed of people of their own race, and we have seen in

this instance that the Government have immediately come down to the point of view of the European Elected Members and are going to appoint a Committee of which notice has been given. As far as the Indian community is concerned, we have had a great deal of experience of such withdrawals and non-co-operation in this country and it has done more harm than good to the Indian interests. I therefore kept working in the Committee.

Now, Sir, in regard to these two principles which I first mentioned, I continued to press those points in the Standing Finance Committee. On the Revenue Estimates in paragraph 6 of the Report I made myself quite clear. It reads:—

"Mr Pandya expressed the view that past experience and the present trend of volume of business in Kenya did not justify optimism and if the estimate in respect of native hut and poll tax was realized, which according to circumstances explained to the Committee should be assumed as a possibility, the purchasing power of the natives would be depleted. In his opinion; therefore, the estimated amount of Customs revenue was not likely to be realized."

Before I heard the arguments in the Committee as regards hut and poll tax, I was of the opinion that this tax could not be realized, but in the Committee, Sir, there were one or two points made which, in my opinion, make this a possibility.

I am entirely in agreement with the view that the natives to-day could not afford to pay the present taxation and in my budget speech I made it quite clear that if the estimated amount for 1935 is collected, it would be a credit to the Government as a tax-collecting machine, but it would not necessarily prove the capacity of the natives to pay this tax. But what we were considering was whether the estimated amount for 1935 could be realized, and we had the evidence of the Acting Director of Agriculture, who was quite definite that according to the meteorological records the rainfall will be quite normal and native crops would be much more than last year. In addition to that, the Chief Native Commissioner gave an assurance from his experience of past records that when the hut and poll tax revenue in the previous years is lower the arrears of £20,000 which are included in the estimate for 1935 are likely to be collected in the next year.

Now, Sir, the point I want to make is this: that whether these Estimates of Revenue prove to be correct or otherwise, one thing is quite definite, that our expenditure is there and whatever happens, whatever figures we put on the revenue side, the expenditure remains at approximately the same figure. So therefore I think the policy of budgetting for

expenditure should be the same as we usually follow in business. In my opinion it should be based on the income of the last year. In fact, we should have budgeted in 1935 on the income of 1934.

The hon. Member for Uasin Gishu yesterday mentioned that the revenue side was manipulated. Now, Sir, in fairness I must say that as a member of the Standing Finance Committee I tried to find out whether this charge could be justified or substantiated, and in my opinion one can honestly differ on an item of revenue as to whether it can be realized or not, and I have differed from the Committee as regards the Customs revenue, but I do not think, Sir, it would be fair to attribute that the Government on their part have deliberately manipulated the revenue figures. I think it is only fair that I should mention this fact here. With regard to the Estimates of Revenue, I feel that that charge was very largely the cause of the acrimonious debate in this House at the time when the budget was presented.

After that debate the people in this country began taking a good deal of interest and offered many suggestions to enable the Government to arrive at correct revenue forecasts. In these days of unemployment these suggestions have been made by people ready to give disinterested advice free of charge in order to save the Government from future attacks on that account. One suggestion is that the Government in these days of scientific progress should take into consideration the help of science to support them in their Estimates.

When a scientist makes an announcement of the discovery of a vitamin in a certain article of food we all immediately accept it. In the same way the Revenue Estimates should also be supported by science for us to accept them. Now, Sir, as far as the Government Estimates are concerned, I feel that they are based on a science of guess-work, supported a little bit, no doubt, by the experience of the past. If I were to make these Estimates, I equally would base them on the science of guess-work. But, Sir, the suggestion is that we should take advantage of the science of astrology in order to estimate revenue correctly. In these days of unemployment there are number of astrologers in this country, I am quite sure, who are ready to apply for the posts which would be created. The suggestion is that Kenya is usually always inclined to maintain its prestige and dignity and should of course generously staff this department. As an instance, in India we have a large class of landholders who whatever their condition may be; they may be in debt and their properties mortgaged, but in order to maintain their prestige and dignity, they would be second to none in entertaining their guests even though they might have to starve for a month later.

In this country also the question of prestige is a big one. So therefore, the suggestion is that there should be a Director of Astrology, a Deputy Director, a Chief Inspector of Stars and Comets, a Mathematician, Inspectors and all sorts of these posts should be filled. But this science of astrology is a wonderful thing. Once there was an astrologer in Bombay who was doing a roaring business, and he was asked by his friend the reason for his success. He said that apart from the reading of the stars and working out his forecasts according to mathematics, he was always very careful to advise half of his clients that the market of cotton, gold or silver, or whatever they were interested in, would go up, and to advise the other half that it would go down, and ultimately as one half said he was right he retained his customers who were quite happy about it.

There is another suggestion, Sir, that when the Heads of Departments estimate the revenue, that if the revenue is not realized, they should be made to pay the loss out of their salary over £500, but it would be quite fair in that case to allow them to share in any surplus to the extent of 25 per cent. If I was holding the post of Commissioner of Customs I would not budge an inch, in spite of all sorts of forecasts, from a very conservative estimate of £500,000, and then I should be quite happy that my salary would not be touched and I should get a little surplus!

But apart from this, Sir, coming back to the Majority Report, I have made my position quite clear in regard to the graduated poll tax and trade licence in paragraphs 11 and 13 as to my opposition to these measures.

And on the expenditure side generally, in paragraph 35 my dissenting minute reads:—

"Mr. Pandya, while agreeing that a substantial reduction in Government expenditure was most desirable, felt that it was difficult to frame concrete proposals."

I feel, Sir, that to reduce the expenditure it is very difficult to frame any concrete proposals unless a special Committee is appointed for that purpose, and I welcome the announcement of the notice of motion by the hon. the Colonial Secretary, which agrees in principle to the appointment of such a Committee to inquire into and submit proposals for a reduction in expenditure to the extent of £100,000. This, Sir, was a very good gesture on the part of Government, but somehow or other, I feel, Sir, that the Government do these things very clumsily. There was no necessity after this gesture of goodwill to go into details of how difficult it was to cut that expenditure. Then again, when the Noble Lord made a point that because of that detail he doubted the

sincerity of the Government, it should have been immediately made clear then to stop further acrimonious debate. In the end the hon. the Attorney General gave the assurance which I am sure has satisfied us all. I hope, Sir, that the Government will learn by this experience.

Now, Sir, the Noble Lord made a pointed reference to the silence of Government on the question of the capacity of the country to bear the present taxation. This point was raised by the unofficial Members on this side of the House and I am quite sure that when the Government agreed to my appointment of this Committee to reduce expenditure, they no doubt agreed to the acceptance of the principle that we are overtaxed, but I think it is customary to plead not guilty. So far as I am concerned the inference is quite clear to me that the Government is genuinely honest in asking for a reduction of expenditure which will no doubt be reflected again on the taxation side.

In the debate yesterday, the hon. Member for Uasin Gishu made a reference to the attack on the hon. the Treasurer and he identified himself and all the European Elected Members with it. Now, Sir, in the budget debate there were certain disparaging remarks made with regard to the work of the hon. the Treasurer when he was holding the position of Commissioner of Customs. Let us accept the assurance that they were not personal but were intended to be in reference to his official capacity, and I wish to speak from the point of view of his official capacity. I have been on the Coast for twenty-seven years and I have known Mr. Walsh from the time he came to this country. I have been a member of the Mombasa Chamber of Commerce and of the Associated Chambers of Commerce and of the Federation of Indian Chambers of Commerce, and I think I can quite definitely say that Mr. Walsh kept in touch with the commercial community more closely than any other Government officer at the Coast. I have seen him at various meetings of the Chambers of Commerce and I know that he was very helpful in the deliberations. The point was made about the inefficiency of that officer in regard to over-estimating the Customs revenue for a number of years. I do not think it is fair to blame anyone for that kind of thing unless we can also blame that officer for the surpluses which he realized in the previous years. We have seen that most of the economic experts, during this world depression, have proved to be false prophets in regard to currencies, the gold standard, revenues and other things, and there are circumstances in regard to estimating the Customs revenue which depend upon various things such as good weather, good crops, the purchasing capacity of the people and the prices of articles imported.

If I may be permitted to give an analogy, let us take as an instance a farmer or a merchant who goes to his banker and asks him to give him an overdraft on the understanding that it will be paid back at the end of the year. Now if the farmer had drought or locusts or the merchant had overstocking or reduced turnover, it is natural to assume that he would not be able to pay the overdraft. Would the banker be justified in calling his client inefficient or dishonest? And if the banker must take into consideration all those things which happen and which have not made it possible for his client to pay the overdraft, I think it is only fair that in regard to estimating we must also take such things into consideration. But, Sir, as far as the Customs Department is concerned, I do not think that the efficiency of the head of that department lies only in estimating the correct revenue. That department has to deal with the public and the efficiency of the head is much more dependent upon the ability to run his department smoothly, and so far as the career of the hon. the Treasurer as Commissioner of Customs was concerned, I can say that I do not think anyone can deny that in his case when he was Commissioner of Customs he was very successful and he ran his department efficiently, smoothly, and to the satisfaction of the public.

Now, Sir, I want to say a word or two in connection with the Asian Civil Service. I feel that the treatment which I am now going to explain is a little unfair. I wish to make it quite clear that I have not been asked by these officers to bring up their cases and I take the fullest responsibility of doing so on myself without their consent, but I do this from the point of view of the Service as a whole.

The House is well aware of the views I hold on the question of giving higher posts to Asians and therefore in order to illustrate my case I brought to the notice of the Standing Finance Committee two cases.

In both cases the records of service of the officers concerned were exceptionally good. One officer is holding a very responsible post, and when he goes on leave he will have to be replaced by a European officer with higher pay. The heads of departments have highly recommended the promotion of these officers, and have testified to their ability, capacity, and good and meritorious services. This not being in dispute, my case becomes even stronger. The grounds on which this proposal of mine has been turned down are contained in paragraph 64 of the Report of the Standing Finance Committee:

"The Committee, while recognizing the ability of the officer in question, felt that the present state of the Colony's finances did not permit of the salaries of particular officers being increased solely on account of their efficiency."

I should most certainly have accepted this excuse if I had been satisfied that this was applicable to everybody. I entirely agree that the present financial position of the Colony is not satisfactory and therefore we cannot afford to be generous to the officers on the grounds of efficiency and ability. But, Sir, the point I wish to make is that if this principle is to be observed it should be observed throughout the preparation of this budget. I find this principle being observed very conscientiously and rigorously in so far as the Asian Civil Service is concerned, but if such a principle is desirable it should be applied to every case. To illustrate my submission, I should like to give one instance. In the Legal Department the special post of Chief Clerk has been created with promotion of £29 to the officer concerned. In the Medical vote, item 44, the malaria overseer has been given a special increment of £60, and the explanation on page 18 of the memorandum reads:

"This officer, who has hitherto been in receipt of a consolidated salary of £300 per annum, has carried out excellent work. He has had no increase of salary for some years," etc.

In the Secretariat vote, page 112, item 7, an increase of £80 has been given, and the explanation in the footnote reads "Personal to present holder," which means it is not the grade of the post but special consideration for the efficiency and ability of the officer concerned. I should like to make it quite clear that I am not against giving these perhaps justifiable increases to officers, I do not say that if they deserve them they should not be given them, but the point is the principle should also be applied to the services rendered by the Asian officers, who are, I am quite sure, deserving of this consideration by Government. I know that I am flogging a dead horse, and that once Government has made up their mind it is very difficult to get them to change it, but I have brought this question up in order to appeal to their sense of fairness, justice, and equity in regard to those Asian officers who are working honestly and who are capable and hard working, who also deserve some consideration and recognition from the Government. I hope, Sir, that next year I may have greater success in persuading Government to accept my point of view.

At this point I should like to refer to a remark made during the debate on the budget by the hon. and learned Attorney General, when he said that I had advocated a 33 per cent reduction in salaries. I am sure that the hon. and learned Member had no intention of creating any misunderstanding. I have explained the point in the debate on the Asian Local Civil Service, and I repeat it now, that I have never suggested any such thing. I make this point now, not

to explain away or to go back on what I have said or that I would be unable to face my constituents if I had said that. In fact, I did face my constituents at Mombasa at a meeting which included Civil Servants, after my budget speech.

The hon. Member Mr. Isher Dass in his speech yesterday began with the argument as to why he wanted to vote against this motion, and, continuing, he referred to the fiscal policy—which he called the physical policy—of Government. One of the reasons for opposing this motion advanced by him was that a reduction of only £283 had been recommended in the expenditure. Though he made this complaint, he himself suggested increases in expenditure, and drew attention to the Kenya roads in comparison with those of Uganda, saying they were very bad. But it is difficult to realize how the roads could be improved if expenditure is reduced. The hon. Member objected to the increase in revenue of £30,000, and made a point about the increased estate duty, wondering how the Standing Finance Committee came to know that a gentleman was going to die whose estate would bring in heavy revenue to Government. I can assure the hon. Member that the Committee had no message from God about the deaths of any such people, but that they estimated this amount of revenue based on the previous figures, and, if I am not wrong, the hon. the Treasurer definitely stated that the estimate was lower than the actual revenue which would be realized this year. The hon. Member also indulged in a lot of things which had nothing to do with this motion, but in the end he should be congratulated on returning to sanity, which he very rarely does! and for his promise to vote for this motion.

Before I conclude I should like to say that if the Government had refused to accede to the demand for a reduction of expenditure, there was some justification for the opposition, but in my view Government virtually accepted the viewpoint of the European Elected Members, even to the extent of mentioning £100,000 as the sum to cut. With that, Sir, I do not think this motion should be opposed. I hope that that Committee when it is going through the various items of expenditure will reduce expenditure to that amount and that the taxpayers will get relief in the taxation from their efforts.

I have signed the Majority Report of the Committee subject to the dissenting notes in that Report, and it is natural that I should vote for this motion. Although on main principles I do not differ from the Minority Report, what I have to consider equally is the point whether the wholesale opposition to this budget, even though the principle of reduction is conceded by Government, would not be tantamount to a vote of "No confidence" in Government's policy to control the finances of the country. Here we are at the parting of

the ways. While I consider myself at liberty to criticize Government's budget policy, and I have frankly and fearlessly done it in my budget speech, in my opinion it is going too far from the Indian point of view if we vote against the whole budget. The hon. Member for Uasin Gishu made it quite clear in his speech yesterday that the European Elected Members . . .

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, who is the Member for Uasin Gishu?

HIS EXCELLENCY: The hon. Member is Mr. Hoey!

LT.-COL. THE HON. J. G. KIRKWOOD: For Plateau South.

HIS EXCELLENCY: Uasin Gishu is now the correct term, I believe!

THE HON. J. B. PANDEA: The hon. Member for Uasin Gishu made it clear that the European Elected Members were going to demand a further control of the Colony's finances . . .

THE HON. A. C. HOEY: On a point of order, Your Excellency, I don't think I said that. If so, I did it with this intention, that I consider it was the policy of the European Elected Members to demand a further measure of control in the finances of the country. That was the sense of the thing.

THE HON. J. B. PANDEA: I accept that, but it is equally the same from my point of view. I heard the hon. Member say it was their policy to demand a further control in the Colony's finances. I am glad that he has frankly admitted it, because it gives me the opportunity of making my position on this issue quite clear. I will say most emphatically that the Indian community quite definitely and most strongly are opposed to this policy. I will say quite frankly that the Indian community has no confidence either in the capacity or fairness of the European Elected Members, and past experience has shown that we cannot expect from them fair and just treatment or consideration of our claims. While we have an equally similar complaint against Government, if we have to choose between the two the Indian viewpoint is quite definite on the issue—that they prefer to side with Government.

This being the case, my voting against this motion would amount to a tacit support in making out a case for the financial control by African members, although I do not think, after the announcement regarding the appointment of a Committee

to reduce expenditure, that there are any reasonable grounds for opposing this motion. Even if there were any, the additional ground I have just mentioned makes it obligatory on my part to vote for this motion.

MAJOR THE HON. F. W. CAVENDISH-BRINTON: Your Excellency, I suppose it is scarcely necessary for me to say that I am strongly opposed to the adoption of the Majority Report of the Standing Finance Committee by this House. I was one of the European Elected Members who was deputed to speak at some length on the motion referring the Report to the Committee; I was also a signatory to the Minority Report of the Committee. Both in my speech in this House and in the Minority Report I think my point of view has been made abundantly clear. Therefore there is no point in my reiterating it here. In view, however, of what took place in this Council yesterday, I propose to say a few words in explanation of the attitude which Elected Members are adopting in regard to the Majority Report and with regard to the suggested Committee which Your Excellency proposes appointing for the purpose of recommending measures of economy, which, it is hoped will result in a very substantial net reduction in the net annual expenditure of the Colony.

In order to clarify the position which European Elected Members took up, it is necessary to be quite frank about the happenings of the past few weeks. It has been pointed out in debate that we on this side of the House, bearing in mind the history of the past few years, long ago reached the conclusion that the current expenditure of Government was altogether in excess of what a small Colony like this can bear. We therefore took up the attitude that the Estimates of Revenue must be framed on what we consider a truly conservative basis, and we also expressed our conviction that if the finances of the country were to be put right in the course of the next few years then for some time to come the expenditure of the country had to be curtailed so as to be kept within the Estimates of Revenue. The country has no reserves whatever, and we therefore contend that if a little more revenue than it is safe to count on is obtained Government has no right to commit themselves in advance to spending on overhead expenditure right up to the maximum of an optimistic anticipation of revenue. Our point of view has been put forward *ad nauseam*, and must now be clearly understood by every Member of this House. Government's attitude was made equally clear in the course of the recent debate: they did not apparently take into consideration as a business concern would have to do whether the country can bear this burden of overhead at all. Government merely argue that existing services have been reduced below what they consider an inadequate level and therefore

the ways. While I consider myself at liberty to criticize Government's budget policy, and I have frankly and fearlessly done it in my budget speech, in my opinion it is going too far from the Indian point of view if we vote against the whole budget. The hon. Member for Usain Gishu made it quite clear in his speech yesterday that the European Elected Members . . .

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, who is the Member for Usain Gishu?

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This being the case, my voting against this motion would amount to a tacit support in making out a case for the financial control by European members, although I do not think, after the announcement regarding the appointment of a Committee

to reduce expenditure, that there are any reasonable grounds for opposing this motion. Even if there were any, the additional ground I have just mentioned makes it obligatory on my part to vote for this motion.

MAJOR THE HON. F. W. CAVENISH-BENTINCK: Your Excellency, I suppose it is scarcely necessary for me to say that I am strongly opposed to the adoption of the Majority Report of the Standing Finance Committee by this House. I was one of the European Elected Members who was deputed to speak at some length on the motion referring the Report to the Committee; I was also a signatory to the Minority Report of the Committee. Both in my speech in this House and in the Minority Report I think my point of view has been made abundantly clear. Therefore there is no point in my reiterating it here. In view, however, of what took place in this Council yesterday, I propose to say a few words in explanation of the attitude which Elected Members are adopting in regard to the Majority Report and with regard to the suggested Committee which Your Excellency proposes appointing for the purpose of recommending measures of economy, which it is hoped will result in a very substantial net reduction in the net annual expenditure of the Colony.

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cannot be reduced further and the necessary money to meet these commitments must be found in some way. Without going into details, this was the position at the time Government's Estimates of Revenue and Expenditure were submitted to the Standing Finance Committee. On the Standing Finance Committee this definite cleavage of opinion on a matter of principle was again apparent. We maintained, and still maintain, that Government's Estimate of Revenue for 1935 as presented entailed gambling on the future. We considered that the only prudent action to take was to reduce expenditure drastically, and as has been explained by the hon. the Colonial Secretary yesterday, as we could not reach agreement with Government on this vital principle we could not see that any useful purpose would be served by remaining on the Committee and discussing the very minor details of expenditure if we were going to be defeated on the main principle for which we were striving. After four days of what we considered rather fruitless discussion, the European Elected Members on that Committee ceased to attend that Committee's deliberations.

In a matter of principle of this kind, we felt that no compromise was possible, and I still feel that, holding that view, we took the only possible course open to us. It will thus be seen that both in debate in this House and on the Standing Finance Committee complete *impasse* was reached as between Government and the European Elected Members. The detailed arguments justifying this difference of opinion are clearly set out in the Majority and Minority Reports of the Standing Finance Committee which we are at present discussing.

Prior to yesterday's debate, Your Excellency gave two interviews to the European Elected Members. The impression which we gained from them was that Your Excellency, in view of the fact that the whole country was unanimous in demanding a further reduction in expenditure, had agreed to appoint a Committee for the express purpose of making definite suggestions as to how large reductions in expenditure could be effected and that such reductions, if approved by this House, would as soon as possible be effected. Not unnaturally, in view of the opposition which had arisen and of the tenour of the speeches made on both sides of the House, we felt that Your Excellency's suggestion had to be considered on our side rather carefully. In the first place, no effort was made by Government to hold up emergency and extra measures of taxation pre-supposing these necessary economies would be effected. The non-native poll tax is, we understand, in spite of our opposition, still to be reintroduced, and an enormously increased measure of taxation in the shape of the proposed new Trades Licensing Ordinance has been read a second time,

under which if passed many traders will have their taxes increased not by 40 or 50 per cent in 1935 but by 150 per cent. Furthermore, a measure of increased stamp duty was introduced and passed, and although the package tax is going to be dropped next year it is anticipated that much more will be brought in by the increases recently introduced in certain Customs tariffs. The suggested composition of the proposed Committee also gave us food for reflection, in that it was to be composed of two members nominated to the Majority Report of the Standing Finance Committee and two members committed to the Minority Report. Therefore it rather looked as though we were to start again with a Committee divided by a complete cleavage of opinion on a matter of principle. I would like to say, however, that in spite of what I can perhaps best describe as our slight feelings of misgivings, we do greatly appreciate Your Excellency's action as displaying a genuine effort on your part towards meeting the unofficial point of view regarding the Colony's financial position.

After the second interview which Your Excellency was good enough to grant us, during the course of which we put forward our point of view very frankly, we received an assurance from you which decided us to accept the offer made. Now, Sir, what happened yesterday?

Yesterday, the hon. the Colonial Secretary got up in Council and first gave notice of motion for setting up the proposed Committee. He then proceeded forthwith for the space of nearly an hour to inform us in most definite terms that reductions in expenditure were practically impossible. He divided the expenditure into five heads. Beginning with native services, he informed us that the expenditure was already below the figure laid down by Lord Moyne. Secondly, he referred to the expenditure connected with internal security, and explained that any further reductions affecting the police, administration, prisons and judicial were impossible; on the contrary, he stated that another judge and another resident magistrate were urgently required. The third head to which he alluded was that of the Treasury and Audit Departments, in which no further reductions were possible. The fourth head—common services, forests, game, publicity—again no reductions were possible. Fifthly, he stated that the only services which remained were the European services, and he did not see how, in view of increased demands, further reductions in respect of veterinary, educational, public work, and agricultural services could be effected. He then went on to pick to pieces suggestions for reductions in expenditure which were put forward in the Minority Report of the Standing Finance Committee. As an instance, he outlined the enormous responsibility of the Public Works Department. He stated that, in accordance with the Economic Development

Committee's recommendations more and not less agricultural expenditure would have to be incurred. For political reasons, he considered the scheme of the hon. Member Mr. Hemsted for reorganization of the Northern Frontier Province district would probably prove impracticable. For the reasons he had outlined, he said a percentage cut in departmental expenditure was equally impossible. Readjustments as regards the Colony's loans would be indefinite and would not be reflected in 1935. He also stated that it was not equitable or sound policy to reduce further the salaries of Civil Servants drawing more than a fixed minimum salary. Finally, he stated that as Government had been wrong for six consecutive years there was every probability that they would prove right in the seventh year, and if they did we should bitterly regret having destroyed the Government machine too hastily. All these arguments were put forward in practically the same speech in which the hon. Member suggested the appointment of this proposed Committee.

I should like to say that we on this side of the House have every sympathy with the hon. the Colonial Secretary, who through no fault of ours has unfortunately been placed in an almost impossible position. He has had to try and defend what we consider indefensible budget proposals. He has done his best. He has next had to defend his attitude as Chairman of the Standing Finance Committee and the Majority Report. This, I take it, was what he was doing yesterday. He also has to propose the motion for the appointment of the Committee which, in spite of the attitude Government has adopted hitherto, is to make recommendations of drastic curtailment of expenditure. These three roles are incompatible one with the other. Therefore I do hope that the hon. the Colonial Secretary does not think the remarks made yesterday, and any remarks made to-day, are an attack on him personally, because I can give him the most definite assurance that we all have the greatest possible regard for him. We have never suggested that he personally is trying to lay a trap for us on this side of the House, but what we are afraid of—and it must be obvious that our fears are justified—is that we may be led into embarking on a Committee in which four members have utterly antagonistic preconceived ideas: two of them that expenditure cannot be reduced, two of them that expenditure has got to be reduced. If that Committee were to start on those lines, I suggest it would have no chance of achieving its object.

What is its object? We are fighting quite definitely to reduce expenditure. We are not fighting for a Committee which is going to divide expenditure into five heads and carefully explain that further reductions cannot be effected. We welcome the statement made by the hon. and learned Attorney

General when he intervened in the debate yesterday, but, in addition, we are asking Government for a definite assurance that the job of that Committee will be clearly understood to be to produce definite measures of economy which will result in a saving in the net expenditure of not less than £100,000, and possibly produce suggestions of economies amounting to a far greater sum. Whether the suggestions put forward are accepted by this House or not is a subsequent issue which has nothing to do with the Committee. We feel we must insist that the Committee should be told that its function is to produce recommendations for reductions in expenditure amounting to a certain total.

Many of us on this side of the House have unfortunately during the past few years been concerned with businesses which have been in precisely the same position as that in which we consider the Colony finds itself to-day. We have found what we have always considered to be the absolute minimum overhead expenditure of that business is more than the business under the changed conditions could bear. We have had to get the staff together and give them a definite figure of reduction in overhead expenditure, and that reduction had to be found, whether it was an inherited expenditure or of a type always considered up to that time as irreducible. If we have been successful in making those reductions, those businesses are still in being to-day. Businesses which have not succeeded in making those reductions are now in liquidation. We do not wish to see Kenya even risk going into liquidation. If, therefore, we get an assurance from Government that the whole aim and object of the Committee is to make recommendations for reductions and not to explain that reductions are impossible, then we will agree to accept the appointment of the Committee and, moreover, feel that that Committee will perform a useful purpose, and we shall all co-operate with the maximum of our ability in assisting the Committee to arrive at conclusions.

There are, however, one or two conditions which must be observed if this Committee is to be a success.

On this occasion we feel most strongly that the proposed Committee must be given complete freedom of action. There must be no limitations in its terms of reference. In this connection I would add that although we do not agree with the principle of the Native Barterment Fund we do agree that the principle of the native must be proportionately spent on his welfare. In some cases, however, we do feel that it is perhaps questionable whether the total amount spent on native services to-day is spent judiciously, or whether it could not be diverted into channels of great productivity to the benefit of the native himself.

