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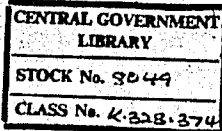
COLONY AND PROTECTORATE OF KENYA



LEGISLATIVE COUNCIL
DEBATES, 1926

VOLUME I

NAIROBI
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List of Members of Legislative Council,
16th March, 1926

President:

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

Ex officio Members:

COLONIAL SECRETARY (HON. G. A. S. NORTHCOLE) (Acting).
ATTORNEY GENERAL (HON. I. L. O. GOWER) (Acting).
TREASURER (HON. R. C. GRANNUM, C.M.G.).
CHIEF NATIVE COMMISSIONER (HON. G. V. MAXWELL).
DIRECTOR OF MEDICAL AND SANITARY SERVICES (HON. DR. J. L. GILKS)
DIRECTOR OF AGRICULTURE (HON. A. HOLM, C.B.E.).
DIRECTOR OF EDUCATION (HON. J. R. ORR, O.B.E.).
GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS
(MAJOR THE HON. G. D. RHODES, C.B.E., D.S.O.) (Acting).
COMMISSIONER OF LANDS (HON. H. T. MARTIN).
DIRECTOR OF PUBLIC WORKS (HON. H. L. SIKES).
COMMISSIONER OF CUSTOMS (HON. G. WALSH).

Nominated Official Members:

HON. T. FITZGERALD (Postmaster General).
HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E. (Liwali for the Coast).
HON. J. O. W. HOPE (Senior Commissioner, Kikuyu).
HON. A. G. BAKER (Director of Land Surveys).
COL. THE HON. A. G. DOHERTY, M. C. (Chief Veterinary Officer).
LT.-COL. THE HON. C. S. DAVIES, C.M.G., D.S.O. (Officer Commanding
Troops).
HON. P. A. McELWAIN (Acting Solicitor General).
HON. H. M. GARDNER (Conservator of Forests).
HON. C. M. DUBBS (Acting Senior Commissioner, Nyanza).

European Elected Members:

RT. HON. LORD DELAMERE, K.C.M.G. (Rift Valley).
HON. CONWAY HARVEY (Lake).
CAPT. THE HON. J. E. CONEY (Plateau North).
CAPT. THE HON. H. F. WARD (Nairobi North).
MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE, D.S.O. (Coast).
HON. W. MACLELLAN WILSON (Kikuyu).
HON. T. J. O'SHEA (Plateau South).
CAPT. THE HON. H. E. SCHWARTZ (Nairobi South).
LT.-COL. THE HON. LORD FRANCIS SCOTT, D.S.O. (Ukamba).
HON. W. A. M. SIM (Mombasa).
CAPT. THE HON. E. M. V. KENEALY (Kenya).

LIST OF MEMBERS OF LEGISLATIVE COUNCIL—Continued

Nominated Indian Unofficial Members :

HON. SHAMS-UD-DEEN.
HON. MOHAMED KASSIM.
HON. J. B. PANDYA.
HON. R. S. NEHRA.
HON. M. A. DESAI.

Arab Elected Member :

HON. HAMED MOHAMED BIN ISSA.

Nominated Unofficial Member Representing the Interests of the Native Community :

REV. DR. THE HON. J. W. ARTHUR.

Clerk of the Legislative Council :

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

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS

16th March, 1926.

HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. W. A. M. SIM.
HON. SHAMS-UD-DEEN.
HON. HAMED MOHAMED BIN ISSA.

17th March, 1926.

HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. CONWAY HARVEY.
CAPT. THE HON. H. F. WARD.
HON. W. A. M. SIM.
HON. SHAMS-UD-DEEN.
HON. MOHAMED KASSIM.
HON. HAMED MOHAMED BIN ISSA.

18th March, 1926.

HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
RT. HON. LORD DELAMERE, K.C.M.G.
HON. CONWAY HARVEY.
HON. W. A. M. SIM.
HON. SHAMS-UD-DEEN.
HON. MOHAMED KASSIM.
HON. HAMED MOHAMED BIN ISSA.

23rd March, 1926.

HON. COMMISSIONER OF CUSTOMS.
HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. J. O. W. HOPE.
HON. C. M. DOBBS.
RT. HON. LORD DELAMERE, K.C.M.G.
CAPT. THE HON. J. E. CONEY.
HON. T. J. O'SHEA.
HON. W. A. M. SIM.
HON. SHAMS-UD-DEEN.
HON. MOHAMED KASSIM.
HON. R. S. NEHRA.
HON. HAMED MOHAMED BIN ISSA.

25th March, 1926.

HON. COMMISSIONER OF CUSTOMS.
HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. J. O. W. HOPE.
HON. C. M. DOBBS.
CAPT. THE HON. J. E. CONEY.
HON. T. J. O'SHEA.
HON. W. A. M. SIM.
HON. SHAMS-UD-DEEN.
HON. MOHAMED KASSIM.
HON. R. S. NEHRA.
HON. HAMED MOHAMED BIN ISSA.

ABSENTEES FROM LEGISLATIVE COUNCIL
MEETINGS—Continued

26th May, 1926.

HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
LT.-COL. THE HON. C. S. DAVIES, C.M.G., D.S.O.
CAPT. THE HON. E. M. V. KENEALY.
CAPT. THE HON. J. A. ANGUS.
HON. MOHAMED KASSIM.
HON. R. S. NEHRA.
HON. HAMED MOHAMED BIN ISSA.

28th May, 1926.

LT.-COL. THE HON. C. S. DAVIES, C.M.G., D.S.O.
CAPT. THE HON. J. A. ANGUS.
HON. MOHAMED KASSIM.
HON. HAMED MOHAMED BIN ISSA.

31st May, 1926.

HON. C. M. DOBBS.
CAPT. THE HON. J. A. ANGUS.
MAJOR THE HON. E. P. H. PARDOE.
HON. MOHAMED KASSIM.
HON. HAMED MOHAMED BIN ISSA.

30th June, 1926.

HON. ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS
AND HARBOURS.
HON. COMMISSIONER OF CUSTOMS.
HON. T. FITZGERALD.
HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. CONWAY HARVEY.
HON. T. J. O'SHEA.
HON. W. A. M. SIM.
HON. MOHAMED KASSIM.
HON. R. S. NEHRA.
HON. M. A. DESAL.
HON. HAMED MOHAMED BIN ISSA.

1st July, 1926.

HON. ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS
AND HARBOURS.
HON. COMMISSIONER OF CUSTOMS.
HON. T. FITZGERALD.
HON. SHEIKH ALI BIN SALIM, C.M.G., C.B.E.
HON. CONWAY HARVEY.
HON. T. J. O'SHEA.
HON. W. A. M. SIM.
HON. MOHAMED KASSIM.
HON. R. S. NEHRA.
HON. M. A. DESAL.
HON. HAMED MOHAMED BIN ISSA.

ABSENTEES FROM LEGISLATIVE COUNCIL
MEETINGS—Continued

10th August, 1926.

HON. DIRECTOR OF AGRICULTURE.
HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND
HARBOURS.
HON. HAMED MOHAMED BIN ISSA.

12th August, 1926.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND
HARBOURS.
RT. HON. LORD DELAMERE, K.C.M.G.
HON. HAMED MOHAMED BIN ISSA.

13th August, 1926.

HON. DIRECTOR OF AGRICULTURE.
HON. DIRECTOR OF EDUCATION.
RT. HON. LORD DELAMERE, K.C.M.G.
REV. DR. THE HON. J. W. ARTHUR.
HON. HAMED MOHAMED BIN ISSA.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES,
1926

FIRST SESSION.

TUESDAY, MARCH 16th, 1926.

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Tuesday, the 16th day of March, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

The Clerk to the Legislative Council read the Proclamation summoning the Council.

The Oath was administered to:—

Geoffry Alexander Stafford Northcote, Acting Colonial Secretary.

Major Godfrey Dean Rhodes, C.B.E., D.S.O., R.E., Acting General Manager, Kenya-Uganda Railway.

Cecil Moore Dobbs, Acting Senior Commissioner, Ukamba.

HIS EXCELLENCY: Hon. Members of Council, I have to inform you that the Resolution of Condolence with His Majesty the King Emperor and his family which this Council passed last Session on the occasion of the death of Queen Alexandra was duly communicated to the Secretary of State to be presented to His Majesty. I have now received the following acknowledgement. The Secretary of State writes:

"Your despatch has been laid before the King and I have it in command from His Majesty to request you to convey to the Legislative Council His sincere thanks for their expression of sympathy with Himself and His family."

Before Council deals with the remainder of the agenda on to-day's proceedings I should like to mention one or two matters of importance which have been engaging my attention since Council adjourned at the present time. The first of these is the anxiety which many people, I am sure, in common with myself, feel upon the state of affairs existing in the capital in regard to both the health of the community and the safety of property. No one can fail to see, who drives about the town or walks about the town, that the sanitary system is haphazard and totally inadequate. I feel there are grave dangers in that. It is also very evident from the point of view of health that the present lay-out of the capital is unsatisfactory; and I need not remind you of the recent deplorable fire in order to point to the fact that property at the moment is very insecure. I should like, in passing, to express my sympathy with those who suffered by that terrible fire. In view of this state of affairs, I have felt that some new measures, carefully considered, are urgently necessary to safeguard health and property in Nairobi, and I have already taken certain measures with that object in view, which I am sure will meet with your approval. I should like briefly to enumerate these.

In the first place I have appointed a Commission, the composition of which has been notified in the Gazette and in the Press, to enquire into:—

The origins of the most recent fire in Nairobi, and the methods employed for combating the fire and salvaging property;

The circumstances attendant on other recent fires in Nairobi, the reports made upon them, and the action subsequently taken to reduce the danger of fires;

The methods to be adopted in future to prevent fires; to combat fires and save property in the event of further outbreaks occurring; and to keep insurance rates at a reasonable level.

I am looking forward with considerable interest to the recommendations of that Commission for dealing with what everybody will acknowledge to be a rather serious situation.

One measure, however, I have taken in advance of the Report of the Commission. You will find it dealt with in the printed statement of the Supplementary Estimates to be submitted to you under Head 20, "Post Office and Telegraphs." A sum of £600 is there being asked for, to provide the Colony with an electrician and an electrical inspector and with the necessary travelling allowances for both. I believe that these appointments are most urgently required, and I trust that the provision proposed for them in the Supplementary Estimates will meet with your approval.

I have also, since Council last met, appointed a Town-planning Authority for the capital. The composition of that authority is very representative and it is empowered to make recommendations over an area of ten miles radius from Nairobi House. I think that the work of that authority, which is under the chairmanship of the hon. gentleman, the Commissioner of Lands, will be able to assist us very greatly in providing for the health and amenities of the capital.

Finally on this subject I should like to inform you that I propose shortly to appoint a Municipal Commission to go into the whole subject of Municipal Government throughout the Colony. The actual composition of that Commission is not decided. It should be fully representative, but I have not finally decided upon it and I should like to have some further consultation on the matter; and since the legal aspect of it is important, I should wish the chairmanship to be put into the hands of the new Attorney General who arrives very shortly in the Colony and will bring a fresh mind to bear on these problems. The terms of reference which I suggest for that Commission are as follows:—

- (1) The establishment of a County Council for the whole area of the capital; the powers, financial and otherwise, to be given to such a Council; and its relation to the central and suburban municipal authorities already existing or likely to be required in the future.
- (2) Similar recommendations with regard to Mombasa, and such other counties as the Commission may think it desirable to create.

The attention of the Commission is specially directed to the following points—

- (i) the constitution of the local governing body or bodies most appropriate to each area;
- (ii) the duties and functions of such bodies, county and borough;
- (iii) the powers administrative, financial and other that should be bestowed upon such bodies;
- (iv) the desirability or otherwise of establishing a co-ordinating authority for county and municipal affairs at the headquarters of Government and the relations of any such body, if created, with the local governing bodies and with the central Government;
- (v) the basis of contribution from the Central Government's funds towards the expenses of the local governing bodies.

I shall ask the Commission particularly to deal as promptly as possible with the first term of reference, that is, the establishment of a County Council of the whole area of

the capital and to present an Interim Report upon it, and I hope, therefore, that I may be in a position before many weeks are past to lay definite proposals before this Council with regard to the future Municipal Government of the whole area covered by Nairobi.

I have also been anxious to see progress made with the improvement and town-planning of Mombasa, and I am glad to be able to inform Council that the Executive Council yesterday approved the new town-planning scheme for Mombasa as proposed by Mr. Jameson, the Town-planning Expert, who came here from South Africa and did excellent work for us, slightly modified by the recommendations of the Mombasa Town-planning Authority. Under the laws of the Colony it is necessary for some further steps to be taken in order that public objections may be heard before these proposals are actually submitted to Council, but I have the greatest hope that the whole of these plans may be laid before Council not later than May and that steady progress may then be made with the improvement and planning of Mombasa, an object which I have very much at heart.

You will find amongst the Resolutions on the Order of the Day one standing in the name of the hon. gentleman the Acting Colonial Secretary which moves in terms that a Select Committee should be appointed as a Standing Committee to advise and report on measures proposed for the expenditure of public monies prior to the introduction of such measures into Legislative Council. I am not wedded to the full terms of that Resolution, but I should like Council to discuss the proposal which it contains. It arises out of the discussion on the Sleeping Sickness Vote which took place, if hon. Members remember, in Council before it adjourned last year. At the time the Noble Lord, the Member for Rift Valley, called attention to the fact that it was desirable before large sums were spent for emergency purposes that they should in some way be considered by a Committee representing this Council and I made the following observation on the point: I said that on the general question as to whether these sums should appear in the Supplementary Estimates, I thought there was a great deal of weight behind what Lord Delamere said. I said that I too felt that Council should have some means of discussing even emergency expenditure of this kind and I would suggest to Council at a later date that there should be some kind of Standing Committee of the Council to deal with emergency measures so that on the one hand control by Council over expenditure might be maintained while necessary expenditure would not be seriously delayed.

The proposal contained in that Resolution is put down in pursuance of the pledge which I then gave. I am quite prepared to discuss the composition and functions of this Com-

mittee, but I wish to make it perfectly clear that it is not intended to alter the existing system whereby the Estimates in the regular course come before a Select Committee of all the Elected Members, the nominated unofficial Members and certain representative official Members for consideration before they come finally to Council. The standing procedure in that respect should not, I suggest, be modified in any way. The object of this Committee is simply to deal with emergencies which sometimes arise when the ordinary Select Committee is scattered and cannot be brought together at short notice. The outbreak of sleeping sickness at Homa Bay was an example in point. I commend that subject and the desirability of such a Committee to your consideration.

I think I ought also to inform Council that immediately this Council adjourned last year, having passed the Loan proposals then laid before it, I appointed a Works Committee to deal with the whole building programme then endorsed. This Works Committee is a small Committee and is intended to be thoroughly businesslike. It sits under the chairmanship of the Postmaster General. The other Members are the General Manager of the Railways, the Director of Public Works and Lord Delamere. The first purpose for which this Committee was appointed was to study the question of organisation for carrying out the whole building scheme, for studying the materials available, the cost of materials and the possibility of bringing down that cost, and also for going into the difficult question of skilled labour and other subjects connected with building. This Works Committee received valuable assistance from a building committee which had already been appointed to go into the question of materials and labour. I may inform Council that very good work has already been done by these two Committees and that the Works Committee has now, I hope, arrived at proposals for an organisation which should put the whole building programme on a thoroughly businesslike basis.

Hon. Members will notice that the hon. the Acting General Manager of the Railway is a member of that Works Committee. I attach particular importance to that because the Railway has a large building programme of its own, and it seems very desirable that the Government programme and the Railway programme should be carried out more or less in co-operation and that there should not be competition between the Government and the Railway. The third purpose of the Works Committee is to consider the plans of the various buildings which are proposed and when these plans have been thoroughly worked out and the works sanctioned to lay that programme before Council in order that Council may have complete information as to what is being done in the course of the year.

I have also in mind to appoint—there seems to be a great number of Committee but I think they are necessary—I have also in mind to appoint a Committee to consider in detail the plan which Mr. Herbert Baker left us for the new accommodation of this Council. It is a matter of very great importance to the future of the Colony that the plan of the new Council Chamber should be thoroughly sound both as to the Chamber itself, as to the accommodation around the Chamber, and as to the arrangements for the attendance of the public at debates and the proper reporting of debates. I think it very desirable that these points should be gone into by representatives of this Council, representatives of the Press which is closely concerned, and by official members and others who are equally interested. The life of this Council is perhaps the most important element in the development of the Colony. It is the nerve-centre of the Colony and I am exceedingly anxious that at the earliest possible date, Council should be able to meet in surroundings which really make for convenience and efficiency and that the plan of the building erected for that purpose should be thoroughly sound.

May I say in conclusion, in order to reassure those who may still be anxious on the subject of the Loan proposals, that there is very little danger of all these proposals going through with anything which might be called "rush." When you get down to the practical difficulties of building in this Colony, you will find the danger of going too fast is really nil. The difficulties are very great, and they can only be overcome by considering building on a large scale. I am absolutely convinced there is no other way of solving the building problem in this country. But so great are the difficulties that I can assure everyone that there is no danger whatsoever of heating the bearings of the Ship of State or of alarming the most timid of the ship's company. The building problem is one of the gravest at the present moment confronting the Colony, and I hope the organisation we have now created will provide for steady practical progress in solving it.

Before I conclude I should like to express the anxiety which I have felt regarding the continuance of drought in some areas of the Colony. I venture to trust that the rains which are now being anxiously awaited will ensure a year of steady prosperity and development for the Colony as a whole.

MINUTES.

The Clerk to the Legislative Council read the minutes of the meeting of December 15th, 1925.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in reference to the minute on Loan proposals, I moved an amendment to paragraph (g), section 5. The amendment was that

paragraph (g), section 5, should be transferred to the first category. I had a seconder to that amendment, but before the amendment was put to the House the Rt. Hon. Member for Rift Valley spoke, and you yourself, Your Excellency, summarised the debate and put the question. I rose to a point of order, but I was ruled out of order, but since this matter deals with the constitutional privileges of this House, I take it it is essential that a record should be made of this amendment, that it was moved by myself but not put to the House.

THE RT. HON. LORD DELAMERE: With regard to the constitutional point, I think the hon. gentleman is quite correct in what he says. I think I did interrupt before he got a seconder. I think it was lost sight of and the amendment was not put.

HIS EXCELLENCY: I am afraid I have no recollection of the amendment being moved, and if it was not put to the House, and if I allowed the Order of the Day to go past it was solely because other business had intervened, or I should certainly have gone back to it. But may I say that the hon. and gallant Member takes a very unusual course by raising this question before coming to me first of all and saying he was going to do so. If he had done so, I would have gone very fully into the whole thing. In future I should like hon. Members, in cases such as these, to come to me first and I will go into the matters raised very fully. In the meantime, I think these minutes had better stand over until I have been able to investigate the matter with the help of the then Clerk of the Council.

THE HON. M. A. DESAI: Your Excellency, I also wish to say that I was not allowed to exercise my privilege.

HIS EXCELLENCY: Order, order. The hon. gentleman is not in order in rising to discuss the ruling of the Chair; that is against the Standing Orders. If he wishes to move any motion on the subject he must give notice of it.

PAPERS LAID ON THE TABLE.

- (1) Additional Royal Instructions dated December 28th, 1925.
- (2) Report of the Stock and Produce Theft Committee.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order may I ask whether the Government intend to move the adoption of this Report during this Session? It is the usual procedure.

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTH-COTT): It is not very probable that we shall be able to move the adoption of this Report this Session. The adoption of the

Report will I think probably be moved subsequently, or at any rate a statement will be made as to the action Government intends to take and which will enable hon. Members to make any criticisms, if they wish to do so.

(3) Report of the Forest Royalties Committee.

(4) Masai Enquiry Committee Report.

CAPT. THE HON. J. E. CONEY: Your Excellency, on a point of order, may I ask the hon. the Acting Colonial Secretary when the Committee which submitted this Report met to consider this Report, and whether this is a complete Report, or whether there are any other papers which should be laid on the table?

THE HON. THE ACTING COLONIAL SECRETARY: The copies of the draft Report were forwarded to all members of the Committee for their perusal and criticism, and the Report was finally signed by Mr. Denham after the criticisms which were sent in had been studied. I would apologise to this hon. Council for omitting to state that the hon. Member who has just spoken has intimated since this Report went into print that he is unable to sign it. I had intended to make that statement. A statement will be found, however, in the Report to the effect that the Noble Lord resigned before the completion of the sittings of the Committee.

THE RT. HON. LORD DELAMERE: I think on a point of order it is right that this matter should be cleared up. It is unusual, especially when there is a difference of opinion

HIS EXCELLENCY: Order, order. The Noble Lord is not in order in discussing the Report laid on the table. The Report is merely laid on the table; but it will be discussed on a motion, if required.

THE RT. HON. LORD DELAMERE: My point is purely on a point of order. It is unsound, in my opinion, for the Chairman of a Committee to sign a Report especially when there is a minority report from two members, which is not mentioned in the Chairman's Report at all.

HIS EXCELLENCY: I beg the Noble Lord's pardon.

THE HON. THE ACTING COLONIAL SECRETARY: I believe that the procedure has been adopted in the past that the Chairman of a Committee has signed a Report on behalf of a Committee. I speak only from memory, but I have a recollection of seeing a Report so signed.

The Noble Lord sent a letter to Government in which he stated that he had resigned from the Committee and therefore was unable to sign the Report. He asked that his letter

should be put before Your Excellency and sent to the Secretary of State. The hon. and gallant Member for Trans Nzoia sent in a letter of a similar nature, which I was unable to include in the Report, as the Report had already gone to the Printer. I waited a very considerable time for his comments and sent him more than one reminder—as he will no doubt admit. He was, however, busy in various parts of the country, and I am sure that it was not his fault that an answer did not arrive in time. I was very anxious to have the Report printed for this Session and therefore at the last moment I was compelled to send the draft to the Press.

CAPT. THE HON. J. E. CONEY: On a point of order. I am in the unfortunate position of being the only Unofficial Member who remains a member of the Committee. First of all, I would like to say that the hon. the Acting Colonial Secretary is perfectly right when he says he has asked me whether I would sign the Report or put in a minority report. This Report was sent round to us all before it was printed. As far as I know, however, that Committee was never called together again to consider the Report. As far as I know it is

HIS EXCELLENCY: Order, order. The hon. and gallant Member is now discussing the Report. It is not in order to discuss the Report simply on the paper being laid on the table.

THE RT. HON. LORD DELAMERE: What the hon. the Acting Colonial Secretary has said is not quite correct, although I am sure he is convinced he is correct. What I said when I refused to sign the Report was that I thought when I resigned from this Committee I did so hoping that my resignation would not be necessary if Government cleared up the question of telling witnesses what they were to say. They did not clear it up, and therefore I resigned and refused to sign the Report. Further, I beg to give notice to move that this Report be not adopted.

CAPT. THE HON. J. E. CONEY: Your Excellency, I am very sorry to go on with this, but I would ask Your Excellency's indulgence over this one matter, as I am leaving the country and this Report will come up in this hon. Council when the only Unofficial Member of it will not be here. I would, therefore, ask Your Excellency simply to allow me to say that I must enter a protest against the presentation to this hon. Council of this Report in its present form. I do not think this represents the opinion of the whole Committee at all.

REV. DR. THE HON. J. W. ARTHUR: The hon. and gallant Member for Plateau North has stated that he is the only Unofficial Member of the Committee. As a matter of fact, I am also a member of that Committee and I signed the Report.

- (5) Report of the Committee on Grants-in-Aid for Education in Kenya.
- (6) Report of the Port Commission of Inquiry.
- (7) Statement under the Electric Power Ordinance.
- (8) Rules under the Electric Power Ordinance.
- (9) Correspondence on the proposed regulations for the East African Medical Services.
- (10) Statement of Unforeseen Expenditure for the quarter ended 30th September, 1925.
- (11) Economic and Technical Reports upon suggested Branch Railway Lines in Kenya :
 - (a) Sergoit,
 - (b) Kericho-Sotik,
 - (c) Thika-Donyo Sabuk,
 - (d) Machakos,
 - (e) Nanyuki,
 - (f) Gilgil-Thomson's Falls.

THE HON. T. J. O'SHEA : May I ask for a copy of the Reports to be circulated?

THE HON. THE ACTING COLONIAL SECRETARY : I am having these Reports printed and they will be distributed to hon. Members as soon as possible.

- (12) Report upon the Electrical Installation in Mombasa.
- (13) The First Supplementary Estimates, 1926.
- (14) The Statement of the Colony's Financial position, March, 1926.

THE RT. HON. LORD DELAMERE : I hope Your Excellency will allow the motion on the Report of the Masai Committee to be taken to-morrow, because the hon. and gallant Member is going away the day after to-morrow.

HIS EXCELLENCY : Is it the wish of the hon. Elected Members that the Standing Orders should be suspended in order to take that motion?

THE RT. HON. LORD DELAMERE : Yes, it is, Your Excellency.

QUESTIONS.

THE HON. M. A. DESAI : I beg leave to ask the following question standing in the name of the hon. Mr. Shams ud Deen :—

“Will the Government consider the advisability of placing permanent Asian employees of Uganda Railway on the same basis as Asians employed by the Government of Kenya Colony as regards leave and passage rules and thus bringing about a uniformity between the two

branches of service, as recommended by His Grace the Duke of Devonshire in Kenya Despatch No. 1619 dated 9th November, 1922, when he was Secretary of State for the Colonies? ”

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY (MAJOR RHODES) : The present terms of service for the Asian employees of the Kenya and Uganda Railways were introduced with the consent of the Government of Kenya and the Secretary of State.