Secondly, we do not want the Committee to develop entirely into a second Expenditure Advisory Committee which sat for eight months with the result that from its deliberations much information is available, but we feel that the Committee should be able to report in a reasonably short period of time.

Thirdly, this Committee should, of course, in our opinion be permitted to report on loans, pensions and scales of salaries. Any recommendations regarding loans would be long range, and subject to acceptance by the Secretary of State and Imperial Treasury. Furthermore, if any alleviation of the loan position can be obtained, it will benefit the Railway budget more than the Colony. Any reduction occasioned by loan relief should therefore be regarded as additional to the £100,000 cut in expenditure which we consider should be found forthwith.

There is one further aspect connected with the whole situation which I think we should stress. We feel, on general lines, that there has been a trend in the past as and when further expenditure took place on special services, for that expenditure to become permanent recurrent overhead expenditure which, once having been incurred, one never seems to be able to discard. We feel that for some years to come this country must be run on lines of keeping down overhead staff and overhead recurrent expenditure to the minimum. As and when surplus balances become available productive expenditure can be incurred for special purposes, but that expenditure should be treated as non-recurrent. This country has changed enormously during the last few years. We maintain that much can now be done by contract and by engaging temporary staff. We have got to reorganize the whole system. In other words, to keep our permanent overhead down to skeleton and carry out any productive development as and when required under a system which I can best describe as one of non-durable temporary expenditure. Thus, when world conditions and circumstances in Kenya are unfavourable, we can afford to launch out a bit without building up a permanent millstone round our neck.

Lastly, I trust that when Government reply to this debate they will find it possible to make some announcement to the effect that, as our Leader expressed it yesterday when we have reduced expenditure below revenue, such reduction will be reflected in alleviation in taxation. Before sitting down I should add that I have been authorized to state that my colleagues on this side of the House concur in the views I have just expressed.

Council adjourned for the usual interval.

On requiring.

DR. THE HON. A. C. I. DE SOUSA: Your Excellency, I rise to speak on this motion, knowing full well that the patience of this House and of Your Excellency has already been overtaxed by the debate we have had on the budget. I make no apologies for my own share towards this exhibition for, being a human being, I feel that I ought to vie with other members in indicting Government, for nothing adds more to one's popularity than an attack on Government, and nothing makes one more unpopular than silence, even when silence is golden! I have often been asked by my constituents why I do not join in the invectives against Government while some of my colleagues who have sufficient ability to stand up and catch Your Excellency's eye off-load their typed speeches in this House and have the additional advantage over me in that their speeches, carefully prepared and readily delivered to reporters, find full publicity in the leading dailies of the country, although at times they have not actually been read in parts. Your Excellency will admit that one must suffer from an inferiority complex when the man in the street—or rather the man in River Road where some of our Demosthenes discuss Council matters during the afternoon recess—wonders why so popular and successful a candidate is not half so vociferous in Council as he used to be during his election campaign!

I am voting with Government on this motion, but I am not taking on myself the role of the hon. the Colonial Secretary as the hon. Member Mr. Pandya has done in his speech in replying to individual members. I consider that that duty devolves upon the hon. mover. But, while voting for Government, I wish to make my position very clear. There are two reasons why I am voting for Government. Firstly, because Indian Elected Members have decided to do so, and I, like my hon. friend Mr. Isher Dass, have to be in the team. In fact, it is a party decision, which I think is not quite a good thing to do when all the elected Members are agreed in their opposition to the budget. But I think I am right in saying that we are following the example of the European Members, because I understood yesterday that their decision to vote against Government was also a party decision. My attitude is very clear. My second reason for voting with Government is that we have had, even before Your Excellency made the announcement of the Economy Committee, misapprehensions about the threatened defeat of Government in this House. Not that Government can be defeated, when they have a very safe majority, but a vote against this motion by all the elected Members representing the whole of the communities—Indian, European, and Arabs—would in effect amount to a moral defeat.

THE HON. J. B. PANDYA: On a point of order, Your Excellency, the hon. Member complained about speeches being read, and his speech is typed!

DR. THE HON. A. C. L. DE SOUSA: I have not done it in the past, Sir, but am following the example set, because almost every Member has read his speech, beginning with the hon. the Colonial Secretary when moving the motion, as well as replying to it.

We have heard in the course of this debate that the European Elected Members aspire to have financial control of the Colony, and this we consider a very real constitutional advance, however small. In fact, the appointment, or proposal to appoint an Economy Committee is giving in to the demands of the European Elected Members for financial control and your agreement with its object, the cutting down of expenditure by about £100,000, amounts to that. We on this side of the House are anxious that no such advance should be made to any section of the community, not because we do not wish that the elected representatives of the people should not have what they have in other countries but because existing conditions and our political relationship with other races in the country do not warrant our feeling that our destinies would be safe in the hands of a section of the community with whom we have not been used to see eye to eye. That is why we feel, Sir, that we should do nothing in this country that will give any further powers to any sections of the community, and that is why I feel that I must share with the Indian Members that their fate and the fate of their community will be safer in the hands of the Imperial Government.

I assure Your Excellency that I am entirely against the budget proposals before us. Some of my colleagues seem to be very fascinated by the promised Economy Committee. I am not so optimistic about the Committee, the recommendations of which, if accepted—there is a reservation—would cut the expenditure by about £100,000. This House has not yet had an assurance that whatever recommendations are made by the Committee they will be accepted *in toto* by Government. The only advantage which a Committee of this kind has is that the Indian Elected Members of the House have an excellent reason to save their faces by voting for Government when in fact they should have voted against them. We are committed like the European Members to opposing the budget tooth and nail, and we made that point clear to our constituents during the last general election; nothing that has happened since then warrants this *colle-face* on our part. True, we have not vitigated the masses by provocative speeches, because such a course would be redundant in our case, but if I judge the

feelings of the Indian community in the matter I need only refer. Your Excellency to the resolution passed at Mombasa a few days ago, when the hon. Member Mr. Pandya addressed a meeting in that town. That meeting was held under the auspices of the local Indian Association, and the resolution passed was this:—

"Whereas the taxable capacity of the people of Kenya had already been overstepped, and in the interests of economy it is essential that Government expenditure should be considerably reduced, this mass meeting of the Indian citizens of Mombasa held under the auspices of the Indian Association is definitely opposed to the introduction of any new or renewed measure of taxation."

That puts our case in a nutshell, and it is because of such a feeling in the Indian community and because of the fact that in spite of those feelings we are voting for Government on this motion, that I thought it was necessary to waste your time in asking you to listen to me. Having said this on the general issues before us, I wish to refer to some details.

Your Excellency knows that I refrained from talking during the initial stages of the debate on the budget. I had to reserve the opportunity of putting whatever little grievances I had and to take my little bundle of grievances to the Standing Finance Committee in the hope that that body, which constitutionally or otherwise represents me as well as every Member of this Council, would have some sympathetic consideration for the small grievances I was taking before them on behalf of the community which now, as in the past, always has grievances.

Now, Sir, you have before you the Report of the Standing Finance Committee which I am going to quote from. Take the case of the Indian women operated on in the Native Hospital in a place like Nairobi. In paragraph 84, page 10, the attention of Government is drawn to the fact that there is no Indian hospital, and therefore there are no special facilities for Indians, and there are no Indian hospitals because Government do not want to make provision for the needs of a community which in direct and indirect taxation pays something to the tune of £300,000 per annum. I submit that hospital facilities would be necessary for the Indian community even if that community did not contribute as much as it does, and, in fact, in ordinary circumstances it is the duty of the State to provide those facilities. When Government allow Indian women to be operated on in the presence of African male adults on the pretext that no other arrangements are possible, I begin to think of the very elaborate arrangements that exist

in the European hospitals, where nursing arrangements and operating theatres are as up-to-date as they can be. I do not for a moment suggest that the European community should not have such facilities, I do not suggest that at all, but when I suggested to the Standing Finance Committee that Indian female cases be dealt with in the operating theatres of the European hospitals, my suggestion was laughed at and actually scorned. I suggested that a small amount might be inserted for the provision of temporary assistance in such cases, which are not many, and the Director of Medical Services tells the Committee that this cannot be done. Yet, Your Excellency, we are voting for a budget which displays such callous disregard of our natural and delicate feelings towards our womenfolk, and we are doing it without blushing! To remedy this state of affairs I suggested long ago that Indian girls, of whom there are many in the country, be trained as nurses. It would meet our requirements, and would also replace highly paid imported nurses from overseas. But that suggestion was not accepted by the Director of Medical Services, because, as he said when I gave evidence before the Committee, it would be a question of accommodation. Yet, Sir, the new accommodation being provided for a new X-ray plant would more than meet our requirements for this need. In these days of depression, we should rest content with the existing arrangements for the X-ray work which have been in existence for some years.

I have quoted these instances because I wish Your Excellency to know we are treated in every matter concerning Indian interests with the utmost contempt. The hon. the Colonial Secretary said that an ultimatum had been offered Government by the European Members. He has in defiance of his budget placed an ultimatum on our heads by suggesting that we close all roads in the Colony, schools and hospitals, and starve agriculture. He also went to the extent of quoting the demand for new services, but he was careful enough not to tell us what the aggregate commitment would be had all those demands to be met. Curiously enough, he only quoted a figure of £60 which I had suggested to the Standing Finance Committee should be put in the budget for providing equipment for physical training at the Indian Girls' School. That is how we are treated, Sir.

Take again the question in paragraph 86 on page 10 of the Report. The Director of Medical Services admits there are African learners for African hospitals, that there are European laboratory assistants for European hospitals. I suggested to him that, without consideration of race whatever, when he is undertaking the training of laboratory assistants and hospital assistants and any others, he should train

as many of the youth of the country as he could. He says 'no, the Indian youth of Kenya cannot be trained for these very desirable offices, because there are no Indian hospitals in the country!'

There is another point I want to make on the question of the Thika School, one on which I shall have to differ from the Indian Member on the Standing Finance Committee. I say he has accepted a principle which is contained in the paragraph 149 on page 17, "whereby that body (that is the Indian School Committee at Thika) would erect a suitable building and lease it to Government".

THE HON. J. B. PANDYA: On a point of explanation, Your Excellency, I have not accepted the principle. It was the principle of Government of which I was informed.

DR. THE HON. A. C. L. DE SOUSA: The hon. Member makes a lot of noise when speaking! He has not dissented, there is no note of dissent on a matter of great principle to the Indian community, I know that the hon. Member Mr. Pandya, as well as his friends in Mombasa, was responsible in undertaking to build an Indian Girls' School in Mombasa and let it to Government. I would like Your Excellency to tell us . . .

THE HON. J. B. PANDYA: I was not responsible, I am not a shareholder, and have nothing to do with it.

DR. THE HON. A. C. L. DE SOUSA: I am glad to have that assurance, Sir, but in this case I miss the note of dissent. Your Excellency must know in your experience of education here, that no such principle has been embodied in any educational principle of Government, that a community should build a school and then rent it to Government. That action of the community had originally taken exception to this principle, but the late Director of Education forced the issue on the Indian community whereby Indian girls at Mombasa had either to be educated in a school built by Indians or not educated at all. I say, Sir, that the same principle is being advocated by the Standing Finance Committee in regard to Thika School. I hope that this question will be considered in the light of the responsibility which Government has to the Indian community. If the Indian community have sufficient claims for a Government school, that school must be built by Government.

I have a very small point to make in connection with a new vote inserted under Education, the vote for mixed schools, £250. I think this is a provision for the two mixed schools in existence, in Nairobi and Mombasa, conducted by

the Roman Catholic Mission where Europeans, Indians, Seychellois, Goan, and children of other communities are being educated. Those schools cater for the needs of all those communities, and I think the Director of Education ought to be congratulated on introducing into the educational policy of this country a new principle, because the education of children of a tender age belonging to the European and other communities, their learning together, is calculated to eradicate the feelings we have in our public and private lives. In that respect, I must congratulate the Director for having got this new principle of subsidizing mixed schools.

But I find that the provision is made at the expense of the vote for Goan schools, which from £760 has been reduced to £500, and the balance of £250 given to these mixed schools. I think this is most unfair, because I had already urged before the Standing Finance Committee that the vote for Goan schools should be slightly increased or a little more assistance given the schools which this small, struggling community has put up in Mombasa and Nairobi. I am conscious of the objections originally raised against the Goan grant, but I submit they were considered by Lord Moyne who expressed himself on the subject in these terms:—

"The arrangement that special contributions should be levied to cover European and Indian education has made no provision for the Goan community. . . No explanation of this anomaly has been given beyond the argument that Goans are not British subjects. This is an inconclusive reason especially as non-British European residents are granted full privileges in European schools. Moreover, many Goans like other natives of Indian have grown up in the country, and considering that their community contributed in 1931 no less than £58,400 to the revenue of Kenya I consider that they have an unanswerable claim to adequate educational facilities. Being provided with no service they do not at present pay the education tax."

The Goan community, Sir, contribute something about £60,000, and it seems to be most unfair that a grant of £760 should be cut down solely on the pretext that during 1934 a saving was effected in the vote of about £135. This saving was made because the Department of Education starved those two schools and placed them on a scale which does not allow the Nairobi school more than the salary of the European lady principal. You will remember, Sir, the sacrifices that the Goan community make for the education of their children. I say in passing that more than 50 per cent of the children in these schools are British born. I hope, Sir, that you will

use your special prerogative in asking for a little more assistance for these schools, because I have despaired of the Standing Finance Committee in my attempts to place before them the case of the people most affected by these things.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I rise to support the motion before the House and I do so for two reasons. First of all, because of the steps taken by Your Excellency in appointing a Committee of investigation as to the possibility of reducing overhead charges of Government by £100,000, and I should like here to say, and I am speaking with all due consideration, that when the Government has given this House their assurance that in that investigation every head of department will put at their disposal every item that they require, we must accept it, and I do most emphatically accept it, that the Government has said that in all good faith, and that therefore this Committee that Your Excellency has appointed, will be in a position to investigate every item of Government expenditure and in the course of a few months or six months as the case may be, will be able to show where the £100,000 can be saved. I think they will be successful and I sincerely hope so.

Then, Sir, I support it, secondly, because there are certain obligations resting upon the shoulders of the Government which, until a better way is shown to meet those obligations, must be met by a budget such as we have here before us now. The Committee, again, Sir, will have the responsibility of showing the Government that better way, but I have no hesitation in saying that should the Government fail in meeting those obligations that rest upon them to-day and defaulting in any way in meeting those obligations, the outcry against the Government would be more serious than it is now.

Having said that I have justified my position with regard to voting for this motion before the House.

Coming now, Your Excellency, to the matter of native taxation, with which I am most closely connected, I want to state, to make my position perfectly clear, that my proposal to reduce the native hut and poll tax by Sh. 2 a head was not made in any way with the idea of embarrassing the Government in their work in framing the budget. There was nothing further from my mind than that, but I made that in all seriousness because I happen to know something of the distress caused in various districts by the collection of this hut tax. I said in my budget speech, Your Excellency, that the officers who have that onerous responsibility have my most sincere sympathy, because they are supposed in the

various provinces to collect the amount put down to them and in the collection of that tax against their will I do believe a tremendous amount of injustice is heaped upon the heads of the poor natives who have to contribute that tax. It is not their fault that it should be so but I state, Sir, and I know without any fear of contradiction that in the collection of that tax to-day there is a tremendous amount of injustice being done to the ordinary native while there are a few who are being enriched through the methods adopted by the collection of that tax.

I see you are congratulating me and patting me on the shoulder and saying you are up against the Government. I assure the people and public generally that is not my intention, but I do wish to say very, very emphatically that it is my considered opinion and that of very many with whom I have taken counsel and talked these matters over, that the native, taking into consideration the amount he contributes to the revenue of this Colony, is not getting in services an equivalent for the contribution that he makes to this Colony. I know that this statement may be challenged, Your Excellency, but we have here in connection with the present budget, we have for the four major services the sum of £249,538. The natives in taxation are supposed to contribute £562,979. A recommendation was made by Lord Moyné that half of the contributions made by the natives in taxation should be returned to the natives in the form of the four major services of the country: Education, Medical, Agriculture and Public Works. The aggregate of the money spent on those four services or put down to be spent in 1935 amounts to £249,538, leaving a balance according to Lord Moyné's recommendation of £63,699, that is, that the natives according to the treatment that we are meeting out to them now are being done out of services to the value of £63,699. If you take the four services, Sir, from the point of view of the Europeans, Agriculture, Education, Medical and Public Works Department, we get the aggregate of £318,237, making a difference between the aggregate of the native population of over three millions of people of £63,699 for say 18,000 or 20,000 people as the case may be. I am not forgetful nor indeed do I want to deny for a moment that those services rendered under the heading of Non-Native Services, that the natives gain very very much through many of those services—roads, bridges, and other things. But still, Your Excellency, my contention is that according to the amount of taxation paid by the natives into the revenue at the present time, they are not getting a fair equivalent to that amount of taxation, that is in the services rendered to them.

My colleague yesterday spoke about the necessity of greater production. I entirely agree with him, but the difficulty with me, Your Excellency, with regard to greater production is this: it is not a matter of producing more, but it is a matter of finding a market for what is produced. We are all aware that the world's markets are glutted with produce at the present time—no matter what produce you mention; whether coffee, maize. The prices for them accruing to the producer at the present time are so very low that he says he cannot produce them for the price, the natives can but the European cannot. I most emphatically deny that. The natives cannot produce and produce at any profit that will be helpful to them and to enable them to have a greater purchasing power at the present time at the prices offered.

There is one aspect of this which I should like to congratulate the Agricultural Department upon, and that is the development of the animal husbandry industry in the various creameries that they have erected throughout the reserves here. I look upon that, Sir, as one of the very best steps that the Government can take. First of all, from the point of view of overstocking, we are all agreed that the reserves are overstocked and that the stock in the native reserves are not being put to the best use, but the natives have never been taught to use their milk or have their milk brought where it can be treated and sold, and the Agricultural Department in doing this are to be congratulated on taking a step of eminent value to the natives throughout the whole Colony. I know that down at Marakani steps have been taken there and that native milk of the first quality is drawing higher prices at Mombasa than any other milk brought into the town.

With regard to the medical services we are told, if we want to help the natives, to try and get more money for teaching them agriculture. I hold, Sir, and I have some little experience of natives, that to get the natives to engage in agriculture you must have a healthy people. We are told that the best thing to do is get them to get money to buy soap to wash themselves with and in doing that you are educating the native in much the better way than your people who have given your lives in this work in the schools. Well, Sir, I have no objection to cleanliness. I do honestly believe it is next to godliness. But I do believe there are people in the native reserves to-day dying of disease in spite of all the Medical Department has done, and they have done a tremendous amount under the difficult circumstances they are placed in for the lack of funds. No one could give them greater credit than I do, Sir, for the wonderful work they have done, but they only just touch the fringe of things. Compared with what there is to be done it is only a drop in the bucket. Before the natives are ready to take a step,

they are in many cases throughout the reserves, they are—forgive me for using such a word—rotten with disease. Leprosy is on the increase, and I have known cases in which lepers are allowed to remain in the villages and walk about the market places and even boys and girls are allowed remain and occupy the one room of a family. But what can the Medical Department do when their vote has been cut down? Then, on the other hand, we cannot expect these people suffering from disease such as this to become expert agriculturists and to be able to produce that which we expect them to do.

I do not want to take up the time of the House, but I do want to make it perfectly clear that as the natives are to-day and have been badly hit during the last four years, until things improve and considerably improve the burden of taxation as it is placed upon the natives to-day is a burden that can hardly be borne. And not only for the natives themselves but I am speaking sympathetically for the officers who have to collect that tax. The Government has given us an assurance that they are investigating the matter and that Your Excellency has given orders that in certain districts the tax should be reduced or in some instances remitted altogether. That is not enough. I hold what is being done or promised does not remove from the natives from whom the tax is being gathered to-day. I said in my budget speech that I have seen people going away and I have known them be away from their work for days at a time, waiting and trying to get the necessary Sh. 12 or whatever it may be, to save their goats from being sold at an abominably low price. A certain class which is in a position to pay the tax is being enriched at the expense and at the greater trouble to the other natives in the reserves.

I do hope, Your Excellency, that as soon as it is possible the Government will look into this matter of taxation and see what can be done with regard to it. I was told yesterday that if my proposal for a reduction of Sh. 2 per head was carried out it would mean a loss to the Government of £90,000, but I am convinced, Your Excellency, that it would not be so. I am convinced that the tax would be paid more readily if a ten shilling note could be handed to the collector. I am convinced that the tax would be more easily collected. I am convinced that the tax would be paid more readily if a ten shilling note could be handed to the collector. When very, very often the ten shilling note is there but the Sh. 2 are yet missing, it would be much easier and the people that the amount collected throughout the Colony would certainly not fall short by £90,000 or anything like that sum. I do hope, Sir, that the position of the native in regard to taxation will be duly taken into consideration.

One other matter before I sit down and that is I mentioned a moment ago about lepers. In my budget speech I reminded the House of what is being done and the efforts made, and I am sorry to say that in the work of the Select Committee on the budget my point was not taken up of £100 being put against the £100 that had been received at the fete at Woodlands to help those working amongst the lepers down at Kalandi Hospital. I know it is only a drop in the bucket, but it is a little help and every little help that can be given to stay that awful disease and to help the younger people to cast it off or stay it should be sympathetically dealt with and it will be of benefit in every possible way.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, to start with I much regret that the effort made yesterday by the hon. the Colonial Secretary to temper the blast to the shorn lamb should have had rather the contrary effect in that the blast is now more severe than ever. Also I do think that his attitude might have been a little more conciliatory towards us. Instead of starting off to show that he is hanging over the door of the committee room "Abandon hope all ye who enter here", had he given us a little assistance I think it would have gone a long way towards making things easier!

As regards the remarks of the hon. and rev. Member for Native Interests about markets for native produce, I would like to say especially about the Marinkani factory that it is doing extraordinarily well in the export of ghee to India which is being taken now by the new line of steamers running between Madras and Rangoon and that the market available there is equal to about 5,000 tons a month, which will make a large difference to the exports of this country.

As regards our commitments of loan interest, etc., which we are told cannot be touched or interfered with, these loans, Sir, most of which were taken by the Railway were required as necessary to repair damage and wastage caused in the War. The war was not our affair, it was naturally an Imperial affair. But I think that representations might be made to the British Government that they should bear a share of the interest due to the bondholders, say either 2 or 3 per cent. If they would carry that it would be a great saving to this Colony.

Another suggestion I think might be made is that the Imperial Government should be asked to pay the salaries of the King's African Rifles say for three years, which would be of very great assistance to this country.

As regards land settlement, I wish Government could see their way to offer some inducement to some of these many Government officials who retire from the Service on pensions, to get them to settle in this country. I think a very small inducement would get good many here.

As regards the Administration, Sir, the paragraph about getting eleven new cadets, I must say I object to this, at these people being taken in preference to the local lads. It is said in the Report that the Chairman explained that selection did not depend merely on the possession of adequate qualifications, but on the possession of better qualifications than other candidates. That presumably means that they have to have a University education. What the advantage of a University education is to young men coming out here who spend the first three years in trying to collect poll tax from natives, I do not quite see, except that the amount collected may have a very great bearing on their future. If it was a matter of competition between the home born and local born I should say the local born should be given a handicap start of 60 per cent over the others. (Hear, hear!) I think the expenditure referred to on page 20 of the Report, item 7, should come out.

Then in regard to item 27 of Miscellaneous Services, Rent of Land, Mweza Creek, £125. This, Sir, is quite unnecessary. It was originally rented by Government from the Wakf Commission when they had the splendid idea, which I am glad to say did not come off, of making a graving dock. Surely the Government can cancel that lease—it does not go on for ever?

Another small matter, although I do not like to query any measures of economy on the part of Government. I have here, Sir, a letter addressed to me from the District Commissioner at Malindi. It is stamped with his office seal, and the seal has the imprint "British East Africa Company, Malindi" and the word "Melindi". That stamp is forty years old, and I think it might now be relegated to the Coryndon Museum and expenditure for a new stamp incurred!

LT. COL. THE HON. J. G. KINKWOOD: Your Excellency, I rise to oppose the motion before the House. In doing so, I want to pass a few general remarks before I reach the budget.

In the first place I would subscribe to the words of appreciation passed by Elected Members in favour of the hon. Colonial Secretary. I believe that Government undoubtedly put him in an impossible position because an impossible task could not successfully be carried out, but I believe it is no ill-will on this side of the House. In the course of his

address, Sir, he did refer to a newspaper—I think it was the *Kenya Weekly News*. He also referred to an article in that paper and he quoted what the author of that paragraph should have said. I would suggest that what the hon. Colonial Secretary should have said when he rose to support his budget should have been like this:—

"Sir, hon. Members of Council, I rise to carry out an impossible task. I know the budget is a bad one. I know that I am gambling and I admit that to you all. I have told you that we have been wrong this last six years but we do believe if we keep on long enough the day will not be far away when by the law of averages we will be right."

That was the justification for it. He mentioned also an article from that paper with reference to the Nakuru School and he spoke of it as a European School for European education. Now I took that to be rather an insidious threat that if we on this side of the House press for reduction in the budget we will have the educational vote for European children cut down. Now, Sir, I profess and I am, I hope, an Imperialist. I believe that the English race achieves things for civilizations in the world. Secondly, I have no inferiority complex, and I think it absolutely essential and necessary that the European children in this Colony should get a first-class education. If they do not get that then you are going to bring up a generation of poor whites in this country and that would be most disastrous where you have mixed races. If they are to be educated to take their place in the Colonial and Administrative Services generally, they are entitled to a first-class education, and as far as I am concerned and the European Elected Members, we are going to see that they get it.

The hon. Colonial Secretary also instanced the fact that the Railway had shown a profit of over £200,000 and the pointed out that undoubtedly prosperity was returning to the Colony. I think he has drawn a wrong deduction. It is obvious that commodity prices are still on the down grade and have been very low for a considerable period. I am referring to Kenya coffee, sisal, maize and most of the other primary products in a lesser category, which have been produced at practically a loss and I fail to see how the argument can be used that because the Railway is making a profit, prosperity is returning to Kenya. I get the opposite. If the Railway is making a profit during the depression the Colony is going through, it is due to the increased rates and nothing more and nothing less as far as Kenya is concerned.

He also quoted a figure in reference to agriculture—I think it was £20,000—recommended by the Economic Reconstruction Committee. Now, Sir, I think everybody will admit

that agriculture is the ground work of all finances of this Colony at the moment. Without agriculture, more especially European agriculture, this budget would be down. It would be a million pounds instead of two millions. I quote approximate figures. If they recommended that agriculture could be kept going at the expense of £20,000 a year, well all I can say is we are getting it too cheap. There is no question that the agriculturist is not only struggling, but he is down and out. He is being wished well by everybody and told if he can hang on he will gain his reward. But there are so many of them. They are not hanging on; they are beyond that stage; and it is deplorable to justify the conditions that obtain in this Colony. For the second occasion in this Council I would take the opportunity of saying that it is time the Report of the Economic Development Committee, to which reference has been made, was laid on the table of this House. I think it is unfair to quote from a Report the contents of which are known to Government and not known to the Elected Members on this side of the House.

The hon. nominated Member for Native Interests, Mr. Hemsted, compared District Councils and Native Councils to the disadvantage of the District Councils. Again, I suggest that he has taken the wrong picture. The District Council is a form of local government accepted by the Colony in five areas, taking the place definitely of the Public Works Department as far as the work they do and as far as the money they spend and in connection with that they already have their additional grants taken away. They have had their basic grants considerably reduced and are still carrying on and doing most excellent work, which if not done by the Councils would be included in the Public Works Department. It is not an extra expense as I rather gathered the hon. Member thought it was. I am not raising the racial question at all and I hope I have no intention of doing so. The Native Councils are given control of certain funds. The District Councils are doing very good work and are making very good savings to the Government under the Public Works Department head. The way it was put was unfair to the District Councils and unfair to this House.

The hon. and reverend Member Canon Burns has quoted from the Moyne Report, from the point of view that the native is over-taxed. I want to give just one quotation. "On page 24, paragraph 44, the contributions by Europeans, Asians and natives are given, but I want you to remember that under Asians are shown Goans and Arabs; those amounts are not contributed by Asians wholly and solely."

THE HON. J. B. PANDYA: We were given to understand that Goans did not have to pay.

LT.-COL. THE HON. J. G. KIRKWOOD: The heading is "Balance of contributions and services." If I may quote the figures, they are: Surplus from Europeans, £494,534; from Asians, which includes Goans and Arabs, £339,578; from natives, £459,144. It has to be remembered that the natives at that time numbered 3,950,000, just under three millions, the Europeans approximated 17,000, and the Asians 59,903. It shows that the Europeans were by far the smallest community.

THE HON. ISHER DASS: The strength of the population has never been brought into question.

LT.-COL. THE HON. J. G. KIRKWOOD: I am quoting from the Moyne Report: "Europeans, by far the smallest community, are thus paying the largest contribution of any of the three groups towards the cost of common services." I will leave it at that.

I do not propose to take up the time of the House any longer than I think is necessary, and I will make my speech as short as possible. What has happened is that the European Elected Members at the opening of this engagement sent out infantry with machine guns to take up a position in order to make the enemy disclose their, common tactics in warfare. It was very successful indeed, inasmuch as Government did hoist the white flag, and were led into the lines blindfolded and told there was one point on which we wished to see our enemy, as regards the offer which Your Excellency has been good enough to make. The flag of truce was returned with a safe conduct to the enemy's line, but as far as I understand the position the engagement still continues. The big guns on this side certainly have done very valuable service; and I contribute to what they have done by subscribing to everything they have said. At this stage it is quite evident that the bombers are going over, and I hope they will find a few of, and cause a bit of scattering among, the enemy!

One figure quoted from the budget concerning the estimated surplus for 1935 was, I think, £41,041. That is a most optimistic figure, which I cannot believe will be realized after years of depression, in which the agricultural community has been hard hit indeed and the commercial community have been taxed over and above their capacity to pay, for more than 50 per cent of the commercial people are now living on their capital; nor has the commodity price level risen, so that how Government expects under these conditions to see an increase in Customs revenue I fail to appreciate. We have been right over a period of six years in criticizing the Customs revenue; and I stake my reputation that I shall be right again that the revenue estimate for 1935 will not be received. Consequently, at the end of 1935 we are going to face another deficit.

I do not want to go into past history as to the amounts these Estimates have been wrong in the past years, but the fact remains that they have been budgeted on a very optimistic figure for many years past, and in the last six years over-estimated for, which has helped to produce a definite deficit in the budget.

I should like to refer to the value of our exports. It was admitted to be under two millions this year. It may or may not be increased over that next year, and in my opinion I do not think it will. If that is so, then our export is left lower than our revenue, which means that we are in a bankrupt position. Another item of comparison is the pension commitments, £209,000 for 1935, which is 9 or 10 per cent of our exports and approximately the same figure as regards revenue. I say without hesitation that it is an impossible figure for this Colony to support. It is increasing year by year, and will go on increasing, but it does not mean that because our pensions commitments are increasing our revenue is increasing, and the only thing I can suggest is to do away with pensions altogether and get down to consolidated pay. Then your commitments at the end of a year will be shown in the budget, and you will have to budget for them. Obviously, it will be much easier on consolidated pay to estimate what the expenditure will be at the end of a year than to continue with a pensionable scheme.

I am not preaching, as is supposed by the other side of the House, that we are bent on ruthlessly destroying what are called "contractual obligations". I think Elected Members have always been fair to Civil Servants, inasmuch as they have always endeavoured to get reductions made on future entrants. It may be noted that when the levy on salaries was passed not a single member on this side got up and opposed.

THE HON. F. A. BUNSTEN: I did oppose, definitely!

LT.-COL. THE HON. J. G. KIRKWOOD: Speaking for myself, I hate and detest any cuts whatsoever, but we have got to realize as practical individuals that a budget has got to be balanced, or otherwise business has got to be run within the limits of its revenue, and if that is not done there is no limit to what may happen. It rests with Members on the other side of the House; you can help very considerably if you remember that, and my attitude is that of most, if not all, of the elected Members. We have to balance the budget, and get a budget not only this year but in future years that will be able to meet expenditure out of revenue. Whatever is done, has to be done with that object in view.

There is a matter which I have at the moment on my mind, and I hope Government has heads of departments—how is this £100,000 going to be found? In addition to what has already been suggested, I would suggest it is only fair and reasonable to Kenya that the whole of the King's African Rifles vote should be carried by the Imperial Government, the whole of it, some £129,000 for 1935. After all, that force is kept on the frontier for the protection of the natives at the request and will of the Imperial Government. I object to this Colony have to face that expenditure when we have no say as to whether it can be reduced or not. We have no control over it, and any expenditure of the Imperial Government which falls on this Colony without giving reasonable or adequate control should be refused by the Colony and the Imperial Government should pay for it. I think it is a fair proposition.

As regards loans, I think that everybody I have talked to about loans believes the sum of £13,250,000 is a Railway loan. We have an asset in the shape of our Railway, and we do know the Railway is making a profit, so that it is a real asset. The Colony is liable for the loans, it has to pay four millions a year or a little over, and anybody who knows anything about colonial finance or political economy can tell me Kenya is not in a position to raise a loan has got to go back to school and find something out about finance. While on that subject, I think it unfair this Colony should have to face the whole of the Kenya and Uganda Railways and Harbours loans seeing it is an asset belonging to the two territories. I do not wish to criticize the other territory at all. They are very wise if they can get out of their commitments and put them on to the shoulders of Kenya, and we are carrying a liability for Uganda that we should not be asked to. I am well aware that Uganda also raised a loan of two million pounds. How far that went towards the construction of railways in Uganda I do not know, but I am perfectly certain that in no way does it reflect the true figure of expenditure on the K.U.R. & H. as spent in Uganda itself. This matter should be taken up seriously by Government and relief received from Uganda by Kenya in the way of reimbursement for the liability we are carrying. It is that contingent liability which I presume the Secretary of State had in mind when he was advised by his financial advisers that Kenya finances were not such as to recommend him sanctioning any further loan. I fail to see why we should carry that contingent liability one way longer than is necessary, and I hope Government will take the matter up. We should pursue it until some practical result has been achieved.

In conclusion, Your Excellency, I wish it to be definitely understood and I reiterate it, that I am backing everything said by the elected Members on this side. Both the Noble Lord and the hon. Member for Nairobi North have put up a considered case for the elected Members as a whole. I myself accept the assurance that has been given by Your Excellency to appoint this Committee in all good faith, and I hope that if there is any obstruction in any way on that Committee or from any source whatever Your Excellency will deal with it as you have the power to. It will be a blessing to this country if £100,000 can be found, and I have no doubt in my mind that it is a very conservative figure. It has got to be found, without all this additional taxation, a burden which can no longer be carried, more especially by the European population in this Colony, and I believe it is not the intention of Government to stifle European settlement and civilization in Kenya. But there is no doubt in anybody's mind who has studied the situation for the last few years that everything done by Government is tending the stifle European settlement in this Colony. If they exist it is because they have got their backs against the wall, and they have fought for a number of years. They are not going to give in under any conditions, and I think they deserve every sympathy, but the day for increased taxation and the stifling of the whole of the progress in this Colony by that method has got to be stopped. I assure you, Your Excellency, that while I accept your gesture as an honest and genuine one, which I believe it is, I am convinced that the Committee should have no difficulty in a week's time of finding the money, if they have the intention of finding it. We are showing you some ways in the matter of a few hours; given a little longer, we will show you other ways, and some have been pointed out in the Minority Report of the Standing Finance Committee.

THE HON. CONWAY HARVEY: Your Excellency, I too desire to associate myself without reservation with the views expressed both in this debate and the one on the same subject a day or two ago by the Noble Lord and the hon. and gallant Member for Nairobi North. They made it quite clear, I think, Sir, that they were not speaking pronisuously, but after detailed consideration and full discussion with their colleagues they expressed the views of all European Elected Members.

I have no intention or desire to re-traverse the ground already covered in this debate so far as general items are concerned. I think the general question has been very fully dealt with indeed, and my own views are, I suggest, very clearly expressed in the Minority Report which I have signed. There are, however, one or two details to which I wish to refer.

It has been stated more than once in recent weeks that the farming community are called upon to bear very little in the way of taxation. Let me disabuse Your Excellency of any ideas that may be entertained in that direction. Speaking as a farmer, and representing a very large number of farmers, I assure Your Excellency that the average farmer in Kenya makes a very heavy contribution to the public exchequer, not so much perhaps directly, but indirectly through licences, taxes and rents all of which make such a contribution to the annual revenue which very seriously impair his ability to extend his production. Perhaps last, but not least, he is very severely handicapped in being called upon to appease to some extent that voracious vampire, the Kenya and Uganda Railways and Harbours Administration!

Two statements were made in the course of debate to which I should like briefly to refer. One hon. gentleman mentioned that fact when the Public Works Department had 4,000 miles of road they were given £10 per mile to maintain them, but when the roads extended to 10,000 miles the expenditure per mile came down to £5. No one will deny my statement that the roads to-day are infinitely better than they have ever been before, which shows to my mind quite clearly that reduced expenditure does not necessarily impair efficiency! I should like to challenge the statement of another speaker, that the Kenya roads are very inferior to those in Uganda. There is no doubt whatever, taking all the circumstances of the case into consideration, that the various road authorities in Kenya are entitled to very high praise for what I regard as a very wonderful achievement in the enormous improvement in our road communications.

The second statement was made by my hon. friend, the lay Member representing the African community, who suggested that administrative officers as experts on the subject were the best authorities to estimate the revenue likely to be derived from the native hut and poll tax collection. May I remind him and Your Excellency that these self same experts were a little matter of £43,000 out in their estimation of this year's revenue? and that in spite of the fact they were reinforced by the very active efforts of the hon. the Chief Native Commissioner and the Treasury in recent weeks. In view of that I think that possibly it is about time somebody else had a shot at estimating revenue.

There are two outstanding illustrations of the failure of experts to do this Colony any good. Everyone knows what happened in connection with the original loan, no provision being made by experts for its redemption. Another illustration was much nearer home. Only a few years ago our engineering road experts put up such a convincing case that

hundreds of pounds were spent on the realignment of the main road from Fort Hall to Nyeri. Two or three years later another body of experts came along and started a brand new road again on the Sagana alignment which was the original alignment before thousands of pounds were spent on the first change.

Now, Sir, although I intend to vote against the motion,

"There is some soul of goodness in things evil,

Would men but knowingly distill it out,"

and I am most grateful to the majority of the Standing Finance Committee for acceding to my request that something should be done in connection with the Kisumu Market, and I am very glad they have been able to supply a possible source of revenue in the spending of £2,500 which will be provided for this essential work. This is neither a luxury nor an extravagance. I have official figures before me which show that this market serves no less than 300 sellers of produce each day and as many as 1,200 buyers and there is no shadow of doubt that in the course of three years the whole of the capital outlay will be reimbursed. In that way it immediately becomes reproductive expenditure and as such should be supported by everyone interested in the development of the Colony.

I had intended to make out quite a strong case for improved road communications in the goldfields area, but I am pleased indeed, in view of what Your Excellency said in your opening speech, to be able to express on behalf of the mining community our very grateful thanks, once again, for Your Excellency's comments in connection with this important matter, more particularly as I understand expenditure will include provision for that very important arterial road from Kisumu to Kakamega. I mention that as mining interests have been very seriously alarmed by fortunately baseless rumours that there was some suggestion to discard this road in favour of the railway which would not serve this area at all. I am particularly glad to note from the Majority Report that the Lambsay-Kericho road is also receiving the same earnest attention of Government.

There is just one other matter, Sir, in connection with mining to which I should like to direct the attention of Government, and that is the possibility of Government, in close collaboration with the mining companies, endeavouring to devise some scheme by which employment may be found in this important and growing industry for Kenya boys. As Your Excellency is doubtless aware, a highly elaborate scheme exists in Southern Rhodesia on similar lines, while a very good scheme in its early stages is now being examined and

introduced in Northern Rhodesia, and I would commend this avenue of employment for Kenya youth to the very serious consideration of Your Excellency and Government, and I am quite sure that my hon. friend, the Commissioner of Mines, will be able to furnish Your Excellency with data on the subject which will prove of very great use.

My next subject is, one to which I have devoted some attention and that is the matter of landing fees charged at Juba and Malakal in the Sudan. Provision, Sir, of a subsidy of £15,000 to Imperial Airways in these Estimates furnishes me with an opportunity of mentioning the matter, combined with the fact that there is also an allusion to the subject in the Majority Report. Now, Sir, in view of the fact that this company made a profit last year of well over £78,000, paid a dividend of 6 per cent and carried forward £50,000 to a reserve fund, it looks as though the company is not very badly in need of subsidies, but I am not suggesting for one moment that Kenya should make the slightest attempt to shirk its lawful obligations.

My subsequent remarks must not be taken to reflect in the slightest degree on the service of Imperial Airways. As a frequent passenger between here and Kisumu, no one knows better than I how assiduous are the pilots and the whole organization in their desire for the comfort of passengers, but I think Government must be asked to interest itself very quickly and definitely with the very heavy landing fees charged at Juba and Malakal. The matter is referred to in paragraph 21 of the Majority Report very briefly, but we do want to know what Government has done in the matter and what it proposes to do. The charges, Sir, are absolutely excessive for private aircraft travelling to and from Kenya requiring to use these landing grounds. Only about eighteen months ago these two landing grounds which were the property of the Sudan Government were leased to Imperial Airways and I would like to make it clear that prior to that private aeroplanes were able to land at both these grounds at any time of the year. For their own convenience Imperial Airways constructed two runways which enable heavy machines to land at any time, but they then imposed fees on private aircraft for landing on these grounds almost penal in their incidence, details of which I will give a moment later, and it is chiefly in regard to these that I desire the Kenya Government to make representations both to Imperial Airways and to the Imperial Government. I may say it is necessary for all machines to land at Juba. They cannot fly over because Juba is a port of entry for machines travelling north and a port of exit for machines travelling south and all have to land

in order to clear the Customs. If the present exorbitant landing fees are allowed to continue, which have been described somewhat picturesquely as legalized banditry, it would probably be better for air people to travel via the Belgian Congo and the French Sudan, avoiding the Anglo-Egyptian Sudan altogether, which would be a thousand pities, Sir, as the present route has ever been regarded as an important link in one of the main Trans-African chains of our Empire communications.

To illustrate my point in regard to landing fees, I will quote just two comparative charges between Kenya, England and the Imperial Airways charges in the Sudan. To take an ordinary Puss Moth, Sir, of 2,000 lb. weight in the commercial class, the charge in Kenya for landing is Sh. 5, in England it is Sh. 7, and no less than Sh. 52 is charged by Imperial Airways at Juba and Malakal. One other, Sir, which is even worse, in the next higher class: A Waco of 2,600 lb. is charged in Kenya Sh. 5, in England Sh. 9, while at Juba and Malakal there is a charge of no less than Sh. 108.

Now, Sir, it will be observed that in some cases the charges at these two landing grounds are twelve times as high as in England, and the English charges are approximately the average landing charges throughout the whole civilized world. These charges, must, Sir, be most inimical to the very best interests of Kenya. They prejudice tourist traffic and settlement and appear to have been designed to force people to travel by Imperial Airways—a short-sighted and selfish policy which cannot be countenanced, always bearing in mind that Kenya aircraft used the route from Nairobi to Cairo long before Imperial Airways ever came into the field at all and they should continue to use this important and necessary route without being pillaged.

There are likely to be international repercussions. Foreigners who land at Juba and Malakal with light aeroplanes for which they are accustomed to pay Sh. 5 complain very bitterly about having to pay Sh. 54. If all countries based their landing fees on those charged by Imperial Airways at these two places, civil aviation would soon come to an abrupt end. On a flight from Kenya to England in a 3,000 lb. class of plane the sum total in the aggregate of all landings, exclusive of Juba and Malakal, cost less than the fees charged for landing at these two places. It is not right, Sir, that Imperial Airways should be given a complete monopoly of this important route and it would be interesting to know whether the East African Governments who make such large contributions, in the form of subsidies and traffic, both passenger and goods, to Imperial Airways, were consulted when Imperial Airways were put in this very favourable position in the Sudan.

I think I have said enough, Sir, to make out my case and out of regard for the very limited time of this Council, I will only allude to one more subject in connection with the Imperial Airways, and that is, the onerous charge made for the right of passengers to break their journey at Nairobi. It is entirely in the interests of Kenya, Sir, that through passengers should be given every possible facility to stay off for a week or two and see what we have to show them. Only last week end, as Your Excellency is doubtless aware, one gentleman and his wife had to pay no less than £20 extra for the privilege of getting off one machine, parking themselves in Nairobi for a week, and catching the next machine on.

I do most earnestly request the Kenya Government to make the strongest possible representations to Imperial Airways in connection with these two very important matters.

The debate was adjourned.

Council adjourned till 10 a.m. on Friday,
the 21st December, 1934.

FRIDAY, 21st DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Friday, 21st December, 1934, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 20th December, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following Papers were laid on the Table :

By THE HON. THE ATTORNEY GENERAL :

Report of the Select Committee on the Asian Civil Service Provident Fund Bill.

Report of the Select Committee on the Licensing Bill.

Report of the Select Committee on the Liquor Bill.

NOTICE OF MOTIONS.

Notice of the following Motions was given :

By THE HON. THE ATTORNEY GENERAL :

That the Report of the Select Committee on the Asian Civil Service Provident Fund Bill be adopted.

That the Report of the Select Committee on the Licensing Bill be adopted.

That the Report of the Select Committee on the Liquor Bill be adopted.

ORAL ANSWERS TO QUESTIONS.

IMPERIAL AIRWAYS LTD. LANDING FEES.

No. 104.—THE HON. CONWAY HARVEY asked :

"What steps have been taken by Government to secure a substantial reduction in the extortionate landing fees imposed by Imperial Airways Ltd. at Juba and Malakal in the Sudan, which in the 3,000 lb. class of aeroplane cost more than the total of all other normal landings between England and Nairobi?"

"Is it a fact that in some cases the fees imposed are twelve times higher than the charge made in either England or Kenya for the same type of aeroplane?"

THE HON. THE COLONIAL SECRETARY: The attention of Government has been drawn to the charges at Juba and Malakal landing grounds in the Anglo-Egyptian Sudan and the question is now the subject of correspondence with the Sudan Government. The fees charged at these two landing grounds form part of an agreement leasing them to Messrs. Imperial Airways Ltd. who have constructed all-weather runways at their own expense and principally for their own use.

3. The answer to the second part of question is in the affirmative.

THE HON. CONWAY HARVEY: Arising out of that answer, Your Excellency, may I ask whether Kenya Government was consulted before the Sudan Government handed over these important landing grounds to Imperial Airways?

THE HON. THE COLONIAL SECRETARY: I am not able to answer that question. I am afraid, without reference to other papers.

MOTIONS.

STANDING FINANCE COMMITTEE'S REPORT ON DRAFT ESTIMATES, 1935.

The debate was resumed.

THE HON. F. A. BEMISTER: Your Excellency, before making the few remarks I wish to make on the subject of the budget, I would ask Your Excellency's permission to refer to a matter mention of which I had expected would have been made by one of your higher officials. In the local newspapers about two weeks ago, a leading article made a most peculiar aspersion on the Civil Service as a whole, to my mind a most cowardly attack on a very hardworking and unappreciated section of the Civil Service, namely, the Customs examining officers. The article mentioned that Civil Servants were in the habit of importing articles for their personal use and in consequence duty free. As that cannot be proved—and I have no interest in it whatsoever—I do, Sir, wish to register my most emphatic protest at a suggestion, in fact more than a suggestion, that the Customs officers were in collusion. There have been speeches condemning alleged personal attacks on high placed persons in this House, but not one man has stood up to defend the humble Customs officials who do their duty well and truly under most difficult and trying circumstances. I am not speaking from hearsay. I can claim to be the oldest European in Mombasa when consecutive days of residence is calculated, and my work is directly connected with them. Therefore I know.

In connection with the eulogies heaped on Your Excellency on your public spirited action in appointing a new Economy Committee, all I have to say, Sir, is—what Mombasa says to-day the rest of the country says tomorrow! for in Mombasa they have been saying these same eulogies for the past three years.

Now I will turn to the question of the budget. One outstanding fact which astounds me is that anyone on this side can possibly keep their consciences and vote for it. What are the facts? At the sittings prior to the recess, every individual member who spoke stated in most emphatic terms that the taxable capacity of the country had been reached. I ask you to note the words, which I do not agree with. Anyway, there was no divergence of opinion on that one principal point. The hon. Member Mr. Pandya in his speech suggested a reduction of a million pounds in gross estimates. At Mombasa he pledged himself to do his utmost to reduce the estimates of expenditure to a figure within the revenue, and that revenue had to be reduced. Hon. Members for Native Interests have in general terms, almost with tears in their eyes—anyway in their throats—said that the native is overtaxed and everywhere there has been hardship. Yet the whole of them, including the representatives of native interests, are supporting the budget which has actually added between £13,000 and £14,000 to the present overtaxed community. I wondered if they had been shocked by the remarks of the hon. and learned Attorney General, who referred to the coalition and co-operation and union on this side as a mile without pride of race or hope of posterity! but is it a fact that now they are safe and elected and possessed of their seats they can afford to forget the promises made to their constituents?

I forget who it was, but I think it was the hon. the Colonial Secretary, who said it was impossible for the Standing Finance Committee to accept the ultimatum of the European Elected Members at once as Government must have time to think it over. Sir, Government has consistently been warned and urged to economize for the past five years to my knowledge, and I make bold to say that had it not been for Your Excellency's firm stand immediately after your arrival we should not have had the reductions in expenditure we have now; no, Sir, either in the Railway or Civil Government.

I mentioned previously that I did not agree with the words, taxable capacity of the country. Sir, I think the capacity of the payers of taxes has been exceeded, but there are many people and organizations who do not pay in their proper proportions, and if this were removed we should have a better chance of judging the actual situation. I contend

that the taxes about to be imposed are vicious and amateurish, and in consequence unjust. My proposal of a sales tax of 1 per cent would spread the incidence of taxation over the whole population, and people and organizations would automatically pay their correct proportions. I know Government will smile now, but in due course they will adopt the proposal.

Now, Sir, the question of land settlement has been mentioned, first in the Report of the Standing Finance Committee and secondly by the hon. Member Mr. Hemsted, and lastly by the hon. Member for the Coast; it is in connection with the latter's remarks that I wish to speak. You are spending £1,000 to £3,000 on the London agent of the Kenya Association, which no doubt is doing excellent work or you would have cut the vote. Yet you have the most ideal settlers right to your hands, actually in the country, whom you ignore. I refer to the retired Civil and Railway Servants. I wish to propose a scheme, at which hon. Members and Government will laugh and sneer, but, as in the case of the 20 cents on petrol they will gradually think about it and, as sure as eggs are eggs, will adopt it.

Railway men in England are noted for being good gardeners and small farmers; in fact, it seems to be their chief hobby. I suggest that to all Railway Servants in Kenya about to retire within five years that a grant of Crown land be made at the ordinary 20 cents an acre rental, close to a township and not more than two miles from a railway station. At the end of ten years the value of the land would be assessed as farm land, and a purchase price fixed over a number of years, say ten. If a sale of that land is ever made by a tenant, for any reason whatever, Government shall take 50 per cent of the proceeds less any amount paid in purchase instalments and value of improvements. On the basis of 100 men, they could expect an average amount of money back on retirement from their Provident Fund of between £150,000 and £200,000; at the lower figure, £150,000 would be on deposit or invested in cash in the banks. You will provide congenial occupation for men who would otherwise waste their substance in some town or village in England. Even if they produced only £1 per week per homestead you would have £6,000 a year added to the wealth of the Colony. There are numerous other advantages which would accrue, but I just mention those few to start your officials laughing, Sir.

In conclusion, I would like to give a word of warning to my colleagues who are pledged to lower the expenditure estimates by £100,000. I have passed through good times in this Colony during my twenty years residence, but, thank God, I have never lost my head. I well remember the 1922-23 Committee which we in Mombasa always referred to as "The

Mad Dog Committee," and I remember the reckless chaos caused then, so that I implore the members of this new Committee not to be rushed into any high-faluting schemes suggested to them or forced on them. £100,000 at least has to be found, and I hope Members will bring to their deliberations cool and calm consideration of all the circumstances. Any fool can pull down, but I trust that our colleagues who have this unenviable task will watch the effect of their recommendations and study the people's welfare, not with a sectional bias but with a broad view, the benefit of the country and the whole of its citizens without prejudice to race, colour, or creed.

THE HON. THE COLONIAL SECRETARY: Your Excellency, it was with genuine astonishment and some consternation that I heard my speech of Wednesday characterized as very provocative and obstructive. I racked my brains at the time, and was unable to recall any word or phrase that was calculated to provoke anyone or to obstruct anything. I have read through the record of my speech as taken down, and still I cannot find any such word or any such phrase. In fact, in view of all the circumstances, I rather think I ought to be commended for my studied restraint and moderation.