The Railway Administration does not intend at the present moment to approach the Kenya and Uganda Railway Advisory Council with any proposal to amend or alter these terms of service.

It is not possible to arrange exact uniformity between an Administration such as the Railway, which must be subject to commercial and business restrictions, and a Government Department.

THE HON. M. A. DESAI : I beg leave to ask the second question standing in the name of the hon. Mr. Shams ud Deen :—

“When will the Uganda Railway Administration introduce third-class carriages with separate compartments for women with lavatories attached to such compartments? ”

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY : The Uganda Railway Administration does not at present propose to introduce third-class coaches with separate compartments for women with lavatories attached to such compartments. The demand for such accommodation is not great, and in the opinion of the Railway Administration it would be uneconomic at the present juncture to provide such facilities.

In the new bogie stock which has been introduced on the main line services lavatory accommodation is provided in third-class carriages, but the seating capacity of the compartments of these carriages is too great to permit of the allocation of one compartment for the use of women only. If women holding third-class tickets are travelling in sufficient numbers to fill one of these compartments, and application is made for accommodation to be reserved for them, it will receive every consideration.

CAPT. THE HON. J. E. CONEY : I beg leave to ask the first question standing in my name on the Order of the Day :—

“Whether the Government would consider the introduction of regulations governing the licensing and control of motor omnibuses plying for hire in the Colony.”

THE HON. THE ACTING COLONIAL SECRETARY: Government has under present consideration draft Orders under the Motor Traffic Ordinance, 1915, governing the use of motor lorries and omnibuses. An amending Bill in regard to the licensing of the latter form of traffic has also been drafted.

CAPT. THE HON. J. E. CONEY: I beg leave to ask the second question standing in my name on the Order of the Day:—

“Whether the Government would consider handing over the wireless sets now in their possession to the King’s African Rifles for use in the Northern Frontier Districts?”

THE HON. THE ACTING COLONIAL SECRETARY: The wireless sets in question are of a heavy permanent type which, in view of recent wireless development, cannot now be economically employed in the Northern Frontier area.

If it should be decided to instal a system of wireless communication in that area, it is considered that requirements can be more suitably met by light semi-mobile stations of a new type, stations which can be purchased, conveyed to and erected on the Frontier at a cost which would be less than the cost of erecting the heavy stations in hand apart altogether from the first cost of the latter.

CAPT. THE HON. J. E. CONEY: May I ask what Government intend to do with the present sets? I take it they are out of date. How many more years do they propose to keep them?

THE HON. THE ACTING COLONIAL SECRETARY: Endeavours have been made, and are still being made, to dispose of these sets.

THE HON. CONWAY HARVEY: I beg leave to ask the first question standing in my name on the Order of the Day:—

“What steps are being taken by Government to effect the electoral boundary re-adjustments and other recommendations of the Select Committee which reported on 17th July, 1925?”

THE HON. THE ACTING COLONIAL SECRETARY: As the hon. Member is aware a Census of the population of Kenya was taken on February 21st, 1926. The question of the re-adjustment of electoral boundaries must be largely dependent on the distribution of the population, and the recommendations of the Select Committee will be considered by Government in the light of the information obtained from the Census.

THE HON. CONWAY HARVEY: I beg leave to ask the second question standing in my name on the Order of the Day:—

“(1) What was the total revenue derived from licences under the Motor Ordinance during 1925?”

(2) What were the proceeds of the petrol tax for the same period?

(3) What was the actual expenditure on the repair and maintenance of roads and bridges during last year?”

THE HON. THE TREASURER: The total revenue derived from licences under the Motor Ordinance during 1925 was £16,954, made up as follows:—

	Sh. Cts.
Nairobi	196,911 00
Nakuru	35,285 00
Mombasa	31,337 00
Eldoret	91,218 00
Kitale	12,953 00
Kisumu	12,565 00
Nyeri	8,478 50
Fort Hall	4,884 50
Lumbwa	3,567 00
Nairobi C.P.'s Office..	1,800 00

Sh. 330,084 00 = £16,954

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: In view of the fact that an answer has already been given to the first of my questions:—

“What is the number of wireless apparatus in the country and how many are not used; if any, whether they could not be used with advantage in the Northern Frontier District?”

I beg leave to ask the second question standing in my name on the Order of the Day:—

“Have arrangements now been completed with the South African Government for the survey of the Fishing Grounds off the East Coast?”

THE HON. THE ACTING COLONIAL SECRETARY: Subsequent to the answer on this subject given to the hon. Member on October 29th last, the Tanganyika Territory Government was again approached in regard to a contribution to the cost of survey and has now agreed to do so subject to the covering sanction of the Secretary of State. The Zanzibar Government has also been approached and will come to a decision on learning the cost. A reply is now awaited to enquiries addressed to the Union Government as to whether the cost of £500 per month would cover Kenya waters only, or whether it would include work along the littoral of Tanganyika Terri-

tory and the Zanzibar Protectorate and if these latter areas are not included, what the increased estimated cost would be for a complete survey of the three coastboards.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the first question standing in my name on the Order of the Day:—

"(1) Is Government in a position to state whether the Report of the Select Committee on Leave and Passage Conditions has been approved by the Rt. Hon. Secretary of State?

(2) If so, when will the approved recommendations come into force?

(3) In the event of such recommendations not coming into force on or before April the 1st, 1926, will the 50 per cent passage allowance for wives and children be continued beyond March the 31st?

THE HON. THE ACTING COLONIAL SECRETARY: (1) The Secretary of State has approved this Report.

(2) The introduction of these regulations awaits the decision of the Secretary of State on the abolition of the limitation of the family passage allowance which has been proposed in connexion with the scheme for revision of salaries.

(3) The Secretary of State has already been addressed by telegraph on this point.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the second question standing in my name on the Order of the Day:—

"In the event of the 50 per cent passage allowance for wives and children ceasing on March the 31st, will those officers who normally would have taken their leave prior to this date but have been unable to do so owing to the exigencies of the Service, forfeit the privileges they would have been granted had they proceeded on leave prior to March the 31st?"

THE HON. THE ACTING COLONIAL SECRETARY: The question of the continuation of the family passage allowances pending a decision on that of salary revision has been referred by telegram to the Secretary of State.

CAPT. THE HON. E. M. V. KENEALY: I beg leave to ask the first question standing in my name on the Order of the Day:—

"Will Government furnish a statement on the murder by Somalis of a British subject, Charles Mlynier, on the Northern Frontier, indicating action taken, action contemplated, and generally?"

THE HON. THE ACTING COLONIAL SECRETARY: Mr. Maynier was murdered by four Somali deserters of the 3rd King's African Rifles on the night of the 16th December. The motive for the murder is believed to have been religious fanaticism, as Mr. Maynier was on good terms with all with whom he came in contact, both Europeans and natives.

(2) The Chief Native Commissioner and the Officer Commanding Troops who have made personal enquiries on the spot are satisfied that the crime had no political cause or result.

(3) The Authorities of British and Italian Somaliland and the Minister at Adis Ababa were informed and their assistance toward the arrest of the murderers requested. Reliable information has been received that one of the deserters was shot dead by Abyssinians; the other three are still at large.

(4) No evidence exists that any other persons were implicated in the crime. The platoon to which the deserters belonged has been disbanded and the men discharged.

CAPT. THE HON. E. M. V. KENEALY: Arising out of that answer, is any method of recompense to the relatives of the murdered man proposed?

THE HON. THE ACTING COLONIAL SECRETARY: No such application has been received, Your Excellency.

CAPT. THE HON. E. M. V. KENEALY: I beg leave to ask the second question standing in my name on the Order of the Day:—

"Will Government lay on the table of the House the report of the Committee dealing with land increase and rent reduction, in the Laikipia neighbourhood, or, alternatively communicate the result of this Committee's recommendations to applicants?"

THE HON. THE ACTING COLONIAL SECRETARY: The report of the Board appointed to advise Government on the Laikipia grazing extension scheme has only recently been received, and has not yet been considered by Government. The decision of Government on this Report will be made public in due course.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: I beg leave to ask the third question standing in my name on the Order of the Day:—

"(1) What compensation has been paid, or has any offer of land in exchange been made, to holders of land in Jubaland, leased from the Government, previous to being handed over to Italy?"

(2) Is it correct that some holders paid rent to the Government up to date, on the understanding that no claim for compensation would be considered until such had been done?"

THE HON. THE COMMISSIONER OF LANDS (MR. MARTIN) :
 (1) No compensation has been paid for land in exchange offered to holders of land in Jubaland leased from Government.

(2) It is the case that one holder of leasehold land in Jubaland was so informed.

THE HON. J. B. PANDYA : I beg leave to request that the question standing in my name on the Order of the Day stand over until to-morrow.

I further beg leave to ask the second question standing in my name on the Order of the Day :—

"Has the attention of the Government been drawn to the recent order of the Commissioner of Police allowing E.P.C. uniforms with open collars?"

And Will the Government consider allowing senior sub-inspectors the same privilege?"

THE HON. THE ACTING COLONIAL SECRETARY : The Commissioner of Police does not consider the wearing of open collars suitable for sub-inspectors and assistant sub-inspectors of Police.

THE HON. J. B. PANDYA : I beg leave to ask the third question standing in my name on the Order of the Day :—

"Has the attention of the Government been drawn to the demand made by Shipping Companies for Sh. 200 deposit from Indians and Natives from Zanzibar when issuing tickets for Mombasa?"

Will Government state if such instructions have been issued by them?

If the reply be in affirmative will the Government state reasons thereof, and why differentiation is made between Indians, Natives and other immigrants?"

If deposits are collected from Natives will the Government state under what sections Natives are liable for such deposits?"

THE HON. THE ACTING COLONIAL SECRETARY : Shipping companies take deposits at Zanzibar to safeguard themselves against Section 5 (A) Immigration Ordinance.

(2) No such instructions are issued by Government.

(3) The reply to the third part of the question therefore, does not arise.

(4) Information on this point may be ascertained from the Shipping Companies concerned.

BILLS.

FIRST READINGS.

THE HON. THE DIRECTOR OF AGRICULTURE : I beg to move that the Crop Production and Livestock Bill, 1926, be read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to second.

Bill read a first time.

THE HON. THE DIRECTOR OF AGRICULTURE : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to move that the Succession Bill, 1926, be read a first time.

THE HON. THE ACTING SOLICITOR GENERAL : I beg to second.

Bill read a first time.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of the Bill at a later stage of the Session.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move that the Arms and Ammunition (Amendment) Bill, 1926, be read a first time.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to second.

Bill read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that I shall move the second reading of the Bill at a later stage of the Session.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to move the first reading of the Medical Officers (Change of Titles) Bill, 1926.

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

Bill read a first time.

THE HON. THE ACTING ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of the Bill at a later stage of the Session.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the first reading of the Game (Amendment) Bill, 1926.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to second.

Bill read a first time.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to give notice that I shall move the second reading of the Bill at a later stage of the Session.

NOTICE OF MOTION.

HIS EXCELLENCY: For the convenience of hon. Members of Council, as notice of this resolution on the Masai Inquiry Committee is to be moved to-morrow by the Noble Lord, and does not appear on the Order of the Day, I had better read it out:—

"That the Report of the Masai Inquiry Commission be not adopted."

That resolution will be taken at 10 o'clock to-morrow morning.

Council adjourned to 10 a.m. on March 17th, 1926.

WEDNESDAY, MARCH 17th, 1926.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 17th day of March, 1926. His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of March 16th, 1926, were read, amended and confirmed.

The minutes of the meeting of December 15th, 1925, were passed subject to an amendment.

PAPER LAID ON THE TABLE.

Memorandum detailing Additional Expenditure necessary in excess of Military Estimates, 1926.

MINUTES.

HIS EXCELLENCY: The hon. and gallant Member for West Kenya rose yesterday when the minutes of the proceedings of this Council of December 15th had been read to ask that an amendment of his moved on that day should be recorded in the minutes, and I undertook to look into the whole matter. I have now done so. I have refreshed my mind, which I am afraid recollected very little of the circumstances yesterday. I have looked up the official record and have consulted the Clerk of Councils at that time, and I find that the circumstances were as follows: The hon. and gallant Member rose to move an amendment to the effect that an item on page 7, clause (G), Education Department Buildings—the sum for that had not yet been fixed and it was marked only by a query—should be added to the First Schedule (G), on page 7, and the Noble Lord, the Member for Rift Valley, rose on a point of order to ask whether a sum represented merely by a query could be transferred to an urgent schedule. There was some discussion as to which (G) the hon. and gallant Member was referring to, and he found it necessary to say that he was not backing the wrong "Gee." In due course, the Noble Lord proceeded with his speech and the debate went on.

I was not aware that the hon. and gallant Member wished to press his amendment, and when he rose at the end of the debate, after I had spoken, and after, I think, the hon. the

Colonial Secretary had spoken, to ask that his amendment be put to the Council, I was obliged, in accordance with Standing Order No. 24, to rule that as his amendment had not been seconded it could not be put and must be regarded as lost. The terms of the Standing Order are of importance, and I think I should read them to the Council. They are as follows:—

"All propositions shall be submitted to the Council by way of motion. Every motion shall be reduced to writing and handed to the Clerk. Every motion, except in Committee, must be seconded, and if not seconded shall not be debated and shall be considered as lost; a note of its having been lost shall be entered in the minutes."

I therefore had no alternative but to rule the amendment out. The hon. and gallant Member is, however, quite right in asking that the fact that he moved that amendment should be recorded in the minutes, because the Standing Order provides that a note of its having been lost shall be entered in the minutes, and I am therefore asking that the fact that he moved this amendment and that it was not put to the House because it was not seconded shall be entered in the minutes for December 15th.

I hope that meets the point of the hon. and gallant gentlemen.

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

HIS EXCELLENCY: Perhaps it may be for the convenience of the Council that I should make one or two observations on the point. The difficulty with this amendments rule arises from the fact that hon. Members here have not adopted the practice of consulting the Chairman beforehand as to the amendments which they wish to move. As far as I know, no amendment is ever moved in the House of Commons when the Speaker is in the Chair without his being consulted about it by the Member who desires to move. The Member gives the speaker the terms of the amendment and also states who is to support such amendment. I do not believe there is any constitutional necessity for this being done, but as a matter of courtesy to the Chair it is of great importance and it adds enormously to the convenience of the House, because very often an amendment is moved in a form which is not in order, and if the Chairman has had an opportunity of considering it beforehand it is easy to say how the amendment can be made in order and then moved properly.

I hope therefore that for the sake of their own convenience and the convenience of the Chair and the Council generally Members will adopt the practice of consulting the Chair beforehand when they desire to move an amendment.

I can assure hon. Members that so long as I preside over the Council I shall not in any way attempt to restrict the liberty of discussion, and it is only in order that discussion may be as free as possible and may not be broken in any way in the matter of order under the Standing Orders that I make this suggestion to Council.

QUESTIONS.

CAPT. THE HON. J. E. CONEY: On behalf of the hon. Member for the Lake, I beg leave to ask the question standing in his name on the Order of the Day:—

"What steps are being taken by Government to discourage the export to Uganda for slaughter purposes of immune bullocks from Kavirondo?"

THE HON. THE DIRECTOR OF AGRICULTURE: No steps are taken by Government to discourage the trade referred to.

THE HON. J. B. PANDYA: I beg leave to ask the first question standing in my name on the Order of the Day:—

"(1) Has the attention of the hon. the Director of Education been drawn to the fact that the Indian Girls' School, Mombasa, has not a qualified headmistress and staff?"

"(2) Will the hon. the Director of Education state what steps he has taken to secure the services of trained female teachers and the reasons of not being able to secure such staff up to now?"

THE HON. THE DIRECTOR OF EDUCATION: (1) The Indian Girls' School, Mombasa, has not a qualified headmistress, as this appointment has not yet been filled. The acting headmistress is a trained and certificated teacher and has been strongly recommended by the local school committee for permanent appointment as first assistant. The remainder of the Staff are best teachers whom the Education Department has been able to obtain up to date.

(2) The Director of Public Instruction at Poona has been asked to be good enough to recruit candidates for the Kenya Schools. He has up to the present been unable to suggest a candidate for the headmistress-ship of the Mombasa Government Indian Girls' School who is satisfactory to the local Committee. A further reference has been made to him on the subject.

The supply of trained female teachers who are willing and able to leave India and come to Kenya is very limited, and no applications have as yet been forwarded by the Director of Public Instruction, Poona.

In the meantime, the School Committee is considering the applications of certain local candidates.

THE HON. J. B. PANDYA: I beg leave to ask the second question standing in my name on the Order of the Day:—

"Has the attention of the hon. the General Manager of the Kenya and Uganda Railways been drawn to the fact that leave rules for Asians are very unsatisfactory, and differentiate between different classes of employees?"

"Will the hon. the General Manager of the Kenya and Uganda Railways reconsider these rules and bring them into line with those of the Kenya Government?"

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY: The answer is in the affirmative, in so far as it is true that statements have been made to that effect.

With regard to the second part of the question, I would refer the hon. Member to the answer given yesterday to a question asked by the hon. Mr. Shams ud Deen.

MASAI COMMITTEE REPORT.

HIS EXCELLENCY: Before the Noble Lord the Member for the Rift Valley moves the motion which is standing in his name, I think it may be convenient that I should make a statement to Council on the position of Government in the matter.

I have been into the circumstances attending the presentation of the report to Council, and I have satisfied myself that the Unofficial Members of the Masai Committee have not had in that report the opportunity of presenting fully the views which they wish to present and which they think it essential that the report should contain. I am therefore prepared to undertake that a supplement to that report shall be printed and published containing the views of the Noble Lord and the hon. and gallant Member for Plateau North together, or separately, as they please, and I will further state that it is not the intention of Government to proceed with moving the adoption of that report until the supplement containing the views of those two hon. Members of Council has been printed and published and is before Council and they are present themselves to discuss the matter.

THE RT. HON. LORD DELAMERE: Your Excellency, under the circumstances and in view of what Your Excellency has said, I should like to withdraw this motion. I brought it up simply in order to press the right of Members on a Committee to put their views, and I thought that right had been infringed, and I brought it up for that reason alone. As far as I am concerned, I am satisfied with what Your Excellency has said.

Council adjourned to 10 a.m. on Thursday,
March 18th, 1926.

THURSDAY, MARCH 18th, 1926.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, the 18th day of March, 1926. His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting held on the 17th March, 1926, were confirmed.

PAPER LAID ON THE TABLE.

Majority and Minority Interim Report of the Select Committee appointed to report upon the advisability of permitting the movement of stock from the Northern Frontier District to other parts of the Colony.

QUESTIONS.

CAPT. THE HON. J. E. CONEY: I beg leave to ask the question standing in my name on the Order of the Day:—

"Whether Government have considered, or if not will consider, the possibility of encouraging Civil Servants to settle in this country on retirement and of introducing a scheme by which Civil Servants who are still serving can acquire land while it is still available with a view to settling thereon on their retirement."

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTH-COTE): Government has been considering the possibility of encouraging Civil Servants to settle in this country on retirement, and proposes to go more fully into the matter in the near future. A further statement will be made at a later date.

CAPT. THE HON. J. E. CONEY: Arising out of that answer, one of the points of my question was to find out whether the Government would do this in time for the thing to be of any use to the Civil Service. Government seems to have been considering this matter for some time; I want to know how much longer it is going to take before they come to a decision.

THE HON. THE ACTING COLONIAL SECRETARY: The matter is before the Secretary of State in respect of the general question, but I will undertake to expedite the matter as much as possible.

CAPT. THE HON. J. E. CONEY : Thank you.

CAPT. THE HON. E. M. V. KENEALY : I beg leave to ask the first question standing in my name on the Order of the Day :—

“ Will Government furnish information on the firing upon the Colony's Police by a party of armed Somalis in the neighbourhood of Kabarnet, indicating action, and generally? ”

THE HON. THE ACTING COLONIAL SECRETARY : A report was received by the Resident Commissioner, Rumuruti, early in January from the Assistant District Commissioner in charge at Kabarnet to the effect that eleven armed Somalis had fired on Police in the vicinity of Churo outpost. A spine protector and eight .450 revolver cartridges were produced.

A patrol was sent out at once from Rumuruti, which made a lengthy investigation, but could obtain no evidence in corroboration.

A further inquiry is being made into the origin of the report.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, when the further inquiry has elucidated some information, will that information be conveyed to the Legislative Council?

THE HON. THE ACTING COLONIAL SECRETARY : Yes.

CAPT. THE HON. H. E. SCHWARTZ : I beg leave to ask the question standing in my name on the Order of the Day :—

“ (1) Have representations been made to Government as to the prejudicial effect of the present scale of fees authorised by the Public Trustees Rules, 1925? ”

“ (2) If so, is Government prepared to appoint a committee to consider the suitability of the scale and report thereon? ”

THE HON. THE ACTING COLONIAL SECRETARY : Representations on the subject have been made to Government by the Law Society of Kenya.

“ (2) Government have no objection to the appointment of a committee. ”

CAPT. THE HON. H. F. WARD : I beg leave to ask the question standing in my name on the Order of the Day :—

“ Has the attention of Government been called to the fact that Mr. Archibald Hogg was arrested on the afternoon of March the 13th on a warrant signed by a Judge of the Supreme Court in respect of a civil debt on the allegation that he was about to abscond from the jurisdiction? ”

(2) Was such warrant applied for by the Attorney General and issued by the Supreme Court without any suit in respect of the alleged debt having been filed?

(3) Was Mr. Hogg brought down to Nairobi under arrest and detained at the Police Station for several hours until a bond for the whole amount of the alleged debt had been entered into by a householder?

(4) Did the Attorney General act solely on information supplied by a late clerk of Mr. Hogg?

(5) Is Government now satisfied that this information is inaccurate and untrue?

(6) Will Government institute an enquiry with a view to compensating Mr. Hogg for his illegal arrest and preventing similar occurrences in the future? ”

THE HON. THE ACTING COLONIAL SECRETARY : (1) The answer is in the affirmative.

(2) In respect of this particular debt, it now transpires that no suit had in fact been filed. The debt had been transferred to the Attorney General by the Receiver of Messrs. Wm. R. Parr and Company. The debt has now been paid in part by Mr. Hogg.

(3) Mr. Hogg arrived at the Police Station at 7.35 p.m. and left at 9.5 p.m.

(4) The Attorney General acted on information received.

(5) No; as the information supplied by the late clerk of Mr. Hogg is now being investigated, no further statement can be made on this matter.

(6) The answer is in the negative.

CAPT. THE HON. H. E. SCHWARTZ : In view of the answer to that question, I beg leave to give notice that I shall, during the course of the day, put down a motion on the subject.

CAPT. THE HON. E. M. V. KENEALY : As the first part of my second question has already been replied to, I beg to ask the second part of such question, if I have Your Excellency's permission to do so :—

“ Will Government adopt the minority interim report on the matter of Somali traders in Laikipia? ”

THE HON. THE ACTING COLONIAL SECRETARY : The Government is considering the terms of the majority and minority reports, and is not yet in a position to state what action it proposes to take.

THE HON. R. S. NEHRA : I beg leave to ask the question standing in my name on the Order of the Day.

"Has the recent murder of two Indians by armed natives been brought to the notice of the Government? What steps is the Government contemplating to safeguard the lives and property of Indians?"

THE HON. THE ACTING COLONIAL SECRETARY: (1) Government is closely investigating both these serious crimes.

(2) Police protection is afforded to all communities of the Colony.

CAPT. THE HON. E. M. V. KENKALY: I beg leave to ask the third question standing in my name in the Order of the Day:—

"Will Government postpone the sale of residential plots to be auctioned at Nanyuki until further reference has been made to the Nanyuki Township Committee as to whether residential plots nearer to the business centre of Nanyuki Township should be auctioned first?"

THE HON. THE COMMISSIONER FOR LANDS: If this is now the desire of the Township Committee in Nanyuki, the Government will give the fullest consideration to any representations put forward by that Committee.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: I beg leave to ask the question standing in my name on the Order of the Day:—

"If Government will state when will the opportunity be given this Honourable Council to debate the Report of the Port Commission?"

THE HON. THE ACTING COLONIAL SECRETARY: Government is prepared to give an early opportunity to debate this report should hon. Members so desire and if a motion to that effect is moved.

MOTIONS.

SHEO NAND: PENSION.

THE HON. THE TREASURER: I beg to move the motion standing in my name on the Order of the Day:—

"In view of Chief Warder Sheo Nand's 26 years, 4 months and 11 days' satisfactory service in the Prisons Department of this Colony, this hon. Council is pleased to award him a pension of £78 a year from the date of his retirement, viz. the 26th of May, 1926, instead of a gratuity of £120 to which he is strictly entitled under the Regulations."

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

The question was put and carried.

CUSTOMS DUTY ON GHEE.

HON. J. B. PANDYA: Your Excellency, I beg to move the motion standing in my name on the Order of the Day:—

"That this hon. Council recommends that the present heavy customs duty on ghee be reduced to 20 per cent *ad valorem*."

With regard to this, I move this reduction of the heavy customs duty on ghee because this is the particular article which is being used by the community which I have the honour to represent in this hon. House. I do not wish at this stage to discuss the principle of protective duty as applied to this Colony, but I will only analyse those principles which apply to this particular article for protection. There are three principles on which the duty could be justified on this article: Firstly, the article to be protected should have been produced in the country in sufficient quantity; secondly, the article should have protection to the extent it may require in prices in comparison with imported articles of a similar nature; thirdly, the article should have possibilities of large increase in supplies so that when the industry is properly established on account of protection it should sell at a cheaper rate.

Now, Sir, I will quote some figures to give an idea to this hon. House as to what is being imported into this country. The figures given are over a period of six years:—

Ghee Imports.

1920	...	...	...	8,197	cwt.
1921	...	...	...	6,404	"
1922	...	...	...	4,200	"
1923	...	...	...	5,253	"
1924	...	...	...	8,502	"
1925	...	...	...	7,308	"

Now these figures show first of all that large imports into this country have to be maintained, even although to a certain extent local industries are in existence, but they cannot supply the local demands. It is absolutely essential that a large quantity of ghee is imported. The duty on ghee, i.e. Sh. 1 per lb., which is prohibitive, has been imposed as from September, 1922. Most of the imports which I have just quoted are from Tanganyika. I do not think that any hon. Member in this House should advocate that we should have a protective duty on ghee in this country because we want to be protected from Tanganyika. However, if that argument is advanced because we have some inter-colonial arrangements of free duties, I should like to call the attention of the House to the fact that Tanganyika ghee does not require any protec-

tion in the sense that that quality has not been produced in this country. The price and quality of ghee imported from Tanganyika is entirely different from what is produced in this country, or what is imported from India. Now, Sir, if we apply the first principle to this article which is—the article to be protected should have been produced in the country in sufficient quantity—I have shown from the figures which I have here that large imports have to be maintained and that article is not being produced in the country to the extent required by the population. Further, some time ago, on account of new arrangements, ghee is now admitted free of duty into this country from Tanganyika. Therefore the only article which pays duty is ghee from India, which in 1925 worked out at 315 cwt. This kind of ghee which is imported from India is not produced in this country and is not produced in any other Colony such as Tanganyika or Uganda. This is not likely to be produced in this Colony either, because the article from India is entirely different.

We have in this country also ghee produced from butter, but I understand that owing to special efforts now being made by the dairy industries in this country to make ghee it is hoped to replace the article which comes from India. I think they are only taking the opportunity of making ghee when they cannot sell the butter which perhaps may be spoiled.

Now, I should like to quote prices of ghee, and compare them with the local prices:—

		Tanganyika.		India.
1920	... ..	£4 6 0	...	£10 14 0
1921	... ..	£2 14 0	...	£8 16 0
1922	... ..	£2 10 0	...	£9 0 0
1923	... ..	£2 2 0	...	£9 7 0
1924	... ..	£3 3 0	...	£10 11 0
1925	... ..	£6 6 0	...	£11 0 0

This shows that in 1921-22 the Indian ghee was four times dearer; in 1923, four and a half times dearer; in 1924 three times dearer, and in 1925 twice as dear.

This shows that the price of the local product has increased, and the price of Indian ghee has been maintained at the same standard. It also shows the difference in price between the quality and the class of ghee; and therefore it also further shows that there is no competition existing in this country between the ghee imported and the ghee produced. In addition, the prices of two years of ghee produced in Kenya are:—

In 1924, Tanganyika ghee was selling at Sh. 20 per 36 lb.; in 1925, at Sh. 45 per 36 lb.

In 1924, Machakos ghee was selling at Sh. 28 per 36 lb.; in 1925, at Sh. 70 per 36 lb.

In 1924, butter ghee was selling at Sh. 45 per 36 lb.; in 1925, butter ghee was selling at Sh. 80 per 36 lb.

In 1924, Indian ghee was selling at Sh. 110 per 36 lb.; in 1925, at Sh. 110 per 36 lb.

These prices show that even with the protection of ghee in Kenya there is no comparison in regard to prices between the ghee imported from India and ghee produced in Kenya. If, as I suggested, this duty is reduced to 20 per cent, for the sake of comparison, the Indian ghee will cost c.i.f. Sh. 74, plus duty, Sh. 89, as against the local production; and the best ghee, which is butter ghee, will average Sh. 50, because last year it was Sh. 45.

There is no competition in regard to prices, and there is no fear of the article being replaced by the Indian ghee to any extent. There is also little freight to be considered. The heavy railway rates should be sufficient protection.

I would also like to say that even with a prohibitive protective duty which has been imposed since 1922, the importation of ghee has had to be maintained, and this class of ghee had to be consumed by the consumer because he could not do without it, even if he could not afford it.

I do not think that an argument can ever be advanced that this 20 per cent. should not be reduced because it will affect the revenue.

I also show that the prices have such a vast difference between them that this high duty is not justifiable, even if it is reduced to 20 per cent, as I have suggested; there is every margin of comparison and there is every margin of difference between these two quantities.

The article should have the possibilities of large increase in supplies, so that the industry is properly established. No proper inquiry has been made into this country so as to justify that within the next few years ghee would be manufactured in this country to the extent that it would entirely replace the imported article and that it would be sold comparatively at a cheap price to the lowest possible limit.

During the last three years the protection has been applied and I maintain it has not been justified, and I do not think that on this ground the duty should be maintained.

I will now give some figures regarding the imports and exports of butter, because that has mainly to do with the production of ghee in this country.

The exports of butter in 1922 were 167 cwt.; in 1923, 490 cwt.; in 1924, 996 cwt.; and in 1925, 974 cwt.

The imports of butter in 1923 were 36 cwt.; in 1923, 5 cwt.; in 1924, 10 cwt.; and in 1925, 24 cwt.

When the prohibitive duty was put on this article it was also imposed on butter, and in 1922 Sh. 1 per lb. was imposed on butter and ghee. It was reduced to 20 per cent *ad valorem* on butter in January, 1924. Now, Sir, I do not wish to make any inference on account of this reduction in 1924, but I should like to say how it could be justified that without any inquiry being made, butter was reduced in 1924 and ghee was allowed to stand at the same figure of Sh. 1 per lb. Prices have been maintained at a very much higher level during 1925, and it has also had a tendency to increase the cost of living.

Ghee prices also had to be maintained at a very high price in comparison with the high price of butter. Both the prices of ghee and of butter have had much to do with the making of ghee, and therefore if the price of butter is high the price of ghee is high, and the price of ghee is high because of the protection applied to it. Thus the people consuming butter have also to pay a high price accordingly.

With regard to the vegetable ghee imported into the country, now this produce is certainly trying to replace the imported ghee to a certain extent. The price of the vegetable ghee is so low that it is about one-third of the price of butter ghee, and one-fourth of the price of Indian ghee. It is therefore bound to replace to a certain extent the imported article and the article produced here. Further, the duty on this vegetable ghee is only twenty per cent. It all amounts to this: that the article imported is exactly the same article as the local article; the vegetable ghee pays 20 per cent but the Indian ghee imported from India must pay 50 per cent and Sh. 1 per lb.

To summarise all these arguments, there is really no justification for this heavy duty on the imported ghee from India. There is a great difference in the prices, which difference is not justified. The country does not produce enough for its requirements and heavy imports have to be maintained; therefore, there can be no justification for these high duties. Butter, which is largely produced in the country and also requires protection has been reduced to twenty per cent, so here again there is no justification for maintaining the high duty on ghee.

It has been stated in this hon. House that any proposition which has been forwarded by the Indian Members from these benches has been opposed generally. There is an impression abroad that this has been done whether a case has been made

out or not. I do not wish to make any inference, but people have an eye on what we do in this House, and I think they are of opinion—most of them think so, I believe—that our existence in this hon. House is not justified. I am not taking any extreme view of the situation, but I think in this particular instance the attention of the House should be drawn to the grievance which is felt by my community. I only want to show that the duty on butter was reduced by the Government, and that the duty on ghee, which really should have been reduced as well, was allowed to stand.

I think in view of what I have said and the arguments which I have advanced that a sufficiently strong case has been made out by me, and that the Government should favourably consider this resolution.

Further, I should like to have an assurance from the Government that when they so consider the reduction of duty—tariff reductions—they will give this matter very urgent and immediate attention.

I think I have said enough in this matter, and I ask for fairness and a sense of justice in this hon. House.

THE HON. R. S. NEHRA: Your Excellency, I beg to second the motion brought forward by the hon. Mr. Pandya. In view of the statements made by him and the facts and figures quoted by him, which amplify his motion, I think there is hardly anything that I can add to it. However, I think hon. Members will agree that a case has been made out fairly, and that the matter should be considered in so far as this commodity is one of the main items used by that section of the community which we have the honour to represent, and it will certainly reflect on the cost of living, and if the cost of living is reduced, certainly it will reflect in many ways on the whole country. The argument might be put forward that there might be a deficit in the revenue of the country on account of reducing the tariff to 20 per cent. I submit that argument should not be applied to an article which is of vital importance to a large part of the community residing in this Colony. With these few remarks I would again reiterate that the case for the reduction of the duty on ghee to 20 per cent *ad valorem*—it must be remembered that the hon. Member is not asking for the abolition of the duty, but simply for a reduction of the *ad valorem* duty to 20 per cent, the same as on butter—has been made out.

HIS EXCELLENCY: The question is:—

“That this hon. Council recommends that the present heavy customs duty on ghee be reduced to 20 per cent *ad valorem*.”

THE HON. THE COMMISSIONER OF CUSTOMS (MR. WALSH) : Your Excellency, I should like to clear up one or two points referred to by the hon. Mr. Pandya. With regard to the statement made by him that duty on butter was reduced on the 1st January, 1924. That is not quite so; butter is still Sh. 1 a pound, the only reduction being in respect of butter imported in tins. No other reduction has been made. As regards vegetable ghee, only one small sample has been imported. If it is imported as ghee, it is charged at Sh. 1 per lb., if it is imported as fat it would be charged at 20 per cent.

As regards comparative figures given by the hon. Member, I do submit they are rather misleading, because if the quality of the local product improves then naturally the price will increase, and the difference between the price of Indian ghee and local ghee will then come more or less into line. Of course, the importation of ghee from India will cease. The hon. Mr. Pandya referred to the ghee from India as being a special sort of buffalo ghee, which could not be produced here. Evidence on that point was taken by a committee, and they were of opinion that it was not a question of ghee obtained from the buffalo but it is purely the quality of the ghee. It was a luxury after all which could be produced here if the quality of ghee improved. So far as revenue is concerned, I am sure if the duty is reduced to 20 per cent the difference will be very small, and would not affect the revenue very much. As regards Tanganyika Territory, he said, I think, it was not good for us to protect a Tanganyika industry. I entirely disagree with that because we have the same customs tariff in the three territories, and Tanganyika protects us in the same way in regard to sugar and our flour, which at the present time they do not produce themselves. If we are not prepared to give some *quid pro quo* I do not think it reasonable to expect Tanganyika to maintain a uniform tariff.

CAPT. THE HON. J. E. CONEY : Your Excellency, I confess I have some sympathy with the hon. Indian Member who is moving this resolution. I did sympathise with the bakers of Nairobi when they complained that the hopes of the Government in agreeing to the protective measures which were taken for the local industry have not been fulfilled. I have some sympathy with the baker that the wheat production in this country has not gone ahead as it should, and I have some sympathy with the hon. Member that ghee is imported still when we had hoped the production of ghee would have met the demands. I suggest that the present time is not a good one for the hon. Member to move his motion. Your Excellency, in your address from the Chair, referred to the drought. I think that has a very great deal to do with the production of ghee. This, as the hon. Commissioner of

Customs has said, is one of the industries which does not affect the European farmer, but does very much affect the native producer—this and rice are manufactured and grown by the natives. When this duty was introduced it was the opinion of the Committee that some protection should be given to Tanganyika ghee, and that it should be allowed to enter this market and be protected from outside competition. The hon. Mr. Pandya states the ghee is not suitable for the consumption of the Indian community, because they use a particular kind. The hon. Commissioner of Customs has answered this, and Mr. Shams-ud-Deen, who was a member of the Committee, recommended to that Committee this duty, and it was only a question of preparation of ghee in this country when it would be quite suitable for the consumption of Indians. I think the hon. the Director of Agriculture can tell us something as to what is being done about ghee in the Native Reserves. I notice there is a Bill which is to come before this hon. Council dealing with native stock and crops, and I do suggest when that measure is passed—I take it that it goes a great deal further than the Government have gone in helping natives in the production and encouragement of both stock and agricultural produce—when that is done the Agricultural Department will do very much more than is being done at present in fostering the ghee industry. I think also that while you have, as you certainly have to-day, in some of the Native Reserves so-overstocked with useless beasts that there is not sufficient grazing for the female stock, it is quite likely the production of ghee will not go forward as it should. I do suggest now is not the time to upset the Customs tariff, because some members of the community cannot get an article which they wish to get at a time when more encouragement is required for this industry than it has had before.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM) : Your Excellency, in amplification of the remarks made by the hon. the Commissioner of Customs and in response to the request made by the hon. Member for Plateau North, I should like to add further to the reply made on behalf of Government on the motion before this hon. House. I am inclined to think that the hon. Mr. Pandya has lost rather a sense of proportion in this matter, and that for the reasons given by the hon. the Commissioner of Customs this should be approached rather as an East African question than a Kenya question. Looked at from the point of view of East Africa, East Africa is self-supporting in respect of ghee requirements; that is to say, the exports of ghee from Mombasa are in excess of the imports of ghee. It is true, as explained by the hon. the Commissioner of Customs, that a great deal of ghee consumed in Kenya comes from Tanganyika, but, nevertheless, it is an East African supply. There is approximately about 800 tons

of ghee consumed per annum in Kenya Colony, and there is only an import into Kenya Colony of something like 15 tons; therefore, I suggest from that point of view the case put by the hon. Mr. Pandya is not a strong one. He made a point in regard to the price of ghee. I suggest that that is not due to the customs duty. There is, in fact, no evidence of that. The Economic and Finance Committee who have investigated the matter did not find any evidence to indicate that the advance in price of ghee during the last two years was due to the customs duty of Sh. 1 per pound. The price of ghee moves in sympathy with other products of a like nature, and, particularly, as illustrated by the hon. Mr. Pandya himself, the price of butter. He said, or complained rather, that butter had been exported from this Colony while ghee was required in the Colony. I suggest that if butter had not been of a certain value on the world's market, and therefore producers here could afford to export it, it would not have been exported, but would have been sold as ghee, and that is one reason—the high value of butter—why ghee has advanced in price in recent times.

The hon. Member for Plateau North has asked me to state what has been done in respect of the improvement of the ghee industry. A great deal has been done in a quiet way. Administrative Officers, Agricultural Officers and Veterinary staff have all been engaged in fostering and promoting this industry in Native Reserves. Quite a number of ghee dairies have been established in the Native Reserves. There is evidence to show that there is an increase in the production of ghee, coupled with an improvement in its quality. The hon. Mr. Pandya made a point with regard to railway freight on ghee. I do not know whether my hon. friend the General Manager is going to reply—he may not—and therefore I may say that ghee pays the same railway freight rate as other provisions, and in some cases these provisions are of a lower value than ghee, and I do not think at the moment a case has been made out for a reduction in the railway freight on ghee. For these reasons, in my opinion, the hon. Member has not made a good case for altering the protective policy introduced in this country a few years ago.

THE HON. J. B. PANDYA: Your Excellency, I would like to make a few remarks on the explanation given by the hon. the Commissioner of Customs. He mentioned that butter still remains at Sh. 1 per pound if it is imported in bulk. May I inform this hon. House that I have never seen any butter imported in bulk into this country. Butter is usually imported in one pound tins only, and the duty has been reduced on that article. The hon. the Commissioner of Customs has said that the increase in the price of local ghee is on account of the quality being improved on the introduction of protective duties.

I am personally using this article of diet for my food every day, and I think I can say from personal experience that the class of ghee which is being manufactured in this country—that the best class of ghee manufactured in this country from butter—has never improved in quality. The butter produced is a poor article, and I do not understand how they are going to produce the ghee from the local butter even in the next ten years.

The hon. the Commissioner of Customs has said that evidence was taken in regard to this, but I do not remember any Commission or Committee sitting, and if that evidence was taken in Mombasa I would like to see it. I am prepared to produce any evidence that may strengthen my case. In regard to the point raised by the hon. Member for Plateau North, that this is on account of the drought this year, I agree with that. I have not made it a point that this reduction is essential because of the heavy prices demanded. The drought may have something to do with it. The main point is this: there is no comparison between the price of the article imported and the price of the article in this country, and the article imported is quite different, and even if the price of the local article goes up or down it has nothing to do with the imported article. The hon. Member for Plateau North stated that Mr. Shams-ud-Deen supported it. That was three years ago. There are changes in the circumstances of this duty. It was found necessary, butter should be reduced in 1924, but that does not necessarily mean ghee should be reduced from Sh. 1 per pound. The hon. the Director of Agriculture said this is an East African question; I support that statement. Let us treat it as an East African question. I have already said that Tanganyika ghee is entirely a different kind of product and has never been produced in this country. It has no comparison whatever with the article produced in Kenya or India. As an East African question it therefore has no comparison in it. The hon. the Director of Agriculture also said that 800 tons were imported and only 15 tons exported. The 800 tons came from India. He has not taken into account that quantity imported from Tanganyika. He has also stated the increase in the price of this commodity has nothing to do with the protective duties. I beg to differ from him. I am very glad to understand that a systematic effort has been made by the Government to increase the production of this article in Native Reserves. I have very great sympathy with that effort, and am entirely in support of it, and I say that very large efforts should be made to make this industry a Kenya industry in the near future, but it must reach a high standard, as the class of ghee produced by the natives of this country has not yet replaced the article imported from India. I will prove the case to the satisfaction of anyone—if satisfaction is required—but I think these re-

marks have met the criticisms made by the various speakers. I am sorry to understand that the Government thinks this is not an opportune time to bring this motion forward. I trust the Government will consider it on its own merits, and pay the same attention to it as was paid to the question of butter.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, the hon. Mover stated he was not going to enter into the principle which lay behind the protective duties, but I think it is on the principle that Government must rely; and it is entirely on principle that this question depends. In the first place, there is the principle of protection itself. The duty was imposed at the time of stress and poverty on the part of this country in order to develop an industry which had enormous potentialities. That principle was distinctly made protective, and I think the statement made by the hon. the Director of Agriculture has shown how efficient that protection has been in the encouragement of that industry of the Colony. Because Government supports a protective duty on this industry for the time being, it does not mean that Government will for all time be applying the protective duty, but the principle of protection lies there, of a budding industry in a new Colony; and the second principle is not far removed, and that is that when you go in for a policy of protection that you should move very very slowly in altering the details of that policy. Piecemeal legislation of that kind is apt to upset the whole equilibrium and balance of that policy. The third principle is the principle of give and take. Here we have a partnership between three dependencies of the British Empire, and in this instance the partner to whom we are linked up with is Tanganyika Territory. They are suffering in silence some hardships on our part. I will not say that we suffer in this country any hardship on account of the protective duty, but I do say that the least we can do is to stick to this protective duty on this industry upon which the neighbouring territory depends. I venture to state that of the imports into Kenya of ghee to the extent of 100,000 pounds, nearly half of that comes from Tanganyika Territory, and to suggest that the main market for one of the chief industries of that territory should be closed by a protective duty is to my mind quite an impossible one. It is on these three principles, Your Excellency, that Government entirely opposes the motion of the hon. Member.

The motion was then put and lost.

BILLS.

FIRST READING.

THE DETENTION CAMPS (AMENDMENT), BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg leave to introduce and move the first reading of a Bill intitled "The Detention Camps (Amendment) Bill, 1926."

THE HON. THE ACTING ATTORNEY GENERAL: I beg to second.

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to give notice that I shall move the second reading at a later stage of the session.

SECOND READING.

CROP PRODUCTION AND LIVESTOCK BILL.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, in moving the second reading of a Bill intitled, "An Ordinance to make provision for the Control and Improvement of Crop Production and Livestock and the Marketing thereof," and in explaining the principles of the Bill I cannot do better than repeat its objects and reasons as given in the statement appearing in the heading of the Bill:—

"This Bill confers powers upon Government actively to improve the standards of production in the Colony and to forbid the growth of crops or plants which are known to be deleterious or in other ways undesirable, also to preserve permanent food crops from destruction.

"Through it, cultural methods calculated to increase production could be laid down, and in order to prevent immature produce (in bad condition being exposed for sale the time of marketing any particular kind of produce may be specified.

"The stocking of land beyond its carrying capacity, with resultant poverty and deaths of stock, may be prevented, and the number, etc., of livestock which may be kept on a given area can be defined. Generally also, provision is made for determining the manner in which livestock improvement should be carried out.

"The enactment amounts to an enabling Ordinance, rendered effective only through rules made by the Governor in Council, and it is designedly for the benefit of and application to native agriculture."

Your Excellency, in amplification I would say that it is considered that legislative powers of the kind embraced in this Bill are necessary for the proper control and the improvement, particularly of native agriculture. The policy to be pursued and the administration of the rules contemplated are calculated to be of benefit to native producers—who require assistance, direction, guidance and in some instances control in a manner not necessary or applicable in the case of non-natives. If and when the usual methods pursued are subjected to a measure of interference, that interference would be beneficial in its nature.

To take a few examples:

At the present time issues of improved seed are made on a considerable scale, but there is no power to deal with natives who refuse to plant or destroy that seed. Again, in the case of certain crops, for example maize and simsim, it is very necessary that only those improved varieties issued should be sown in a prescribed area.

Again, crops are marketed while still unripe, or in too wet a condition, with the result that losses are suffered, and these losses are ventually borne by the grower. Under the Ordinance rules might be made fixing dates before which purchases of certain crops in prescribed areas may not take place.

Again, the varieties of a particular crop might be limited in order to secure a uniform output for commercial purposes— that might be applied to Europeans as well as native areas, if thought desirable.

Again, it may be found helpful to lay down rules for the preparation of produce for marketing in order to improve its standard of quality.

Dealing with livestock, the Bill embodies important provisions. It may be said that they are exceptional in character, but the conditions which they are intended to cover are also exceptional.

There can be no doubt but that the numbers of livestock have increased, and although the demand has also increased measurably, the increase in stock has been commensurate with that demand. At the same time, prices demanded and paid for stock, both cattle and sheep, have risen far beyond their proper value during the last two years. At the present time, slaughter stock, low in quality, are fetching a higher price in this Colony than prime quality meat in stock countries, e.g. in Australia, Argentine and South Africa.

The supply of stock both for slaughter and draught purposes is wholly inadequate to meet the needs of consumers of all races. It is even insufficient to meet the needs created by the inclusion of meat in the rations of natives employed, e.g. on railway construction and on farming estates, while a promising market in Uganda cannot be supplied. Some native tribes are, with their increased prosperity, becoming consumers of meat, while others who are large stockowners are badly nourished though they have in their own possession the most nutritious food in the shape of meat, which ought to form part of their diet.

It is essential that meat for consumption by natives should be cheap and it is very desirable that they should be encouraged to eat meat. No better market can be found for this class of meat than among the native consumers, who should be able to use up the surplus for many years to come.

Concurrently with this state of affairs, stock are in some areas and in some seasons dying of poverty through overstocking of the land, from disease, and from old age. Much of the loss so incurred could be avoided if the surplus stock were marketed at the right time.

It is clear that in the interests of these improvident owners, bereft of reasoning power and imbued with strange beliefs, Government should act in a manner calculated to enable them to help themselves.

It has been well said in another place that "No country in the world is big enough to carry its currency in the form of stock," and that under existing conditions overstocking of land destroys also its man-carrying capacity.

On account of the part which cattle in particular play in the domestic and social life of the native peoples, great care will have to be exercised in the framing and administration of rules dealing with section 4 (h) of the Bill, and difficulties may be expected, but they will require to be faced and dealt with in a reasonable yet firm manner in the interests of the owners themselves, and with collateral advantages to the whole country.

Concurrently with this control, steps should be taken to protect particularly the breeding stock from disease, and better opportunities may be afforded for improving the quality of the stock through better animal husbandry.

The Bill in itself is a comparatively simple measure, and it is hoped that it may not be necessary to refer it to a Select Committee.

With these explanations of the principles governing the Bill, an indication of the manner in which it may be applied and the purposes which it is calculated to serve, it is hoped that the Bill will be acceptable to this hon. Council.

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

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

THE HON. R. S. NEENA: I agree with the objects of the Bill before the House, but I am afraid what the Department is asking the Legislature to do at this time is to give them a sort of blank cheque, because from the Bill I see there is no specific condition laid down. It is so wide, so indefinite, so incomprehensible, that I think it is not in the interests—it cannot be absolutely in the interests of those to whom it is intended to apply and to benefit, because these short cuts of

At the present time issues of improved seed are made on a considerable scale, but there is no power to deal with natives who refuse to plant or destroy that seed. Again, in the case of certain crops, for example maize and simsimu, it is very necessary that only those improved varieties issued should be sown in a prescribed area.

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Dealing with livestock, the Bill embodies important provisions. It may be said that they are exceptional in character, but the conditions which they are intended to cover are also exceptional.

There can be no doubt but that the numbers of livestock have increased, and although the demand has also increased measurably, the increase in stock has been commensurate with that demand. At the same time, prices demanded and paid for stock, both cattle and sheep, have risen far beyond their proper value during the last two years. At the present time, slaughter stock, low in quality, are fetching a higher price in this Colony than prime quality meat in stock countries, e.g. in Australia, Argentine and South Africa.

The supply of stock both for slaughter and draught purposes is wholly inadequate to meet the needs of consumers of all races. It is even insufficient to meet the needs created by the inclusion of meat in the rations of natives employed, e.g. on railway construction and on farming estates, while a promising market in Uganda cannot be supplied. Some native tribes are, with their increased prosperity, becoming consumers of meat, while others who are large stockowners are badly nourished though they have in their own possession the most nutritious food in the shape of meat, which ought to form part of their diet.

It is essential that meat for consumption by natives should be cheap and it is very desirable that they should be encouraged to eat meat. No better market can be found for this class of meat than among the native consumers, who should be able to use up the surplus for many years to come.

Concurrently with this state of affairs, stock are in some areas, and in some seasons dying of poverty through overstocking of the land, from disease, and from old age. Much of the loss so incurred could be avoided if the surplus stock were marketed at the right time.