What were those circumstances? They were put in a nutshell by the hon. Member for Nairobi North—and in passing I may say how very sincerely I appreciate his kindly reference to myself—and the generous thought that prompted that reference. Now, Sir, he said that I was on my feet to defend my budget and my attitude in the Standing Finance Committee. If I can believe my critics, I had a good deal to defend! My budget had been called names, and harder names, than any budget, I suppose, ever presented to this House. It had even been called fraudulent, and that is a word difficult to forget. Consequently, in my position as Chairman of the most important Committee of the House, I had been placed in a position which I do not suppose any Chairman of any other Committee had found himself since the House was started. I think any fair minded person must have expected me to make such defence as I was capable of; even the worst criminal in the world is allowed to say what he has to say for himself before his final condemnation.

As the hon. Member for Nairobi North pointed out, it involved two aspects. One was defence of the budget as it finally emerged from consideration, and the other was defence of my attitude in the Standing Finance Committee.

After all, Sir, the motion before the House is the adoption of this Report, and it was the adoption of the Report which I was debating. This Report explains the Revised

Estimates, and it explains what happened in that Standing Finance Committee, and it seems to me that I owed not only to myself but to my fellow-members in this House and the general public to explain why I took the line on the Committee which resulted in circumstances that I cannot but deplore. I admit that I did explain in great detail and at length the difficulties which occurred to me in making reductions in expenditure. Those difficulties were the one justification for the fact that I have not found it possible to comply with requests for increased expenditure, and at the same time one justification for my action in rejecting the ultimatum of the European Elected Members.

In referring to this exposition of the details of my difficulties, I think hon. Members opposite have done me less than justice. They emphasized the fact that I pointed out how difficult it was to reduce expenditure, but I think they omitted the very important proviso that I attached when I rejected the ultimatum. And that was, that we wanted more knowledge. I did not rehearse and recite all those difficulties for the sake of curbing or disparaging the Committee which Your Excellency has decided to appoint: I emphasized its difficulties solely in justification of my attitude as recorded in this Report. And my attitude was, that we ought not to accept this ultimatum until we knew more exactly what it would mean. I think this was the point, if I may be allowed to quote what I said when I came to that long recital:

"These, Your Excellency, are some of the reasons for which the Committee felt that it could not very well accept the ultimatum of the European Elected Members. In other words, we felt that we could not accept it without a fairly clear idea of what its effect would be on the various communities concerned."

That argument led up to the proposal to appoint this Committee, because it is hoped that this Committee will provide exactly the information that I wanted when the ultimatum was presented to me in the Standing Finance Committee. When I announced that Your Excellency had decided to appoint your Colonial Secretary as Chairman of this Committee, I imagined it would be patent to everyone that Your Excellency had stamped that Committee with the imprimatur of your approval and conferred on it such status and dignity as was within your power. When I went on further to assure the House in measured and emphatic terms that I and my colleagues and heads of departments would co-operate to the best of our ability to make that Committee a success, it never occurred to me for one moment that that assurance would be questioned. Although it may not be very gratifying to my

self-esteem, it is at least comforting to know that whereas my own assurance was discounted, almost before it was uttered, a similar assurance made by my hon. friend the Attorney General apparently satisfied everyone in this House.

Now, Sir, I want to assure the House again, that there is not the slightest intention on the part of Government to in any way curb or disparage the Committee, and that every one of us is determined to make it a success if possible.

I know it will be difficult. The hon. Member for Nairobi North has said it looked as if it would be difficult if some of us go to the Committee feeling it will be difficult to make reductions in expenditure while others think it quite easy. We are human beings, and some of us, I suppose, have views which it is rather difficult for us to disabuse ourselves of, but I do assure him and other Members and Your Excellency that I will approach it as far as possible with an open mind.

The hon. Member asked that it should be definitely understood that this Committee was to put up definite, concrete proposals. I never had any idea that the Committee was to be appointed for any other purpose. It is exactly what we want: every sort and kind of scheme and proposal that every sensible person and every lunatic can put up to us. We will work out the details, find out the saving to Government, the disadvantages of any inherent in a scheme, and shall know whether or not to recommend it to this House. One hon. Member I understood to complain that Government had not yet given an assurance that these recommendations will be adopted. How can Government give that assurance? This is a Select Committee, being appointed by this House, and its duty will be to report to this House, and it would be an act of insanity on the part of Government to deprive the House of its prerogatives and hand them over to one of its own Committees.

The hon. Member for Nairobi North asked that the terms of reference should not be limited. The terms of reference, Your Excellency, were chosen by the Noble Lord, the Leader of the other side, and were readily accepted by Your Excellency, and Government has not the slightest intention of amending them or limiting them or restricting them or putting any obstacle in the way of any sort or kind whatever.

Now, Sir, I want to refer to some of the particular points that have been mentioned in the course of this debate and there is one difficult one I feel I must tackle. The hon. Elected Members asked if I could give an assurance on behalf of Government that if and when the desired reductions in expenditure were made, Government would bring about some alleviation in taxation. I very deeply regret that I cannot

give such an assurance. I do not honestly see how I could be expected to. The policy of Government is reflected and expressed in its statutes, and when any alteration has been made in the policy it has been done by way of an Ordinance considered by Your Excellency and by Executive Council and then produced to this House for approval or rejection. I do think it is a little hard to ask me to prejudice the case by giving an assurance that will commit members not only of this Government but of a future Government, Your Excellency or your successor and Executive Council and the whole of this Council. However much we may wish for a reduction in taxation—I do not suppose there is one of us who does not appreciate the force of the Noble Lord's argument that alleviation of taxation must mean a stimulus to trade and enterprise and so be conducive to the restoration of the Colony's prosperity—I am afraid it is quite impossible for me to go so far as to commit this Government or successive Governments, to any definite line of action.

Now just for a few details. The hon. Mr. Pandya complained that certain deserving servants of Government had not had their salaries increased in accordance with their merits. On that point, I have little to add to what is said in the Report of the Committee. In every department of Government there are a few outstanding servants whose merits we would like to reward, but it is a principle that cannot be accepted that an officer has to have his emoluments increased simply because he does his work exceptionally well. I understood the hon. Member to say that he accepted that argument but that he had come across one or two exceptions. I am not at all sure that he is not right. It is just possible in the past that there have been one or two exceptions, but I am not here to defend those exceptions. I am here merely to defend the general principle and if all were investigated I feel sure it would be found that there were very exceptional circumstances rather apart from the general principle to which I have referred. In any case I can assure him there was no sort or kind of suggestion of racial discrimination in coming to the decision we did come to.

The hon. Member for Nairobi North particularly asked that the terms of reference should not be limited and that the Committee should have complete freedom of action. I have, I think, answered that as well as I can and I do wish to understand that when we are in that Committee there will be no obstruction on my part.

The hon. Dr. de Sousa said that he brought a collection of grievances. I want to admit very freely that I think all his grievances were reasonable and legitimate and it was with great regret that I could not accept them. The only reason

was, not that there was anything wrong in his grievances, but that they all meant additional expenditure which I had to refuse. He also had a complaint that a sum of £750 which formerly had been provided under the head of Goan Schools now appeared as two items: £500 for Goans, and £250 for Mixed Schools; and I understood him to say that the provision had been reduced. The provision has not been reduced. The total provision is the same—£750—but it has been divided, as we understood that of this sum £250 was paid to two Mixed Schools.

DR. THE HON. A. C. L. DE SOUSA: On a point of explanation, Your Excellency, I did not say that. I asked why the amount provided for the Goan Schools had been reduced to make provision for the "mixed" schools.

THE HON. THE COLONIAL SECRETARY: I am sorry if I misunderstood the hon. Member. He came and gave his evidence before the Committee. If it was not in accordance with his wishes it was somebody else.

DR. THE HON. A. C. L. DE SOUSA: I beg to say, once again, I have not agreed to the decrease of that vote. I have only said that if Government want to make provision for "mixed" schools, that provision should not be made at the cost of the vote inserted specifically for Goan education.

THE HON. THE COLONIAL SECRETARY: I am afraid I have very little to add. He has got the same sum of money provided last year for education at these schools.

The hon. and rev. Member stated that it appeared to him that the native was not getting the equivalent worth of his taxation. Either he or I have got the figures wrong. In the Memorandum on the Estimates it is explained that the figure is within about £5,000 of the Moyne figure. The extract reads:—

"The total estimated to be spent on Native Services on the basis recommended by Lord Moyne is approximately £269,793, while half the average Native Hut and Poll Tax Receipts over a period of six years ending on 31st December, 1933, is £274,951."

In these very difficult times it seems to be a fairly creditable performance and if there is anything wrong about that I do hope the hon. Member will come and see me in my office and we will work that out together.

I understood him also to say that the amount provided for medical services for natives had been reduced. Actually in this year's budget he will find, if he looks at page 74 of the Draft Estimates, that the amount has been increased from £116,371 to £118,157, nearly £2,000 increase.

I would also remind him of the difficulties in the way of a reduction in the Native Hut and Poll Tax which he advocated, because obviously if we reduce that, the Moyno figure will come down correspondingly, and instead of having any money to increase we shall have a lower figure to aim at as our guide and have to reduce still further.

While on the subject of native taxation, the hon. Member drew a very distressing picture of the hardships endured in the native reserves. I do not want to be misunderstood about this. I freely admit the hardships and in these difficult times many members of many communities have to put up with a great many hardships, but I do not want the picture to be overdrawn. There is another picture. Only last night I was talking to one of the administrative officers from Kiambu who had been in camp for some days collecting taxes. I asked him about his difficulties and he said they came, not from the poorer people in the villages, but from the salaried class of natives who have remunerative positions mostly in Nairobi. He said they are the people who for some reason now refuse to pay until they are summoned. He gave me three definite instances that occurred sometime quite recently. In one case there was a native with a salary of Sh. 50 per month who merely waited to pay the tax until he got a summons, when he produced it together with the Sh. 0 for costs. One native happened to be in the Central Revenue Office another, a very highly-paid headman in a private firm. He said that that was the difficulty: that it is not really hardship; they have got enough money but are inclined to think: "Oh, I will chance my arm; I may not get caught, but should I do so I will pay the Sh. 6 extra."

We have also heard that the sale of goats to fetch in the money is a hardship. Well, this particular officer has held several auctions of goats and he kept records of the prices realized. The top price was Sh. 18 for one large goat which is a very good price, and he told me that at the last auction the lowest price was Sh. 2/30 for a tiny one about the size of a toy. If the prices vary from Sh. 2/50 to Sh. 18 it does not look as though there is any necessary hardship for a family having to sell one or two of its goats, particularly when one remembers that they (the goats) do a lot more harm than good. I merely want to put the other side of the picture. It is not all a question of hardship.

The hon. Member for the Coast raised the question of the rent of the land at Mweza Creek and asked why it still appears in the Estimates. The reason is that Government bought a long lease and has got to pay for it and at present cannot get out of it. We are trying to lease or sell it but have not at present succeeded.

As to loans, this will be referred to the new Committee and will be fully considered by them.

He also referred to the desirability of engaging in Government service local born candidates. I want to assure him that Government is in the fullest sympathy and we naturally like to see our own people come back and serve us. Everybody would, and we hope there will be more and more of them, but there is the other consideration, that Kenya in addition to wanting its own people also wants the best and if you get a situation like this, for example: two young doctors or mining engineers or any other profession, and the Kenya one is reasonably good and the other one exceptionally brilliant, it does not necessarily follow that Kenya is going to gain by getting the ordinary one while the brilliant one goes somewhere else.

The hon. Member for Trans Nozia suggested that when I referred to the Railway Estimates I deduced that the prosperity of the Railway meant necessarily a return to prosperity on the part of the Colony. I do not think I made any such deduction, although I am not at all sure that some sort of deduction would not be justifiable. I merely brought in that as an instance of the fallibility of the human mind in endeavouring to estimate revenue and I used it because I, myself, was the Chairman of the Railway Council that passed the estimates and have therefore a rather full share in the responsibility of the estimating. As a matter of course, by way of comparison the Railway estimates always are on a conservative basis, so possibly it is not very material. But it is material for some reason or other that to under-estimate revenue seems to be accounted as a virtue or at worst a very venial offence, but to over-estimate is apparently a mortal sin.

The hon. Member for Nyanza assured us that there was a good opening for employment of the young men of Kenya in the mines. I am very grateful for the suggestion and am sure Government will do all it possibly can, but I am not sure it is a matter in which Government can itself do a great deal.

I want to assure the hon. Member for Native Interests that all his suggestions will be most carefully looked into by the Committee if appointed. I have certainly no intention whatever of discouraging them. All I suggested was that they wanted looking into, and because I say that it does not say I wanted to curb them, or say they are impossible. And lastly, I want to assure him how much Government is in sympathy with his policy of an increased drive in native production. I am perfectly certain, he is right and heads of departments will agree and will do their utmost.

Now, Sir, finally, to come back once more to this Committee. I do hope that hon. Members opposite will be satisfied at least to some extent with my explanation and that they will, when it comes to my turn to propose the motion for its appointment, that they will accept it and will try to make that Committee the success which I hope it will be. (Applause.)

HIS EXCELLENCY: The question is that the Majority Report of the Standing Finance Committee on the Draft Estimates of Revenue and Expenditure for the year 1935 be adopted.

The question was put and carried by 26 votes to 10.

Ayes: Messrs. Boulderson, Brassey-Edwards, Bruce, Rev. Canon Burns, Dr. de Sousa, Messrs. Fitzgerald, Gardner, Harragin, Hemsted, Hosking, Isher Dass, Kirsopp, La Fontaine, Logan, Montgomery, Morris, Pandya, Paterson, Pilling, Sir G. Rhodes, Messrs. Shamsud-Deen, Sikes, Wade, Walsh, Waters and Welby.

Noes: Mr. Bemister, Major Cavondish-Bentinck, Mr. Conway Harvey, Lt.-Col. Kirkwood, Major Riddell, Major Robertson-Eustace, Lord Francis Scott, Sir Robert Shaw and Messrs. Tannahill and Wright.

SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: Your Excellency, with your permission, I beg to move the suspension of standing orders to enable a Bill to apply a sum of money for the service of the year ending the 31st day of December, 1935, to pass through all its stages without due notice.

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

The question was put and carried.

BILL.

FIRST READING.

1935 APPROPRIATION BILL.

Standing Rules and Orders having been suspended, on motion of the hon. the Colonial Secretary the 1935 Appropriation Bill, 1934, was read a first time.

SECOND READING.

THE HON. THE COLONIAL SECRETARY: I beg to move that this Bill be read a second time.

The Bill reflects the recommendations of the majority of the Standing Finance Committee, and it is necessary that it should be passed in order that expenditure may be incurred. In accordance with custom, Sir, it is regarded as a formal measure and I do not propose to address the House further.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that this Council do resolve itself into a Committee of the whole Council to consider, clause by clause, a Bill to apply a sum of money for the year ending the 31st day of December, 1935.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

Council went into Committee.

In Committee.

THE HON. SHAMSUD-DEEN: Is it necessary for the House to be cleared of strangers when we are in Committee?

HIS EXCELLENCY: No. I have no order with regard to that. I think the House has cleared itself.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I think there was a slight misunderstanding, Sir?

The 1935 Appropriation Bill was considered clause by clause.

Clause 3.—Application of money granted.

THE HON. CONWAY HARVEY: On a point of Order, Sir, I suggest the Schedule should be taken before clause 3 which refers to the Schedule.

HIS EXCELLENCY: The usual practice has been to take the clause first before the Schedule.

THE HON. CONWAY HARVEY: For about 12 years to my certain knowledge we were very particular in doing it the way I suggested because there is a grave danger of a serious mistake occurring.

THE HON. THE ATTORNEY GENERAL: It has always been the custom in this House since I have been here to take the schedule at the end. I do not think there can be any danger of a grave mistake because surely when we get to the schedule we would correct it. If there is an amendment then we could make the amendment.

THE HON. CONWAY HARVEY: I do not feel very strongly about it, Sir.

THE HON. THE ATTORNEY GENERAL:—I beg to move that the 1935 Appropriation Bill be reported to Council without amendment.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the 1935 Appropriation Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to move that the 1935 Appropriation Bill be read a third time and passed.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

The 1935 Appropriation Bill was read a third time and passed.

Council adjourned for the usual interval.

On resuming.

MOTION—

APPOINTMENT OF SELECT COMMITTEE.

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

"Be it resolved that a Select Committee of this Council be appointed to make recommendations to Legislative Council for measures of economy which, if adopted, will result in a net reduction amounting to not less than £100,000 in the net annual expenditure of the Colony, and that the following honourable Members be appointed to serve on the said Committee:

The hon. the Colonial Secretary (Chairman).

The hon. R. W. Hemsted.

Major the hon. F. W. Cavendish-Bentinck.

Major the hon. Sir Robert Shaw.

The hon. Shamsud-Deen."

As I have already spoken at considerable length on the subject of this Committee I do not think there is anything further that I need say.

THE HON. THE TREASURER seconded.

HIS EXCELLENCY: The question is, that the Select Committee with the personnel mentioned in the motion be appointed.

LT.-COL. THE HON. LORD FRANCOIS SCOTT: Sir, as I said the other day, European Elected Members appreciate Committee. In speaking two days ago, I regret if I misunderstood the intention of my hon. friend the Colonial Secretary, and I certainly would wish to withdraw anything—if he

considers I said anything—which reflected in any way on his sincerity or honesty. I certainly did not intend to! At the same time, I think it was a little unfortunate that when he was bringing forward this motion on your behalf it should have been mixed up with his defence of the budget which, as he explained this morning, he felt it was necessary to defend. However, I accept entirely his explanation this morning, and his very definite statement of the intentions of Government and of himself as Chairman to do everything in their power to make this Committee a success and to enable Government to benefit by the results of their deliberations and the Report. Sir, the European Members will do their very best to help in this success. While only two or our Members will be on the Committee, we feel that it is up to all of us to help in any way we can in our individual ways to the success of its work.

I am sorry, Sir, that it was not possible for Government to go a little further than they did this morning with regard to the question of the effect of the ultimate reduction on taxation. I think it only right to make it quite clear that on our side we do consider this still the ultimate object to be attained for the improvement of the position of the Colony. I do not think I am misinterpreting the hon. Member, who no doubt felt he had to be very cautious in committing the Government to anything definite, when I say that Government does recognize the necessity for keeping the burden on the country to the lowest figure possible, so that any money available can be used and put into the development and improvement of the trade position and production, and anything else which is to the benefit of the financial stability of the country as a whole. I hope I am right in believing that in Government's view, though I understand they are a little nervous that any more definite statement might be interpreted in the future in an awkward way.

With those remarks, I beg to support the motion before the House.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: Your Excellency, I also rise to support the motion before the House, and I should like to make it perfectly clear that I, at any rate, realize the rightful difficulties with which that Committee will meet. I have had some experiences of these forms of inquiry, and I do know it is not very easy. I can assure the hon. Member opposite that we do not any more than he does consider it is going to be easy. What we rather feel, Sir, is that the Government machine has been running a very

long time and possibly in some respects, may require reconstruction, and that possibly as a result of this Committee's deliberations some such avenues of reconstruction may be forthcoming.

There is one other point that I should like to make perfectly clear. I should be the last person in the House to suggest for a moment that the powers of the Legislature should be delegated to a Committee. That Committee can only make recommendations which will be considered by this House in due course.

THE HON. SHAMSUD-DEEN: Your Excellency, in further illustration of the point made by the last speaker, I wish to clear up a point in case any doubts exist at all, that the functions of the Committee will not be restricted to what has been described by Government as reducible or irreducible expenditure, or touchable or untouchable departments, but that the Committee will have to investigate the expenditure of all heads of departments; that there will be no exceptions to that.

THE HON. THE COLONIAL SECRETARY: Your Excellency, if the hon. Member who spoke last will read the terms of reference he will find, and satisfy himself, there is no limitation of any sort or kind. The terms say:

"... to make recommendations . . . for measures of economy."

It does not say for measures of any economy in reducible or irreducible expenditure; it is simply unlimited, and we as a Committee are prepared to welcome suggestions for economy in whatever direction the suggestors may think right. The Noble Lord regretted that I was unable to be more definite on the subject of taxation. I am afraid I must still adhere to that. It is not possible for me to be more definite, as I think he will realize when he recalls not only what I have said this morning but also that we have not got any surplus balances of serious consideration and that there may have to be brought into review such matters as the Customs tariff. He will thus see it is not possible for me to be more definite. I am sorry, but there it is.

The question was put and carried.

BILLS.

SECOND READINGS.

NON-NATIVE POLL TAX BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bill to make provision for the levy of a non-native poll tax at a rate graduated according to the taxpayer's income be read a second time.

As hon. Members no doubt realize, this Bill is part and parcel of the budget which has just been approved by a majority. It therefore would appear that this will have to pursue the same course. This Bill before the House is only re-enacting for one year—and I should like to stress that point—for one year as printed a measure that has been in existence for three years. The only reason you have it in the shape of a new Bill is because it has been found that actually it required implementing not only from the point of view of collection by the Treasury but also from the point of view of the public. I therefore invite special attention to only four amendments, for they are the only amendments of what I consider major importance. They occur in sections 14 (1), 15 (b), 25, and 29. As I have said, no principle is involved, they merely deal with the question of collection.

The first relates to the question where no return has been put in at all. It has been a dreadful trial to the authorities under the old law that people who have very little money and who do not worry about putting in a return, have to be found and served and given time in which to appeal, and at the end of it they pay the Sh. 30 which the revenue authorities always knew they would have to pay from the beginning, for it is the minimum amount. We therefore make provision in this Bill that where a man is assessed at Sh. 30 on the 30th June and he has not put in a return, the authorities can proceed immediately to collect it without waiting for the time in which he has to appeal.

The same principle applies to the man who puts in an assessment which is accepted. Many people put an assessment in, but they do not pay at the same time, and that is all that ever happens about it, so that the authorities have to proceed to serve a person who does this with a notice that he should pay in accordance with his assessment, and then give him thirty days in which to appeal.

The next small point is with regard to a collector asking for the production of a receipt for the tax paid. There are so many types of non-natives nowadays. Some are non-natives, and as it is very difficult if provision is not made for the production of the tax receipt for the collector to deal with those people, for they are here to-day and gone to-morrow, we now give the collector the right to ask for a receipt when a man says he has paid. If the receipt cannot be produced, the collector is entitled to at once proceed against the person by collection through the courts.

In the same way we have made the non-production of the receipt prima facie evidence of non-payment. It has occurred that taxpayers have become obstructive by demanding that half the books in the Treasury be produced as exhibits so that a magistrate can tell from them whether or not a receipt has been issued. It is proposed to short circuit all that by saying that the burden shall be on the man to produce the receipt, a course which is found in most taxing measures in the world and which is imperative here.

The last amendment is a small one, and that is with regard to personal service. The old measure made provision for every sort of service except personal service, and there are a great many people of an itinerant nature concerning whom it is impossible to satisfy the court they have been served. By introducing the personal service, this advantage is given, that the notice can be given to an askari who is told to find the man, and hand the notice to him, and on proof that that has been done such service will be in order. Under the old law we could never get at a man travelling about the country, such as Somalis, and it was quite impossible to satisfy the court that they had in fact received any notice sent by registered letter to them because no tax collector could swear what their place of address was.

THE HON. THE SOLICITOR GENERAL RECORDED.

HIS EXCELLENCY: The question is, that the Non-Native Poll Tax Bill be read a second time.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Sir, I have no intention of taking up the time of the House in recapitulating the objections we on this side of the House have to this Bill. I shall merely state that European Elected Members will unanimously vote against this Bill to-day.

The reasons, to put them very briefly, that we have, are these. We believe the taxable capacity of the Colony has been reached. We maintain that this was a purely temporary measure as was certainly admitted by the hon. and learned Attorney General at the time of its introduction and which, of course, is further proved by the fact that it has had to be re-introduced to-day for another year. Lastly, we do regret very much that Government has not seen its way in view of the appointment of this new Committee to find a reduction in expenditure, to hold off re-introducing this Bill until that Committee had had a chance of reporting, in view of the fact that the tax payable under this Ordinance is not due until June.

I understand that the Government point of view is that if the Bill is not brought in now their budget would be unbalanced; but as we do hope to find big economies on the

expenditure side it would have been a polite and gracious offer on Government's part if they could have refrained from re-introducing the Bill at this stage.

THE HON. J. B. PANDYA: Your Excellency, I wish to associate myself with the remarks of the Noble Lord in regard to this Bill. A little while ago the hon. Member for Mombasa insinuated that as some of us were now elected and could not be removed from our seats therefore we were not carrying out the promises we made at the time of election. I can assure him that we know the viewpoint of our community much better than anyone else can claim to know. In this connection, the stand we have taken is after consultation with the prominent leaders of our community whom we claim to represent in this House. As far as I am concerned, I am going to carry out the promise I made to my electorate and, in regard to this Bill, I have not forgotten my promise to oppose the Bill.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I feel that the House does not really expect me to reply in this debate. I will only say, so far as I am concerned, that this Bill forms part of the budget scheme and therefore, if the budget has been passed, presumably this Bill must also be passed during this session.

I am a little surprised to hear the hon. Member Mr. Pandya say that he intends to oppose this Bill, because I fail to see how he can reconcile his position with voting for the budget, this Bill being part of the structure upon which the budget is built up. However, that is entirely a matter for himself.

THE HON. SHAMSUD-DEEN: Your Excellency, on a point of explanation, I think the hon. Indian Members have made it perfectly clear that we were voting in favour of the budget in view of the very important announcement made by Your Excellency. Otherwise we should certainly all have voted against the budget, but apparently it was an obstructive and futile proceeding to vote against the budget, so therefore we voted for it. That must be thoroughly understood.

THE HON. THE ATTORNEY GENERAL: The arguments advanced by the hon. Member are quite as good in regard to the budget. You have some Members voting for the budget, and this Bill is one of the items. However, if the hon. Indian Members decide to take up that attitude nothing I can say will dissuade them, and I merely beg to move the second reading.

The question was put and carried by 23 votes to 14.

Ayes: Mr. Boulderson, Major Brassey-Edwards, Mr. Bruce, Rev. Canon Burns, Messrs. Fitzgerald, Gardner, Harragin, Hemsted, Hosking, Kirsopp, La Fontaine, Logan, Montgomery, Morris, Paterson, Pilling, Sir G. Rhodes, Messrs. Sikes, Wade, Walsh, Waters and Welby.

Noes: Mr. Bemister, Major Cavendish-Bentinck, Dr. Do Sousa, Messrs. Conway Harvey, Isher Dass, Lt.-Col. Kirkwood, Mr. Pandya, Major Riddell, Major Robertson-Eustace, Lord Francis Scott, Mr. Shamsud-Deen, Sir Robert Shaw, Messrs. Tannahill and Wright.

EUROPEAN CIVIL SERVICE PROVIDENT FUND (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the European Civil Service Provident Fund (Amendment) Bill be read a second time.