It is clear that in the interests of these improvident owners, bereft of reasoning power and imbued with strange beliefs, Government should act in a manner calculated to enable them to help themselves.

It has been well said in another place that "No country in the world is big enough to carry its currency in the form of stock," and that under existing conditions overstocking of land destroys also its man-carrying capacity.

On account of the part which cattle in particular play in the domestic and social life of the native peoples, great care will have to be exercised in the framing and administration of rules dealing with section 4 (h) of the Bill, and difficulties may be expected, but they will require to be faced and dealt with in a reasonable yet firm manner in the interests of the owners themselves, and with collateral advantages to the whole country.

Concurrently with this control, steps should be taken to protect particularly the breeding stock from disease, and better opportunities may be afforded for improving the quality of the stock through better animal husbandry.

The Bill in itself is a comparatively simple measure, and it is hoped that it may not be necessary to refer it to a Select Committee.

With these explanations of the principles governing the Bill, an indication of the manner in which it may be applied and the purposes which it is calculated to serve, it is hoped that the Bill will be acceptable to this hon. Council.

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

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

THE HON. R. S. NEHRA: I agree with the objects of the Bill before the House, but I am afraid what the Department is asking the Legislature to do at this time is to give them a sort of blank cheque, because from the Bill I see there is no specific condition laid down. It is so wide, so indefinite, so incomprehensible, that I think it is not in the interests—it cannot be absolutely in the interests of those to whom it is intended to apply and to benefit, because these short cuts of

legislation, whereby afterwards the Governor in Council gives to the Department concerned—the Agricultural Department—such powers that the benefits to the people interested, would be lost, and if certain Rules are going to be passed and brought before the Legislative Council the people concerned should have an opportunity of criticising those rules, and saying whether they are really beneficial to those they are intended to benefit. I think they are more harmful than beneficial, because the section gives absolutely comprehensive powers to do whatever may be found necessary without giving the public an opportunity to put their point before the Legislature.

These are my arguments for opposing the Bill to be passed in the form in which it is at present. I have always admitted that I have entire sympathy with the ideas and the objects to be attained by the hon. the Director of Agriculture, which are really desirable objects; but I think the methods which have been adopted now particularly are not desirable neither are they praiseworthy in so far as the ignorant people who are going to be affected by the Bill first of all would not have the opportunity to discuss the objections which they may have against the drawbacks to the rules which may be promulgated at any time.

This Bill is to take away the power, the authority and the benefit and the advantage in the light of legislation, and to do everything administratively. I submit that this method of trying to bring things into force is not a proper one. I would certainly be very glad if the hon. the Director of Agriculture had put certain definite instances—at least, a few definite recommendations which he had in view—into the legislation which he wanted to become law. If there is such a great necessity certainly there should have been recommendations which would have shown us the trend and the way in which he is trying to effect that object. I think that this sort of very indefinite Bill being passed will not reflect very well on the Legislature as to their sense of fairness where the ignorant people are concerned. So in their interests I would strongly oppose this Bill.

THE HON. M. A. DESAI: After hearing the speech made by the hon. the Director of Agriculture in support of the Bill, I am satisfied that no necessity exists nor has the time arrived for the adoption of this Bill. I take it for granted that the Bill is going to be applied to the natives of the Colony mainly. So far as the crops are concerned, I would submit that it is the duty of the Government to educate natives in the growing of valuable crops that will benefit them most. Further, I do not see any reason why a native should not be allowed to possess as many head of cattle as he likes, and for that reason I would oppose this Bill very strongly.

CAPT. THE HON. J. E. CONBY: The last speaker said that it was the duty of the Government to educate the natives. I think the hon. Director of Agriculture has already stated what is happening. Government are, in Kavirondo, to my knowledge, and probably in many other parts of the country, issuing some good maize seed. There is nothing apparently to-day which gives Government the power, after they have issued the seed, to see that the native uses it, and I take it that under this power will be given to the Government to see that the seed is used for the purpose for which it was given to the natives.

We heard a lot of sentimental statements a few years ago to the effect that the Government were exercising a sort of trusteeship over the natives, and it is in legislation of this kind that we can discharge our responsibilities to the natives. I believe this is necessary, right, and in the very best interests of the natives, and with regard to what one hon. Indian Member has said, that these things will be done and that nobody will know about it, I would remind him that Native Councils have been appointed to represent the natives all over the country, and that they are represented in this hon. House as well. I am sure that neither these Native Councils nor this hon. House would pass anything which they consider unjust and allow it to be brought into force by any rules. I take it that all these rules will be published in the Gazette, and they will be fully discussed in this hon. Council.

I personally most strongly support this Bill, and hope that Government will see it through, and I also hope that it will go through without the necessity, if the hon. the Director of Agriculture agrees, of going before a Select Committee.

THE HON. W. MACLELLAN WILSON: I must give my strongest support to this Bill, and to the manner in which it has been presented to us as an enabling Ordinance. To deal with one point, a point which has struck many of us for many years, is that there is no man whether he is white or black, who has got any right to possess land of which he does not make the fullest use. That is a principle which I would stand to at any time. Now, it is not wise to suggest that any man, white or black, should be allowed to commit suicide, and if you are going to allow the natives to increase their herds until they die because they have not got sufficient grazing you are helping that man to commit suicide.

I should like to state that we are dealing with a class of people whom I have seen follow this procedure in a time of famine, I have known natives sell first their children, secondly their wives, and thirdly their stock, in order to get food for themselves to live on, and when a native cannot get food he dies. The Government is here to govern this country, and to

do what is considered best for the country, and in that light I think it is absolutely necessary to have an enabling Ordinance. One hon. Member mentioned that the Ordinance was of necessity, be carried out further by rules by Your Excellency in Council, and it is suggested that those rules might be laid before this hon. Council. Well, I ask any of you in this hon. House which one of you is willing or is able to give any statement as to whether this Ordinance should be applied to any certain area brought before us by the hon. the Director of Agriculture. We know nothing about it; we have to take facts figures collated at considerable expense and difficulty. We are not qualified to give any proper advice as to whether such a rule should be proceeded with or not. I venture to ask that if we have not yet got the length of trusting Your Excellency in Executive Council, whom are we—the representatives of the European, Indian and native communities in this country—to trust?

I do not see that there is anything in this Bill which should make it difficult for our acceptance of it to-day and for passing it. I hope it will not go to a Select Committee. The details are simple and easy.

There is one point I should like to call attention to, and that is this: I think when a Bill like this is published and it is going to affect, as it states, mainly natives, that it would be a very wise thing to have this Bill passed in all the vernaculars in the country and distributed to and through the District Commissioners and Native Councils. I think there will always be a difficulty in carrying out work of this nature, and it is wise to obtain the consent of the Native Councils on behalf of the natives to this sort of thing.

The working of this Bill will no doubt mean additional staff, but I have no doubt, and probably it is expected, that should pay for itself.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): I am very grateful to the hon. Members who have expressed a certain amount of fear lest this Bill should operate harshly on natives, but I should like, on behalf of Government, to assure them that those fears will prove entirely unfounded.

The policy which is outlined in this Bill will be completely and entirely beneficial to the natives. The provisions which apply more specifically to native stock are urgently necessary in the interests of the native owners. We all know the natural attitude of the native African to stock. He does not regard this question from the economic point of view, because he has possessed his stock for years, and before he came under civilising influences. Africans regard their stock merely from the point of view of pride of ownership, and the

possession of large herds is, in their view, the sign of a great and powerful man. Unfortunately, they have never learned to regard stock from the point of view of quality but merely from the quantity side. In certain circumstances their stock is allowed to increase. In the old days, the natural forces which reduced their stock were firstly, disease, and secondly, warfare. Warfare, of course, is now practically at an end, and certainly in the civilised parts of the Colony. Disease is being controlled to a certain extent. But there is no doubt that within a few years the natives will enormously increase their herds; and as a matter of fact they have already increased in many cases far beyond the carrying capacity of the areas reserved for them.

It is stated to be the duty of Government to preserve for the natives land which will carry the stock necessary for their subsistence, but it cannot be urged that the Government must or can provide the land necessary for the amount of stock which an African would like to have, because not only is Kenya not big enough but Africa is not big enough.

We are faced in certain Native Reserves with a very serious situation which is entirely due to over-stocking. That over-stocking must be due to ignorance. I am sure that it is the intention of Government that the application of this Ordinance shall be humane and entirely beneficial. It must, however, be firm. If I may use the expression, in a matter like this we must have benevolent despotism, and it will be, I hope, entirely benevolent. I am sure that it is the intention of Government that the application of this Ordinance should go hand in hand with a policy of instruction, and no harsh rules will be enforced against people who have not been given every opportunity of bringing their herds into a more satisfactory state and their crop production into a more satisfactory condition with the help of the Agricultural and Veterinary Departments of the Colony.

The Bill is not entirely a native Bill. It is particularly designed for use in native areas, but only benevolently. It will be enforced for the improvement of agriculture, the improvement of crops, the improvement of conditions for the native in every form, so that he may increase his crops on his land and increase the quality of his stock and his knowledge of making the best use of his stock and produce.

The provisions of the Bill, however, are capable of application to every class of the community whose crops require supervision in order to control disease, and to prevent the spread of disease to other parts of the country, and in the same way it will apply to stock.

I would like to assure the hon. Indian Members that we are grateful for the apprehension and solicitude which they

have expressed for the welfare of the native, but Government does intend to enforce this law to the most beneficial advantage possible to all sections of the community.

REV. DR. THE HON. J. W. ARTHUR: With regard to this Bill, naturally one has fears from the native point of view as to how it will be carried out. On the other hand, there can be no doubt why such a Bill as this cannot have within it great possibilities for the benefit of the native peoples of this country. The native does not think ahead in regard to many things, and especially in regard to the question of famine. He does not provide in such a way as to safeguard himself in times of famine, and I do think it is absolutely necessary to formulate laws in such a way as will help the native to look ahead in regard to his agricultural crops.

With regard to the native stock, of course it is one of those things that naturally touches the native very closely, and any law in this connexion must take into account the effect that it will have on the natives. It has been stated that in certain areas the conditions of the native stock is entirely due to overstocking in these areas. That may or may not be so; it all depends on whether the native has a grasp of what has happened in the past. In certain areas in this country—native areas—where there are large owners of stock the conditions to-day are not what they were in the past. Well, that being so, I think that I am in entire agreement that the necessity for safeguarding the native against himself in the matter of his stock exists. I am therefore taking all this into account in favour of this Bill, but I do suggest that the whole thing depends upon the rules that are made by the Governor in Council, and that the greatest care should be taken when framing these rules. I think if we were to lay down special provisions in a Bill of this kind at this time we would find it extremely difficult to do so. I think a Bill of this kind must be fairly wide, and fairly wide powers should be given if it is going to be effective.

At the same time I have the natural fear of anyone who is interested in the native questions about the framing and carrying out of these rules. I hope that in some way it may be possible to take the advice of the Native Councils, perhaps not so much in the framing of these rules, but in the administering of them.

The hon. the Chief Native Commissioner has referred to the question of education, and that is a very important matter. The question of education must first of all be considered in connexion with the members of Native Councils. If Government does not in the first instance take the trouble to explain the rules to the Native Councils before they are brought into force then undoubtedly trouble will ensue.

I think with these words I would like to say that I am in favour of the Bill.

THE HON. J. B. PANDYA: I have heard the remarks of the hon. the Chief Native Commissioner and the hon. Rev. Dr. Arthur, and I think I am quite satisfied that from the point of view of the natives this Bill will be for their benefit. I have to oppose it, however, on a principle, and the principle is this: when it is advocated in this way that the natives should not be allowed or it would be dangerous for them to possess the stock that they consider their property. It is a question of educating a certain class of people who believe in their right to possess millions of acres of land and hundreds of herds of stock. My point is that if these people do not believe it is going to be for their benefit that this Bill should be passed it is going to raise issues of great importance.

I think on these grounds I am not justified in supporting this Bill.

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

The question was put and carried.

HIS EXCELLENCY: Perhaps it will be for the convenience of Members if I inform Council, in order to meet the convenience of the hon. Member for Plateau South, who is leaving the country in a day or two, I have arranged to take the motion standing in his name first after the luncheon interval to-day.

MOTIONS.

LOAN MOTION, £4,150.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move the following motion:

"Be it resolved and it is hereby resolved that this hon. Council approves of the sums of £4,150 and £950 respectively being added to the amounts already authorised by Resolutions of this Council to be spent and charged to Loan Account, the first-mentioned amount of £4,150 to be utilised for meeting Mr. Baker's fees for sketch plans for—

1. Central Block of Offices, Nairobi;
2. Supreme Court, Nairobi,

and the next-mentioned amount of £950 to meet share of Mr. Baker's general expenses in connexion with items 1 and 2 referred to above, and any other preliminary expenses that may be incurred in connexion with proposed Loan Works not yet approved by this Council."

Your Excellency, I think that that motion really covers the whole ground, and practically no explanation is necessary. Hon. Members will remember that in the statement of proposed loan expenditure put before this hon. Council that in the fifth schedule was shown the expenditure which Government considered would be necessary in the near future. The first two buildings mentioned there are the Government offices and the Supreme Court, and it was owing to these two buildings to a very great extent that such an eminent architect was invited to this country. It is to cover the cost of the architect's costs of these sketch plans. If details are required I would say the plans of the Supreme Court are costing £1,650 and the Central Offices £2,500.

THE HON. T. FITZGERALD: I beg to second the motion.

CAPT. THE HON. H. F. WARD: Your Excellency, may I take this opportunity of clearing up, or asking the mover of the motion to clear up, one or two points? The first is: What exactly this hon. House did in legal terms when it passed the resolution covering the Colonial Loan at the last session? That Council passed a resolution to the effect that the Report of the Committee on Loan Proposals be adopted, or words to that effect. Is that resolution accepted by the hon. the Attorney General as a money resolution to be passed by a Council of this sort, and if it is, to what is this hon. Council committed? If you take the exact wording of that resolution it means this Council did accept and authorise Government to expend the full sum of £3,000,000. The Committee's Report divided itself into two parts: first the expenditure of something like £1,700,000 for immediate works, and the balance for works which would be considered in the near future. The point is the doubt in my mind as to whether that resolution can be taken to authorise Government to expend this full amount of £3,000,000 sterling.

HIS EXCELLENCY: The resolution in favour of the adoption of the Report is not a money resolution. No money can be expended on the Report unless a proper money resolution is adopted. The only money already authorised is for interest and sinking fund charges which appeared in the Estimates and passed.

CAPT. THE HON. H. F. WARD: The next point is, if the hon. the Acting Colonial Secretary would be kind enough to mention it in his reply: Is this £4,150 fees in respect of the one block of buildings only? The third point is: I understand that Government have agreed to no expenditure taking place under this loan in respect of buildings until the report of the Building Committee has been presented to this House

and a resolution moved for the adoption of that report. I do not know whether it is really necessary to say that in view of Your Excellency's ruling.

HIS EXCELLENCY: Government is not called upon and would not be in order in coming and asking for money which has been voted to be revoked. That would be unconstitutional and a bad precedent. Government is entitled to expend money voted by this Council and the Works Committee will lay plans before this Council for its consideration. Of course, it cannot in any way go beyond the expenditure of moneys which have been sanctioned by this Council.

CAPT. THE HON. H. F. WARD: I take it no moneys have been sanctioned by this Council under the Colonial Loans except these items you ask to be sanctioned to-day?

HIS EXCELLENCY: Perhaps the hon. Treasurer will reply?

THE HON. THE TREASURER: The amount which has been included is the large sum of £40,000 in connexion with the loan for interest and sinking fund. According to a statement which will be laid on the Table to-morrow—a statement of loan expenditure—it is estimated that £8,000 only will be spent during 1926.

CAPT. THE HON. H. F. WARD: Do I understand that the item included in the Estimates of £20,000 was to meet loan expenditure and not Colonial Loan?

THE HON. THE TREASURER: The item is very much larger; it is £40,000, and this amount is to meet Colonial Loan expenditure. It was originally put at £20,000, but the Committee, finding themselves with a surplus on hand, suggested it should be increased to £40,000.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, in reply to the question raised by the hon. Member for Nairobi North, who asked, I understand, whether these sums were in respect solely of two buildings, the sum of £1,650 is in respect of a Supreme Court, and represents fees for preliminary sketch plans. I speak subject to the correction of the Chairman of the Works Committee.

THE HON. T. FITZGERALD: The sum of £4,150 which Council is asked to vote on this question is made up of £3,750 to cover Mr. Baker's fees for the preparation of sketch plans for the Central Block of Government Offices—and that is a building which is estimated to cost £250,000—and it will not be possible to make any progress really with regard to the final contract drawings and the letting of the contract for that building until sketch plans have been completed, and in order

to complete these plans this sum of £4,150 will be required. There is a sum of £400 in respect of the Supreme Court making a sum of £4,150. The balance of £350 is required to cover any incidental expenditure in connexion with these buildings, such as travelling and so forth.

HIS EXCELLENCY: I think before putting the question that it would be very useful to this Council if I explained that preliminary expenditure on these two blocks of buildings is very desirable at an early date in order to enable the Town Planning Authority to do its work. These two buildings, as Council will remember, are not in the more urgent schedule; they have not been passed at present in any way by Legislative Council except as desirable buildings in the near future; but no Town Planning Authority can proceed with its work unless it knows what kind of space is required, and where they are to be sited. In order to do that, a rough sketch plan is necessary in order that the Town Planning Authority may be able to discuss that with full knowledge. Otherwise great waste of money would occur in drawing plans and fixing sites of buildings. I think it important to explain that this particular expenditure in no way prejudices the fact that these buildings stand in the second order of proceedings under the Loan Proposals adopted by Council.

Motion put and carried.

UNFORESEEN EXPENDITURE TO 30TH SEPTEMBER, 1925.

THE HON. THE TREASURER: Your Excellency, I beg leave to put the following motion:—

“Whereas it was found necessary during the quarter ended the 30th September, 1925, to incur expenditure amounting to £21,640/1/68 for which no provision was made in the approved Estimates for the year 1925, as more particularly set forth in the statement laid on the table of the Council, this Council hereby approves that part of such expenditure which has not already been approved in the 1925 Supplementary Estimates.”

It is usual, Your Excellency, to ask Council if they wish to go into Committee to discuss these items, but I think if hon. Members will cast their eyes down the remarks column they will see these items of excess expenditure are met from savings under other sub-heads under the same head, and that is why they have not appeared in the Supplementary Estimates. As regards excesses which cannot be met from savings this Council will have full opportunity when the final Supplementary Appropriation Law comes up for consideration in dealing with such excesses. If no hon. Member desires to go into Committee, I beg to move the adoption of the report.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The motion was put and carried.

STANDING COMMITTEE ON FINANCE.

THE HON. THE ACTING COLONIAL SECRETARY: I beg leave to move the motion standing in my name, which reads as follows:—

“That a Select Committee of this hon. Council be appointed as a Standing Committee to advise and report on measures proposed for the expenditure of public moneys prior to the introduction of such measures into Legislative Council.”

Your Excellency, I would explain shortly that this Committee is intended to be entirely consultative, and in no way to deprive this Council of its proper functions. Emergency expenditure is very frequently necessitated, and it is in order to get the feelings of hon. Members on such expenditure and to take their advice that this Committee is proposed. I am sure that this proposition is one which will commend itself to all Members of this Council as one which tends to bring them further into the Council of Government.

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

CAPT. THE HON. J. E. CONEY: Your Excellency, I very deeply regret the Right Hon. Member is not here to-day to speak to this resolution. I wish I had had an opportunity of consulting with him before this came up, because I feel that on behalf of the Unofficial Members we should express a sense of deep gratitude that the Government are willing to consult with us in these matters. There has been, and always is, a good deal of talk in the form of Government which we have in this country, that we are governed by a majority of officials and ultimately by the Colonial Office in Downing Street, but I do think steps which Government have taken and this step in particular shows at least, and should let the public of this country know, that such is not the case. And I think now that we Unofficial Members should realise that in accepting this Committee, as we do, and in asking for it, we also must accept a good deal of responsibility sometimes which we are rather apt to throw on Government. There was a time in this Council when a very unpleasant word used to be used—the word “Steamroller.” I think the country should realise that most things that are done are done after consultation with the Elected Members, and I think this is an indication of Government's intention to do so.

Question put and carried.

FIRST SUPPLEMENTARY ESTIMATES, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move in an amended form the statement which is in my name on the Order of the Day. It is to cancel the words from "approve" to the end of the motion and to substitute certain words, so that the motion will read:—

"That this hon. Council do now refer the First Supplementary Estimates, 1926, as printed and laid on the table, to a Select Committee consisting of the Acting Colonial Secretary as Chairman, the Treasurer, the Elected Members and the Non-Official Nominated Members, and such other Official Members as the Chairman may require; to which I would add the Chief Native Commissioner."

I feel this motion is one which does not require any words from me; it is the ordinary Committee appointed to consider the Annual Estimates of the Colony, and it is only an extension of that principle that it should sit on the Supplementary Estimates.

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

HIS EXCELLENCY: The question is:—

"That this hon. Council do now refer the First Supplementary Estimates as printed and laid on the table to a Select Committee consisting of the Acting Colonial Secretary as Chairman, the Treasurer, the Chief Native Commissioner, the Elected Members, the Unofficial Nominated Members, and such other Official Members as the Chairman may require."

Question put and carried.

BRANCH RAILWAY LINES COMMITTEE.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move the motion standing in my name, and at the same time, with the permission of this Council, to add to the motion the names of those who will be appointed to that Committee:—

"That this hon. Council appoint a Select Committee to consider the reports upon the Railway Surveys on Reconnaissances and the Economic-Surveys relating to the following branch lines:—

Sergoit,
Kericho-Sotik,
Donyo Sabuk,
Machakos,
Nanyuki,
Thomson's Falls,

and such other branch lines as may from time to time come under consideration.

The Committee's functions shall be to advise in regard to—

- (a) What further branch lines should be built and in what order of priority;
- (b) The arrangements necessary for the provision of funds for such construction."

The intention is to refer the matter to the same Committee which usually sits on the Estimates, and which is now to consider Supplementary Estimates. I feel once more very little need be said in support of a motion of this nature. It means the Government is taking into full consultation all the Members of this House in respect of one of the most important matters in this Colony—the extension of the Railway system. I need perhaps only just remind hon. Members of the terms of the Railway Order-in-Council in one respect. That reads: "If any Railway is constructed by either the Government of Kenya or the Government of Uganda or both against the advice of the High Commissioner, the High Commissioner may, with the approval of the Secretary of State, by order declare that such Railway shall be included in the services, and in such case the loss, if any, upon the working of such Railway shall be made good to the Railway and Harbour Fund by the Government or Governments concerned."

I did not feel it necessary to bring all that into the motion, but that is one of the cases which may come before the consideration of this Committee in respect of guarantees. The Economic and Railway Reports will be printed and will be laid before Members as soon as possible. With that short explanation, I will lay the motion before the House.

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

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the use of the words "the reports" in describing the reports of the Economic and Railway Reports implies these reports are already in. I hope an opportunity will be given to this Committee of examining any reports now in course of preparation. The economic factor may have considerably altered in regard to which the report is made. If new reports are being prepared—and I suggest new reports are in preparation at the present moment—the Committee appointed will have the opportunity of considering these new reports as well as previous ones?

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY: Your Excellency, I do not think there is anything for me to add. What the hon. Member refers to is more to the possible economic development of the country in which these branch lines are to be built, and I think the point

he raises is that as development increases all the time it may affect the economic factor. This is borne in mind by the Department responsible for preparing an economic report, and they usually allow for all possible development, and such development will be laid before the Committee when they consider these reports.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, am I to understand that new reports in course of preparation are not to be ruled out if these reports are informative?

HIS EXCELLENCY: I think I can give an undertaking that all information will be laid before the Select Committee in question. A report in process of being made is rather a difficult thing to lay before the Committee, but I can say all available information will be laid before the Committee.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, may I ask the hon. Member what reports he has in mind, as my Department is concerned?

CAPT. THE HON. E. M. V. KENYALY: I think a new report or modification might be made on information which has recently come in due to wheat-growing possibilities in North Kenya and that neighbourhood.

THE HON. THE DIRECTOR OF AGRICULTURE: In regard to that, there is no information which has come to me recently which would have altered the forecast embodied in the economic survey as far back as 1920. As far as I know the economic surveys in that respect are up to date.

HIS EXCELLENCY: I do not wish that undertaking to apply to any particular district. It applies to the whole country, and I repeat the whole of the information available will be laid before that Committee.

Question put and carried.

UNSPENT MONEY.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I beg leave to move the following motion:—

“That this hon. Council views with concern the fact that money voted for recurrent works in some cases cannot be expended owing to Government's failure to procure the necessary amount of native labour.”

Your Excellency, this motion sounds a little academic, but the facts are real; the conclusions may appear academic, but the facts are real. I should like to refer to the Public Works Department. Instances have occurred where money voted for particular districts has been returned to the Treasury owing to the inability of the local Public Works Department

authority to obtain labour enough to effect this economic expenditure. Although the amounts returned to the Treasury may seem small when compared with the amounts voted for the Public Works Department, they are not small in comparison with the district expenditure that may amount to quite a large proportion or to a negligible proportion of the total amount spent in such districts. Because money is returned to the Treasury by the district, it has been suggested because the money could not be spent in that district, that district therefore should accept less money because it cannot spend the previous amount. If that argument is examined it will be proved illogical. If money cannot be spent it does not mean the money is not required; it merely means the necessity for the spending of that money has progressively increased as a whole. I am referring particularly to the road work done by the Public Works Department, and that affects the whole community; the cost of transport has a direct result on the cost of living in this country. I hope that no differentiation will be considered in this matter because it is a matter of national interest. It will be unsatisfactory to say that one section of the community is going to gain at the cost of another. Every section of the community is equally interested in the matter. I suggest if a shortage is inevitable, as may be contested, the shortage should be diverted to where it will be least felt, and I suggest it would be quite easy to divert such labour as is available to the Government—if necessary from a pool—to such a central service like the upkeep of roads. I hope it has now been admitted that it is reasonable to view with concern the facts as stated, and I hope this House will accept them, and that Government will effect such changes as to divert the shortages to channels less essential than roads.

THE HON. W. MACLELLAN WILSON: Your Excellency, I rise to second this motion for the simple purpose that I think perhaps some things in it ought to be elucidated. The hon. gentleman moving it has referred to roads, but I cannot see anything about roads in it! It stresses on a premise there is a failure which was due to the inability to procure a necessary amount of native labour. It is purely with the idea of getting this thing cleared up that I second the motion.

THE HON. R. S. NEHRA: Your Excellency, this motion I must submit is absolutely too vague and indefinite and the statements made by the hon. Member who moved this motion are equally indefinite and too vague for the Government to take any notice of, because he has neither pointed out what areas and roads have been included and where the labour was short and where there was a surplus of labour. In view of these facts, I think this indefinite motion does not deserve any consideration at all until it is amplified properly and to the

satisfaction of the House that it is a reasonable motion, and on these grounds I must oppose the motion.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, it was undoubtedly the case that there was a shortage of labour last year for road work, but the amount of money returned to the Treasury was small—£1,940 out of a total expenditure of £63,000. The reason is that we had to concentrate largely on temporary bridges which have become worn out, and replace them by permanent structures. The shortage of labour was throughout the whole country, and I think the natural demands were probably about 50 per cent or 100 per cent greater than the actual supply. The labour shortage is in my view a matter of very serious concern. It is increasing year by year, especially during the last two years, and our efforts, which were successful in the past, have not been successful recently. The matter is one which does require the very careful consideration of Government, and it may be improved by appointing a Labour Officer to see that labour is obtained for departments as required. The average number of labourers employed was 2,402—a comparatively small number.

THE HON. J. B. PANDYA: Your Excellency, I think I am expressing the views of everyone when I say it is a very grave matter that the labour is not available. That is the real cause why certain roads have not been completed. In some cases the Public Works Department have put the work out to contract. I know this is the case in connexion with a certain amount of road work in Mombasa. I think it very essential the Government should consider this question very seriously.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I feel sure that when the hon. and gallant Member for West Kenya moved this motion, he did so for the purpose of obtaining information. I hope he is not going to put this to the vote, and that he will be satisfied with the information he has obtained from the Director of Public Works. We cannot admit absolute failure in this respect. As the hon. the Director of Public Works has pointed out, a very small amount of money lapsed; he has also stated some of the measures he proposes to take, and perhaps he might emphasise more the road plant and machinery which Government is getting to supplant much of the manual labour on which it has previously relied. There is very considerable sympathy on the part of Government with any part of the country which does not get its roads put in order for any particular cause, and I trust the hon. and gallant Member for West Kenya will be satisfied with the explanation given.

CAPT. THE HON. E. M. V. KENEALY: Am I asked to withdraw the motion, Your Excellency? Could not the House agree that it does view with concern the state of affairs which exists? It is merely a recognition of facts as they exist to-day. The facts are money has been returned, and since it has been returned for the causes stated, it is worthy of exercising the concern of the Members in this House. It is merely a recognition of facts as they exist now. They are not disputed by anybody.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I tried to indicate to the hon. Member that it is really the form of the motion that was the difficulty. The motion does say that owing to Government's failure to procure the necessary amount of native labour certain circumstances arose which this Council is called upon to concern itself with. I think the hon. Member will understand it is not possible for Government to accept a motion which charges itself with failure. I have to express the sympathy of the Government with matters in general, and I trust for these reasons the hon. Member will withdraw the motion.

CAPT. THE HON. E. M. V. KENEALY: With Your Excellency's permission, and the permission of my seconder, I will withdraw the motion.

MAGISTERIAL POWERS FOR JUSTICES OF THE PEACE.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg leave to move:—

“That Justices of the Peace be given magisterial powers.”

I gave notice of this motion last session, and since then the matter has been urged by the Convention of Associations, and they added that magisterial powers should be given to justices of the peace and that the numbers of justices of the peace should be increased. The matter was discussed in the Convention, and I trust the speeches of Members of the Convention are read by this House. The speeches of the Convention are instructive, interesting and exceedingly helpful. To analyse the necessity, there is a great deal of work of a minor character which can be done by justices of the peace. We have men of wide experience and with the knowledge necessary, and I think it can be recognised as an academic fact that legislation should be really common sense. The law should be the application of social experience, and I submit in this country we have a great many people who have been here long enough to have collected information and experience by their residence here which will provide them with the necessary judgment required in their official capacity as a

magistrate. I suggest that such experience in this country is at least as valuable as an academical study of the practical side of law at a legal institution. If, Your Excellency, it is considered that members of the community are fit to advise in the making of laws, surely it can also be admitted they should be permitted to help in the administration of those laws? Since, from the statements I have made, and which I think will be accepted, it is demonstrable that we have the men of the necessary qualifications in the country and these men are willing to accept these responsibilities, I hope the Government will agree to giving these responsibilities to these men. It will make for efficiency, expedition and economy. The matter of the technical knowledge which might be required and might not possibly be available, can be supplied by clerks, and the cost will be very small in comparison with the value of the services rendered. I trust Government will accept this motion.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I do not know whether I am in order, but I think that motion is a little too bald for Government to accept as it stands, and if I am in order in suggesting it I should like to suggest an amendment which will meet with the approval of Government and the House, and that is:—

"In the opinion of this hon. Council the time has now arrived when third class magisterial powers should be given to selected justices of the peace."

HIS EXCELLENCY: Perhaps I might say that amounts to an entirely new motion and Government would require notice of it; but the general principles can be debated on the motion before the House.

CAPT. THE HON. H. E. SCHWARTZ: I think there is no doubt, Your Excellency, that certain selected justices of the peace should be appointed. I do not for a moment suggest that every justice of the peace, simply because he is a justice of the peace, should be given magisterial powers. I think it is an important innovation that Government should consider on the merits of each case, but I believe the opinion of this country to be unanimous that some such innovation is necessary. I had the pleasure of reading Your Excellency's remarks made at the Convention, which referred briefly to some such scheme, and I see to-day, in the Report of the Stock and Produce Thefts Committee, they say: "We endorse the unanimous opinion of witnesses that the endowment of selected justices of the peace with third class magisterial powers would almost inevitably prove of great assistance in the administration of the Ordinance with which this Committee has been concerned."

In view of Your Excellency's ruling that any such wording I have suggested would amount to a new motion, I would suggest to the hon. Member for West Kenya that he withdraws the motion and drafts another in conjunction with myself.

CAPT. THE HON. E. M. V. KENEALY: I should be most happy to adopt that suggestion, with the permission of the House.

HIS EXCELLENCY: The motion is withdrawn.

STOCK THEFTS.

HIS EXCELLENCY: Council will now take the resolution standing in the name of the hon. Member for Plateau South.

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

"In view of the fresh outbreak of stock thefts in the Uasin Gishu and Trans Nzoia Districts, and the undue delay that has already taken place in dealing with the report of the Stock and Produce Theft Inquiry Committee, that this hon. Council do consider the terms of that report and request the Government to give immediate effect to the recommendations therein contained."

I much regret, Your Excellency, that a too close association with the dentist renders my articulation rather ineffective. I should also like to thank Your Excellency and this House for having privileged me with a discussion of this motion. It was largely as a result of statements made by me in this House that this Committee was appointed, and I am very pleased to have an opportunity of offering my thanks. Everyone will at once notice the number and importance of the recommendations made by the Committee. In addition to which you have a statement in the report that it has been conclusively proved that stock-thieving is widespread in the areas under discussion. As a preliminary, Your Excellency, I should like to give my general impressions of the inquiry and the effect of the holding of it on myself. I must confess that I started off in a frame of mind rather antagonistic to Government, but as the inquiry proceeded and more especially after we had listened to the number of the official witnesses I began to realise the serious difficulty the Administration have in dealing with this problem, and, thinking the matter over, I tried to formulate in my mind some comprehensive answer that might give the solution to the problem, and the conclusion I came to was that the theories underlying our native administration are not in accordance with facts. We are endeavouring to administer these native territories on a line of policy that is bound to fail because it is entirely in

discord with the facts with which they are associated. I can see another link between our failure in the Native Reserve and the failure of getting any order established under present-day conditions. It seems to me that whatever we may say that in actual practice we have lost sight of the fact that society is a living organism, and subject to growth and decay, and you are bound to have a great deal of trouble. It seems to me Fascism in Italy and Bolshevism in Russia are manifestations of that policy of Government, and the same thing is likely to happen in this country unless you recognise that your theory of Government is out of touch with the situation. What it amounts to is that you are endeavouring to apply to an un-civilised people a code of laws which has been drawn up by a civilised people. Our code of laws is such that the majority of the citizens have an imperial sense that they recognise things that are right and things that are wrong. The great majority of citizens have an imperial sense to prevent anyone doing wrong when they know they ought to do right. In this matter of stock-thieving among these pastoral tribes, I think it is true to say they do not regard stock-thieving from their neighbours as a crime—they see no wrong in it. Among themselves it is a very serious thing indeed, and they regard it as a very serious crime to steal from one another among themselves, but when it comes to stealing from their neighbours, far from it being a crime, it is the right thing to do, and proof of that is the fresh outbreak of stock-thieving in our district during the last two months. I am given to understand by the Superintendent of Police at Eldoret that he attributes the present stock-thieving to the fact that there is about to be a circumcision ceremony in Nandi in the near future, and the young bloods have got to wet their spears. The Government has got to seriously consider that aspect of the case and take measures to deal with the growing situation. Turning to the report, I should like first of all to express my surprise and regret that Government, having agreed to this inquiry, should not have taken any further steps in the matter beyond holding the inquiry at a very late date indeed after the request had been made, and did not appoint a secretary. I mention that in no spirit of antagonism, but to draw Government's attention in future that when you ask a man to co-operate in a matter of this nature it is hardly fair to compel him to expend extra time because no secretary has been appointed. We were unable to get copies of the evidence from day to day, though we were told a copy of the evidence would be presented at a later stage. As a matter of fact, we did not get a copy of the evidence, and the members of the Committee were at a very serious disadvantage in drafting the report. Had it not been for the energy displayed by the Chairman we might never have had a report.

I should also like to draw the attention of the House to what I consider to be an extraordinary attitude of the Native Administration immediately preceding the inquiry. Assistant District Commissioners were taken out of the Native Reserves and sent into the European areas to make inquiries regarding the position of squatters' stock on a number of farms, and if that inquiry had been impartial I should have said there was justification for it, but these gentlemen went so far as to pick out a number of people, and these people I take it, by the nature of selection, are those whom they consider are least likely to have their squatters' register in a proper condition. I think it is an entirely improper thing for the Native Affairs Department to do, and as against that the whole Committee found that no effort whatever had been made to take evidence from inside the Reserves. On the contrary, we examined a number of witnesses who were unable to give us any information whatever about a number of important cases in connexion with their Reserves on the ground that they had only recently taken up these offices. I submit that these Assistant District Commissioners would have been much better and more properly employed in assisting their seniors in obtaining witnesses for the information of the Committee. The impression left in my mind by that attitude was that the Native Affairs Department was much more concerned about proving the law-abiding spirit of the native in the Reserves than by assisting the Committee that was investigating. One thing that came out in the inquiry of the utmost importance is that although we already had in existence at least two Ordinances to deal with this situation, they had been applied in such a manner as rendered them practically useless. It seemed to me the Administration were flouting the laws of the land. The Stock and Produce Thefts Ordinance and the Collective Punishments Ordinance were introduced to meet this situation of European stockowners living in close proximity to natives with whom it was an instinct to steal cattle, and yet under the administration of these Ordinances they were applied in such a way as to be practically useless. Police witnesses and others emphasised the extreme difficulty of catching the thief in the first place, and then some of them went on to say that even after they had been caught there were so many obstacles put in their way that the laws need not have existed. We had case after case where cattle had been traced in certain parts of the Reserves and recommendations made by the Police and endorsed by the Administrative Officers for the imposition of a collective fine, yet these fines were not imposed, and in cases where the fine was imposed the fine was not collected. In recent years fines to the amount of Sh. 872,000 had been imposed and only Sh. 150,000 collected. There is a schedule in the report which is extremely

illustrative of that. A recommendation was made in the report that all fines imposed since the beginning of 1924 ought to be collected. I should like to ask the hon. the Acting Colonial Secretary if in his reply he will let the House know what proportion of those fines have been collected.

Your Excellency, as I understand this report is receiving the sympathetic consideration of Government, I will not detain the House. However, I should like to point out that Rome is burning while Nero fiddles. This Committee was appointed in the early part of last year (there is no date on the report), and the report was drawn up in September last. It is now March of the following year, and I should like to know what steps have been taken by Government in the meantime to meet the situation. There has been a fresh outbreak of stock-thieving in that district. It is leading to a very very difficult frame of mind on the part of the settlers up there which may be very difficult to deal with if it goes on much longer. If this state of affairs goes on month after month they are going to take the law into their own hands. It would be a most regrettable thing if representatives of the people say they have done their best and the settlers take matters into their own hands. I do hope the Government will take the matter up immediately.

CAPT. THE HON. J. E. CONEY: Your Excellency, in seconding the motion, I would draw the attention of Government to the beginning of this motion: "In view of the fresh outbreaks of stock-thieving in the Trans Nzoia and the Uasin Gishu . . . Your Excellency, the hon. Member who has just spoken raised this question in my absence some months ago. Government did realise the position at least demanded consideration, and appointed this Committee. They have presented a report, which I hope Government will announce they are going to accept. The recommendation of the report is that the law should be carried out, and I want to ask the hon. the Acting Colonial Secretary to tell this Council why the law is not carried out. I am sure there are difficulties, and it is very much better we should be told what these difficulties are. Are these difficulties in this country? Or in the Colonial Office or the Native Affairs Department? As far as the Police are concerned, I believe that in the Trans Nzoia and the Uasin Gishu the Police are doing and have done everything they possibly can to detect crime. They have not the staff to prevent crime. They have made proposals to the Government as to the position in that district, and the Police are doing everything they can. I am not quite sure the Administration are doing all that they can. I was present only a few days ago at a meeting held in Kitale of settlers in the Trans Nzoia who were suffering from a real sense of grievance of a number of stock thefts and other crimes in the district. Your Excel-

lency, I believe that the hon. Member for Plateau South has stated the position correctly. The position is rather alarming. I think Government should recognise that you cannot expect a man to know these things are going on, to see them going on, and to feel they have no protection whatever from Government, and sit still. That is the feeling—justified or not—that there is no protection from Government, and therefore there is a feeling they must take the law into their own hands. I do hope the Government will accept the recommendations of this Committee and I do hope the Government to-day will state what the difficulties are in carrying out the law as it stands at present.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, as the Native Affairs Department has been mentioned in this connexion, I think I ought to perhaps explain what should be clear about the functions of my department in this connexion. I shall start by saying that every officer of the Native Affairs Department is very much concerned with the question of stock-thieving and only too anxious to do everything possible to put it down. I personally consider it a very serious matter; but I trust hon. Members will realise there is a difference between administrative functions and judicial functions. My Department is concerned with a recommendation when made for a collective fine because a collective fine is imposed, under the Collective Punishments Ordinance, not by a judicial body, but by Your Excellency. Therefore the recommendations to Government for collective fines do pass through my office and they are always passed on immediately through the legal advisers for the Government's consideration. In any case in which the Governor has been advised by his legal advisers not to impose a collective fine, it has been simply because the facts elucidated have not justified the imposition of such a fine. My Department has nothing to do with that. In other cases, where a native is convicted before a court for stock thefts and the court issues a warrant, or does a court issue a warrant, or collects a fine or does not collect a fine, that is a matter which does not come within the sphere of the Native Affairs Department. These matters are entirely under the supervision of the Supreme Court. I have no means of knowing of these fines, and it is not my business. With regard to the circumstances which have been related by the mover of the motion that certain officers went and inspected some stock registers, I should be grateful if he can give me some further particulars, because, as Your Excellency is aware, the Committee commenced its labours just after I proceeded on leave, and this is the first I have heard of these incidents, and I am in the dark as to what they refer to. The report has only recently been seen by myself, and I think it contains some extremely valuable recommendations. There are a few

which still require very close consideration, but I understand it is the intention of the Government to give the whole of the recommendations very early consideration. I should only like to say in conclusion that I find myself in complete agreement with the report in general. Merely on points of detail it will have to be carefully gone into. I should like to remove any impression in the minds of hon. Members that the Native Affairs Department is in sympathy with stock-thieving.

THE HON. W. MACLELLAN WILSON: Your Excellency, I have perused this report with a great deal of interest, and I am so very glad to hear the expression of sympathy just made by the Chief Native Commissioner. I do realise in reading this report there are perhaps certain things that in detail may have to be carried out in a slightly different way than that suggested by the report. That is a mere question of detail. I should like to say that while giving my full approval to the motion I am of opinion that perhaps it will not be such an expensive matter to carry out this work on the lines suggested by the Commissioner of Police if these Ordinances which are already on the Statute Book are carried out. It is within my recollection, and the recollection of other Members who were in the country in those days, that when these Ordinances were passed, if the Ordinances had been carried out to their completion in regard to the few cases which had been brought up, stock-thieving would cease. That is what happened before when this matter came before us, and I submit, in view of that, we will not have to increase the Police Force except, perhaps, by a very little indeed.

THE HON. R. S. NEHRA: I may state, before I criticise the remarks made by hon. Members, that I am in sympathy with the object that stock-thieving should be stopped. What I want to point out is this: that certain arguments advanced by the hon. mover of the motion that the natives who carry on these thefts think it is the right thing to do, that it is quite right to steal their neighbours' property. If that argument is advanced it must apply to everybody, whether civilised or not. A criminal commits an act and believes he is quite right in committing it. To say that these natives are particularly criminal does not hold water. I have never seen in any country any criminal who does think he is doing wrong. He thinks he is quite right. Great pressure has been laid on the fact that the fines inflicted have not been collected. Undue importance is being attached to this fact, because it is very easy to impose a fine, but if a convicted person has not got the money to pay the fine how can the authorities collect it? They can only send him to jail. All those people who could not pay the fine should have been sent to jail in default of the fine. That argument is not sustainable. Of course, there

has been ample provision for taking action against criminals in these cases and in the case of excess of crime in any particular area, what I should like to know is: Has the assistance of the Police been demanded specially and urgently, and has the Police refused to help, and if it is due to the inadequacy of the Police that the Commissioner of Police has not been able to comply with the demands of the public? It means we want detectives and trackers and so forth in larger numbers, but nothing different to the established practice of law. To say that the people of this country are uncivilised and hence they should be treated with a different judicial law is wrong. I submit if that is the argument then certain people have no claim to be stockowners themselves if they want to treat the natives in such a way. Where is your civilised person if he stoops to uncivilised ways? There is no necessity to depart from the well-established principle on which the old English laws are established, that we should not be put to the necessity of considering everybody an accused until he is proved guilty of the crime. Attempts are going to be made to put the onus on the accused. I submit it is hardly jurisprudence—it is not English law. We are reverting to the French law. In French law it is considered the accused is a guilty person unless he proves his innocence. It is really too much to believe that because a person steals and stock thefts are going on, that we are incapable of dealing with this crime without descending from the high pedestal of British justice. I submit that if the Police are communicated with quickly, and adequate provision is made for their quick transport, as suggested in the report, and telephone communication established, there would be hardly any necessity to consider that because a native steals he is a criminal, that every native who owns a piece of meat must have come across it dishonestly by stealing cattle! That is too much to believe. Many people might have come across a piece of meat in a legitimate manner and it is going too far to say that just because a native is possessed of a piece of meat he is a criminal. I hope there will be no necessity for the House to consider it necessary to go down to the level of uncivilised people.

THE HON. M. A. DESAI: Your Excellency, I must support the theory of British law as enunciated by the hon. Mr. Nehra, that a man should be considered innocent until proved guilty, and in the case of stock thefts the same principle should be applied. We must stop thefts of stock, but in that connexion I would also draw the attention of this House that it is also necessary that stockowners should look after their stock. The Commissioner of Police has informed the general public that it is the duty of the general public to protect their property by day, but at night time the Police should help the general public, and the Police Department has issued a good

many instructions how thefts should be prevented. I suggest the same method be adopted in the case of stock thefts, that certain instructions should be issued for the information of stockowners how these thefts can be prevented. The hon. Mr. Nehra has said the natives take a very strong view of theft amongst themselves, but when it comes to their neighbours they consider it the right thing to do. I observe, however, the European community is very jealous of their rights of British subjects, but when it comes to the question of British Indian subjects they act in the same manner as these natives, and I hope the natives will act in the same manner in the present case.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I wish to support this motion, and I trust this admirable report will be adopted *in toto*. We are dealing with a desperate situation, and inadequate sentences will not meet it. I think the Collective Punishments Ordinance should be applied in every case. Actions preventive and punitive are more effective in dealing with ignorant people. We have heard a lot of the rights of British subjects; let us hear a bit more about the responsibilities of British subjects, irrespective of colour. The community at large is concerned with the control and not with the responsibility of that control; Government we look to to effect that control. Government as a whole is responsible for doing it. I trust the report will be accepted *in toto*.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, in replying to the motion moved by the hon. Member for Plateau South. I should like to pay a compliment to the members of the Committee equal to that which other hon. Members have paid. This report is one of extreme value, and Government is in entire sympathy with the spirit of the recommendations and will do its utmost to carry out all the recommendations it possibly can. I should like at the same time to express my appreciation of the spirit in which the mover spoke and expressed the views which he held, but at the same time I must differ from him entirely and absolutely on the matter of the attitude of the Native Administration towards stock-thieving. I speak with considerable experience in the service, and I know the way in which that particular crime is regarded and what attitude is taken in regard to it. The hon. Member for Plateau North has asked why the law is not carried out as recommended by the report. Where the law fails to meet the crime it is not due to the spirit of the Native Administration; it is due to the faults in the law, which must be amended. Where these faults are I should hesitate to say myself to-day. One of the duties of the committee was to indicate these faults. With regard to the date of this report reaching Government, the report reached the Secretariat on

the 20th November. I know it was signed at some date before that. One letter at the back of the report was signed on the 7th November, so it was not received earlier than that. The report is partly addressed to His Honour the Chief Justice, partly to the Native Affairs Department, and partly to the legislative function of Government. It is unnecessary for me here to say the Chief Justice has every intention and will make every endeavour on his part to suppress this crime. I know His Honour has paid very great attention to the provisions of the recommendations in this report, and I think hon. Members can rest fully assured that he will give his full assistance in that respect. As far as the Administrative Officers are concerned, the provisions of the Resident Natives Ordinance are to be put into force as soon as possible. A circular is going out on that and other subjects, urging the full administration of such laws as already exist. The most important part of the report deals with matters which require legislation, and it takes some considerable time before such legislation can be drafted. Take, for instance, the recommendations in regard to the produce, the rates of purchase and sale of produce are limited. In a matter such as that it is necessary that the Chamber of Commerce should be consulted, and the Nairobi Municipality and other bodies concerned. In other matters, departmental officers have to be consulted. Then the legislation must be drafted in accordance with the advice of Executive Council to Your Excellency. It would have been possible, I admit, to have brought piecemeal advice before Executive Council, but the best way was to deal with the matter as a whole, and try to present full and considered advice to Your Excellency in Executive Council. The Commissioner of Police has already been informed he may estimate for extra police for the consideration of the Committee for the Kitale district. That will be put before this Committee to-morrow. I am sorry I am unable to answer the question which the hon. mover asked in regard to the amount of the fines.

Question put and carried.

BILLS.

SECOND READINGS.

SUCCESSION BILL.

THE HON. THE ACTING ATTORNEY GENERAL (MR. GOWER): Your Excellency, I beg to move the second reading of a Bill intitled "An Ordinance relating to Succession."

The last Bill was a short one, and there was a very long discussion on it, but this is a very long Bill and I hope that there will be no discussion on it.

The Bill is a consolidating Bill, and it has been before the Law Society, which is a policy which we usually adopt now in a very important matter of this kind, and they have submitted a report, and since its publication for criticism I have received a great many suggested amendments, and having regard to the importance of the Bill, I think it should be referred to a small Special Committee of this hon. Council.

If Your Excellency is prepared to accept that course, I am prepared to submit the names of that Committee now—

The Attorney General (Chairman),

The Member for Nairobi South,

The Commissioner of Lands,

and I should like to see on that Committee also the hon. Mr. Shams-ud-Deen, if he will be prepared to act on it.

THE HON. THE ACTING SOLICITOR GENERAL: I beg to second.

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

THE HON. R. S. NEHRA: With reference to the names proposed for the Committee, I beg to state that the hon. Mr. Shams-ud-Deen is out of the Colony at present, and I would propose the hon. Mr. Desai act in his place, if the latter name will be acceptable to the House.

HIS EXCELLENCY: I think it will be more convenient to discuss the names of the Committee afterwards. If Council is prepared to agree that this Bill be referred to a Committee, I will arrange for the Bill to be reported to Council on Tuesday.

THE HON. THE CHIEF NATIVE COMMISSIONER: I think I should mention, in view of the fact that on the second reading one deals with the principles, that I trust this Committee will seriously consider whether a Bill of this nature is suitable to the natives. From what I have seen, I cannot help thinking that a Bill of the nature under consideration is entirely unsuitable to natives, whose customs are altogether different from ours.