This Bill entails no new principle, and actually all it does is to remove certain anomalies disclosed when the Asian Civil Service Bill was being considered, and also certain difficulties which have been pointed out by members of the Service; it has been amended with the object of giving more security. I am sure hon. Members will realize that in introducing an entirely new fund of this description, it will be necessary from time to time to make many minor alterations. One has only got to consider the number of amendments that this House has had before it in the Pensions Ordinance during the past five years to realize how difficult it is in dealing with this particular subject to be accurate the first time.

The original Ordinance only makes provision for people who are actually in the Service now who have six months in which to join the fund, and also future entrants. It has, however, come to light that there are certain officers who are in the Service and who have had six years on contract whom it would be unfair to force into the fund against their will, and provision is therefore made for the Governor to exclude those people. The next concerns those in the Service now who are ineligible to join this fund on account of some disqualification under section 5. Take, for example, a man getting under £160 a year. He is in the Service, he may have been in it three or four years, but actually he is debarré under the Ordinance from coming in and may not come in until he has reached the £150 stage. We therefore make provision to deal with him, that is for those ineligible who are in the Service but who become eligible in due course.

The next amendment gives a loophole to those who are at present in the Service let us say as apprentices, or again, those people who have under £150 a year. Under the law as

it stands a man has to be in the Service a year before he becomes a contributor to the fund, but a boy of eighteen years of age may have been in the Service three years but cannot join until he is nineteen years of age, or a man who has been getting £140 for five or six years after reaching £150 has to wait another year before he can be allowed into the fund. We therefore make provision for their entry into the fund at once.

The next anomaly dealt with is with regard to married women. We make provision for married women in the Service under four years as contributors and over four years who get married, but we have made no provision for the woman who has left with the object of getting married—which is tantamount to the same thing, so that if she did not get married within the period in which leave was due to her she would have been done out of her nest egg although in the same position as the woman who got married while still in the Service. We have taken the opportunity of deleting the gratuity section, because provision already exists under the Pensions Ordinance for gratuities which may be granted under the terms set out there to any officer not entitled to a pension. It is unnecessary to have two such sections.

One other anomaly we have remedied by giving Your Excellency power to include some of those who were excluded under section 5. It was brought to our notice that there may be a certain number of people who have been in the Service for ten, fifteen or twenty years on a month to month basis. Clearly they should be considered as eligible for this fund. As section 5 is drafted they were definitely barred. Therefore we have put in a section to say Your Excellency may permit these persons to come in under circumstances which will justify them.

THE HON. THE SOLICITOR GENERAL: reconded.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL moved that the European Civil Service Provident Fund (Amendment) Bill be referred to a Select Committee consisting of the following:

The hon. the Attorney General (Chairman).

The hon. T. Fitzgerald.

The hon. H. G. Pilling.

The hon. Member for Nairobi North.

The hon. Acting Member for Nairobi South.

THE HON. THE SOLICITOR GENERAL, seconded.

The question was put and carried.

NON-NATIVE POLL TAX BILL.

THE HON. THE ATTORNEY GENERAL moved that this Council do resolve itself into a Committee of the whole Council to consider, clause by clause, the Non-Native Poll Tax Bill.

THE HON. THE TREASURER, seconded.

The question was put and carried.

In Committee.

The Non-Native Poll Tax Bill was considered clause by clause.
Clause 8.

THE HON. ISHEN DASS moved that Clause 8 be amended by the deletion of the scale of rates and the substitution thereof of the following:—

"Where the taxable income does not exceed £50	5s.
Where the taxable income exceeds—	10
£50 but does not exceed £100	20
100 " " 200	30
200 " " 300	50
300 " " 400	60
400 " " 500	80
500 " " 600	100
600 " " 700	12s
700 " " 750	150
750 " " 800	200
800 " " 800	250
800 " " 900	300
900 " " 1,000	400
1,000 " " 1,100	450
1,100 " " 1,200	500
1,200 " " 1,300	600
1,300 " " 1,400	700
1,400 " " 1,500	800
1,500 " " 1,750	900
1,750 " " 2,000	1,000
2,000 " " 3,000	2,000
3,000 " " 4,000	3,000
4,000 " " 5,000	4,000
5,000 " " 6,000	5,000
6,000 " " 7,500	7,000
7,500 " " 10,000	10,000
10,000 " " 15,000	20,000
15,000 " " 20,000	30,000
20,000 and above	50,000

THE HON. THE ATTORNEY GENERAL: I am afraid I cannot pretend to know what the amendment means at this moment, but it appears to be a complete revision of all the rates. The exact financial implications I could not possibly tell, except that the high incomes appear to pay very high amounts. On behalf of Government I could not accept this amendment.

THE HON. CONWAY HARVEY: With my very limited mental capacity I am unable to appreciate in the short time available the implications of the for reaching proposal which embraces such big features. But the main point is this: I do suggest that in future, as a matter of courtesy to members and to Your Excellency, that an opportunity be given to seeing documents a reasonable period before they are brought forward for a decision, so that we can understand what it is all about and some intelligence may be imparted into our voting.

HIS EXCELLENCY: I am afraid that Government cannot accept this amendment.

The question was put and lost.

THE HON. THE ATTORNEY GENERAL moved that the Bill be reported to Council without amendment.

THE HON. THE TREASURER, seconded.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY informed Council that the Bill had been considered clause by clause in Committee of the whole Council and had been reported without amendment.

THIRD READING.

THE HON. THE ATTORNEY GENERAL moved that the Non-Native Poll Tax Bill be read a third time and passed.

THE HON. THE TREASURER, seconded.

The question was put and carried.

The Non-Native Poll Tax Bill was read a third time and passed.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: I beg to move the Suspension of Standing Orders in order that the Report of the Select Committee appointed to consider and report upon the provisions of a Bill to provide for the control of the sale of liquor be adopted without due notice.

THE HON. THE TREASURER: I beg to second the motion.

The question was put and carried.

Standing Rules and Orders were suspended.

SELECT COMMITTEE REPORT ON LIQUOR BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Report I have just referred to on the Liquor Bill be adopted.

Whatever may be said about other Bills presented to the House, at least this Bill has been before the public in every detail of it for a considerable time, and I would only like to remind hon. Members that this Bill implements a Report of a Committee which consisted to a very large extent of unofficials, a Committee which met in public and received evidence from a very large number of the public, everybody interested, and reported. The Report was adopted by the Governor in Executive Council and by this House.

We now have a further Report, varying in certain details and details only the Report of that general Committee, in the Select Committee Report which is before you. This Report may appear very imposing at first sight because there have been a great many small printing errors in the draft Bill which had to be done very hurriedly at the last moment in order to make room for what we were told were more important measures crowding into the press, with the result that it would appear the Select Committee has made many more alterations to the general Committee's recommendations than is in fact the case.

I propose, Sir, to only refer to items which I consider of any importance in this Report. In other words, to items other than drafting amendments.

The first amendment to which I would like to refer hon. Members to is on page 2 and is with regard to the times of opening on Sundays, Good Friday and Christmas Day. We have in Select Committee, Sir, recommended a reduction. As they read in the Bill the time was from 12 noon to 3.30 p.m. Those times were put in the Bill, as I said, as a result of the recommendations of the original Committee. In Select Committee pressno was brought to bear on us to the effect that it was quite unnecessary, both from the point of view of those who were opposed to the extension of hours generally on Sundays and also, to my surprise, by certain of the hotel-keepers who seemed to think that it was unnecessary. I refer particularly to the evidence that was given by one hotelkeeper from Nyeri. We therefore agreed, Sir, to reduce those hours from 3.30 to 2.30 p.m. cutting off one hour.

The next amendment which was made is with regard to Mombasa, where we have provided a special time. I know full well that the hon. Member for Mombasa would like a little longer on Sundays than he is actually getting; but

the Committee felt that they had to be consistent and though they did not mind varying the actual hours between Mombasa and the rest of the country, they did not feel that they would be justified in saying that Mombasa should have some extra privilege for longer drinking.

There is a further proviso, Sir, we have made, and I refer now to the second proviso on page 3, and that reads:—

“Provided further that, notwithstanding the provisions of the Shop Hours Ordinance, 1924, it shall be lawful for the holder of such licence to sell such liquor on Sundays, Good Friday and Christmas Day between the hours of 9 a.m. and 12 noon.”

There is nothing really new in that. It is only put in for the sake of clarity because on such days grocers are not permitted to open. We therefore put that in specifically.

There is also a single clause at the bottom of the same page 3 which gives the licensing authorities the necessary power, and the District Commissioner in the case of temporary licences, with regard to proper sanitary arrangements being made.

The next important item is with regard to the sale of liquor between 11 p.m. and midnight (page 4, paragraph 18). This was done at the special request of the trade and makes it quite clear that if you do not want to keep open between 11 and 12 there is no obligation so to do.

Also we met them in principle in a provision which follows immediately below the one just mentioned, with regard to the sale of tobacco. They always have had the right to sell tobacco and cigarettes and we thought it might conflict in some way with the new Licensing Ordinance. We have therefore put in a special provision that where you have these licences you will be permitted to sell cigarettes, tobacco and matches, etc.

The next innovation is at the bottom of the page. It was thought that in tightening up the clubs we had not gone quite far enough and we therefore suggested that a register be kept of honorary, temporary and reciprocity members. We did that because it was pointed out that in some clubs rules when you introduced let us say an honorary or a temporary member, his name did not have to be put in the register. Therefore, it appeared better to make it quite clear for a register to be kept, so that when the police called in and looked at the books they would be able to see that everybody had a right to be there.

The next paragraph I must refer to is paragraph 10, in which is an important innovation which had not been considered by the old Committee which sat, and that is with regard to the right of a licence holder once he had a licence. It was brought to our notice that under the law as it stood in the Bill, it would be possible for a licensing court, having granted a retail licence to a shop or public house, to suddenly meet together the next year and having been round the district decide that there were too many public houses in that district and without so much as by your leave it would be able to refuse the licence holder a further licence, regardless of the fact that he may have spent thousands in putting up the building, knowing he had his licence, and be put completely out of business because of the view of the licensing court that there were sufficient public houses. We do in this Report recognize the principle that when you have a licence and you behave yourself in accordance with the law, that you have a certain property and there is property in a licence given to a certain hotel and it is of value, and it is quite wrong in our view that a licensing court can just take it away because they consider there are too many licences in that area.

I think I have touched upon all the important amendments and hon. Members will realize this was only printed this morning and laid on the table of the House and I have not gone through it in the detail I like to do when presenting a Report.

I beg to move the adoption of the Report.

THE HON. T. D. H. BATU: I beg to second.

THE HON. F. A. BEMISTER: Sir, the hon. the Attorney General mentioned that the hours were altered practically at the special request or in accordance with the particular evidence of a gentleman from Nyeri. Now, Sir, first of all we must remember that this Bill has had rather a troublesome sort of career and people have been all over the country, except Mombasa, to examine every detail and to make it a reasonable and workable Bill. Mombasa was represented by a Hindu and he had no interest at all in the subject, but subsequently with the kindness of this House I was allowed to go on this present Select Committee to endeavour to put before the Committee Mombasa's views. Now, Sir, I have not asked for a single alteration in the original Report. All I asked for, Sir, was that the hours which were allotted to Sunday trading should be advanced one hour and that is, that instead of 12 noon to 3.30 p.m., I asked for 10 a.m. to 2 p.m. it is true, but I was willing to accept 10.30 a.m. to accept 10.30 a.m. to 2 p.m. to make it equal.

Now, Sir, the gentleman referred to by the hon. the Attorney General (Mr. Sherbrook Walker, I think it was) came and gave evidence and I particularly noticed his exact words. They were: "that up-country did not wish to extend to 3.30 p.m." and I agreed with him because we do not want and never have wanted to extend even in Mombasa. Now the Chairman willingly accepted that hour off but he did not give the hour at the other end. He seized the opportunity of deducting that hour at the top; so did the club members on the Committee. In consequence, Sir, the hours of Sunday are reduced to six instead of seven. Now that the hon. the Attorney General has quoted the witness from Nyeri, I would like to produce, if you like as Exhibit A, a letter addressed to me from Mr. Walker, in which he says:—

"Dear Mr. Bemister, I am just leaving so have no time to see you about the hours question."

He represents 150 hotels. I had discussed this with him. I am not speaking for any hotels, Sir; they do not interest me a little bit; but I do speak for the ordinary public as I think every Elected Member should. Now he (Sherbrook Walker) proposed a schedule:—

"Sundays hours suggested in Ordinance.

12—3.30 p.m.

5.30—9 p.m.

Total 7 hours.

Sunday hours suggested by me (that means Sherbrook Walker).

11—2.30 (at request of Mombasa Members);

6—9.30. In addition, one hour after 9.30 for selling drinks with meals.

Total 7 hours plus 1 hour after closing.

Well, Sir, we have the hon. the Attorney General saying in this House that the one hour was cut off at the request of a gentleman from Nyeri. It was not and it was definitely the opposed. I accepted the rest of the Bill because the members had gone to a tremendous amount of trouble. They have investigated everything. They did not just understand the peculiarities of Mombasa. All we asked was the same hours as was in the original Report which was more exhaustive than this and that the hours should be 11 a.m. till 2 p.m. or 2.30 p.m. as the case may be; call it 2 p.m. It would have reduced actually the hours by half an hour. We do not mind that but at the same time, Sir, with the special conditions

at Mombasa, I do think there should be a chance of studying in some little way the public. After all it is not only the public houses and churches that maintain the State. The objection on the part of the Church was that so many, I suppose it was drinkers, go to Church, that the hour of 11 a.m. would interfere with their other duties. That is all I could understand. I believe church hours in Nairobi are 11 a.m. to 12 noon. In Mombasa it is not so. We have finished with all that long before Nairobi has got up to breakfast. Taking all this and the climatic conditions, the habits and wishes of the people into consideration, and the result of the investigations of the original committee, I think we ought to be able to keep to the same total hours as were originally put in the first Report.

THE HON. A. C. TANNAHILL: Your Excellency, I want to raise one or two small points.

The first is that I do not notice in the Report any mention about section 10, sub-section (5), in which a wine merchant's and grocer's licence shall not sell less than one reputed half-pint. This morning I had a deputation from the wine merchants and grocers and after the deputation I attended at the hon. the Attorney General's office and I showed him, Sir, what is a reputed quarter-pint in the shape of a flask, which, I believe, was originally introduced by the Railway and is an extremely convenient bottle to have when one is going on a journey. I was told that one firm alone had fifty cases in stock with, I think, sixty of these flasks per case, so that it would be a very great hardship, not only to the trade but to the public at large, if they were not allowed to buy in one quarter-pint bottles. The hon. the Attorney General gave me his assurance that he would deal faithfully with the matter. After I left him I was not at all sure what exactly he meant, but I came to the conclusion that he would deal faithfully with the flask I left with him as he has not proposed any amendment in the Bill! I do hope, Sir, that Government will accept a quarter-pint instead of a half because I believe it is a measure that is desirable and will affect what was so objected to, called a "tot" bottle, two or which I also left with the hon. the Attorney General, and possibly he will also deal faithfully with those!

I also wish to refer to clause 10 of the Report where, as I understand, it provides that a court shall have no power whatsoever to refuse the renewal of a licence unless the holder has done something which every decent holder should not do, and I wonder if the Committee had under its consideration a rather peculiar point which arose at the last licensing session in Nairobi, where a licence had been granted, a general retail licence, some two years ago, with a proviso attached to it

that it was granted rather on a temporary basis pending the results of the inquiry into the Liquor Licensing Bill. That licence came up for renewal and this particular licensing court granted the renewal for six months only without the right of further renewal after that. That was their endorsement and they gave the applicant the reason for it. As I read it there was no suggestion in regard to the applicant that he had done any of the things that are laid down in this section, but there had been for some time a strong feeling that this particular form of licence—I refer to the Capital Theatre licence, the Theatre Royal, the Empire Theatre and, I think, one other—was not required. It was a general retail licence and the court was of the opinion that there was no longer any need for it. I see, as I understand it, that in this proposed amendment that court would have been out of order and I have got it at the back of my mind that in the particular cases which I am quoting it will be a hardship for that licensing court to be prohibited from refusing these particular licences in these particular premises.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I would like to associate myself with the remarks made by the hon. Member for Mombasa and if I am in order when the time comes I would like to move an amendment that the hours be changed in Mombasa from 11 a.m. to 1.30 p.m. to 10.30 a.m. to 2 p.m.

THE HON. THE ATTORNEY GENERAL: If the hon. Member wishes to make any amendment to this Report, now is the time.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I wish to move an amendment, Sir, that clause 4, section (3) of the Report be altered to read:—

"In the Protectorate of Kenya—Sundays and Good Friday, 10.30 a.m. to 2 p.m."
instead of 11 a.m. to 1.30 p.m.

THE HON. F. A. BEMISTER: I beg to second the amendment, Sir.

HIS EXCELLENCY: The question is that sub-paragraph (3) of paragraph 4 of the Report dealing with the hours of opening in the Protectorate of Kenya be amended by the substitution of the hours "10.30 a.m. to 2 p.m." for the hours "11 a.m. to 1.30 p.m." on Sundays and Good Friday.

THE HON. THE ATTORNEY GENERAL: Well, of course, speaking on this amendment I can only say that I support the Select Committee in that. You must remember when we go into the Select Committee, as hon. Members know, it is a question of "give and take" and it is not quite correct what was said by the hon. Member for Mombasa that the only person who opposed that extension to 3.30 p.m. was the gentleman from Nyeri, for he knows full well that the hon. and rev. gentleman was opposing most strenuously all through. I do not say that in any way against the hon. Member as there were several of the other witnesses who came before us who opposed it, and the only point I made with regard to that was that I was surprised to find that both sides came together in this respect in that this witness who did represent the trade to some extent supported the hon. and rev. gentleman who was urging a reduction of hours. It was on that account and that alone that the Select Committee decided they would vary from the original recommendation. It means shortly, with regard to this, that Mombasa want an extra hour, and I have yet to be informed why Mombasa should be treated in this particular way. It seems to me that we are going to enact a Bill for the whole of Kenya. It may well be the actual hours may be changed to facilitate people, but it seems to me ridiculous to suggest that there is any necessity in Mombasa for an extra hour's drinking and personally I intend to support the Report.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I have a perfectly open mind on this question and I presume the reason for this is one well known to us all, that Mombasa enjoys a very moist climate and presumably if they exude much more moisture outwardly they require more time to imbibe inwardly and therefore require an extra hour. I support the amendment.

THE HON. F. A. BEMISTEN: I would like to say if you will allow me to make the position quite clear, I only ask in support of the amendment that the number of hours put in by the original committee be adopted. That is the number of hours in which the place can be opened to the public. I do not ask for an extra hour for Mombasa. I have never asked for any privilege for Mombasa. The hon. the Attorney General wishes to twist it that way because he wishes to stick to up-country where they go to church later and there was the objection to 11 a.m. to 12 noon. I want to repeat that, Sir, that I only want the same number of hours which was in the original report, which hours can merely be adjusted, and in view of our earlier rising and earlier going to bed should be adjusted in that way for Mombasa.

THE HON. J. B. PANDYA: The hon. the Attorney General said he did not know why Mombasa wanted this extra hour. It appears to me that it is usually said that sea level and sanily go together and that we shall by this extra hour have to come more into line with the Highlands than we have been up to now.

THE REV. CANON THE HON. G. BUANE: I would like to entirely associate myself, Your Excellency, with the remarks made by the hon. the Attorney General. I do not want to stress anything else. How he has put it is exactly what took place in the committee and I entirely associate myself with the remarks he has made.

MAJOR THE HON. SIR ROBERT SHAW: It seems to me there is still a very slight controversy as to what took place. From the evidence it did appear that the hour from 2.30 to 3.30 was not simply required to desired by anybody and therefore it seemed fairly obvious that it should come off. In the same way in discarding the morning hours no good case appeared to be made out for the recommendation which was mentioned by the hon. Member for Mombasa that the hour should be put on in the morning. We considered it carefully and no particular case seemed to be made out for that. Therefore the result was that the morning hours were reduced by one and then the question of different hours for Mombasa was considered and as far as possible the Committee altered the hours to suit Mombasa, but giving them the same number as up-country. I would not mind if they were open from 11 to 12 but there appeared to be no case made out.

The question was put and lost.

The debate was resumed on the original motion.

MAJOR THE HON. F. W. CAVENDISH-BESTINCK: Your Excellency, I only want to stress a small point which has already been made by the hon. Member for Nairobi South. It is this, that under this proposed Ordinance one cannot sell liquor in small quantities. Now surely such things as rum and maraschino I understand are bought in very small quantities indeed and used for cooking purposes, and I have had constituents of mine say it was rather unfair on them because they imported them in small bottles, that they should not be allowed to sell them.

I am very glad that they have taken the property aspect of the licence into regard in this Report because I do think it is of importance. I should like to ask whether it is in any way retrospective because I understand there were one or two licences to be refused in 1935.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I have signed the Report with certain reservations. There is one point that has not been touched on by the Select Committee. I do not know whether I am in order in mentioning that point—it is with regard to the employment of native barmen. Under the provisions of the old law, section 42, natives were not allowed to be employed as barmen. I do not want to use any extravagance in regard to this matter, but I should like to move as an amendment:

"That paragraph 17 of the Report be amended by the insertion of the word 'or a native' between the word 'eighteen' and the inverted commas in line 2."

This will if carried prevent natives being employed as barmen. I have dealt with the question very, very fully, and I have no reason to change my mind at all regarding the attitude I took up about it. I feel strongly that Africans should not be placed in such a position as this that they should be put in as barmen, because use will be made of this section by the bigger hotels. It is a matter of saving a few shillings a month from those engaged in this way, and it will not only be made use of by the larger hotels and clubs—I understand natives are being used to-day in clubs, illegally of course—(A Member: No.)—anyhow, they are being used, and I think clubs should come under the same laws which govern hotels, wherever they are.

It is in regard to the larger places that I was chivvied in the paper because I said I had been dealing with natives—the hon. Member suggested twenty-five years—but I have been dealing with them for thirty-five years, not only just as a mere missionary but I have also dealt with natives from other points of view. I suggested in my last remarks that there is a law that if a man is found selling spirituous liquor to a native he could be fined £100, yet now the law will put the native into a position where it will be easy for him to hide a bottle of liquor for the time being, and then pass it out from wherever he may be serving to a friend outside with whom he is collaborating. If the native is found out he will have to pay the piper for his misdeeds. Quite right too, but we should not put him into that position.

But my objection is more particularly in regard to the small drinking places, where a native can be employed to serve for Sh. 50 a month whereas another nationally would have to be paid Sh. 100 or Sh. 150. Human nature being what it is, those men will employ the Sh. 50 man and not the large towns these natives will be employed, because they will be most intelligent boys whom we have taken pains in teaching and training, and they will be put into these positions.

I do not want to prolong my opposition, but I do appeal to hon. Member of this House, whether clubs have been employing natives or not in the past, not to open the door to this thing, which will bring a great deal of trouble and discredit upon our better class Africans in this town and other places where they will be employed. I know all the arguments which will be used, but there is only one to my mind, that it is a matter of economy to get a boy for Sh. 50 or Sh. 60 instead of having to pay Sh. 150 or Sh. 200. I do beg the House to consider whether the harm done to the natives in putting them in this position, the possibility of temptation, justifies this House in passing a law which will make it possible for natives to be employed. I do appeal strongly to the House on those grounds.

THE HON. ISNER DASS seconded.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I think the rev. gentleman has got the situation wrong. I will not say he has over-stated his case but he does not understand it. At the present, boys are allowed to work in hotel bars, dining rooms and lounges, taking orders for drinks to the bar steward, from whom they get the drink and fill the order, taking either money or clubs. They do everything except pour the liquor into the glass. In a long experience I have never known one boy abuse the trust placed in him and become intoxicated. It is only going a step further to allow him behind the bar to measure out tots, in addition to what he has been doing for many years in all the hotels in the Colony.

Giving evidence before the Committee, I did not advocate natives being employed in bars, and I do not think many hotels will do so. They are now employed in clubs which, owing to a technicality are not licenced at the moment. I cannot see that there is any soundness behind the arguments of the hon. and reverend Member, that natives should not be allowed to serve in bars. It is not a question of economy and is not even recommended by hotels, but they do submit that it is an anomaly that they should have to pay £10 or £12 for a Gobar steward when a club can get a boy for Sh. 30 or Sh. 50 a month. The case has been somewhat over-stated if not misunderstood.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I cannot understand why the hon. and reverend Member, who purports to have a great respect for the natives in this country, should bring this libellous accusation against them; that if put in the position of barmen they will immediately become drunkards. All of us in this House must

have had had experience for many years of native barmen. I deny that it is a question merely of economy. It has been the experience in clubs where I go that it is not only a matter of economy but of very great efficiency achieved by the employment of Africans where previously the work was done by Goan stewards. Not only that, but there has been a tremendous increase in sobriety. I have never known of a case of any of these native barmen becoming drunkards as the result of being employed in a bar. There may, unfortunately, be an occasional case when Goans were employed in the same work. I do think it is very unfair on the natives, excellent men who have proved themselves trustworthy, have done their jobs thoroughly, efficiently and intelligently; that the hon. and reverend Member representing their interests should get up in this House and propose an amendment to the Bill to throw a large number of these people out of employment, and I do hope there will be no support for this amendment. Quite frankly, in my opinion, it is humbug: It may sound very good in the newspapers, protecting the poor native from being contaminated by the near proximity of alcohol, but we know in fact that that is not so. I seem to have a higher opinion of their moral fibre than the hon. and reverend Member. They have proved trustworthy in these positions, and it would be grossly unfair to prevent them from being able to occupy them in the future.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I have had much experience of this matter, both as a police officer and afterwards as secretary of clubs, and I can safely say that the native boy is far more trustworthy a boy than other nationalities employed as barmen. The boys who have an opportunity of taking a bottle away are not the barmen at all. The barman is responsible to the club or hotel for every bottle, and if a bottle is missing he has to pay for it, though it might have been the boy who washes up the glasses who has stolen it. I have had on several occasions barmen who have been run in for selling liquor and for supplying it to people outside, but I cannot recall a single incident of a native being concerned, though I can recall several other cases, and of Arabs, who do not count as natives. I am therefore opposed to this amendment.

THE HON. ISHER DASS: Your Excellency, I associate myself with all that the hon. and reverend Member Canon Burns has said. There is one thing I wish to find out. I have not heard a single argument up to this time in favour. I understood that the natives have proved themselves efficient and honest when employed in clubs and different places, it is no argument that if a man proves himself honest

these should be some temptation placed in his way. I think by placing temptation in their way we are taking a serious risk, and as I believe prevention is better than cure I hope every Member will vote for the amendment.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of explanation, Your Excellency, I do not think the hon. Member realizes that while clubs are not licensed they are able to employ native barmen. Now they are to come under the Liquor Ordinance and be licensed, they will not be able to, so that a number of native barmen would have to be dismissed from their jobs.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I have a very strong inclination not to speak on this amendment. I am, of course, in support of the amendment proposed by the hon. and reverend Member Canon Burns. But I intervene at this stage just to protest against certain statements made by the Noble Lord. In his endeavour to support his native barmen either in his own home or club he need not have gone to the extent he did to attack both the sobriety and truthworthiness of the Goan barmen.

LT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of explanation, Sir, I did not make any attack on the trustworthiness of Goans, but said that unfortunately there had been cases where they had not been sober.

DR. THE HON. A. C. L. DE SOUSA: I have not had thirty-five years experience in this country, only twenty years, but my experience with Africans engaged in clubs has been that they have been found to drink, to be untrustworthy, and members interested in this will find after investigation that there have been cases in European clubs where native boys employed in these particular posts have been dismissed. That is only one side of the question. I did not want to interfere in the debate, but it is necessary for me to make some points clear.

Here we have the reverend gentleman representing native interests. Whether he pretends to or not he does, and he has behind him the dignity of such people as the Protestant Missions, the Bishop of Mombasa, the Roman Catholic Missions, and all those missions which look after the welfare, religious and otherwise, of the Africans in the country are behind him. There is also the lay member representing are behind him. There is also the lay member representing has had an opposite experience of the native and will advocate a different point of view. I submit there are objections to saying that a native cannot be trusted, but we all know

that was the fear of the businesses where a native cannot serve now and which have been carrying on without them, and it is not likely that non-natives who do this job now are going to be dismissed instantly the Bill comes into force.

I submit that the objections raised by the hon. and reverend Member representing Native Interests have also at the back of them a large number of people, representatives of institutions, and of people belonging to the Muslim Association, including many African Muslims. It means that all religious bodies interested in the Africans are against it, and just because we want to please certain interested parties, and I take, it this has come from them, we should not oppose such a large body of responsible opinion in the country.

THE HON. R. W. HEMSTED: Your Excellency, as I said in the original debate on this Bill, natives have been employed in clubs for many years, and I have never known that it has had a bad effect on them. I think, however, there may be something in what the hon. Member says about natives being employed in the smaller bars in the towns. I regret that the Select Committee on this Bill did not take evidence from the police, as to whether they considered that would have any bad effect on the natives, but as far as my experience goes I do not think we can protect the natives from all those awful things. They are no longer the simple-minded people that they were a few years ago, and too much grandmotherly legislation would be difficult to uphold.

THE HON. THE ATTORNEY GENERAL: Your Excellency, all the arguments heard to-day I can assure the House were carefully considered by the two Committees, and the first thing I should like to say is this. The House should place some confidence in the two Committees which were both of the same opinion after hearing these points argued *ad nauseam*. We came to the conclusion that the African, owing to the fact that he was able to serve in clubs, had proved himself just as worthy as members of any other race serving as bar-men, and it seemed to us the argument that he may take a bottle of whiskey is a good argument for not employing him in any other position because he might steal something else. Both are equally a crime. Another thing, you must realize that if this amendment were passed you would throw out of work all those natives at present serving in clubs and who have proved worthy; it must be equally clear that you are going to force the smaller clubs in the country districts into employing Goans if they want to keep open at all. I must stick to the opinion formed by the original Committee and the Select Committee on the subject.

THE REV. CANON THE HON. G. BURNS: Have I the right of reply, Your Excellency?

HIS EXCELLENCY: No, not on an amendment; it is against the rules of the House.

The question was put and lost.

HIS EXCELLENCY: The debate is resumed on the original motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, there is very little that I want to say. I was a member of the Committee which made the Report leading to this Bill, although I was not on the recent Select Committee. I have just one or two small points.

One is that when we went into the question of the licensing fees for hotels, I think it was the opinion very generally held by members of the Committee that we would like to make a liquor licence fee payable by hotels in the country, which dealt chiefly, almost entirely, with tourist traffic, as light as possible. Under our terms of reference and conditions of revenue of the Colony, we were not able to propose that they should pay less than £35. I have spoken of this before, and I should like to make it clear, that if the question comes up in future I think as a matter of policy to help the tourist traffic throughout the country an early opportunity should be taken to lighten this tax on this particular sort of hotels whenever it may be possible.

I do not know whether we were referring to it, but when we were dealing with these fees for liquor licences for hotels of all sorts, I do not think we had any other idea than in either Ordinance there was a further fee charged to these hotels and of course that will come up under the Trades Licensing Bill. I am afraid I shall not be present here myself and would like to say that I think it is very unfair having said under one Bill what is payable that that should be considerably augmented in another Bill.

The only other point is that I should like to support my hon. friends the Member for Nairobi on the question of a quarter-pint instead of a half-pint bottle.

Otherwise I support the Report of the Committee and hope it will go through with those few amendments.

THE HON. THE ATTORNEY GENERAL: On a point of order, Sir, would it not be wise as hon. Members appear to be speaking to the quarter-pint amendment, that it be put formally as an amendment?

LT.-COL. THE HON. LORD FRANCIS SCOTT: May I formally make that amendment that the word "quarter" be substituted for the word "half"?

THE HON. THE ATTORNEY GENERAL: May I take it that the Noble Lord's amendment is that we substitute the word "quarter" for the word "half" which appears in the last line but one on page 2 of the Report?

LT.-COL. THE HON. LORD FRANCIS SCOTT: That appears to meet the case.

THE HON. CONWAY HARVEY: I beg to second the amendment.

THE HON. THE ATTORNEY GENERAL: I may say, Sir, at once on behalf of Government that we are quite prepared to accept that amendment.

The question was put and carried.

The debate was resumed on the original motion.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, there are one or two points . . .

HIS EXCELLENCY: Were you intending to speak to the debate on the original motion?

LT.-COL. THE HON. J. G. KIRKWOOD: I find it rather difficult, Your Excellency, about procedure, because I have had to look through the Report of the Select Committee and if I do happen to mention something that has already been provided for, I hope the hon. the Attorney General will stop me.

In reference to section 12 (1) (c) on page 10 of the Bill

HIS EXCELLENCY: We are dealing with the Report of the Select Committee.

THE HON. THE ATTORNEY GENERAL: The hon. Member may move that there should be an addition to the Report or whatever his amendment may be.

LT.-COL. THE HON. J. G. KIRKWOOD: I move that there should be an addition to the Report as laid with reference to section 12 (1) (c) of the Ordinance. Nobody directly interested is bound to serve on a licensing committee and I fail to see

why people who are diametrically opposed to licensing in any shape or form should also be allowed to serve. In the South African Ordinance any member of an association for the prohibition of the sale of liquor is prevented from serving and in this Ordinance you allow anybody to oppose a licence provided he is not paid for his position.

HIS EXCELLENCY: What is your amendment? To delete the word "paid"?

LT.-COL. THE HON. J. G. KIRKWOOD: I would insert in sub-clause (e) of section 12 (1) to read "Any officer or agent of any partnership or society interested in the sale, or the prevention of the sale, of intoxicating liquor." In other words I would delete the word "paid".

THE HON. THE ATTORNEY GENERAL: If I can get this in order, the hon. and gallant Member is moving that the Select Committee Report be amended by the addition of the following clause:—

"That clause 12 (1) (c) of the Bill be amended by the deletion of the word 'paid' wherever it occurs in that sub-section."

LT.-COL. THE HON. J. G. KIRKWOOD: That is my amendment, Sir.

THE HON. A. C. TANNAHILL: I second that amendment, Sir.

HIS EXCELLENCY: The question is that the Report be amended by the addition of the clause mentioned by the hon. the Attorney General.

THE REV. CANON THE HON. G. BUENS: I would like to say, Sir, I am still receiving notoriety in the Press, but this point was duly considered by the Select Committee and the Select Committee decided to leave the word in. I brought up the point myself with the hon. the Attorney General; at least I made the point, and the hon. the Attorney General explained that in fact covered my point and therefore when it was discussed it was decided by that Committee to leave the words as they stood.

THE HON. CONWAY HARVEY: As a member of the Select Committee I should like to say *apropos*, that point, that while having every sympathy with the hon. and gallant mover of the amendment, our difficulty when it was discussed in great detail was the impossibility of being able to define "officer

and agent" if the general terms were used. Therefore, I cannot support the amendment owing to the impracticable nature of the suggestion though I am in sympathy with its purport.

The question was put and lost.

HIS EXCELLENCY : I shall have to give a ruling on a point of procedure in debate about which there appears to be some doubt. According to my reading of the Standing Rules of the House of Commons and May's Parliamentary Practice the person proposing an amendment may not speak again either to the amendment or to the original motion. That is the way I have read it and I have got a note on it. But as my legal adviser is not sure whether that is so, I propose to adjourn now and I will thrash that point out in the meantime.

The debate was adjourned.

*Council adjourned till 10 a.m. on Saturday,
the 22nd December, 1934.*

SATURDAY, 22nd DECEMBER, 1934

Council assembled at the Memorial Hall, Nairobi, at 10 a.m. on Saturday, 22nd December, 1934, **HIS EXCELLENCY THE GOVERNOR** (Brigadier-General Sir Joseph Aloysius BRANS, G.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 21st December, 1934, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the table :

By **THE HON. THE ATTORNEY GENERAL** :

Report of the Select Committee on the European Civil Service Provident Fund (Amendment) Ordinance, 1934.

PARLIAMENTARY PROCEDURE.

RULING.

HIS EXCELLENCY : Before we continue the debate on the Report of the Select Committee on the Liquor Bill, I have been inquiring into a question of Parliamentary procedure raised yesterday. My decision of yesterday is confirmed—that in proposing an amendment the proposer may not speak again either to the amendment or to the original motion. That was the ruling I have always gone on before, and I have now had it confirmed.

MOTIONS.

LIQUOR BILL, SELECT COMMITTEE REPORT.

The debate was resumed.

THE REV. CANON THE HON. G. BURNS : Your Excellency, may I ask a question?

HIS EXCELLENCY : Yes.

THE REV. CANON THE HON. G. BURNS : Can I move another amendment?

THE HON. THE ATTORNEY GENERAL : Your Excellency, the position is this, as hon. Members will realize. When a motion is moved, such as the motion that this Report be adopted, and when that is seconded, that is the proposition

before the House. When an amendment is moved to that, you are speaking to the proposition before the House, and therefore the person who moves the amendment has spoken to the proposition before the House, and is debarred from any further speech. If he has six amendments to move, he must move them at the same time when making his speech to the proposition before the House. If a Member only moves one, he is debarred from further speech.

THE HON. CONWAY HARVEY: Your Excellency, for the convenience of the House and for future guidance, can the hon. and learned gentleman tell us how a single amendment, or a series of amendments, moved by one person in one speech will be disposed of? One at a time, then and there, *en bloc*, or disposed of at the conclusion of the debate after the reply has been made?

THE HON. THE ATTORNEY GENERAL: The position is that the moment an amendment has been accepted there is a new proposition before the House, and every Member has the right to speak on the new proposition, which is the amendment which has been proposed and seconded. The seconder, if he has only seconded formally, under the Rules will have the right to speak later on, because he has not spoken to the motion. But the proposer himself, or anybody who speaks in seconding, in order to get the new proposition before the House, is debarred from further speech. Regarding the point made by the hon. Member Mr. Harvey the position is that the amendment can be debated immediately and disposed of.

THE HON. SHAMSUD-DEEN: Your Excellency, I may be wrong, but my reading of the Standing Orders is that there is no procedure for more than one amendment being taken at a time. The moment an amendment is moved, as the hon. and learned Attorney General has said, it becomes the proposition, and it is only after disposing of one amendment that the House can deal with another. I have never come across any such provision in the Standing Orders which provides for more than one amendment being treated at one and the same time and Members being debarred from speaking on a second amendment as it comes before the House.

THE HON. THE ATTORNEY GENERAL: The position is really a common sense one. When a motion such as the one before the House now is being debated, there are in that Report sixty different amendments let us say. I have moved in effect sixty amendments and in the same way anyone who wishes can get up and move six or seven amendments to those sixty—(Mr. Shamsud-Deen: You cannot!)—in one speech, although I did not make a speech on each item of my motion.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, this ruling appears to me to be a frightful difficulty and a tremendous handicap to Members on this side of the House, and a ruling it will be impossible to comply with in order to do justice to one's self.

HIS EXCELLENCY: My duty is to interpret the Standing Rules and Orders and the practice in the House of Commons, and the procedure now outlined has always been the practice here. It is no new thing, and I have always ruled in this way. The mover proposing an amendment may not speak again either to the original motion or to the amendment. That is parliamentary practice which I am bound as Speaker to interpret.

THE REV. CANON THE HON. G. BURNS: Your Excellency, may I ask another question? Yesterday, I asked the question as to whether I could move more than one amendment, or if we had to deal with each one?

HIS EXCELLENCY: I rather think that the hon. and rev. Member may perhaps have been under a misapprehension, and in your case I shall be prepared to make an exception to Standing Orders.

THE REV. CANON THE HON. G. BURNS: Thank you, Sir.

DR. THE HON. A. C. L. DE SOUSA: That is my difficulty, Your Excellency, I want to speak on certain points raised in debate.

THE HON. THE ATTORNEY GENERAL: I do not think the hon. Member has moved an amendment, which would be the only thing to rule him out. When he spoke it was to an amendment moved and seconded, so that I think he would be quite right in speaking.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I have very little to say. I was a member of the Select Committee in the Report of which provision has been made to deprive the Licensing Courts of the power they have always had to use discretion in renewing licences. With that provision I disagreed on the Committee. The contention is that a licensing court may deprive owners of licences of their vested rights. My own opinion is that a licensing court of which I have been a member for some years has not in a single instance violated the rights of any people holding bar licences. Your Excellency takes great care in the selection of the members of these courts, and they usually represent town councils,

trade and commerce; in fact, the representatives of every interest in this town are men of outstanding character in practically every case. Is it supposed that these men will go out of their way to deprive these people of their vested rights? The power of these courts in connection with renewal does not only concern the people who are trading in bars. There are the greater interests of society, and it is on behalf of those interests, greater and bigger interests, of society that I have been opposed to the provision whereby the courts are deprived of discretion in renewing licences.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there is really very little for me to reply to, because each point that has been made by way of amendment we have debated and dealt with. The only point made without an amendment being proposed is the one made by the hon. Member Dr. de Sousa, in which he seems to find in the Report of the Select Committee some reflection on the Licensing Courts. That of course is far from the real fact, because there is not the slightest reflection on any licensing court which I have no doubt has done its duty as it thinks it should, without fear or favour or illwill. At the same time, we make laws and we request Government by those laws that a certain protection should be given, because there is a possibility that under certain circumstances their rights may be taken away. There is not the slightest reflection on courts but we do recognize there is a vested interest in licences, and that where licences are granted it is only right to remove the fears of a licence holder and of any person who wishes to buy the property from him, that he will be quite safe in the future with regard to that licence.

The question was put and carried.

THIRD READING.

THE HON. THE ATTORNEY GENERAL moved that the Liquor Bill be read a third time and passed.

THE HON. T. D. H. BRUCE seconded.

The question was put and carried.

The Liquor Bill was read a third time and passed.

NOTICE.

LICENSING BILL, SELECT COMMITTEE REPORT.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I move that the Report of the Select Committee on the Licensing Bill be adopted.

As hon. Members probably realize, when this Bill was referred to Select Committee it was known that it was going to be no easy task to deal with the matters under the Bill, and I can assure you that we deliberated for a very long time. We received a large quantity of evidence, both by word of mouth and by written communications, and the Report you have before you—I am not referring for the moment to the points raised in the Minority Report—represents the considered opinions of the whole Committee.

There is no one who likes to pay a bigger tax than he did before, yet it was necessary in some cases that it should be done. There was a great deal of give and take, in that Committee, and as a result—with the exception of the points raised in the Minority Report—your Committee has been able to sign the Report before you as a whole. I do not intend to go through every single item which is in the Report, because a great many of them are merely drafting or typographical amendments, but I propose to run shortly through the more important ones and to say with regard to the schedules at once that there has been no increase and that where you see an amendment it merely means the licence of that particular item has been decreased by the amount agreed upon by the Committee.

The first point of interest is with regard—and I am reading from page 1 of the Report—to a definition that we have put in of house agent:

“house agent” shall not include a person who acts only as a rent-collector.”

I do not think there was any intention of taxing a rent-collector but it was pointed out that under the wording of the Bill it was possible that some unfortunate man who collected rents here and there would be called on to pay the licence of a house-agent. We therefore cleared the issue there.

The next item is 2 (1), where we have struck out the words “profession of”. All that in effect does—and there is a consequential amendment later on—is to make it clear that a professional licence is a personal licence, that you do not licence the particular building which the professional man operates in. An example may be taken of doctors or advocates who may have four, five or six offices all over Kenya, and it would be manifestly unfair to ask them to pay five or six licences. This has been clarified to the extent that it becomes a personal licence which will permit the holder to practice anywhere in Kenya.

There is a small amendment, P. 43, because it was pointed out that I was left the word "either" without any other definition, and I should include those who were paid so commission, so that we have added the words "and/or commission" to "either" it.

Incidentally the words of page 2 is deemed to typographical errors, and for clarity we have jumped agencies, in clause 17, the sub-clause (a) and (b) in order to make it clear that "ordinances, licences and orders relating solely for, and to be made, promulgated or by natives, Somalis, Baluchis born in Africa, Malagases and Comoro Islands" will be excluded. In paragraph 8 (B) is the amendment which I have mentioned, with regard to professional licences, and at the top of page 3 is an important amendment which I should explain. It is with regard to the Ordinance only remaining in force for the coming year.

It was not intended to be originally limited, and the Ordinance should come automatically at the end of the year, but in the Committee it was pointed out when reference was made at the speech of my predecessor on the first Licensing Bill that it was quite reasonable to read into that speech the suggestion that it should come to an end and could be renewed by proclamation, although it did not actually appear in the Bill. Several Members were extremely anxious that this should be provided for in the Ordinance, and we have therefore provided that this should be done by a new clause 22 to the Bill, which is in the usual form. It might also say for the benefit of those who may think that is unnecessary, that we all agreed with at least one thing: that in introducing a comprehensive Ordinance like this, in the course of the year innumerable anomalies may arise, although we went through the measure very carefully, so that we were satisfied the Ordinance would have to come up for review in one form or another. The majority of the Select Committee wish it, and as I know of no fatal objection to it it has been inserted.

Paragraph 15 of the Report merely clarifies the position with regard to licences to carry on the business of an estate managing agent and/or secretary. Then we thought it necessary to add the words "(not required to be taken out by any person holding a professional licence as an accountant and/or auditor)". It was pointed out, and we accepted it, that nearly all of these people were professional men—accountants or auditors—and therefore it would be manifestly unjust to make them pay twice for carrying on one profession. The same remarks apply in regard to sub-clause 3 of paragraph 10,

where provision is made for architects and quantity surveyors and land surveyors, for a great deal of their business is occupied in valuing and assessing.

On page 4 we have provided for the exclusion from licensing of maize millers. It was thought these were people who should not be asked to take out a licence.

The next thing to which I invite attention is sub-clause 9 on page 4 where it says:—

"7. A licence to carry on any or all of the businesses described in this Schedule and in Schedule B; Sh. 1,200."

This is more important than it looks, because that gives a comprehensive licence of Sh. 1,200 as a cover both to Schedules B and C instead of Schedule C only.

We also at the top of page 5 make provision with regard to stocks. It is not thought fair when assessing the value of a man's stock for the purpose of imposing a licence to take into consideration those stocks on which he has already paid a licence, such as liquor stocks. A grocer may have £10,000 worth of liquor for which he has already paid his £60 licence. If you lump that in again with the rest of his stock of groceries it might put his licence on a very high level, and it was thought that would be unfair.

Paragraph 12 of the Report deserves a little explanation. It appears very clumsy, but it was the only way we could do it. Provision is made in the Bill for a licence for each distributing area which in theory is a distributing area licence. With regard to Nairobi, for reasons we need not go into the Electric Light Company have in effect four distributing licences for the one area. It was never the intention of the original Committee that the company should pay four times for the same area, and I have therefore lumped them together under a proviso to the effect that it will only be necessary to take out one licence in respect of these four distributing areas.

We have also in sub-clause 3 on page 5 excluded the farmer who is just curing a little coffee for his next door neighbour. The amount has been fixed for the exclusion at 200 tons. There is a small amendment made with regard to periodicals in sub-clause 5, where we have now included every form of periodical except a daily newspaper whenever these periodicals are published, weekly, monthly or yearly. The last exclusion, on page 6, is with regard to tea-shops. It was brought to our notice that a great many people merely sold tea, coffee and small items such as icecreams and that under the Bill as it stood those places might be held to be restaurants. It was therefore considered necessary to make provision for their exclusion wherever they satisfied the Licensing Commissioners that they were in effect tea-shops.

We have also put in Schedule E three further questions that will have to be answered. It is thought these questions may give a good indication of the actual stocks carried by a man whom we wish to tax. The questions he will have to answer now are:—

" 7. Is your stock insured against fire?

8. If so, for what amount?

9. Name of insurance company."

These are the main points with regard to the Majority Report. I have not touched on the other points which will be raised. I know, as notice of motion has been given by the hon. Member for Nairobi South of amendments to some items. I beg to move, Sir.

THE HON. THE TREASURER seconded.

THE HON. A. C. TANNAHILL: Your Excellency, I hope that hon. Members on the other side of the House will realize that the commercial community is bitterly, bitterly opposed to this Bill. We met to endeavour to mitigate the penalties and the burdens laid down in this new 1934 Bill as far as we could. I, as one of the members of the Select Committee, am very grateful to the hon. chairman of that Committee and I thank the Elected Members of that Committee for the patience with which they heard the objections of the commercial community.

The hon. and learned proposer did not say that since this Bill was committed to a Select Committee—I think on the 17th—the Select Committee has met four times and, as he did say, has listened to very important evidence.

Now I think one item of evidence or series of items of evidence to which, with all due deference to my hon. friends the Elected Members, they did not pay sufficient attention is that literally the commercial community cannot afford this taxation. I wish it to be made perfectly clear that when this 1933 Ordinance came into effect the commercial community did in fact make suggestions and they made those suggestions on the understanding that they were temporary measures of taxation. The commercial community from the inception of these trading licences in 1919 have repeatedly called the attention of the Government to the fact that this is a licensing Bill and time and again they have taken exception, in letters from Chambers of Commerce, to this Licensing Bill granting licences for the protection of the trader and of the public being used as a measure of taxation.

When this 1934 Bill was published for information the commercial community was staggered. I have found it almost impossible to convince hon. Members on the other side of the House that the commercial community and the professional man is lucky if they are paying their way, and one of the most dreadful things that I have seen for some time is the streets in Nairobi to-day and yesterday. This is practically the day before Christmas and the streets are very nearly empty. It is an indication of what has happened during the last twelve months. I have figures here which I am sure will astonish the hon. Members on the other side of the House. I have the takings of one of the most prominent firms of grocers in Nairobi comparing the year 1933 with 1934 for the last two days. On the 20th December, 1933, this particular grocer took Sh. 1,616. On the 20th, two days ago, he took Sh. 425. On the 21st December, 1933, he took Sh. 2,844. Yesterday he took Sh. 505. I venture to refer to what appeared in the paper a couple of days ago, regarding a petition from Nyeri to the Nairobi Chamber of Commerce. There was a meeting of the Chamber of Commerce last night at which I was present and this petition was read and referred to the Elected Members of Nairobi to do the best they could. It was very short and it says—I am quoting from the paper—

"About fifty Europeans, Goans and Indians engaged in business and trading in the Nyeri district—general merchants, hotel proprietors, builders, undertakers, bakers, contractors, garage proprietors, butchers, tailors, laundrymen, etc.—have signed an appeal addressed to the Chairman of the Nairobi Chamber of Commerce asking him to bring before the notice of the Government of Kenya, their attitude to the new Trades and Professional Licences Bill.

They declare that having perused the provisions of the proposed Ordinance, they consider that the proposed new taxation is impracticable as far as they are concerned, since their respective businesses are incapable of meeting the present taxation, and still less of meeting any increases.

That owing to the reduced spending power of the public, the general tightening up of credit, and the difficulties of collecting monies due for sales of food and other commodities, it will be impossible for them to find the money due for licences, taxes, rents and other Government dues, at the beginning of 1935; and that Government will have to recognize that such businesses as are able to pay at all, will have to make instalments spread over the year."

Now, Sir, we did meet that to a certain very limited extent in the Report by reducing the licence fee of Sh. 300 to Sh. 100 and so that licence fees of Sh. 100 should be able to be paid

in two instalments and I would like to say here that I do hope the hon. the Treasurer or the Central Revenue Office will deal leniently with these people. Everybody knows what January is in the way of taxation—the number of licences fees one has to pay—and literally most of the traders could not possibly find the money to pay their licences in January.

Another rather dreadful circumstance is that the Chamber of Commerce and several leading merchants met and discussed business and they found to their horror that not 10 per cent of the trading firms in the Colony had made a profit for the last three years—not 10 per cent. That is the outside figure. There was a strong belief that not 5 per cent of the trading community had made a profit. They cannot afford any more taxation. Quite definitely, Sir, of course, I cannot vote for the Bill.

I wish to move four amendments. The first amendment is that the Report be amended as follows, namely: that item 4 and item 6 of Schedule A of the Bill be deleted. The first, item 4, is a licence to carry on the profession of a medical practitioner and/or a dentist or dental surgeon, and item 6 is a licence to carry on the profession of a veterinary surgeon. I would like to take those two together.

We fear, we definitely fear, that if this licensing of doctors and veterinary surgeons is imposed the country will lose the benefit of the services of quite a number of really distinguished semi-retired professional experts, who will simply refuse to take out a licence and will refuse to place their services, because they cannot afford to, at the disposal of the public and of their profession, and it would be a thousand pities if the services of these considerably distinguished gentlemen should be lost to the Colony. (Hear, hear.) In regard to veterinary officers we would like to see members of the veterinary services when they retire practise privately. We would like to place everything that we could at their disposal to enable them to do so and to start them off with a licence fee or tax of Sh. 300 we think is inimical to carrying out what we would like to see done. I sincerely hope, Sir, that Government will see its way to accept this amendment. It is, I believe, a very small loss in taxation and the gain will be definitely greater than the loss.