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

Question put and carried.

HIS EXCELLENCY: I would inform Council when we meet again that the proposal with regard to the Committee will be mentioned.

ARMS AND AMMUNITION (AMENDMENT) BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg leave to move the second reading of a Bill intituled "The Arms and Ammunition (Amendment) Ordinance, 1925."

The provisions of this Bill are not of very great importance, but they are of sufficient importance to warrant amending legislation.

The Bill last year received a very great deal of consideration and it has received the approval of the Secretary of State. The Secretary of State has pointed out that two amendments should be properly put into the Bill, and in order to bring it into conformity with the Bill, which is already working very well in Tanganyika Territory.

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

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

Question put and carried.

CHANGE IN MEDICAL TITLES BILL.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move the second reading of a Bill intituled "An Ordinance to provide for new designations for medical officers."

This is simply consequential on an alteration of titles.

THE HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES: I beg to second the motion.

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

Question put and carried.

GAME (AMENDMENT) BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the second reading of a Bill intituled "An Ordinance to amend the Game Ordinance, 1921."

Here again no great principles are involved. The main intention of the Bill is to clarify the provisions with regard to the trophies of animals.

The Bill further compels a report of the killing accidentally or otherwise under a licence of any animals or of the finding of trophies. It grants a power of waiver to Govern-

ment should it be considered desirable that a trophy should be handed back, and provides in every case for the proper administration of the Ordinance in connexion with the cost of transport or for rewards where such have been deserved.

The last section is one which I feel sure will meet with the sympathy of every hon. Member of this Council. The Bill includes provision for the hunting with dogs to be carried on without the necessity of licensing the hunter.

THE HON. THE ACTING SOLICITOR GENERAL: I beg to second the motion.

Question put and carried.

HIS EXCELLENCY: I understand that it is proposed to convene the Select Committee dealing with the Supplementary Estimates to-morrow morning. In that case it will be convenient, I think, for Council to adjourn until Tuesday morning next week. I think the only motion standing on the paper now is the motion in the name of the Noble Lord. If he so desires it can be taken as the first business on the Order of the Day for Tuesday, that is the motion with regard to the case of Mr. P. H. Clarke; the second business on the Order of the Day will be the motion standing in the name of the hon. Treasurer regarding the item of unallocated stores. I think if we are able to dispose of those two items we had better continue with financial business on Tuesday.

*Council adjourned to 10 a.m. on Tuesday,
March 23rd 1926.*

TUESDAY, MARCH 23rd, 1926.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 23rd day of March, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

OATH OF ALLEGIANCE.

The Oath was administered to:

WALTER CLARENCE HUGGARD, K.C., Attorney General.

MINUTES.

The minutes of the meeting held on the 18th March, 1926, were confirmed.

PAPERS LAID ON THE TABLE.

Report of the Select Committee on First Supplementary Estimates, 1926.

Statement on Colonial Loans.

HIS EXCELLENCY: With regard to the paper now laid (Statement on Colonial Loans), I may say that I had the opportunity of reading it this morning. It does not contain all the information that I think should be laid before the Council, and I propose to have a fuller paper prepared to be laid on Thursday morning.

NOTICES OF MOTION.

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTHCOPE): With regard to the second motion standing in my name on the Order of the Day, I beg leave to state that I wish to amend it in relation to the fourth portion of the schedule. By an oversight, which I very much regret, the Customs Office, Mombasa, has been shown twice in the schedule. I propose to delete the £40,000 against that particular item of expenditure and to move that Item 4 (g) should be increased by the same amount, i.e. Education Department Buildings, £145,000. On consideration, it is held that the latter item is insufficient to cover the educational requirements in the near future of the Colony. In particular, in regard to Indian schools a certain amount will be set aside for the provision of a school at Nanyuki. This £40,000 will therefore be added to the £145,000 when the motion is moved.

HIS EXCELLENCY: I understand that the motion as it will be moved will not contain Item 4 (e), Customs House, Mombasa, £40,000, and that Item 4 (g), Education Department Buildings, will be increased from £145,000 to £185,000.

CAPT. THE HON. H. E. SCHWARTZ: With regard to the notice of motion standing in my name, I was under the impression until I arrived here this morning that I had given notice in writing and verbally on Thursday and that the motion would be taken to-day. It is unfortunate that Thursday is the one day that I cannot possibly be here, as I am on a very important case at the High Court, and I would ask Your Excellency, if you would allow me, to ask the leave of Council to take that motion at a later stage this morning.

HIS EXCELLENCY: I will take that motion at the end of the business on the Order Paper.

QUESTIONS.

THE HON. J. B. PANDYA: I beg leave to ask the question standing in my name on the Order of the Day:—

"Will the hon. the General Manager of the Kenya and Uganda Railway state the number of invalids and deaths on account of accidents whilst on duty during 1925 and whether any compensation to them or their dependents is paid?"

If the reply be in the affirmative, will the Government state names and amounts?

If the reply be in the negative, will the Government state reasons thereof?"

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY (MAJOR RHODES): Forty-six employees of the Railway were killed or injured during 1925, five of whom were drowned and one mauled by a crocodile, and in eighteen instances compensation has been paid to the persons concerned or their dependents, or full pay granted during the period off duty. Two cases of compensation to dependents of deceased employees are still under consideration.

The following are the names of, and amounts of compensation paid to, deceased or injured persons:—

Marangagi (drowned)	...	...	Sh. 150
Magunga (killed)	...	...	Sh. 150
Maronga (injured)	...	...	Sh. 250
Kazizamabi (killed)	...	...	Sh. 100
Muwongerezi (killed)	...	...	Sh. 100
Ouna (killed)	...	...	Sh. 150
Keetif (killed)	...	...	Sh. 150
Siku (killed)	...	...	Sh. 150

Full pay for the period off duty was paid to the following:

Gujasul Din.

Jaram.

Karam Ilabi.

Tablet Inspector Andrews and Tablet Inspector Williams (Postal employees, who received full pay for three months and half pay for remainder of period off duty).

Lenjao Makala.

Tora.

Weida.

Gichoya.

Travelling Ticket Examiner Tucker.

In the remaining twenty-six instances the accidents were caused by the employees' own fault; and therefore no applications for compensation have been submitted to the Railway.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I beg leave to ask the question standing in my name on the Order of the Day:—

"Can the Department of Agriculture give a definite assurance that any and every disease or pest affecting the coco-nut industry is under complete control, and are the technical Officers of the Department devoting all necessary time and attention to such difficulties as it is understood planters are experiencing in the Coastal Area?"

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM): It is believed that no known disease or pest exists among coco-nut plantations in this Protectorate upon which sufficient information is not possessed to enable them to be kept under control. There is no disease or pest now present in regard to which departmental control is considered necessary.

The technical officers of the Department of Agriculture have devoted the necessary attention to the service indicated.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I beg leave to ask the first question standing in my name on the Order of the Day:—

"Do Government contemplate taking any action to reduce the cost of oils required as fuel for agricultural or commercial purposes, and, if so, what?"

THE HON. THE DIRECTOR OF AGRICULTURE: The whole subject as indicated in the question is now under the consideration of the Economic and Finance Committee and information pertaining to the several aspects of this matter is being col-

lected. To the Economic and Finance Committee persons who have a knowledge of the matter have been co-opted as members. Evidence will be taken from representatives who have particular knowledge and experience in the use of agricultural tractors and motor vehicles used for commercial purposes. His Excellency the Governor has intimated a strong desire that measures may be taken to reduce the present cost to consumers.

LT.-COL. THE HON. LORD FRANCIS SCOTT : I beg leave to ask the second question standing in my name on the Order of the Day :—

“ What steps are being taken to provide Machakos Township with an adequate water supply? ”

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES) : Two proposals for supplying Machakos with water have been under consideration. One of these depends on the adequacy in respect of quantity and quality of the water from a well which was sunk last year. Arrangements are now in hand for testing this well.

LT.-COL. THE HON. LORD FRANCIS SCOTT : Arising out of that, if this well proves insufficient, has the hon. the Director of Public Works some alternative plan in mind?

THE HON. THE DIRECTOR OF PUBLIC WORKS : There is an alternative scheme in the event of the well proving inadequate; investigations will be made and the matter will be brought before Government.

CAPT. THE HON. E. M. V. KENEALY : I beg leave to ask the first question standing in my name on the Order of the Day :—

“ Will Government state when an opportunity for discussion of the objections to the provisional boundaries of Native Reserves, which was promised by Government, will be afforded such persons or bodies who have lodged objections? ”

THE HON. THE ACTING COLONIAL SECRETARY : The objections received to the provisional boundaries are at present under consideration by the Government. The Governor in Council will decide whether any further representations from persons or bodies who have lodged objections may properly be heard.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, if the Governor in Council does decide that such representations are required, when will it be possible to hear those representations? That is part of my question.

THE HON. THE ACTING COLONIAL SECRETARY : Those representations will be heard at the earliest possible date after that decision.

CAPT. THE HON. E. M. V. KENEALY : I beg leave to ask the second question standing in my name on the Order of the Day :—

“ Will Government state : (1) What are the normal full rations for patients in Government native hospitals? (2) How these compare with those of convicted prisoners in Kenya jails? (3) What facilities are afforded patients for making complaints about feeding, what degree of inspection and control of food exists, and whether it is not desirable that all should be extended? ”

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : (1) The fully daily ration for patients in the Native Hospital, Nairobi, consists of : Maize meal, 1½ lb. ; meat, 6 oz. ; beans, 6 oz. ; potatoes and vegetables, 6 oz. ; ghee, 1 oz. ; jaggree, 1 oz. The diets in use at the other large native hospitals conform more or less to the same standard, minor modifications being rendered necessary or desirable on account of local conditions of food supply, of food habits of the patients and other circumstances.

(2) Two diet scales are in force for convicted prisoners in Kenya jails, viz. :—

A.—For Long Term and Civil Prisoners rationed by the Prison Authorities : Maize (whole), 2½ oz. per diem ; beans, 6 oz. per diem ; potatoes, 8 oz. per diem ; salt, ½ oz. per diem ; meat, 8 oz. on Tuesday, Thursday, and Saturday ; ghee, 1 oz. on Sunday, Monday, Wednesday and Friday ; lemons, 2 per week, half lemon to be issued Sunday, Monday, Wednesday and Friday.

B.—For all Short Term Prisoners and Remand Prisoners : Maize (whole), 3 lb. per diem ; beans, 5 oz. per diem ; ghee, ½ oz. per diem ; salt, ¼ oz. per diem ; lemons, 2 per week, half lemon to be issued Sunday, Tuesday, Thursday and Saturday. The Penal Diet is 1 lb. maize per day and water *ad lib.*

Note.—(1) A ration of 8 oz. fresh fish may be issued in lieu of meat. (2) The equivalents of potatoes are mihogo, bananas, or sugar cane in equal weights.

(3) Patients are given every facility to complain as regards food. Officers in charge of the various hospitals are expected to assure themselves by inspection and otherwise that the food issued is satisfactory both as to quality and amount. There is no reason to believe that the present system requires modification.

CAPT. THE HON. E. M. V. KENEALY : I beg leave to ask the third question standing in my name on the Order of the Day :—

“ Will Government state : (1) If there are many practising doctors, dentists, or chemists in Kenya who are not properly qualified, and if so, how the names of such unqualified persons came to be enrolled on the Register? (2) If so, what Government proposes to do to protect the public against the possible menace inferred? ”

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : All medical men known to be practising in Kenya are registered or licensed in accordance with the Medical Practitioners and Dentists Registration Ordinance. With one exception the same applies to dentists. The exception is that of a gentleman entitled to register and practice in England who was admitted to the register locally through a misreading of the terms of the Ordinance. Recently the attention of the Medical Department has been drawn to certain infringements of the Drugs and Poisons Ordinance by persons practising as chemists. Action has already been taken in the matter.

(2) In view of the foregoing, the second part of the question does not appear to arise.

CAPT. THE HON. E. M. V. KENEALY : Arising out of that answer, does not the second part of the question arise in regard to answer (2) in the first part, that in this instance there is an unqualified doctor practising in this country; is he a doctor, dentist or chemist?

HIS EXCELLENCY : Order, order. The hon. gentleman is in order in asking a question, not in making any statements.

CAPT. THE HON. E. M. V. KENEALY : I was not sure whether it was a doctor, dentist or a chemist.

HIS EXCELLENCY : I understand that is a supplementary question which you wish to put?

CAPT. THE HON. E. M. V. KENEALY : No, Sir. It was admitted that one of the three was practising in the country who was not qualified.

HIS EXCELLENCY : Order, order. Will the hon. gentleman put a statement in the form of a question.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, I asked if Government does propose to take any action to protect the public against an individual who is not properly qualified and who is practising in this country.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : I think it depends on quite what the hon. Member means. I rather fancy he is mixing up qualifications and registrations, which are two different things.

CAPT. THE HON. E. M. V. KENEALY : I am asking if the public is going to be protected against unqualified men.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : The public is protected against unqualified men.

THE HON. J. B. PANDYA : I beg leave to ask the second question standing in my name on the Order of the Day :—

“ Has the attention of the hon. the Attorney General been drawn to the fact that according to Rules of Court No. 2 of 1925, as amended, application for bail has to be submitted to him, which takes about ten days before it can be dealt with, in cases in other courts than Nairobi? ”

“ Under section 382 (1), a public prosecutor could be appointed, and will the hon. the Attorney General take steps to have such public prosecutor appointed at Mombasa to enable the release on bail on appeal? ”

THE HON. I. L. O. GOWER : According to the Rules of Court (Application to High Court for Bail pending Appeal) No. 1 of 1917, as amended by Rules of Court (Application to the Supreme Court for Bail pending Appeal) (Amendment No. 2), of 1925, a convicted person must give at least three days' notice to the Attorney General or Public Prosecutor.

Bail is not granted to a convicted person as a matter of right, and the general rule of the court is to refuse bail to prospective appellants.

In reply to the second part of the question, the Attorney General has no power to appoint a public prosecutor under section 482 (1), Criminal Procedure Ordinance. Having regard to the answer to the first part of the question, the Attorney General does not consider it necessary to advise His Excellency to appoint a permanent public prosecutor at Mombasa.

LT.-COL. THE HON. LORD FRANCIS SCOTT : I beg leave to ask the last question standing in my name on the Order of the Day :—

“ Is Government prepared to appoint a Resident Magistrate to be stationed at Thika? If so, when will this appointment be made? ”

THE HON. THE ACTING COLONIAL SECRETARY : In the view of Government the stationing of an administration officer with magisterial powers at Thika is desirable, but it is considered

advisable to await the report of the Commission about to be appointed to consider the extension of local government throughout the Colony before taking such action.

MOTIONS.

PURCHASE OF FARM BY MR. PAUL CLARKE.

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

"That a Select Committee of this hon. Council be appointed to inquire into the purchase of Farm No. 333, Fort Hall, by Mr. Paul Humphrey Clarke, and the position arising therefrom."

In bringing forward this motion, I have done so with the desire of bringing to a head and getting from Government a final statement on a case which has hung fire for a considerable time, and which, as I think this hon. Council will agree, has caused considerable hardship to the gentleman concerned—Mr. Paul Humphrey Clarke. The story is rather a long one, but I will try and give it as shortly as I can without missing any salient features. I am sure my hon. Friend for Nairobi South, who is going to second the motion, will put forward anything I may leave out. The history of this farm is that it was alienated as long ago as 1904 to a Mr. Fisher, who subsequently entered Government service and died. It was then bought by Mr. Sewell, who had it for several years, and although Mr. Fisher had developed it and complied with all the terms which were required, Mr. Sewell did not do much on it, with the exception that a power station was erected for Maragua Sisal Company. Mr. Clarke bought this farm, No. 333, which was a freehold farm, from Mr. Sewell in October, 1924. When he started to go into occupation of it—which consists of 659 acres in area, and of which about 300 acres is red soil and suitable for crops—he found that half of that, 150 acres, were under crops planted by Wukikuyu. They were scattered about all over the place, with the result there was no portion he could plough over a bigger block than 30 acres. He went to the District Commissioner to ask him if he would assist him either to get rid of these natives off the land or to sign them on as squatters. The District Commissioner refused to do either on the grounds that it was under the Land Ordinance of 1902, which states: "The Commissioner may grant leases of areas of land containing villages or settlements, without specifically excluding such villages or settlements, but land in the natural occupation of natives at the date of the lease, so long as it is actually occupied by them, at the time may be excluded from the lease."

He quoted that as his reason, making out that the natives were entitled to this land; but, in fact, that Ordinance only refers to leasehold and not to freehold land. Well, Sir, there were a lot of meetings between Mr. Clarke and various district officers and so on, but nothing was actually done. It was referred to the Land Office who, I think I am correct in saying—and the hon. the Commissioner of Lands will bear me out—from the very start upheld Mr. Clarke's rights; that it was a completely good title. On May the 16th, 1925, Messrs. Shapley and Schwartz, who are the solicitors for Mr. Clarke, wrote to the Government asking Government to take some action to enable Mr. Clarke to get into possession of his land. That was replied to on the 15th August, 1925, and with Your Excellency's permission I should like to read that letter. It reads as follows:—

"Gentlemen,—With reference to your letter No. 16/10/2 of the 16th May, on the subject of Mr. P. H. Clarke's Farm No. 333, Fort Hall, I am directed by His Excellency the Acting Governor to inform you that Government is unable to intervene in the question at issue between Mr. Clarke and any natives residing on the farm who claim rights of occupation.

2. Mr. P. H. Clarke is at liberty to enter on and occupy his farm, and has his remedy at law if he wishes to eject the native occupiers.

3. If, however, he is disposed to come to some arrangement with these natives with a view to their tentative occupation as squatters or otherwise, it is suggested that he should seek the advice of the District Commissioner, Fort Hall."

Following that he went to see the District Commissioner, Fort Hall, but they seemed unable to come to any amicable agreement, so Mr. Clarke then informed the District Commissioner, Fort Hall—to bring the matter to a head—that he proposed to enter into his land and plough up some of the land in possession of the natives. The reply to that was that he found in his house the following letter:—

"In the Court of the First Class Magistrate, Kikuyu. To P. H. Clarke, Sittima Farm (Farm 51), Fort Hall District.

I, Robert George Stone, First Class Magistrate, Kikuyu Province, do hereby order you to refrain from ploughing land, destroying crops or houses, which may be in the use or occupation of natives residing on the area of land known as Farm 51, and I further order you to refrain from taking any action such as trespass upon the land in active cultivation or occupation of the aforesaid natives.

And I further direct that this order shall be in full force until cancelled by me or by a superior court.

This order is given under the powers invested in me by section 120, Criminal Procedure Ordinance, 1913, and is issued to prevent any possible riot or breach of the public tranquility which may ensue if you take the action contemplated and stated by you in your letter of the 11th September direct to the District Commissioner, Fort Hall."

I may say that that order was not dated. On that, Mr. Clarke was in rather a difficult position. There was nothing for him to do. It was his land, but he was not allowed to do anything. He had already lost last year's crops, and now he is still not able to get on to his land and he has lost this year's crops. I may say that Mr. Clarke is a young gentleman who served in the war, and did very well. He worked in this country after the war at various salaried employments, and saved up enough money to buy this farm. It is very good coffee land, and also had some power in the river, from which he wished to run a posho mill, as it was very well situated near the Kikuyu Reserve, where he could buy the native maize for grinding and sell posho to the natives. It was suitable to his means, and he had put down a considerable sum of money, and the result of his being prevented from occupying the land is that he has lost very considerably pecuniarily. He is not a gentleman who has a large amount of capital and can afford to lose money, and I have therefore moved the motion standing in my name in the hopes that Mr. Clarke may be able to take possession of what is his legal property, and that Government compensate him for the actual money he is out of pocket owing to being prevented from occupying his farm.

CAPT. THE HON. H. E. SCHWARTZ: I beg to second the motion, Your Excellency, and I will reserve any remarks I have to make at a later stage.

HIS EXCELLENCY: The question is:—

"That a Select Committee of this Honourable Council be appointed to inquire into the purchase of Farm No. 333, Fort Hall, by Mr. Paul Humphrey Clarke, and the position arising therefrom."

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, the Noble Lord who moved this motion started by stating he had moved the motion in order to obtain elucidation of the position, and I am in a position to elucidate the position in a very few words. Mr. Clarke's title to this land is not in dispute by Government, and as the Noble Lord has stated he has throughout been supported by the hon. the

Commissioner of Lands in regard to his title. Since the matter came to the notice of Government recently, steps have been taken to inform Mr. Clarke definitely of this position, i.e. that his title is not in dispute, and the Chief Native Commissioner has also been instructed to inform the District Commissioner, Fort Hall, to pass that information on to the natives in question. In so far as Government is concerned, there is no reason why Mr. Clarke should not enter into his land, save perhaps this injunction. That injunction is not a valid injunction if only on the ground it was not dated, and it therefore does not prevent Mr. Clarke from entering into that land. I am not concerned to dispute the facts which the Noble Lord has stated. They are the facts as I myself should have related them had I been in his position, but I wish to point out with regard to the request for inquiry there is one very considerable omission. From the time that Mr. Clarke purchased that farm, and I would observe that when he purchased that farm he did not discover whether he could get vacant possession or not, but from the time he purchased that farm he believed there were certain persons trespassing on that farm and there is a legal remedy for that. Throughout the proceedings that legal remedy has not been taken. In August last, Government advised Mr. Clarke to take legal remedy, and in justice to the Administrative Officer who is chiefly concerned in this matter, I would observe that he himself has tried to get Mr. Clarke to take his legal remedy, and from the moment the injunction was moved he has taken measures to enable a case to be brought before the courts. The fact of the legal remedy having existed and within the reach of Mr. Clarke cannot be denied. There was nothing to prevent him moving against the injunction—invald as it was—and on these grounds I have to state that Government is unable to accept the motion.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I do really suggest that the argument put up by the hon. the Acting Colonial Secretary is neither a sound one nor one that should be put up on behalf of Government. It is all very well to say that Mr. Clarke could have taken legal action to start with, and disobeyed the injunction, but it was solely due to the action of the District Commissioner at Fort Hall—the hon. the Acting Colonial Secretary shakes his head; but it is so—it was solely because of the attitude adopted by the District Commissioner at Fort Hall that this trouble has arisen. If the District Commissioner had not originally told Mr. Clarke certain facts which applied to leasehold and not freehold, and not placed this injunction on his table, Mr. Clarke might have been asked to take action against these natives, and have them tried by a properly constituted court as trespassers. What is Mr. Clarke to do when the magistrate who tried the

case first of all mixes up leasehold and freehold, and secondly puts an injunction on his table warning him from ploughing and taking action against the natives which the Government in Nairobi tells him to take? I do suggest that at all events, whether or not any claim is made against Government, I do suggest that when it is admitted this trouble is mainly due to the action—no doubt taken in perfectly good faith—by a Government servant at Fort Hall, I suggest it is not the right attitude for Government to take to absolutely deny any compensation to a man who has been kept out for a year and a half from his own land and from working his posho mill and from planting his crops, and this motion. Your Excellency, merely asks that a Committee should be appointed to consider the whole matter and advise Government whether they consider it is a proper case for compensation or not. By agreeing to this motion, they are not binding themselves to pay any compensation; we are not asking that this Committee should be composed of Members of this side of the House only. I am convinced myself that if an impartial committee is appointed they will report to Government that it is a fair and just case for compensation. On these grounds I would ask the Government to appoint this Committee.

THE HON. I. L. O. GOWER: Your Excellency, I think I can add very little to what the hon. the Acting Colonial Secretary has already said. It is a long time since I have seen the papers, but from my recollection this is a freehold farm. It was occupied for a number of years and then vacated by a Mr. Fisher, and it is possible, if not probable, from the reports we have received, that the natives have possibly got an adverse right of possession against Mr. Clarke, not having taken the proper steps to get vacant possession on purchase. If that is the position, then Mr. Clarke is in a difficult position. He had every opportunity of going round and inspecting the farm and could have satisfied himself that he could have got possession, and if the vendor contracted to give him possession his action lies against the vendor and not against Government. It is rather surprising to me that on the facts as put forward that the lawyers who advised Mr. Clarke did not advise him at the time that the injunction received by them was wholly illegal. It was undated. On the other hand, you cannot issue an injunction where no action has been taken. It seems to me that Mr. Clarke is entirely to blame in the matter. He has taken no steps to have the injunction resisted, and he seems to have taken no steps to see if he could get vacant possession. I cannot see what an inquiry has to do with it.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency the position to me seems somewhat anomalous. The Land Office admits title to Mr. Clarke. The Solicitor General sub-

mits that title may not be demonstrable. I suggest if it is not demonstrable, or if it is, the authority for suggesting that it is should be quoted. Working on the hypothesis, which I consider is a reasonable one, that the title is good, it seems that a lot of trouble could have been avoided if, after the discussion with the owner, the local administrative officer ordered the natives in illegal possession of the land to move from the land to other land in the neighbourhood. That is reasonable, and was the solution of the matter. However, that did not occur. It is customary to consider that a man is innocent till he is proved guilty. In this case ownership was established. In supporting the motion that a Committee should be appointed, I suggest that Committee should have power to suggest the amount of compensation and also whether it would not be beneficial if any compensation is recommended that that compensation should come out of the revenues of the particular fund whose natives have caused this trouble—the Native Trust Fund.