My second amendment is that section 17 (1) (b) of the Bill be amended by deleting all the words after the word "liquor" in the third line thereof and substituting therefor the words "except in respect of grocers who deal in intoxicating liquor." If you delete all the words referred to, i.e. "in respect of brewers or traders dealing solely in intoxicating liquors" you come back to the exact wording of the 1933 Ordinance, section 6 (1) (b) of which reads: "a business for

which a licence is required under any law for the time being in force relating to intoxicating liquor." Now I was asked to sit on a Committee, not a Select Committee, but a Committee to deal with the Liquor Licensing and that Committee sat for a very considerable time and issued a report and the terms of reference of that Committee were restricted, at least in my opinion. It was proved conclusively that committee that as the licensed dealer and the hotel keeper was paying as much as he possibly could and that the heavy licence of the hotel was inimical to the improvement of the tourist trade. We did the best we could under the limited terms of reference. We were not allowed to reduce the revenue under the terms of reference. We Act and we reduced in my opinion inadequately the licence fee for the country hotel. In order to do that we actually had to put up the licence fee for the hotels in Mombasa and Nairobi. Now, Sir, perfectly honestly, the members of that Committee were endeavouring to recommend a reduction to enable this trade to progress and we did not know, nor could we believe, that behind our backs the Government was promulgating a measure which would do away with all that we were recommending and would not only reduce the licences for these hotels but would actually increase the total taxation paid by hotels, and, Sir, I think that was definitely unfair and I feel rather hot about it. I do suggest, Sir, that Government should accept this. I suggest that under the Liquor Licensing hotels and other places are paying the maximum of their capacity in regard to taxation and that it is unfair to increase their taxation under the Bill which we are discussing at the present moment. I had to put in, much as I regret it, an exception which reads: "except in respect of grocers who also deal in intoxicating liquors" because my hon. friends the Attorney General and the Treasurer pointed out that if the alteration was allowed to go through without any reference to grocers, then the grocer would escape scot free except under the Licensing Ordinance, whereas he has for some time agreed that a trading licence is equitable.

Now, Sir, I was told that, but it is a little difficult to believe that that is the fact, when under the 1933 Ordinance, section 6 (1) (b) says: "The following businesses"—i.e. "a business for which a licence is required under any law for the time being in force relating to intoxicating liquor" shall be exempt and I am told by that committee that in spite of that clause in the 1933 Ordinance the grocer had been paying the trading licence apparently without demur. I hope, Sir, that Government will see its way to accept this amendment because very definitely it is a great hardship and, although it is a little difficult to say, almost a breach of faith to the members of the Committee that were appointed to go into the Licensing Ordinance.

My next amendment refers to Schedule C of the Bill, that item 3 (d) be amended by deleting the figure Sh. 750 and substituting Sh. 500. This appears on page 12 and I hope the hon. the Attorney General will correct me if I have not got the right wording for the amendment. It says: "For each place of business where the gross receipts . . . (d) exceeded £5,000—Sh. 750" and the amendment recommends that it should be Sh. 500. I have tried to stress the idea—and it is very difficult to get it across into the thick—into the heads of hon. Members opposite—that we are not making money but losing money and Sh. 750 is more than we can pay. I hope and urge that the fee of Sh. 750 will be reduced to Sh. 500.

The last amendment I propose is on the same page to Schedule C, item 7, a licence to carry on any or all of the businesses described in this Schedule reads Sh. 1,200 and we urge that it should be Sh. 1,000. At the meeting of the Chamber of Commerce last night I endeavoured to explain how far we had been met and the difficulties we had experienced and they were bitterly disappointed that this inclusive fee had not been reduced. It is a fee too high at Sh. 1,000, but we suggest that it is in conformity with the other fees. And, Sir, I do most strongly urge on Government that they will accept these four amendments because the community cannot afford to pay any more.

HIS EXCELLENCY: Will any hon. Member second these amendments?

THE HON. CONWAY HARVEY: I beg to second the amendments, Sir.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the amendment proposed by the hon. Member who has just spoken, with regard to medical gentlemen and veterinary officers.

I would remind Government that in this very same Bill last year it was provided in the Schedule for certain appointments—I do not think the veterinary officers were in; but medical practitioners were—and Your Excellency will probably remember the then Director of Medical Services, Dr. Gilks, asked Your Excellency to allow him to refrain from voting because he felt very hot about it indeed. I maintain that a flat rate for doctors is very unfair. It is impossible for the outside, up-country practitioners to pay the same as Nairobi and Mombasa. Very few, if any, of them up-country are making a living or are barely making a living. They are certainly finding times very difficult indeed and it is a profession in which it is very difficult to collect their fees. When a medical officer is called out he will go irrespective of whether

he is to be paid or not and I have known many cases where they do not hope or expect to receive any payment. It is a different proposition from a commercial proposition and I do think it is also unfair to private practitioners that the Government medical officers are exempted from this Schedule. I maintain honestly and squarely that whether they are receiving remuneration from the Government in salary and pensions or not they are working for private gain. I do not want to stress the point. It is not a question of whether they are working for the Government. The case is pure and simple. They are being well paid and probably rightly so and are not to be taken under this Ordinance yet they are competing with the private practitioner. I have been told that it is desirable to have highly trained and qualified officers at the Government hospital. I agree, but it must be remembered that many of the fees that are charged to nonofficials at the hospital go to the Government medical officer in that hospital and even assuming that he does pay on that part of it, I still maintain it is unfair. I have also been told that the private practitioners do not object to that and my own opinion is that it does prevent highly qualified men coming to Nairobi when they know they are in competition with other highly qualified officers at the Government hospital. They have the facilities with the use of the hospital and a small charge for the theatre. The specialist pay their operation charges and I maintain they should come into the same category.

As regards veterinary officers I was anxious to see that they were not taxed but I am also anxious to see that retired agricultural officers especially from Government service should not only not be taxed but they should be subsidized by Government. I maintain, Sir, that a practice on those lines would be a great help to agriculture and eventually would be a relief to the budget of the Agricultural Department. I do hope that will be examined.

I do not think the exemption clause is sufficient, i.e. that they can apply for exemption or reduction of the fee. I think it is a very invidious position to put anybody in. I have not been in the habit of coming here and saying that I have not made a penny for over three years, but it is a fact and notwithstanding I have a large amount of money invested in this Colony I have been living on capital. I am very much like the boy I had in South Africa who when refused a wage increase, wrote and sent in his resignation and said he was working backwards.

I maintain this Bill is generally a taxation measure. It was brought in last year that way and was agreed to by the commercial community to help Government over a period of difficulty by being taxed through a Licensing Ordinance, but

it was never intended that it should be repeated. It was for a period during which the Government could take stock of the financial position and adjust their finances accordingly and balance the budget by reduction of expenditure and not by taxation. I am honestly convinced that the figures quoted by the hon. Member who has also signed the Minority Report, are correct. There are very few commercial people making ends meet for the last two or three years and I stated last year on the budget that it was my considered opinion that 1934 would be worse than 1933. I will reiterate again that 1935 will be worse financially than 1934. There is no question about it. There is no rise in commodity prices consequently everything we are selling to-day is being sold or handled at a loss and that cannot go on for ever and I do hope Government will allow the items 4 and 6 of Schedule A to be deleted.

As regards section 17 (1) (b) referring to the licences for hotels, I think it is most unfair and it will probably lead to very serious complications in the future having hotels licensed under the Liquor Licensing Ordinance and also under the Trades Licensing Ordinance. I support the proposal of the hon. mover and I do not sincerely think it be accepted. As I stated on the Liquor Ordinance, I was put in a very awkward position—it flattened me out, Your Excellency. I had several motions here that I had intended to move on the Liquor Bill and it was while I was writing them down the Ordinance was passed. I have not done what I intended to do and I have not had the consideration I should have had. The Licensing Committee sat on the Liquor Licensing Ordinance definitely, if you look at the Schedule, and endeavoured to get a reduction for the outside hotels and they did reduce a certain type of hotel to £40 which originally stood at £50, but now again it is proposed in this Bill to charge them a hotel licence fee of £10 under the commercial and professional licences and they are to be taxed under two Ordinance.

In giving evidence I did ask the Committee if they could quote one instance where . . .

THE HON. SHAMSUD-DEEN : On a point of order, Sir, I think the hon. Member ought to restrict himself to the amendments only.

HIS EXCELLENCY : The hon. Member is now speaking to the amendment.

LT.-COL. THE HON. J. G. KIRKWOOD : I am sorry I must at least say what I consider fair points in this debate and I do not want you to consider whether you are justified in passing this clause as it stands in the Bill or not. I definitely say

it is not reasonable, not just, not fair, to expect a hotel to pay a licence under both the commercial licences and also pay under the Liquor Ordinance, apart from any legal complications that might arise in the future.

There are on or two points to show that this is so but I do not want to admit it is a taxation Ordinance or not, but you can qualify it.

HIS EXCELLENCY : You can speak again when we come to the general question. I would like you to keep to these amendments now.

LT.-COL. THE HON. J. G. KIRKWOOD : I have nothing more to say at the moment, Your Excellency.

THE HON. J. B. PANDYA : My difficulty is as to what would happen if a Member wishes to support one amendment and not the other.

HIS EXCELLENCY : I will put the questions separately.

LT.-COL. THE HON. J. G. KIRKWOOD : The point about turf accountants will not come up because there is no amendment on it.

HIS EXCELLENCY : It comes up on the general motion.

MAJOR THE HON. G. H. RIDDELL : Your Excellency, as a member of the Select Committee and a signatory to the Minority Report, I have nothing to say on the Report itself except that I support every word said by my hon. friend the Member for Nairobi South. I have only one small point I wish to make, with regard to veterinary surgeons whom we desire to encourage in private practice. There is one point which has not been made sufficiently strongly by the hon. Member for Nairobi South, and it is that when the Committee on the reduction of expenditure comes to sit one of the schemes in front of it which will come from the Standing Finance Committee deals with the question of veterinary surgeons, and we do not want in any way possible to handicap that Committee by any charge which will cut right all that scheme. This will do so, and it is an additional point of recommendation that the charge on veterinary surgeons in private practice should be deleted.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK : Your Excellency, I am only rising to support wholeheartedly the amendment put forward on our behalf by the hon. Member for Nairobi South. This Bill as originally drafted did meet

with a most tremendous amount of opposition in the commercial community for the reasons which have already been made clear. I am glad to see that it has come back in a very substantially changed form, and I am especially glad to see

HIS EXCELLENCY: Are you speaking to the general motion or the amendments?

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: The amendments.

HIS EXCELLENCY: You can confine yourself to them, because you can speak again on the general question.

MAJOR THE HON. F. W. CAVENDISH-BENTINCK: On the amendments purely and simply, the first amendments being to items 4 and 8 of Schedule A, that they be deleted, among other arguments there is one that has not been put forward by the hon. Member for Nairobi South: that throughout the British Empire the British Medical Association has endeavoured to prevent taxation of this kind and, I believe, with considerable success. I trust that we shall not be one of the colonies which does pass taxation of this kind on doctors and veterinary surgeons.

On the other amendment, to 17 (1) (b), the deletion of certain words after "liquor" and the substitution of the words suggested by the hon. Member for Nairobi South, the object of that has been made perfectly clear, that it was to prevent duplication of taxation. The other amendments are merely reductions of fees payable. Yesterday, I was also present at the meeting of the Nairobi Chamber of Commerce at which there was a large number of people present who had had considerable experience of commercial conditions to-day, and they did put up to my mind an unanswerable case for these two reductions. I do therefore trust Government will see its way to accept these four amendments.

THE REV. CANON THE HON. G. BURNS: I suggest we want to be quite clear with regard to the amendment to item 4 of Schedule A, as to whether the hon. member meant to include doctors and dentists in his amendment?

THE HON. A. C. TANNAHILL: On a point of explanation—yes, Sir, I have understood that doctors, medical practitioners, and dentists are practically insoluble in legislation.

MAJOR THE HON. SIR ROBERT DE V. SHAW: Your Excellency, in rising to support all these four amendments proposed by the hon. Member for Nairobi South, I want to say at once that I agree entirely with everything he has said

as regards the appalling difficulties which traders and professional men in this country have at the present time in making both ends meet, let alone meeting the heavy charges they have to pay Government.

The amendment that I wish particularly to speak on is that to clause 17. Having said it already, I want to say now that for the purposes of my argument I am not concerned any more with the amount any trader or professional man may have to pay. I want to make the point here that we can make a great blunder in the drafting of our legislation. These are licensing laws designed, as is pointed out in the Minority Report under consideration, for the purposes of the protection of the trader and the public. The trader pays under the licensing laws certain fees in order to receive certain protection and amenities from the public service; in fact, he is paying for value received. Under our Liquor Licensing Act just passed the hotel keeper has to pay a fee in return for that value received. Now we propose to pass another law which will force the same man to pay another fee for the same service. That definitely, Sir, is bad legislation, and should not be passed by the House. The remarks of other Members as regards fees and so on I agree with, but my point is we should not pass bad legislation through this House.

DR. THE HON. A. C. L. DE SOUSA: Your Excellency, I am supporting the four amendments of the hon. Member for Nairobi South, and I especially refer to his amendment concerning medical practitioners, dentists and veterinary surgeons, on which I have already spoken earlier in this week. An important statement was made in Select Committee by a very prominent doctor with a private practice in Nairobi. He said the medical profession to-day is earning about 60 per cent less than what he did five or ten years ago, and the balance was put down to bad debts or doubtful debts. It is not only the commercial community but all professions who are suffering from the depression, especially the medical profession, and Government wants to give them security as well as traders. But the medical profession is not protected, even as the hon. Member for Kiambu, said, from their own servants, who are secure in their several privileges of pensions, salaries, and provision for themselves and families. Nor is the private medical practitioner protected from a certain class of practitioner who, though without qualifications, is encouraged to work in competition with them. We should not charge a profession of this kind Sh. 300 per head when I know that many doctors in and out of Nairobi do not earn that a month. I acknowledge with gratitude the dissenting note on this subject from the three European

Elect Members, and express great regret that the Indian Member on the Committee did not see fit to equally support them.

The Council adjourned for the usual interval.

On resuming.

THE HON. SHAMSUD-DIEN: Your Excellency, owing to what I consider an innovation into the House this morning, by the grouping of all amendments, I have great difficulty in knowing how to speak on them. I am positively opposed to three of them, but very much in favour of one. In view of Your Excellency's ruling, I blow hot and cold at the same time! However, I am very much in favour of the amendment regarding medical-practitioners being exempted from this taxation, and that is the only one.

I look on the members of the medical profession as coming next to ministers of religion, that both are more or less in the same category. A doctor who makes the medical profession his means of living is, according to this Bill, deprived of treating anybody. Take the case of a doctor who witnesses a very serious accident, he has to consider whether he wishes to treat the person injured free of charge. And this is the only profession, I wish to point out to the House, which does give assistance to the public in many cases absolutely free of charge; any other profession—architects, engineers, lawyers—always sell their professional services. It is a rare instance when a lawyer waives his fees, or an engineer does a job for somebody for nothing! I have mentioned the case of a doctor who witnesses an accident, or again in the case of an operation, for in a country like this most of the natives are suffering from diseases but are unable to pay for attention. According to this Bill, a doctor cannot treat such a person unless he first pays Government Sh. 300 a year.

Some hon. Members, I am sure, must have read Mrs. Mary Baker Eddy's books on Christian science and health. This measure would be an actual interference with people of her belief, because there is a section which practices the art of healing. This is not entirely restricted to what is generally known as the medical profession, for these people consider it part and parcel of the laws of God by which people can be healed of some of their trouble. But according to this Bill they too would have to have a licence.

Your Excellency, this is definitely a new kind of law, and the wisdom began in South Africa or Mauritius. No such law exists in England, India, or other civilized countries, and I hope Government will delete this particular clause which I really think would be a slur on this Colony.

THE HON. J. B. PANDYA: Your Excellency, I am speaking on the amendments, and shall speak later on the main motion. The hon. Member Dr. de Souza made a point as to why I, being a member of the Select Committee, did not identify myself with the amendment regarding doctors. The position of a member of a Select Committee is not the same as a member of this House who is not on a Select Committee. On that Committee we have sometimes to follow a policy of give and take. There are a lot of things which one would like to obtain, but if we go too fast and too far in everything we naturally lose what we are likely to get. That is the difficult position in which I was placed. Apart from putting in the Minority Report one or two points of principle to which I was opposed, it was not possible for me to sign that Report, but the point I wish to make is that I have every sympathy in these times of depression for anyone who can be exempted or can get out of payment of these licences, and in that way I want to make my position quite clear, that I am not opposed to doctors being left out, but as a member of the Select Committee I was not justified in pushing it to the extent of the dissenting minute or Minority Report.

THE HON. THE TREASURER: Your Excellency, there are two points in regard to this amendment with which I should like to deal, in reference to item C (3) and C (7).

The first has reference to the charge levied on manufacturers producing more than £5,000 a year. As hon. Members know, this measure redistributes the burden of taxation of this sort, and here and now I should like to say this is a taxing measure substantially the same as the Ordinance of 1919, which was a taxing measure. In the 1933 Ordinance the amount of this fee was Sh. 300, the Bill suggests it should be Sh. 750, and the amendment seeks to reduce it to Sh. 500. Personally, I have heard no sort of argument as to why this particular item has been selected for reduction. In a measure which redistributes the burden some must pay more and others less. Therefore, having heard no reasons for reduction I do not understand.

THE HON. A. C. TANNAHIL: On a point of explanation, Your Excellency, I think there were reasons given—the total inability of people to pay.

THE HON. THE TREASURER: That, of course, would be a general reason. I was trying to make the point as to why this particular one should be singled out.

So far as item C (7) is concerned, the suggestion is that the inclusive licence should be reduced from Sh. 1,200 to Sh. 1,000. Members will realize that the Select Committee

did meet this point to some extent by amalgamating licences under this particular item to cover all the businesses in Schedule B and in Schedule C. In Schedule C there are two licences carrying a fee of Sh. 1,000. If you have an inclusive fee for the same fee as a single licence the position becomes illogical, and it is for that reason that the £60 licence fee is being charged.

THE HON. THE ATTORNEY GENERAL: Your Excellency, there are just two points that I should like to refer to. Before doing so, I wish to associate myself at once with what has been said by the hon. the Treasurer with regard to this being a taxing machine. It would be absolute hypocrisy, for this side of the House to say that the Ordinance is not in fact a taxing machine. I go further, and say that every one of the Ordinances we have been repealing and replacing since 1910 were also taxing machines, so that we must start on the clear premise that this is in fact a taxing machine. In that connection I should like to refer to the Liquor Licensing Committee for a moment, because we should realize that the terms of reference of that Committee, which the hon. Member for Nairobi South with remember quite well, as he was a member, stated that our task was not then to tighten up the Ordinance or to raise money in any way.

A great many complaints have come in with regard to the present Bill, and it was alleged that there were many anomalies, of people who paid too little and some too much. With that object, and that alone, we addressed ourselves to the task of trying to allocate the correct fees as between the various licences. Actually, as far as the mathematicians could tell us, after redistribution we came within a few pounds of what had been produced by the old licences. Then came along another Committee, on which the commercial community were very strongly represented, with which I had nothing to do whatever, and their definite duty appears to have been to tighten up the Trades Licensing Ordinance. You must not mix up the two at all. There was an entirely different task and they are definitely imposing taxation.

The first point which I should like to reply to is with regard to the doctors. Personally, I cannot see any reason why doctors are so sacrosanct that their names cannot appear in an Ordinance of this description. When I say that I include dentists, who have to be included with doctors, and I see you are now adding veterinary surgeons, and has been said about the amount of free attendance given by doctors, and I do not wish anyone in this House to imagine I am attempting to decry that at all, but I must take exception on behalf of my own profession to the statement of the hon.

Member Mr. Shamsud-Deen that they never do anything for nothing. It may seem peculiar, so few of you are in a position to require it for nothing, but practically every person charged with murder in this country is defended free by advocates here. (Mr. Shamsud-Deen: We pay for it!). There are other professions which do things for nothing. The Committee considered this very carefully, and could not see how we could logically exclude doctors with whom must also be included dentists. Why dentists? I have heard it said that they do work for nothing. Some of them may. I leave it at that. But to class them with doctors is stretching things a little bit too far. And you go a step further and join veterinary surgeons as well.

I think this point is amply covered by the power given Your Excellency to exclude all or any members of professions or businesses or persons. That to a great extent was put in to meet the very objections we are hearing to-day. If you have a doctor working in a native reserve, perhaps for nothing, naturally he would be excluded. That is the object of the exemption clause. On the other hand, if a doctor is working for very little, Your Excellency has power to reduce the fee proportionately. Lastly, can anyone conceive the reason why let us say, only half a dozen—that is the number given us, even less—who are actually making a very good income, why they should be excluded altogether with a stroke of the pen? I really am unable to conceive why. So much for the first amendment regarding doctors.

The second amendment is with regard to hotels. You will remember that actually in regard to liquor licences, that in those cases where a hotel licence was also taken out we cut the figure in half. I should like here to support what was said by the hon. Member Mr. Pandya. We in Committee were faced with a difficult task. You have on a Committee all sorts of members. Somebody thinks a licence should be more, others that it should be less. As a result of it all, having totted it all up, we get a more or less unanimous Report as a result of give and take. I think it is distinctly unfair that when you have got a little bit already you should come here and say you ought to get a little bit more, that you had not got quite as much out of the other side as you had wanted. I think the House should view it from that point of view more than it does. I consider, Sir, that there is no logical reason why a hotel should be excluded merely because it has a liquor licence. Let us take the ridiculous position of a hotel licence of £20 being taken out, and excluded, if this amendment is accepted, from all other taxation under the Ordinance. If that is so, why should the man who takes out a liquor licence as a grocer be any different to a hotel? You must be logical, and if you exclude one you must exclude the whole lot, there

can be, no two opinions about that. Again, it does seem to me you are putting a temperance hotel in a ridiculous position, and this amendment may drive every temperance hotel into taking out a liquor licence in order to escape other taxation, because they will find it cheaper! When it is pointed out that the most, not the least, that you can call on a hotel to pay is slightly more than £10, I do not think you can say the Committee has been unreasonable or over-drastring in recommending that a hotel licence should be paid.

The question of the first amendment was put and lost by 23 votes to 9, one member not voting.

Ayes: Major Cavendish-Bentinek, Dr. de Sousa, Mr. Isher Dass, Lt.-Col. Kirkwood, Major Riddell, Major Robertson-Eustace, Mr. Shaifusud-Deen, Sir Robert Shaw, Mr. Tannahill.

Noes: Messrs. Bemister, Boulderson, Major Brassey-Edwards, Mr. Bruce, Canon Burns, Messrs. Fitzgerald, Gardner, Harragin, Hemsted, Hosking, Kirsopp, La Fontaine, Logan, Montgomery, Morris, Dr. Paterson, Mr. Pilling, Sir G. Rhodes, Messrs. Sikes, Wake, Walsh, Waters.

Did not vote: Mr. Pandya.

LT.-COL. THE HON. J. G. KIRKWOOD: I want to make a point of explanation in reply to the hon. and learned Attorney General.

HIS EXCELLENCY: You cannot enter into the debate again.

LT.-COL. THE HON. J. G. KIRKWOOD: He has put the case wrongly to the House.

HIS EXCELLENCY: I cannot continue the debate now.

The remaining amendments were put and lost.

The debate continued on the motion for the adoption of the Report.

THE HON. J. B. PANDYA: Your Excellency, I associate myself with the general remarks in regard to the present financial and economic position of the commercial community made by the hon. Member for Nairobi South. I am opposed to the increased taxation of the commercial community. I made my attitude quite clear in the minute of dissent which I wrote on the Report of the Trade Licensing Committee, and again at the time of the second reading of this Bill. But, Sir, in fairness I must admit that there have been several

changes in the Bill and in the Schedules to this Bill and as now amended I do feel that they go a very long way towards meeting most of the objections which I have raised.

The Nairobi Chamber of Commerce appointed a very representative committee and that committee represented European and Indian trading interests. That committee went to great pains and trouble to investigate various questions from the various points of view and the members of that committee gave evidence to the Select Committee. Now, Sir, I am glad that most of the amendments suggested by that representative committee have been implemented in this Report. Naturally in a taxation measure of this type we should be satisfied with what we have and we certainly would have liked to have had further reductions, but in this connection, Sir, it is chiefly a question of give and take and I must admit that the hon. the Treasurer and other Members representing the Government on that committee did show a very great sympathy and met us to very great extent. Let us hope, Sir, that this is the beginning of the spirit of recognition that the community is not in a position to bear the extra burden of taxation.

Now, Sir, hon. Members on this side of the House have raised certain principles about this Bill being not protective and only a revenue measure. In that I am in honest disagreement with them. If they consider that the 1919 Bill was a protective measure, I for one could not imagine what difference there is between that Bill and this Bill. In fact I can say that this Bill gives a greater protection, in view of the increased fees introduced, than the 1919 Bill. This question was the first we discussed at the trade licensing committee and the opinion of the majority was definite that this measure was a revenue measure and should be treated as such.

Now, Sir, before I conclude I should like to make one other point. The hon. the Attorney General, yesterday, in the debate when we were opposing the Non-Native Graduated Poll Tax Bill indulged in a little bit of leg-pulling and ridicule, alleging that when we voted for the motion to adopt the Report of the Standing Finance Committee we also voted for the Non-Native Poll Tax. Now, Sir, I have not that knowledge of the law of consistency or inconsistency which the hon. and learned Member appears to possess, but as a business man with common sense I do feel, Sir, and I am quite sure that the attitude we took yesterday was quite consistent. Let us take an instance: Sir, of the Report of a Select Committee. A Member signs the Majority Report and it is naturally assumed that he therefore does not agree to

every small detail of that Bill, but it does not mean, therefore, that he should vote against the Bill as a whole. The budget came before us as a whole and we voted for the whole budget with certain reservations which we made.

HIS EXCELLENCY: Has this got anything to do with this Report?

THE HON. J. B. PANDYA: I am just making one point and this is that when one item came to the vote, we were quite justified in voting against it.

THE HON. F. A. BEMISTER: On a point of order, Sir, has this Report been signed. The Liquor Bill Report was but has this one?

THE HON. THE ATTORNEY GENERAL: On a point of explanation, Sir, every hon. Member will be aware that we took particular care of this particular Bill. We had a special meeting at 9 o'clock before the Report was laid for the purpose of getting signatures.

HIS EXCELLENCY: But was the hon. Member on this Committee?

THE HON. F. A. BEMISTER: Not on that one but as the other one was signed I wondered if this was.

THE HON. SHAMSUD-DEEN: I have not got really much to say on this particular Report but since some of the hon. Members have been indulging in a little bit of prophetic ideas, I think I should like to be allowed to say this much, that some of my friends do not really appreciate the sense of the human mind when the Government says it is a protective measure and not taxation. I think it is quite a common thing when the Government want to do something they always bring forward that time-worn proverb that it is for your own good and so when it is mentioned I am rather amused than annoyed. As regards the sense Your Excellency allowed certain Members to say something about things however far more serious than this. I think I should be allowed to say that in my opinion there is no such thing as depression at the present moment. We have now got to reconcile ourselves that we are getting back to normal conditions and to reconcile ourselves with that, if we are going to get the same sunshine period again.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, would it not be quite logical for medical officers in Government service who undertake private practice that they should take out a licence as well as the private practitioners, in Nairobi, at least though in Mombasa a very large amount is done by Government officers?