THE HON. M. A. DESAI: Your Excellency, I have plenty of sympathy with Mr. Clarke, but for the reasons given I cannot support the motion. Mr. Clarke purchased a farm on which natives were already sitting and in occupation. Anybody who knows the ordinary law knows that if a trespasser A is on the property of B, B's duty is to go to court and file an action for trespass. The District Commissioner is blamed for not assisting in this matter. It is not the duty of a District Commissioner to ask people to go. His duty is to enforce the law if a judgment of the court calls upon him to assist in the removal of these trespassers. He cannot go and ask people to move from a property at the expense of some other person. If a committee is appointed it will be an undue interference with the judicial functions of the country. For these reasons I oppose the motion.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): Your Excellency, I think the hon. Mr. Desai has put the case quite well. As far as I understand the position, freehold title was granted by the Crown. The Crown does not for one moment dispute that freehold title, but the Crown is not concerned in what subsequently happened; that is to say, as to what the holder of that freehold title did to preserve his freehold intact. It would appear that the freehold changed hands, that the owner of the freehold did not occupy it, and it is not quite clear to me whether there were natives then living on the freehold or whether some natives came to live on that vacant farm. These are facts which should be established in a court. They become questions of fact to be determined by a proper judicial body. It may be, as the hon. Solicitor General has suggested, that natives have secured prescriptive

title by adverse occupation. If that is so, it is not the business of the Crown to remove them. If on the other hand, the natives are there without any proper lawful right, the proper course of the fresh owner of the freehold who has, if I may so describe it, bought "a pig in a poke," is to have them ejected, and he must apply to the Court.

CAPT. THE HON. E. M. V. KENEALY: On a point of order, Your Excellency, is it proper that a Government title should be described as "a pig in a poke"?

HIS EXCELLENCY: Order, order. That is not a point of order.

THE HON. THE CHIEF NATIVE COMMISSIONER: The hon. Member for West Kenya stated that a man must be considered innocent till he is proved guilty. It applies equally to both sides. Another old maxim is, "Possession is nine points of the law"; and a man-in possession has got to be proved in unlawful possession by the man who seeks to deprive him of that possession. The attitude of Government is that the matter must be settled in a court of law. The Crown will not take steps in that direction.

THE HON. J. B. PANDYA: Your Excellency, I only wish to refer to one point. It has been suggested by the hon. Member for West Kenya that if compensation has got to be paid it should be paid from the Native Trust Fund. I think, although there is no question of compensation at present, a suggestion of that nature seems to be very unfair, and I entirely support the Government in not accepting this motion, and I do not think a proper case has been made out.

CAPT. THE HON. H. P. WARD: Your Excellency, the point that strikes me in this debate is the fact that the hon. the Acting Colonial Secretary seems to imply—at least that is the impression I got—indirectly that Mr. Clarke's best line of action would have been to disregard the notice served on him by the Administrative Officer at Fort Hall. If he had done that he would have then found that the injunction served on him was invalid, and a great deal of trouble would have been saved to Mr. Clarke. Mr. Clarke is a peace-loving individual who wished to keep himself right with the law. It seems an extraordinary thing that Government will not allow this inquiry to proceed a little further. The hon. the Chief Native Commissioner made a point in regard to the occupation of the natives and the possibility of their having secured the land by adverse title. If there is any question of that it is the duty of the Administrative Officers concerned to take steps to obtain that title on behalf of the natives they look after. That action should have been taken years ago, long before the wretched Mr. Clarke was pulled into this trouble by buying

the farm, and it does seem to me a quibble that when the case is brought to a head by Mr. Clarke, Government should take the line that there is a possibility of adverse title being proved. Surely the facts are that owing to the administrative action of the District Commissioner, Fort Hall, a great deal of pecuniary loss has been caused to a law-abiding, peaceful man, with the best intentions in the world, and that the action taken by the Administrative Officer was invalid?

REV. DR. THE HON. J. W. ARTHUR: I am going to vote against this motion and agree with the Government in regard to it, and I do so first of all because I feel that possibly in this particular instance, there were actually natives in possession of this land who have been there up till this time. Knowing as I do the history of the Native Reserve in Kikuyu and its occupancy, one would feel that it is not at all unlikely that that is the case, and I feel very strongly that if anything has happened in regard to this matter along the lines which the hon. the Solicitor General has suggested, that the rights of these natives should be safeguarded in this matter of that land. The second point with regard to the compensation being paid against the Native Trust Fund: I am entirely against that method. I do not think the natives are responsible for that mistake, and therefore I do not think it would be fair to take this course.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I am very disappointed with the attitude Government have taken up over this matter. I understood before I came here that they more or less admitted Mr. Clarke's case. On those grounds I put my case as shortly as I could. I tried not to bring an attack against an officer who is not here to defend himself, but as the Government have taken the line of putting all the onus on Mr. Clarke, and have already descended to legal quibbles, I must say that I think it is extremely unfair on Mr. Clarke. There is no doubt that Mr. Stone, the District Commissioner, refused to help him in any way. Mr. Clarke asked for help, and Mr. Stone refused. Mr. Clarke is a very, if I may say so, meek and mild gentleman; he is very law-abiding, and he has tried his very best under very difficult circumstances to conform with what Government has asked him to do, and I do think he has been very forbearing for a very long time.

I cannot admit, as has been put forward here, that it has nothing to do with the District Commissioner where there are a great many people on alienated lands who should not be there. I understood that under the Resident Natives' Ordinance, that it was a distinct crime for the owner of that land to have unregistered squatters on his land; and I certainly have known circumstances where district officers have gone round

and taken off unregistered squatters from the land; and Mr. Stone knew perfectly well of those natives on the land, though when Mr. Clarke first went to him he apparently did not know that this farm was alienated originally, and he refused to take any steps to help Mr. Clarke.

I cannot see that it is fair at all to put all the onus on Mr. Clarke when he got no assistance at all from the Administration. The Acting Chief Native Commissioner, who was spoken to on the subject, said that as far as he could make out there were only a small handful of natives who have been there a long time. Surely, when Mr. Clarke reported that his farm was taken up by natives, many of whom lived in the Reserve, it was the District Officer's job to at any rate see that those natives were not there.

If Mr. Clarke now goes in and tries to take possession, will the Administration help him? Those natives know perfectly well that the Administration has taken up their case against Mr. Clarke, and there is bound to be trouble, unless the Administration do help Mr. Clarke to get on to his land before there is any legal action which he may take.

I do submit, Your Excellency, and hope that Government will reconsider their attitude and will do something more to help this unfortunate gentleman. After all, one of the duties of the District Commissioners is to look after the native boys, but it is equally their duty to look after the Europeans under their charge, and I do feel that Mr. Clarke has not had fair play in this matter.

I should like Government to give two undertakings, even if they will not accept the motion: one is that the Administration will help Mr. Clarke to get back to his land, and the other is that they will go into the question as to whether Mr. Clarke is entitled to any compensation or not, and as to how that compensation should be met. I do not ask that it should be taken out of the Native Trust Fund; I do not think that would be the right thing to do, because it was the servant of Government who made the mistake and not the natives themselves.

I would ask if Council can meet us on these two points.

(Council adjourned for fifteen minutes.)

HIS EXCELLENCY: Before the interval the Noble Lord made two suggestions to Government which he asked if Government were prepared to accept in lieu of his motion for a Select Committee. Government is quite prepared to look sympathetically upon these suggestions, but requires time to consider the form in which they can be applied, and I have

therefore to suggest, if that course of action is agreeable to the Noble Lord, that the debate on the motion should be adjourned till Thursday. I understand the Noble Lord is agreeable to that?

LT.-COL. THE HON. LORD FRANCIS SCOTT: Yes, Your Excellency.

HIS EXCELLENCY: The debate on the motion before the House is therefore adjourned.

RAILWAY UNALLOCATED STORES.

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

"Whereas it is expected that the surplus at the end of 1925 was in the neighbourhood of £279,000 and whereas the Secretary of State has agreed to a sum of £104,541-2-76, which is at present at credit of an account in the Colony's books styled the "Military Reserve Fund," being transferred to Revenue (which transfer will increase the expected surplus of £279,000 to £383,000), on condition that the account in the Balance Sheet styled the Railway Unallocated Stores Account, the balance to the debit of which stands at £242,347-4-86, is written down by an equivalent sum, and whereas it is in the opinion of this hon. Council desirable that the whole balance of £242,347-4-86 at debit of the Railway Unallocated Stores Account be written off in the 1925 Accounts: Be it resolved that the balance of £242,347-4-86 standing to the debit of the Railway Unallocated Stores account in the Colony's books be written off in the 1925 Accounts on the understanding that a sum of £104,541-2-76, now standing in the Colony's books at credit of the Military Reserve Account, be transferred to Revenue."

Your Excellency, I do not think it is necessary to say anything in elaboration of that resolution, because I think it is fully self-explanatory, but I would just add that so long as any portion of the value of Railway Unallocated Stores remain shown in our books as a recoverable asset, when it has been definitely decided not to recover the amount from the Railway, so long are we liable to be referred to as not working on perfectly sound financial lines. For these reasons, I hope this hon. Council will concur in the resolution.

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

The motion was put and carried.

BILLS.

SECOND READING.

THE DETENTION CAMPS (AMENDMENT) ORDINANCE, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that a Bill intituled "An Ordinance to Amend the Detention Camps Ordinance, 1925," be read a second time.

When the Detention Camps Ordinance was sent him last year for His Majesty's assent, it received that assent, but the Secretary of State intimated certain small additions to it which he considered would more adequately provide for its carrying out. These are now in the Bill before this hon. Council. The first appears in the second clause of the Bill, and is to the effect that a sentence of detention shall not be longer than the sentence of imprisonment which the prisoner would have received. The intention behind the Ordinance of last year was to provide that natives who had only committed minor offences or offences with moral turpitude, should not come into contact with convicts. It was not intended the loss of liberty should in any way be lengthened or the punishment lessened, but that they should be preserved from that injurious contact. The second sub-clause merely covers a motion in respect of the sanction which we laid down at the time. The third clause of the Bill implements and limits that sanction. I feel that the Bill is entirely uncontroversial, and is in the spirit which the previous Ordinance was passed by this Council, and I do not propose to take up the time of the hon. House in pleading its merits.

I would add that the Schedule is taken from the English Act, but is to be considered on parallel lines with section 67 of the Penal Code.

THE HON. I. L. O. GOWER: I beg to second.

The question was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move that Council resolves itself into a Committee of the whole Council to consider the Bills standing on the Order of the Day.

THE HON. I. L. O. GOWER: I beg to second.

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee:

THE CROP PRODUCTION AND LIVESTOCK ORDINANCE, 1926.

THE HON. THE DIRECTOR OF AGRICULTURE: I beg leave to move the following amendments:—
For "1925" in line 2, read "1926."

In clause 4 (b), at the end of the clause and after the word "destruction," add the words "or waste."

In clause 4 (d), line 11, for the word "plant" add a comma.

In clause 4 (h), line 21, after the word "number" add the word "kind."

In clause 4 (i), line 24, delete the full stop, and add "and preventing losses from disease or other cause."

In clause 4 (l) add a new sub-clause (j): "For generally carrying out the provisions of this Ordinance."

Questions put and carried.

THE SUCCESSION ORDINANCE, 1926.

THE HON. I. L. O. GOWER: Your Excellency, I feel rather in a difficulty about this Bill. We are now in Committee, and I am going to suggest the appointment of a Committee of this Council when Council has resumed. The practice has always been in the past to appoint a Committee in Council.

CAPT. THE HON. H. E. SCHWARTZ: Under Standing Rule No. 38, a Committee may be appointed at any stage of the Council.

THE HON. I. L. O. GOWER: I beg leave to move the following Members be announced as a Select Committee to go into the provisions of this Bill:—

The Hon. Attorney General (as Chairman),

The Hon. Commissioner of Lands,

Captain the Hon. H. F. Ward,

The Hon. Mr. M. A. Desai.

HIS EXCELLENCY: The question is that the Succession Bill, 1926, be referred to a Select Committee consisting of—

The Hon. Attorney General (as Chairman),

The Hon. Commissioner of Lands,

Captain the Hon. H. F. Ward,

The Hon. Mr. M. A. Desai.

The question was put and carried.

THE ARMS AND AMMUNITION (AMENDMENT) ORDINANCE, 1926.

All clauses put and carried without amendment.

THE GAME (AMENDMENT) ORDINANCE, 1926.

All clauses put and carried without amendment.

THE DETENTION CAMPS (AMENDMENT) ORDINANCE, 1926.

All clauses put and carried without amendment.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I leave to move that the following Bills be reported to Council:—

The Crop Production and Livestock Ordinance (as amended),

The Arms and Ammunition (Amendment) Ordinance, 1926.

The Game (Amendment) Ordinance, 1926.

The Detention Camps (Amendment) Ordinance, 1926.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report to Council that the following Bills have been considered in Committee of the whole Council and have been reported to Council:—

The Crop Production and Livestock Ordinance with amendments.

The Arms and Ammunition (Amendment) Ordinance without amendment.

The Game (Amendment) Ordinance, 1926, without amendment.

The Detention Camps (Amendment) Ordinance, 1926, without amendment.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to give notice that the third readings of these Bills will be taken at a later stage of the Session.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I desire to draw attention to Standing Rule 65. In doing so my only desire is that this hon. Council will carry out its business without any obstruction. My point is this. It has been the custom in the past here that each proposer of the Bill gives notice of his intention to move the third reading accordingly in accordance with the Standing Orders.

HIS EXCELLENCY: I am quite prepared to take that point into consideration. As at present advised the term "proposer" means any representative of the Government who is proposing a Bill at the moment.

SUSPENSION OF STANDING ORDERS.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg leave to move that the Standing Orders be suspended to permit the motion standing in my name to be taken forthwith.

CAPT. THE HON. H. P. WARD: I beg to second.

The question was put and carried.

MOTION.

MR. ARCHIBALD HOGG.

CAPT. THE HON. H. E. SCHWARTZ: Standing Orders having been suspended I beg leave to move the following motion:—

"That a Committee of this hon. Council be appointed to investigate the circumstances surrounding the illegal arrest of Mr. Archibald Hogg—to report thereon."

I am very grateful to Your Excellency and to this hon. Council in permitting me to move this motion to-day. In this case at all events there can be no question as to the facts and I would like briefly to recapitulate precisely what hap-

pened. Some time ago Mr. Archibald Hogg was indebted to a firm called William R. Parr and that firm was indebted to the Government and the debt due from Mr. Hogg was assigned to the Crown so that Mr. Hogg became a debtor of the Crown. Several letters were written by the Attorney General's office to Mr. Hogg calling upon him for payment of this amount due and I am quite prepared to admit, perfectly rightly and openly, that Mr. Hogg procrastinated in the answering of those letters and in the payment of this amount. I would say, however, that during all this period Mr. Hogg was paying instalments of Sh. 1,000 every three months to the Government in respect of another debt due from a firm called Hogg and Moynagh. These instalments were agreed upon and the Solicitor General will bear me out when I say these instalments have been paid up to date. I mention this matter merely to show that Mr. Hogg was actually paying a sum to the Government every quarter for another debt. It may have been a reason why he was not able to meet the second debt under the assignment of William Parr. On Friday night ten days ago one of the Crown Council in the Attorney General's office, proceeded to the house of the Judge of the Supreme Court and obtained a warrant for the arrest of Mr. Hogg on the grounds that he, the Crown Council, had reasons to believe that Mr. Hogg was absconding from the jurisdiction. Your Excellency, that information was given to the Crown Counsel by one Acharia, who was a late client of Mr. Hogg, and who is at this moment starting an action against Mr. Hogg. I mention that merely to show there is no ill-will. At all events we are not concerned with that Your Excellency but the Crown Counsel undoubtedly acted in perfectly good faith and had some foundation, but the whole point is instead of taking the right procedure and filing an action at law against Mr. Hogg and then proceeding to apply for a warrant for his arrest, he omitted the necessary preliminary of filing a case which made the arrest illegal and made the application wrong for the warrant, which made the granting of the warrant illegal, and made the arrest illegal. It is proved in the answer given me last week by the hon. the Acting Attorney General that a case in respect of the debt had not been filed. The arrest of Mr. Hogg was illegal. Had the ordinary procedure been adopted, the fact that Mr. Hogg was sitting on his farm at Eimuru for the week-end, like anyone else and which he was perfectly entitled to do, would not, I suggest, have entitled him to ask Government for an enquiry in this matter or for compensation, although the information given was entirely wrong and although it was acted upon in good faith, but I would point out to this hon. Council that it is provided for in the Criminal Procedure Code immediately following on the section which permits the arrest of a defendant before judgment on certain information or evidence that

The Arms and Ammunition (Amendment) Ordinance without amendment.

The Game (Amendment) Ordinance, 1926, without amendment.

The Detention Camps (Amendment) Ordinance, 1926, without amendment.

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The question was put and carried.

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he is absconding from the country, and that the hearing of the case is likely to be delayed, it is provided in the following section that should a defendant be arrested on evidence which turns out to be incorrect there is a definite sum laid down—I think it is K1,000 to be paid to the defendant. That is put in to protect defendants from being arrested at the bad will of some vindictive plaintiff and had Mr. Hogg been arrested and he could show there was not a word of truth in the information, he could have claimed and the court would have granted. He cannot sue the Crown in court. Secondly, I must stress the point that he was actually illegally arrested. The police constable went up to his farm and arrested him in the presence of his friends and brought him down to Nairobi—as a matter of fact he drove the policeman down in his own car—and was taken to the police station where, owing to a fire breaking out in an electric transformer in the town, no one was to be seen except an Indian sub-inspector. Captain Thom arrived as soon as he could and I would like to pay a tribute to the courtesy of Captain Thom throughout this matter and also to the very extreme courtesy of the Solicitor General who was called on the telephone from his house and accepted the bond of Mr. Shapley and agreed that Mr. Hogg should be released. Mr. Hogg has no complaint against either of these two gentlemen, not only that, he wishes to express his deep gratitude to them; but the fact of the matter is the man has been illegally arrested in the presence of friends and strangers upcountry and brought down to Nairobi and is entitled—he cannot get it legally—but surely, he is entitled to compensation? There have been other cases and I quote the case of Major Sheppard. The facts were not precisely similar, but almost so. The Government in that case gave him compensation and indemnified him for all the trouble he had been put to. The hon. Solicitor General in debate earlier in the day on another motion stated that Mr. Clarke cannot complain because he should have known that the order of the injunction was bad, and therefore if it was bad, no complaint could be made on that score. But here we are in exactly the opposite way, the order was bad, and I shall be interested to hear how the hon. Solicitor General can dovetail this case in with that. We are not asking here an enormous compensation for Mr. Hogg, but I do think he is entitled to compensation having to engage professional men to get him out of the police station at 9 p.m. on the Saturday night and also to the not inconsiderable moral damage he is placed in in being arrested and brought down from his farm where he was spending a weekend away from the somewhat disagreeable conditions which then prevailed in this town. I have asked your Excellency for a Select Committee so that they shall recommend to Government what compensation they think is right, but I do

ask Government to try this matter fairly and not hide behind their legal rights because Mr. Hogg cannot sue them. A grave injustice was done to Mr. Hogg solely through the mistake of a gentleman in the Attorney General's office. Government is responsible for that mistake—it is extremely unfortunate—but after all law officers should not make those mistakes and if they do, Government is responsible morally to put a man back in the position he would have been in if the mistake had not been made. I ask this hon. Council to pass this motion so that the matter shall be dealt with and Mr. Hogg compensated in a proper manner.

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

HON. I. L. O. GOWER : Your Excellency, I think I may say on behalf of Government that we are prepared that this Committee should be appointed to enquire into this matter and I should like to say the hon. mover has traversed the facts of the case very fairly in putting it before this hon. House. In view of the fact that Your Excellency is prepared to appoint this Committee and that the facts of the case will come out in that Committee, it is useless for me to waste the time of the Council here.

CAPT THE HON. H. E. SCHWARTZÉ : Your Excellency, I do not think it is necessary for me to reply to what has been said by the hon. Solicitor General.

The motion was put and carried.

(Council adjourned to 10 a.m. on Thursday,
25th March, 1926.)

THURSDAY, MARCH 25th, 1926.

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Thursday, the 25th day of March, 1926, His Excellency the Governor (LIEUT.-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.O.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting held on the 23rd March, 1926, were confirmed.

PAPERS LAID ON THE TABLE.

Statement and Progress Report on Colonial Loans.

QUESTIONS.

THE HON. J. B. PANDYA : I beg leave to ask the first question standing in my name on the Order of the Day :—

" (1) Has the attention of the hon. Director of Education been drawn to the very undesirable and unsatisfactory accommodation of the Indian Girls' School at Mombasa?

(2) Will the hon. Director of Education state if a building plot for the Indian Girls' School has been reserved at Makdara, as recommended by the Indian community, and whether sufficient amount from loan funds will be allotted for erecting a suitable building? "

THE HON. THE DIRECTOR OF EDUCATION (MR. ORR) : (1) The answer to the first part of the question is in the affirmative.

(2) No site reservation has yet been made for the Indian Girls' School at Mombasa but the matter has been referred to the Town-planning authority. It is proposed to allocate a sufficient amount from loan funds for the erection of a suitable building. In the meantime Government will take steps to provide accommodation for this school.

CAPT. THE HON. E. M. V. KENEALY : I beg leave to ask the question standing in my name on the Order of the Day :—

" Will Government state what decision has been reached on the Report of the Committee appointed to consider the matter of the site of the Nyeri Railway terminus? "

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTHCOTE): Government supports the proposals put forward by the Committee to extend the Railway twelve miles northwards to a site on the north side of the Rongai River within the "clean area." Sufficient funds are available from the original allotment of funds for the Nyeri Railway to provide for this extension.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: I beg leave to ask the question standing in my name on the Order of the Day:—

"Whether any compensation or exchange for land leased from Government and since ceded to Italy in Jubaland will be granted?"

THE HON. THE ACTING COLONIAL SECRETARY: It is not proposed that any such compensation should be paid. The Italian Government has agreed to recognise as valid any rights to property held in Jubaland under the Government of Kenya prior to the cession of that Province."

THE HON. J. B. PANDYA: I beg leave to ask the second question standing in my name on the Order of the Day:—

"Has the attention of the hon. the Attorney General been drawn to Eastern Africa Appellate Court ruling in the Civil Appeal Case No. 12/1923 reported in Kenya Law Reports, Volume 9, page 167?"

Will the hon. the Attorney General state whether he proposes to amend the law as to safeguard the interests of all transactions duly registered before 1919 under old Registration Ordinance, 1908?"

HON. I. L. O. GOWER: With regard to the first part of the question the answer is in the affirmative.

With regard to the second part of the question the answer is as follows:—

If before a Certificate of Title is issued by the Recorder of Titles a mortgagee or other incumbrancer avails himself of the provisions of the Land Titles (Amendment) Ordinance, 1923, he can protect his interests acquired subsequent to the Land Titles Ordinance, 1908.

Interests acquired subsequent to the application of the Registration of Titles Ordinance, 1919, can effectually be protected under the provisions of that Ordinance.

In these circumstances the reasons for amending legislation are not apparent.

THE HON. J. B. PANDYA: I beg leave to ask the third question standing in my name on the Order of the Day:—

"Has the attention of the Government been drawn to the statement made by the hon. Commissioner of Lands at the meeting of the Convention of Associations defining highlands as any area suitable for white settlement?"

Will the Government state if they agree with this statement?"

THE HON. COMMISSIONER OF LANDS (MR. MARTIN): No such definition was made or intended by the Commissioner of Lands. The Commissioner of Lands was discussing certain soldier settlement farms and expressed the opinion that so far as the soldier settlement scheme was concerned land within the scope of that scheme was regarded as "highlands" as being suitable for white settlement to which the scheme was specifically limited.

THE HON. J. B. PANDYA: On behalf of the hon. Mr. R. S. Nehra, I beg leave to ask the first question standing in his name on the Order of the Day:—

"Would the hon. the Postmaster General state the number of normal hours of duty required to be put in daily by (A) an Indian; (B) a European; (C) a native member of the staff, respectively?"

HON. T. FITZGERALD: The normal hours of duty which the different sections of the staff are required to work vary according to districts. The following are the particulars:—

At Mombasa and Voi:—

Europeans, 36 hours per week; Non-Europeans (Africans and Indians) 42 hours per week.

At Nairobi, Entebbe, Kampala, Jinja and Kisumu:—

Europeans, 39 hours per week; Non-Europeans, 43 hours per week.

At All Other Offices:—

Europeans, 43 hours per week; Non-Europeans, 48 hours per week.

THE HON. J. B. PANDYA: I beg leave to ask the second question standing in the name of the hon. Mr. R. S. Nehra on the Order of the Day:—

"(a) Is the hon. the Postmaster General aware of the slow and extremely unsatisfactory mode of transporting the overseas mails from the harbour shore on to the steamers and vice versa?"

(b) If the reply is in the affirmative, would the hon. the Postmaster General state if he is prepared to take steps to remedy the defect and improve the service at an early date?"

THE HON. THE POSTMASTER GENERAL: (a) The present arrangements for the transport of mails between ship and shore at Kilindini are admittedly slow and to that extent not entirely satisfactory.

(b) The Department has inquiries in hand with a view to making recommendations to Government for the purchase of a suitable type of motor boat for mail work.

THE HON. CONWAY HARVEY: In the absence of the Rt. Hon. Member I have been requested to ask the question standing in his name on the Order of the Day:—

"1. What was the result of the investigations made into Mrs. Rainbow's case promised when her petition was laid on the table on this hon. Council?"

2. Do Government intend to allow Major Buxton to bring an action against Mrs. Rainbow in view of the letters published by her about him as a magistrate, and the evident undesirability of such a matter being left unsettled in some way or other?"

THE HON. THE ACTING COLONIAL SECRETARY: As a result of inquiries made into the representations made by Mrs. Rainbow in the petition presented to this hon. Council by the Right Hon. Member on her behalf, the Government is satisfied that Mrs. Rainbow's allegations so far as they were material, were unfounded. Mrs. Rainbow was informed in September, 1924, that the Governor considered that there were no grounds for any further action.