THE HON. THE ATTORNEY GENERAL: The answer is in the affirmative. If the doctor is practising whether a Government servant or anything else he has to take out a licence.

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

THE HON. THE TREASURER: Your Excellency, there were one or two remarks of the hon. Member for Nairobi South with which I should like to deal. I think he indicated that this Bill was evolved by thick-headed Government officials who can never be made to understand that times were hard. In fact the position really is that this Bill was evolved after the whole matter had been very exhaustively discussed by a committee which included nominees of the European and Indian Chambers of Commerce, and a representative of the European Elected Members, with an unofficial majority, so that for him to suggest that the commercial community was staggered on the publication of the Bill, I must say appears to me to be rather an over statement of fact.

He also laid particular stress on the additional taxation that the community cannot afford it but not on the fact that in many cases there is a definite reduction so that traders with stocks between £150 and £2,000 will definitely pay less than under the 1933 Ordinance and so far as traders holding stocks of between £150 and £1,000 are concerned they do not pay any more than under the 1919 Ordinance.

He mentioned the case of a particular grocer in town who did not know the grocer to whom he referred—but if that grocer does hold stocks under £2,000 he will pay less than before.

So far as times being hard is concerned, of course Government officers are fully aware of the fact and are reminded of it every day of their lives. It might be as well to point out that although times were hard on the commercial community, I quoted figures the other day in regard to the payment of non-native poll tax which were prepared to indicate that they are not quite so hard as the hon. Member would presume to make out.

THE HON. THE ATTORNEY GENERAL: I have, Sir, little to say. All the points that have been raised have been dealt with already. I would like to say one word with regard to the statement made by the hon. Mr. Pandya in regard to his attitude to the budget and point out that it is just a question of the point of view. If you look at the budget as we look on the second reading of a Bill, then certainly you are entitled when you go into committee, while agreeing with the principle of the Bill, on the second reading to disagree with any

items that happen to come up in Select Committee or in the House. If that is the attitude which I understand him to take up now, then I must admit that from his point of view he was being entirely consistent.

I do not think there is anything further to reply on.

I beg to move the adoption of the Report.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Licensing Bill be adopted.

The question was put and carried.

BILL.

THIRD READING.

THE LICENSING BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that a Bill to provide for the licensing of certain professions, businesses, trades, arts, callings and industries within the Colony and to fix the licence fees payable be read a third time and passed.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

The Licensing Bill was read a third time and passed.

MOTION.

SELECT COMMITTEE REPORT ON THE ASIAN CIVIL SERVICE PROVIDENT FUND BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency. I beg to move the adoption of the Report of the Select Committee on the Bill to establish a Provident Fund for Members of the Local Asian Civil Service.

Hon. Members were told at the second reading that this Bill which is incorporating a new service on the 1st January next year had to come up for revision before a Select Committee in order that numerous anomalies might be removed. There is nothing in the Report of the Select Committee that injures any principle whatever in the Bill. The Bill as drafted made provision for all the holders of posts which had been scheduled in the local service to be contributors. There are two types of contributors contemplated: those in the service who become contributors from the date of the Ordinance coming into operation and those who join the service later with effect from the date they join the service. Then it was found that there were two other classes to be provided for: first, those on agreement and it was made clear to us that we could not terminate the agreement at the usual three-monthly or one month's notice in order to force them into the service if

they did not want to come in, though we believe they will all come in as a matter of fact but still we could not put that in the Bill; and secondly, there were also those in the service at the moment but who are debarred from entering the fund by section 5. In order to cover these different points we have recommended a new definition of the word "contributor" and an improved definition of the word "service". A contributor is defined as being a person who receives a letter of appointment to the service. There can be no question then as to whether he is or is not in the service and it also provides against any argument in the future if some one happens to be in the service on a temporary job. These are the first two amendments that Your Excellency will see in the Report.

There is also an amendment with regard to setting out clearly the exact date upon which a member shall start to contribute and before I pass from that definition I would point out that provision is made under the definition "service" for this to include the common service with the other Colonies, but no hon. Member need be afraid that it is going to be an extra burden on the Kenya taxation. Arrangements have been made with the Governments in question to pay whatever is necessary from their funds.

The only other small amendment is with regard to provision for the month to month men who were excluded under section 5. It was pointed out in Select Committee that a great many of these people may have been in the service for a number of years, twenty or more, kept there, some of them, hoping that they would get into a fund such as this or become pensionable, and particularly of late years we have been extremely careful to keep people on a month to month basis because we did not know exactly what scheme was to be evolved and under the Bill as drafted at present these people were going to be excluded altogether. Provision is recommended for the deletion of that clause so that month to month men may come in if Your Excellency sees fit to declare the posts they are holding as being posts within the Service, and a permanent letter of appointment is given. If he does not want to come in, there is provision made that Your Excellency may exclude him.

We then come to the difficult people—the ladies in the Service, particularly married ladies, and there we have had to rather remodel section 7 in order to provide clearly for the four types of persons we have in the Service. Women who have been in the Service for four years already, we have clearly got to provide for them if they leave in order to get married. Then the second class will be the women who have been less

that four years in the service and we have made provision for them to receive their four years' contributions and of Government's but not the nest-egg which those who have been in the Service longer than four years will receive under section G. Then we have to deal with two other classes—those who have been four years already and who leave to get married and those of less than four years and who also leave to get married—and there is a point which we make with regard to that and that is that the Ordinance appeared to us to be hide-bound in its incidence, in that they had to be married whilst in the Service. Well, assuming a woman was going to get married and only had a month's leave and did not get married in that month, she was married out of the Service and the gratuity would lapse. We therefore made provision that when a woman leaves under those circumstances with the intention of getting married that she should whilst six months, in order to get this gratuity, produce evidence of her marriage. We also left a further loop hole for those who cannot get married for some reason that we cannot foresee, such as illness. There was made under those circumstances an extension of six months so as not to deprive her of her just reward.

There is a small further amendment with regard to the exclusion of people who are already eligible for a gratuity under the Non-European Pensions Ordinance or the Superannuation Act.

I beg to move, Sir.

THE HON. THE TREASURER: I beg to second the adoption of the Report.

THE HON. SHAMSUD-DEEN: Your Excellency, I hope that the last paragraph of the Report will be considered. It is admitted that in the case of low paid officers the contributions should be raised at the discretion of officers, and I hope this will receive the serious consideration of this House. There is a principle involved, Your Excellency, which does not only apply to non-Europeans but I hope also in the case of European Civil Servants and that is that the low paid men when they pay only 5 per cent do not get a sufficient amount at the expiration of ten years' service to enable them at any rate to exist for six or seven months without jobs. In the case of the higher paid servants 5 per cent is all right but in the case of the lower paid servants I think there should be a clause in the Ordinance to the effect that irrespective of European or non-European those with a salary up to say £400 should have a discretionary option to contribute more than 5 per cent, to say 7½ per cent, provided that they get the full benefit of an equivalent sum by the courtesy of Government.

I have only one more point which really does concern this Report as well and perhaps it does not immediately concern it and that is the question which I mentioned in Committee as to married women. In the case of Indians evidently there is no law in this Colony by which all Indian marriages are recognized and in the absence of such a law, an Indian woman, although married according to her religion is not married in the eyes of the law. I hope the Government will take that into consideration and will introduce some law by which all Indian marriages are legally recognized in this country.

THE HON. THE ATTORNEY GENERAL: Your Excellency, Mr. Shamsud-Deen quite rightly referred to the note in the Report with regard to those additional contributions which he suggests for those with such salaries as under £400 and I would like to make it clear that he raised that point in Select Committee and that the majority of us are of the opinion and he indeed agreed with us that perhaps it was not a thing we could suddenly spring on this House at a day's notice. What the exact effect of allowing people voluntarily to contribute more than 5 per cent will be on the finances of the country was important for us to decide and that would be a matter for future investigation.

He also mentioned the point with regard to Indian marriages which as he knows is a very big question indeed. Certain marriages are provided for under one class of religion and under another apparently the law as it stands makes no specific provision and it may be necessary in the future to legislate along the lines suggested. Of course, as he himself says, we could not attempt to do that in Provident Fund Bill.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Asian Civil Service Provident Fund Bill be adopted.

The question was put and carried.

BILL.

THIRD READING.

ASIAN CIVIL SERVICE PROVIDENT FUND BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Asian Civil Service Provident Fund Bill be read a third time and passed.

THE HON. THE TREASURER: I beg to second.

The question was put and carried.

The Asian Civil Service Provident Fund Bill was read a third time and passed.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL moved that the Standing Orders be suspended to enable the Report of the Select Committee on the European Civil Service Provident Fund (Amendment Bill) to be considered without due notice.

THE HON. MEMBER FOR NAIROBI NORTH seconded.

The question was put and carried.

Standing Orders were suspended.

NOTION.

SELECT COMMITTEE REPORT: EUROPEAN CIVIL SERVICE PROVIDENT FUND (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I move that the Report of the Select Committee on the European Civil Service Provident Fund (Amendment Bill) be adopted.

It is quite unnecessary for me to say anything whatever, because all we have done in the Report is to bring the Bill into line with the Asian Civil Service Bill which has just been passed.

THE HON. THE TREASURER seconded.

The question was put and carried.

THIRD READING.

THE HON. THE ATTORNEY GENERAL moved that the European Civil Service Provident Fund (Amendment) Bill be read a third time and passed.

THE HON. THE TREASURER seconded.

The question was put and carried.

The Bill was read a third time and passed.

SEASONAL WISHES.

HIS EXCELLENCY: Before the Council stands adjourned, I should like to offer hon. Members my very best wishes for Christmas and the New Year. For once I believe Government will prove right and that in 1935 there will be no locusts and good rains!

Council adjourned sine die.

WRITTEN ANSWERS TO QUESTIONS.

DETERRIALIZATION OF NATIVES.

No. 9. By MAJOR THE HON. J. O. K. DELAP:

1. Does Government recognize—

(a) that large numbers of natives, particularly Kavirondo, are becoming deterrialized by continued residence at a long distance from their own areas on Crown land, occupied land and Native Reserves in Ukamba;

(b) that this leads to an increase in crime, evasion of poll tax and serious poaching, particularly of fish, thus embarrassing administrative and police officers in their duties and greatly hampering the Game Department in their efforts to preserve game and fish?

2. If legislation is in existence adequate to deal with this state of things, will Government enforce it?

3. If not, will Government consider the introduction of a law making it obligatory for all natives not in employment to be returned to the areas in which they normally reside?

Reply.

1. (a) Government realizes that a number of natives of alien tribes are becoming deterrialized by continued residence on Crown land, occupied land and Natives Reserves in Ukamba.

(b) It is not considered that there is any increase in crime, or evasion of poll tax consequent upon the present of these natives; neither does it appear that the amount of poaching is very considerable.

It is not considered that administrative and police officers are unduly embarrassed in their duties by the presence of these natives, though the difficulties of the Game Department are, to a limited extent, increased.

2. Adequate legislation is in existence to deal generally with the evils referred to—namely, the Vagrancy Ordinance, the Resident Native Labourers Ordinance, the Game Ordinance, the Fish Protection Ordinance, and the Native Authority (Amendment) Ordinance, 1928.

In the case of occupied Crown land, the remedy lies with the owner or occupier of the land. The Ordinances in question are being enforced, and convictions obtained; and periodical inspections are carried out in the areas referred to.

3. This question, therefore, does not arise.

CRIME IN NATIVE RESERVES.

No. 25. BY THE HON. J. B. PANDYA :

Will the Government state the number of murders and thefts committed in native reserves during the year 1933 and up to 31st March, 1934, from the shops of Indians and Europeans respectively?

In view of recent attempts against the lives and property of Indians in the native reserves will the Government consider taking special precautionary measures for their protection?

Reply.

The figures are :—

	Thefts from Indian Shops	Thefts from European Shops	Murders
Rift Valley Province ..	1	—	—
Nyanza Province ..	23	4	1 (native)
Northern Frontier District	—	—	—
Masai District ..	2	—	—
Central Province ..	23	—	—
Coast Province ..	7	3	—
Turkana District ..	4	—	—
TOTAL ..	60	7	1

Some increase in organized crime is apparent in certain areas the cause of which is known and is being dealt with by Government. Beyond the action already being taken no special precautionary measures are considered necessary.

RUIRU WATERWORKS SCHEME.

No. 35. BY THE HON. ISHER DASS :

In view of the fact that the Municipal Council of Nairobi has, in opposition to the opinion of the technical advisers of the Government, that it would be more economical to engage a qualified local engineer for the preparation of the Ruiru Scheme, engaged a firm of home engineers at a cost which the Council has withheld from publication, and which is suspected to be excessive, as compared with that involved in a local engagement :—

Will the Government take such steps as may effectively protect the inhabitants of Nairobi and other interested parties, including Government itself, against excessive expenditure in the future execution of the Scheme, such as may arise through authorization by the Municipal Council of contracts, for supply of materials and for execution of works, respectively, drawn up and supervised by engineers who, in the opinion of the Government, are without adequate experience in waterworks construction?

Reply.

In view of the facts that the specifications for the materials and for the execution of the works will be drawn up by a firm of consulting engineers, approved by the Crown Agents for the Colonies and by the Director of Public Works; that the execution of the work will be supervised by engineers of the Nairobi Municipal Council who are competent for the purpose, and that the scheme as finally prepared will be subject to approval by the Director of Public Works, Government sees no reason at present to intervene in the matter.

PREPARATION OF SPECIFICATIONS.

No. 36. BY THE HON. ISHER DASS :

Will the Government undertake, in exercise of the powers of control, reserved to His Excellency the Governor to ensure that the preparation of the necessary specifications, bills of quantities and contracts and the supervision of the execution of the Ruiru Scheme and any works arising from the expediency of co-ordinating the system of supply, from the existing and proposed sources, be done under the direction of an engineer, or of engineers approved by the Government therefor and responsible to the Government and the Nairobi Municipal Council, conjointly, in respect of all matters concerned in the execution of the works including the acceptance of tenders for supply of material and for carrying out of works under contracts and the settlement of the amounts to be paid to the several parties concerned in such contracts?

Reply.

In view of the facts that the specifications for the materials and for the execution of the works will be drawn up by a firm of consulting engineers, approved by the Crown Agents for the Colonies and by the Director of Public Works; that the execution of the work will be supervised by engineers of the Nairobi Municipal Council who are competent for the purpose, and that the scheme as finally prepared will be subject to approval by the Director of Public Works, Government sees no reason at present to intervene in the matter.

JUSTICES OF THE PEACE.

No. 40. BY THE HON. ISHER DASS :

Will the Government be pleased to state the number of—

(a) European; and

(b) Indian Justices of the Peace?

If the answer to (b) be in negative will the Government state reasons and now consider the desirability of appointing Indians as Justices of the Peace?

Reply.

The answer to the first part of the question is as follows—

- (a) Seventy;
(b) Nil.

With reference to the second part of the question, the Ordinance does not provide for the appointment of Indian Justices of the Peace. As the bulk of the Indian population is domiciled in the towns where there is easy access to the Courts, it is not considered necessary to make any provision for their appointment.

UNEMPLOYMENT.

No. 41. BY THE HON. ISHER DASS :

Will the Government be pleased to state the number of jobs secured by the Unemployment Committee for the unemployed (a) Europeans and (b) Indians, since its inception?

Reply.

The information required cannot be furnished with any degree of accuracy.

It is explained that the Unemployment Executive Committee, so far as bringing employers and suitable unemployed into contact, operates mainly by the circulation of information obtained from advertisements and other sources to those concerned, leaving the latter to take direct action. There is reason to believe that in a number of cases this procedure has led to employment being obtained.

DISTRESS AMONGST UNEMPLOYED.

No. 42. BY THE HON. ISHER DASS :

Will the Government please state what immediate measures they intend to take to relieve the distress amongst the unemployed Europeans and Indians already registered with the Unemployment Committee and others who have no means of subsistence but have abstained from registering themselves?

Reply.

The hon. Member is referred to the Report of the Committee on Unemployment which was laid on the table on the 24th April and to the Postmaster General's speech in Legislative Council on the 11th May.

SALE BY AUCTION OF TOWNSHIP PLOTS.

No. 43. BY CAPT. THE HON. H. E. SCHWARTZ :

1. What action if any, has been taken with regard to the reference in the Report of the Select Committee on the 1934 Estimates with regard to an inquiry into the present basis of calculation for upset prices and rentals of township plots for sale by auction?

2. If no action has yet been taken, will Government appoint a small Select Committee of Council to inquire into the matter and report?

Reply.

The subject has been examined by the Heads of Departments concerned, and reports, which are now under consideration by Government, have been submitted.

2. Government will have no objection to the appointment of a small Select Committee of Council to inquire into the matter and report.

UNEXPENDED LOAN BALANCES.

No. 45. BY THE HON. A. C. HORY :

What is the total amount of unexpended loan balances at date?

2. In view of the statement made in His Excellency's address from the Chair at the opening of Council, when can details of Government's proposals with regard to expenditure under this heading be placed before the House for consideration?

3. Will the Government give an assurance that an expenditure out of unexpended loan balances will be incurred, other than that required for completion of the Law Courts, until the whole question of future expenditure under this heading has been placed before this House for its consideration?

Reply.

The total amount of unexpended loan balances on 31st March, 1934, was £764,048/15/18. No later figure is available.

2. Any proposals for the expenditure of unallocated loan balances which have not already been approved in principle by the Legislative Council will be submitted in the first instance for examination by the Standing Finance Committee, the appointment of which is now under consideration.

3. Loan expenditure on the Law Courts has already been voted by the Legislative Council and the work is proceeding. The proposal to proceed with the building of the Central Offices, which was unanimously recommended by the Select Committee on the 1934 Estimates, has been approved by the Secretary of State. The question of any further new expenditure from unallocated loan balances will be examined by the Standing Finance Committee, as explained in paragraph 2 above.

PUPILS AT SCOTT LABORATORY.

No. 47. BY THE HON. F. A. BENISTER :

1. How many pupils are being taught at the Scott Laboratory?

2. What is the cost per head?
 3. How is this apportioned:—
 (a) Food.
 (b) Clothes.
 (c) Wages?

Reply.

The following is the information requested:—

1. Number of pupils, sixty.
 2. Cost per head, Sh. 200 per annum.
 3. (a) Food (including fuel and water): Sh. 83.
 (b) Clothes, Sh. 30.
 (c) Wages, Sh. 87.

REPATRIATIONS.

No. 50. BY THE HON. J. B. PANDYA :

Will Government state the number of—

- (a) Europeans, and
 (b) Indians

repatriated from the Colony during the years 1929, 1930, 1931, 1932 and 1933, and their respective cost to the Colony?

Reply.

The number of Europeans and Indians repatriated during the period in question is:—

	1929	1930	1931	1932	1933
Europeans	24	65	98	88	44
Indians	5	8	31	40	55

2. It is regretted Government is unable to give separate figures of expenditure for Europeans and Indians.

KISUMU DRAINAGE SCHEME.

No. 59. BY THE HON. CONWAY HARVEY :

In view of the fact that ploholders in Station Road, Kiambu, are expected to complete the erection of buildings by 31st December, 1935, and such buildings cannot be started before Government has completed a drainage scheme to fit in with the altered planning of the area concerned, what are the intentions of Government with regard to the establishment of a suitable drainage scheme in this area?

Reply.

It is hoped to make provision in the Draft Estimates for 1935 for the cost of widening Station Road up to the boundaries of the new plots, including the removal of the existing drain on the west side of the road. A drainage

scheme conforming to the altered planning of the area has been prepared, but it is unlikely that funds for its execution can be provided in 1935.

PRIVATE WORK BY GOVERNMENT DEPARTMENTS.

No. 65. BY MAJOR THE HON. F. W. CAVENTISH-BRINTOCK :

Will Government renew their assurance that Government Departments and the Railway Administration are forbidden to undertake engineering, painting, carpentry and similar work on behalf of firms or individuals in competition with established commercial firms where such exist and can undertake such work?

Reply.

It is the general rule that neither Government Departments nor the Kenya and Uganda Railways and Harbours should compete with private enterprise in commercial undertakings of the nature described. The Government will undertake to investigate any breaches of this rule that are specifically brought to notice.

MALARIA IN NAIROBI.

No. 71. BY DR. THE HON. A. C. L. DE SOUSA :

(a) Will Government state the number of notified cases of malaria occurring in Nairobi during the period of January to June, 1934, and say whether in their opinion such number of notified cases represents the true incidence of malaria in the town during the above period?

(b) Do Government consider the incidence of malaria in Nairobi during the above period higher than in the corresponding period of any of the preceding five years?

(c) If the answer to (b) is in the affirmative, will Government state the causes of such increase and say what additional measures are being adopted to minimize the incidence of malaria in Nairobi?

(d) Do Government consider that the swamp, commonly known as the Nairobi Swamp, is a source of malarial infection; if the answer is in the affirmative, will Government indicate the action which it proposes to take to render the swamp in question less dangerous to the health of the town?

Reply.

(a) During the period January to June, 1934, 1,063 cases of malaria occurring in Nairobi were notified as compared with 1,419 cases for the whole of 1933, and 1,015 cases for the whole of 1932. The cases notified are only those treated by medical practitioners and the figures do not, therefore,

represent the true incidence of malaria. A comparison of the figures over a period of years does, however, provide useful information in regard to the incidence of the disease.

(b) The answer is in the affirmative.

(c) An increased incidence of malaria in certain years is a well known phenomenon in all malarial countries and is due to epidemiological factors which are still imperfectly understood. Malarial control in Nairobi is now carried out by the Municipal Council and it is understood that routine anti-malaria measures are intensified in so far as funds permit.

(d) The Local Public Health Authority is the Nairobi Municipal Council, and the only direct action open to Government in regard to public health-measures is under section 108 of the Local Government (Municipalities) Ordinance, 1928. As at present advised Government does not contemplate action under that section.

PENSIONABLE STATUS OF OFFICIALS.

No. 80. By THE HON. F. A. BRIMSTER :

How many Government officials who joined the Service on a non-pensionable basis have been placed on the pensionable staff in the period January 1st, 1931, to December 31st, 1933?

Reply.

Sixteen European officers; eight Asian officers.

2. Since the 31st December, 1933, in reply to representations made by this Government before that date, the Secretary of State for the Colonies has approved personal pensionable status being granted to twenty-five Asian officers, two of whom have since died.

PROPAGANDA BY E. A. BROADCASTING SERVICE.

No. 81. By THE HON. A. C. TANNAHILL :

Will the Government take steps to ensure that no propaganda for any change or extension of the law is broadcast by the E. A. Broadcasting Services of Cables and Wireless, Ltd., but that any such propaganda be confined to advertized talks or discussions in which both sides are allowed a fair and equal hearing?

Reply.

Government is not aware that there has been any abuse of the broadcasting service of a kind which the question appears to suggest. Government, however, agrees that the

broadcasting service should not be used for propaganda purposes of a one-sided character on controversial subjects and, if the need arises, it is prepared to exercise its authority accordingly.

TRADING BY CIVIL SERVANTS.

No. 92. By MAJOR THE HON. G. H. RUDDELL :

Will the hon. the Colonial Secretary give an assurance that the Colonial Office Regulations with reference to Civil Servants taking part in trading outside their rights as land-owners for selling the produce of their own properties are to be strictly enforced?

Reply.

The Colonial Regulations on the subject of trading by Civil Servants are strictly enforced except in so far as they have been modified with the approval of the Secretary of State in their application to holdings in land in Kenya.

CRIME REPORT—PREVENTIVE DETENTION.

No. 93. By MAJOR THE HON. F. W. CAVENISH-BENTNER :

Is it the intention of Government to take any measures or to proceed with the enactment of any legislation in accordance with paragraph 2 of the Report on Prevalence of Crime in Settled and Urban Areas in relation to decrease in Police strength?

Reply.

The arguments in favour of preventive detention are fully realized by Govt. but the financial situation prohibits any provision for its introduction at the present time.

SURPLUS ROLLING STOCK OF K.U.R. & H.

No. 98. By THE HON. ISHER DASS :

Will the General Manager please state :—

- The names of all the stations at which the surplus rolling stock is stabled?
- The number of such rolling stock at each station?
- The total cost of such stock at each station?
- The date on which such stocks were stabled?
- The Government's attitude with regard to their disposal?

Reply.

(a) The rolling stock which is not at present in service is stationed at stations and sidings enumerated in column 1 of attached schedule.

(b) The total number of rolling stock at each station is as enumerated in column 2 of the schedule.

(c) The original approximate total cost of such stock at each station is as laid down in column 3 of the schedule.

(d) The wagons have been stabled on varying dates between August, 1931, and February, 1934.

(e) The stock will be required for further service as and when traffic increases and also as the necessity arises to replace wastages and life-expired vehicles elsewhere.

SUMMARY OF STABLED ROLLING STOCK

STATION OR SIDING	Total Number of Wagons	Approximate Total Original Cost
		£
Makindu Siding	81	40,601
Mbulamuti Cons. Siding	86	13,877
Jinja	10	4,346
Mhale	2	1,172
Soroti	23	9,406
Bungoma	1	350
Boy	3	1,444
Makuru	1	605
Kisumu Pier	96	48,081
Gigli	5	2,054
Show Ground Siding	10	8,696
Nairobi (CSK's Yard)	20	8,497
Nairobi (Loco Yard)	4	1,212
Nairobi Workshops	25	10,762
Mile 303/0	133	56,168
Kapiti Plains	35	21,175
Makindu	66	27,298
Darsani	15	9,075
Kyulu	15	9,075
Voi	2	1,210
Ndara	17	9,775
Bachuma	23	13,726
MAGADI BRANCH		
Koora	70	44,705
Sing'raini	40	24,200
Turoko	30	23,085
Kajiado	3	1,710
VOI-MOSHI BRANCH		
Maktau	17	10,285
Mbuyuni	14	8,470
NANYUKI BRANCH		
Sogora	64	28,730
Naro Moru Siding	14	8,061
	880	£440,109

NAIROBI BONDED WAREHOUSE.

No. 105. BY THE HON. A. C. TANNAHILL:

In reference to para. 5 (page 6) of the printed Report of the Standing Finance Committee, may I be informed if a licence will be granted to the Nairobi Bonded Warehouse for 1933?

Reply.

The issue of a licence for the Nairobi Bonded Warehouse for the year 1933 was approved on 28th December, 1934.

PASSAGE OF MR. R. S. MOORE AND FAMILY.

No. 106. BY THE HON. A. C. TANNAHILL:

(a) Has Mr. Moore (some two or three years ago in charge of road construction in the Colony) recently been granted a free passage from England to Australia for himself and his family?

(b) If so, has the cost of this passage been charged against the Colony?

(c) If so, what amount has been so charged?

Reply.

(a) The answer is in the affirmative, the passage was taken in July, 1934.

(b) The answer is in the affirmative.

(c) £102.

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