(2) Major Buxton will be permitted to take such action if he so wishes.

THE HON. J. B. PANDYA: I beg leave to ask the last question standing in my name on the Order of the Day:—

"Has the attention of the hon. the Attorney General been drawn to the fact that Criminal Procedure Ordinance 1913, No. 6 of 1914, Part VII (of Appeals) provides for first appeal only, because section 333 (a) (3) did not give power to enhance sentence on appeal and the amended section 333 (1) (b) (3) provides enhancement of sentence without providing for appeal against such enhancement?"

Will the hon. the Attorney General have this section amended so that in case of enhancement of sentence the aggrieved party may have an opportunity of revision or appeal?

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If the reply be in the negative will he state reasons thereof?"

THE HON. THE ATTORNEY GENERAL (MR. HUGGARD): Section 333 of the Criminal Procedure Ordinance as amended by the Criminal Procedure (Amendment) Ordinance, 1921, allows the Supreme Court to enhance the sentence on appeal.

Prior to the provisions to this effect in the 1921 Ordinance which has been reproduced in the Criminal Procedure (Amendment) Ordinance No. 2 of 1924, the Supreme Court on hearing an appeal could if it considered the sentence inadequate refer the case to itself in its revisional capacity in which case it would enhance the sentence subject to the provisions of section 343 of the Criminal Procedure Ordinance.

The difference between the Indian Law and the local Law on this point rests on the fact that in India appeals lie to the Court of Session while revision takes place in the High Court.

The Court of Session hearing an appeal can refer the case to the High Court in revision with a view to the latter court enhancing the sentence (Sohny 987).

In this Colony appeals and revisions both go to the Supreme Court which possesses the power of a Court of Session in dealing with the appeal and of the High Court in dealing with sentence.

No appeal lies from an order of revision nor from the Court of Criminal Appeal in England enhancing the sentence and it is not proposed to amend the law so as to enable appeals to be brought from the Supreme Court sitting as either an appellate or revisional tribunal.

MOTIONS.

FIRST SUPPLEMENTARY ESTIMATES, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, in moving the first motion which stands in my name on the Order of the Day:—

"That this hon. Council approves the First Supplementary Estimates as amended in Select Committee."

I am aware that it is unusual or has been hitherto unusual to move Supplementary Estimates so early in the financial year. I am further aware that the total sum asked for, which amounts to £52,000 odd is a large sum, and I feel that an explanation is called for on that account.

With regard to the first point: where Government has been compelled to expend money since this hon. Council last met, or where it foresees that the expenditure of money is necessary for the welfare of the Colony, it is I submit a sound financial policy for the Colonial Secretary to inform the Members of this hon. Council at the first opportunity. And that is the reason why the Supplementary Estimates are being introduced at this Session of Council.

With regard to the largeness of the sum, against that sum, if hon. Members have studied the Report of the Select Committee which was laid before them two days ago, they will realise that there are savings anticipated to the amount of £27,000 odd, and that another £10,500 of these Supplementary Estimates are in the shape of revotes and further may be regarded as against the balance of last year, and another £4,800 will be completely covered by revenue.

That disposes of £43,000 odd of the £52,000 asked for; the remaining £9,000 are, I believe, completely justified.

When the Select Committee considered these Estimates the desire was expressed that Your Excellency would allow them to be considered in a Committee of this Council. I therefore do not propose to go into the merits of any of these particular items which are in the Supplementary Estimates, but after the motion has been seconded I will, with Your Excellency's permission, rise to move that this hon. Council go into Committee to consider these Estimates.

HIS EXCELLENCY: Move it at once.

THE HON. THE ACTING COLONIAL SECRETARY: In that case I beg to move that this hon. Council should resolve itself into a committee of the whole Council to consider the First Supplementary Estimates, 1926, head by head.

THE HON. THE TREASURER (MR. GIRANNUM): I beg to second.

HIS EXCELLENCY: Notice has not been given of the motion to go into Committee of the whole Council on the Supplementary Estimates, but as there is I understand a general desire that Council should go into Committee on the Estimates this morning I, with the general consent of Council, propose to vary the Standing Order in that respect.

The question is:—

"That this hon. Council now go into Committee of the whole Council to consider the First Supplementary Estimates, 1926, as amended in Select Committee."

Question put and carried.

In Committee:

Head IV.—H.E. the Governor, £1,630.

THE HON. THE ACTING COLONIAL SECRETARY: This, Your Excellency, is a revote.

Passed.

Head IVa.—Governors' Conference Expenses, £1,200.

THE HON. THE ACTING COLONIAL SECRETARY: With regard to the second head and the Supplementary Estimates, it will be observed from the report of the Select Committee that there is an amendment by the insertion of the sum of £750. £1,200 is against the staff for the Secretariat of the Governors' Conference and their incidental expenses. It is anticipated that this will be about the share that Kenya will have to bear. For the present, until the allocation is decided upon, Kenya is paying these expenses.

THE HON. THE TREASURER: I beg to second.

Passed.

Head V.—Secretariat and Legislative Council, £120.—Passed.

Head VI.—Official Gazette and Printing, £3,514.—Passed.

Head VIIa.—Administration Extraordinary, Mombasa Fire Brigade.—Passed.

Head VIII.—Treasury, £275.—Passed.

Head Xa.—Port and Marine Departments Extraordinary, Removal of Sunken Lighter, £300.—Passed.

Head XVII.—Port and Marine Department Extraordinary, Purchase of Motor Launch, £200.

THE HON. W. MACLELLAN WILSON: Your Excellency, there was a suggestion that consideration should be given to the type of motor launch which was used for this purpose. I think some information was given to us by an hon. Member that a better type of motor launch might be got for a less sum of money.

THE HON. THE ACTING COLONIAL SECRETARY: That is perfectly correct; I am sorry I have not as yet been able to get the information. I had hoped that the Commissioner of Customs would get back in time to get the information for me. But I will undertake, before this money is expended, that the matter is fully investigated and that the best type of launch will be purchased for the money.

Head XVII, £600.—Passed.

Head XV, Police.—£1,122.

THE HON. THE ACTING COLONIAL SECRETARY: As this was an addition to the Supplementary Estimates, I should rise to explain that this is mainly inserted in answer to the recommendations of the Stock Theft Committee to supply more European Police in an area which is particularly affected by stock thefts. Crimes are on the increase in that area, and it is particularly in regard to that that this amount is inserted. This includes extra salaries for the remainder of the year for three Assistant Inspectors and one Sub-Inspector.

Head XV, Police, £1,122.—Passed.

Head XVIII.—Education, Native Industries, £95.

CAPT. THE HON. E. M. V. KENNELLY: A portion of the sum asked for for Nanyuki School was promised to Nanyuki out of loan funds. May we have the Government's assurance that the funds available will at least equal the amount asked for in the original requirements, and that there will be no more delay in building and equipping the school than would have occurred had it been met out of current expenditure and not out of loan funds.

THE HON. THE ACTING COLONIAL SECRETARY: An assurance is given on both points.

Head XVIII, Education, Native Industries, £95.—Passed.

Head XVIII, Education, £4,211 to be added.—Passed.

Head XIX.—Military, £0,853.

LT.-COL. THE HON. LORD FRANCIS SCOTT: The Select Committee, while agreeing to the vote for this sum, did so on the assurance of the hon. Officer Commanding Troops that it was absolutely necessary, and because we have the greatest confidence in our Military Adviser in these matters. At the same time, we do rather want to point out to Government that the Military Expenditure is rising rather than falling, and that to some degree we do feel that we have been having extra expenditure rather forced upon us by Imperial questions, apart from local questions. We do hope therefore that Government will see their way, if possible, to reduce the military expenditure for next year.

THE HON. THE ACTING COLONIAL SECRETARY: I have Your Excellency's authority to state that Your Excellency has already taken that matter up with the Secretary of State.

Head XIX, Military, £0,853.—Passed.

Head XIXa.—Military Extraordinary, £1,000.

CAPT. THE HON. H. E. SCHWARTZ: With regard to the purchase of these Dodge motor trucks, may I ask the hon. the Officer Commanding Troops whether he has gone into the question as to the possibility of purchasing British motor trucks as opposed to American?

COL. THE HON. C. S. DAVIES: Your Excellency, these motor trucks were required immediately, therefore it was necessary to purchase them in Nairobi. There is an English motor truck in Nairobi—a Morris Cowley—but it is not suitable for the work for which the trucks are required. The engine of the Dodge is much more powerful and reliable than the other and a powerful engine is very desirable in the Northern Frontier District; the chassis of the Dodge is heavier than that of the Morris Cowley, and native drivers can learn to drive a Dodge car much more easily than the other, whilst there is less engine trouble with the former.

Head XIXa, Military Extraordinary, £1,000.—Passed.

Head XX, Posts and Telegraphs, £609.—Passed.

Head XXV.—Miscellaneous Services, £20,402.

MAJOR THE HON. R. W. B. ROBERTSON ECSTACE: With regard to the item, "Famine Relief," may we be given further information about that? I see relief is to be given to the population of certain areas in the Digo District. Well, there are many of us in that district who employ a large quantity of labour and we are always wanting more and we cannot get it; and we rely on these people for the supply of labour. Cannot some effort be made to get these people to come out and work rather than we should vote them a sum for famine relief? May we also be told something about the making of the dam at Mirwumbo Trading Centre, and what the idea is of making it there?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): I can assure the hon. Member that every effort is being made by Administrative Officers to induce these people to go out to work. The Senior Commissioner, whom I spoke of about the matter when I first arrived in this Colony from leave, says:—

"With the exception of the Ngunurungu area, I shall do nothing at present until I am satisfied that a fair proportion of the able-bodied male population in the area affected have taken advantage of the work offered. I have instructed Mr. Marchant, Acting District Commissioner, Kwana, to keep a sharp lookout to see that the women, children and old people are not suffering by the inactivity of the able-bodied males."

This money has to be available for famine relief in case they actually want it, and want it quickly. At the same time, no money will be spent that is not necessary, and any money that can be saved out of this vote will be saved. Every effort will be made by the Administration to see that able-bodied men go out to work in preference to getting relief.

With regard to the dam, I am not in a position to give any detailed information about it at the moment, but in certain Reserves we are making dams for conserving the water supply in an area which is very dry at times. If the hon. Member desires further information, I will get it for him and send it to Mombasa.

THE HON. J. B. PANDYA: With regard to the item, "Revised Edition of the Laws of Kenya," may we ask when these editions will be ready for distribution?

THE HON. W. MACLELLAN WILSON: On a point of order, may we be allowed to finish one point before another is brought up? I wish to say something on the famine question.

HIS EXCELLENCY: I will come back to that question later; I am sorry.

THE HON. THE ACTING COLONIAL SECRETARY: I am sorry to say that I can give no definite date for the actual issue of the Revised Edition of the Laws; I can only say that we are struggling with adversity and that we hope the Edition will be ready in about three months' time.

CAPT. THE HON. H. E. SCHWARTZ: Can we have an assurance that the expenditure is ever going to stop? When this hon. Council voted that the Laws of Kenya should be printed, we were definitely told by the then Attorney General that it was going to cost nothing. It has cost a very large sum—it has cost the Government something to have the Attorney General and Chief Justice in England for six months on full pay. Then a sum appeared in the last Supplementary Estimates last year, or in 1924. And now here we again have a sum of £220. One gets a little tired of this ever-increasing expenditure when nothing comes out of the lucky bag at all.

THE HON. THE ACTING COLONIAL SECRETARY: So far as I am aware, sufficient provision has been made now for the issue of the Revised Edition of the Laws. As far as my information goes, I can see no reason why there should be any further cost falling on the Colony in relation to that issue.

CAPT. THE HON. H. E. SCHWARTZ: Another point. May I ask the hon. Solicitor General if it is not a fact that, owing to this delay, which I quite agree cannot be helped, these Revised Laws, when they do come out, will in no way be up-to-date, but three years behind?

THE HON. I. L. O. GOWER: It is a fact that owing to the delay they will only be up-to-date to the end of 1924. I think I could say a good deal on this subject, but perhaps I had better not. (Laughter.)

CAPT. THE HON. E. M. V. KENEALY: It was suggested in Committee with regard to this famine relief that when this House was asked for money for famine relief it would be more helpful if one had a statement from the local Administrative Officer as to how that famine relief became necessary, and I hope that Government will accept the suggestion that when an application is made for famine relief to this hon. Council that information will be furnished automatically and not only on request.

THE HON. W. MACLELLAN WILSON: The hon. and gallant Member has mentioned one point which I had wished to bring up. I think we have got to get a little bit further than that. I quite realise the difficulties of the Administrative Staff. They have got large areas to cover, and perhaps the roads are not quite sufficient for them to get round quickly and see the whole of the districts. But with the Native Councils in existence, and I see the relief has been asked for through the Native Councils, I think that proper utilisation of those Native Councils should be made by the Administrative Officers. I think it

should be their duty to find out the best remedial measures to be taken at that time before the position is acute. I think that one of the ways whereby they could do this would be to see, as the hon. Member for the Coast has mentioned, that the able-bodied men who cannot do any work on the plantations should get out and make some money for the purpose of being able to support their dependents. That I think is a step which ought to be taken. But the position has arisen when there is grave famine now, and we are asked to vote a sum of £3,403.

Now, Sir, the roads which it is intended should be consolidated and improved may be very necessary; I do not say they are not, I think roads are suitable and useful things, and I think the work might be carried on. But apart from that I think it is possible that there may be and will be a number of people there who could more usefully be employed in earning wages outside. The market is open. In this country it is not a question of supply and demand merely. There is a good deal of pressure now, just as there is this pressure of famine. I should consider that it is the Government's duty to utilise this pressure and to make the natives understand that they must earn wages. I consider that this money which is to be voted may perhaps in a large measure be recovered. That is where we are out to make. In considering this thing my hon. friend the Chief Native Commissioner thought there would be some difficulty that if the natives got out they would consume all the money themselves, and would not supply it to their people who are dependent on them. I think that is a position which is easily remedied. Arrangements can be made with the Government of the natives that the latter have got to refund the Government certain expenditure which the Government has incurred on his women and children. I put these forward as proposals because I think there are very few years when we do not have some famine somewhere or other, and it seems that there should be some co-ordination of effort to see that not a such as these, except in very exceptional circumstances, should not have to come before this hon. House.

MR. HON. LORD DELAMERE: Your Excellency, I did not mean to have anything to do with this debate, but I must say I do agree with the hon. Member for Kyambuu. It does seem to me, if you have difficulties like this—you cannot have anything like forced labour, and we don't want it, especially out of feeling in England—but surely no one can argue that advantage should not be taken of the ordinary pressure of life to get these people to work, provided arrangements are made for the looking after of their women and children?

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, as I explained before the Noble Lord came in, every effort is being made by Administrative Officers to induce these people to come out and earn wages. In regard to the point as to how famine arose, I am afraid it is in the case that although a great measure of the loss of planting on the part of the natives concerned, I should like this hon. House to realise what the conditions are. The Giriama are a very backward people, and the area is very large. There is only one Administrative Officer in charge of the whole area, and he has to make the best he can of the native headmen who are, I am afraid, (is not humanly possible) for him, with the work he has to do, to get about the country and inspect all the plantations. Hon. Members will time that the people are not planting as they should do, it is very difficult for him to find out. When matters reach an acute stage what he can. No relief will be given where relief is not absolutely necessary, and where people can come out to work and earn money, every effort will be made to see that they do so.

I entirely agree with the view expressed by hon. Members.
Miscellaneous Services vote put and passed.

THE HON. CONWAY HARVEY: Your Excellency, may we hear some further details about the Labour Rest Camp at Kisumu. I am quite sure it is a very excellent institution, but it is the first time I have met it, and I should like to know how it is organised, and what class of labour uses it; whether by labour-passing through Kisumu, and if it includes the labour recruited by the labour agents, who demand very large fees for housing natives in Kisumu for the employer for whom they work.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, the hon. Member has not yet met the buildings for which the money has been asked, because they are not up yet. The rest camp existing hitherto consisted of nine huts which became infected with sprillum ticks, and were condemned by the medical authorities. The only type of building adequate for the purpose now, and which will be approved by the medical authorities is that for which provision has been asked. That building is to be used by all kinds of labour who are passing to and from employment. A representative of my department meets every batch and looks after these people, and sees they get housing and food. The camp was used by some 60,000 labourers last year. It is the case that this camp is not largely used by the professional recruiters, because they have camps of their own, but the camp is open to them as well. Facilities are given there for the natives to get firewood to cook their food and so forth. No native is kept out of the camp.

THE HON. CONWAY HARVEY: May I ask what provision is made for the supervision of this particular camp. There seems to be a good deal of administrative work involved, and I do not see any item in the Estimates for that cost.

THE HON. THE CHIEF NATIVE COMMISSIONER: A clerk employed by my labour section looks after it.

THE RT. HON. LORD DELAMERE: Your Excellency, may we have some statement from the hon. the Director of Medical and Sanitary Services about these new buildings, because sprillum is a most extraordinarily difficult thing to keep out of buildings, and I want to know if these new buildings will be sprillum-proof buildings. Also may I just be allowed to say it is wrong this sort of thing should come into Supplementary Estimates. The sprillum tick has been there for a long time, and they have been condemned for some time, and this sort of thing ought to come up in the ordinary Estimates of the year and taken with other things in the Estimates for the year.

HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS): Your Excellency, I am sorry I cannot give the details as to when these buildings are going to be put up. My Department has been consulted, but I cannot remember the details.

THE RT. HON. LORD DELAMERE: My point was that we have not had very much experience with sprillum ticks in this country, but in the surrounding territories they have had a great deal. I only hope that these buildings will be made in such a manner that the sprillum tick cannot get into them at all, so that the labour will not carry the tick on the road.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES: I will ask for details, Your Excellency, and find out what has actually been put forward.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I cannot speak as to whether the building excludes sprillum ticks. The building proposed is of concrete and will be washed down every day with disinfectant. So far as this matter should appear under the ordinary Estimates for the year, I am afraid I cannot answer that. I have only just returned from leave, and it has only come to my notice since my return that the old buildings have been condemned, and now that the estimate for the new building has been put up, it is in the interests of labour to put it up quickly.

THE RT. HON. LORD DELAMERE: Your Excellency, everybody agrees that a thing of this sort must be done. With regard to the type of building, I have had a certain amount of experience of spirillum tick, and if you have a building in which there are cracks in the walls and wood, you are bound to get ticks in such buildings. If you have concrete walls and steel beams, I believe there is no fear at all from the tick. Any temporary buildings should be burnt down now and again, and the site moved to some other place.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, before passing entirely from this vote, will it be in order to discuss the general recommendations or proposals put forward in relationship to the Supplementary Estimates generally?

HIS EXCELLENCY: It is not in order to raise anything in Committee except the head before the Committee. We are now discussing Public Works Extraordinary. The Acting Colonial Secretary will move at a later stage the Supplementary Estimates be adopted, and the hon. gentleman will have an opportunity of raising any point he wishes to raise.

LT.-COL. THE HON. LORD FRANCIS SCOTT: With regard to this vote, Your Excellency, I hope this hon. Council will endorse section 3 of the Report of the Select Committee on the Supplementary Estimates, which states: "The Select Committee wishes to record its opinion in connexion with the Public Works Extraordinary Schedule that the policy of putting up temporary buildings or temporary extensions to buildings should give way to a policy of building permanent structures out of Loan Funds, wherever circumstances warrant such a course, at the earliest opportunity." We feel very strongly on that point.

THE HON. THE ACTING COLONIAL SECRETARY: That Select Committee passed the section unanimously, and I assure the Noble Lord that it represents the policy of Government.

THE RT. HON. LORD DELAMERE: Your Excellency, it will absolutely clear the matter up if the hon. the Director of Public Works will tell us about these buildings. It is the question of spirillum ticks coming into the low country from the high country.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, the plans have not come before me yet, and are at present with the Executive Engineer, Kisumu. In due course, they will come before me, and the medical authorities will be consulted before the final plan is approved. They will consist of concrete blocks and floors, with iron roofs. I cannot give any further information than that till the plans come before me.

Public Works Extraordinary Vote passed.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the First Supplementary Estimates, 1926, have been considered by a Committee of the whole Council and have been reported back to Council with the amendments proposed by the Select Committee.

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

"That this hon. Council approve the First Supplementary Estimates as amended in Select Committee."

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

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, it was suggested in Committee that the entire proposals by Heads of Departments should be submitted to the Budget Committee and not the proposals as amended by Government, but Government should indicate which proposals receive its support and which proposals were rejected. That would effect a degree of control by the Elected Members greater than the present which is more apparent than real. I trust Government will accept that suggestion.

HIS EXCELLENCY: I have already discussed that matter in private with the hon. gentleman and given him a ruling on the subject. I am not prepared to make any statement on the subject now. It is a very important matter.

The question was put and carried.

MR. PAUL CLARKE'S FARM.

HIS EXCELLENCY: I think it will be for the convenience of Council before taking the other business on the Order of the Day, if I call upon the Acting Colonial Secretary to make a statement on Lord Francis Scott's motion regarding Mr. P. H. Clarke's farm.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, when the debate stood adjourned on this motion last Thursday the Noble Mover was in the course of his reply to the Government statement. The Government have taken up the attitude that it was unable to agree with the appointment of the Committee and the Noble Lord asked Government in that case whether it would give two assurances:

- (1) That so far as is possible the Administration would assist Mr. Clarke to obtain rightful possession of his land.
- (2) That it would consider the question of compensation to Mr. Clarke for the loss which he had incurred from being kept out of his farm for some eighteen months.

Government has given very close consideration since that time and is prepared to give an assurance that it will send a very senior officer of the Administration immediately to this farm and will make an investigation of all the facts in detail of the various occupiers of that farm. He will do all he can to bring about some amicable settlement between Mr. Clarke and the native occupiers, and will report fully to Government on his investigation. With regard to the question of compensation I would prefer not to give any answer at the moment, as that may be regarded as a matter pending *sub judice*. That will be the best way in which to leave the matter. If the

Noble Mover will accept that statement I trust he will see his way for the time being to withdraw his motion under that assurance from Government which will do everything possible it can to serve the interests of Mr. Clarke.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in view of the statement made by the hon. the Acting Colonial Secretary and the assurance given by Government that they will help Mr. Clarke in every way they can to get his legal rights and that the question of compensation still remains *sub judice*, I beg leave to withdraw the motion standing in my name.

LOAN MOTION: £1,372,685.

THE HON. THE ACTING COLONIAL SECRETARY: I beg leave to move the following motion:—

"Be it resolved and it is hereby resolved that this hon. Council approves of a loan of £1,372,685 being raised under the provisions of the General Loan and Inscribed Stock Ordinance, 1921, and of the money to be so provided being appropriated and applied to the purposes specified in schedule hereto provided that it shall be lawful for the Governor with the advice and sanction of the Legislative Council and with the sanction of the Secretary of State to utilise any money not spent on any items in the said schedule to cover any excess of expenditure in respect of any other item.

And be it further resolved that this hon. Council undertakes to approve the inclusion in the schedule of the Specific Loan Ordinance of such amount as may be necessary to enable the said loan to be raised."

Your Excellency, two days ago I gave notice of this motion and with the leave of Your Excellency and this hon. Council I amended this motion in a certain particular. This particular was to delete a certain item of £40,000 against one item of expenditure and to place it towards Education, bringing the Education vote from £145,000 to £185,000. At that time I said that that money would be mainly devoted to Indian education, but provision was taken from it for a school at Nanyuki. Hon. Members are aware generally of the details in the schedule and I think it is unnecessary to commend them at all save one or two. The first is £60,000, Advances to Nairobi Corporation. This has not yet been approved in this form by this hon. Council but has already been approved under the 1923 Specific Loans Ordinance for an advance to the Nairobi Municipal Corporation. It necessitates no further expenditure on the part of Government as the interest and sinking fund are fully covered by the Corporation. The

advance of £16,000 to the Corporation for Quarters for African Employees has been approved in the adoption of the Loan Committee's Report. I would pass on to item 9 and 10 in the Schedule—Trunk Telephone Route from Nairobi to Mombasa and from Nairobi to Nakuru. I feel that these two items need no defence and I believe I can confidently state my opinion that the country will stand to gain by them than to lose by them financially, and from a business point of view they will be directly remunerative. With regard to the last three items 11, 12, and 13, I would explain the intention is ultimately not to place them to the Colonial Loan but to raise the money by a short loan in view of the nature of the expenditure. The life of the Water Boring apparatus and the Road Plant and the Nairobi Telephone Exchange would not be long enough to justify its inclusion under the Colonial loan. With these remarks I beg to move the motion standing in my name which in fact is the monetary resolution that Government be empowered to spend under the loan £1,362,685.

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

CAPT. THE HON. H. F. WARD: Your Excellency, I am not quite sure from the manner in which this resolution was introduced whether the hon. the Acting Colonial Secretary intends to move into Committee of the whole Council or not? In case he does not I should like to take one small point and that is the principle that so large an amount would be immediately reproductive. I understood when the principles were first debated that the town-planning of Mombasa would be covered by the formation of an entity down there in the shape of a Municipal Corporation and paid for by that Corporation. From the Report of the Works Committee laid upon the table of this House there is provision made for town-planning expenditure for Mombasa but the hon. the Acting Colonial Secretary said nothing about Mombasa Town itself paying the cost. When these proposals came before this hon. Council in another shape some three months ago the criticism that arose therefrom was divided into three principle heads. It is perhaps useful to-day to examine how far that criticism has been met.

The first heading of the criticism was that it might prejudice the raising of capital necessary for the further development of the Railways in Kenya by branch lines and the further development of the Port of Kilindini. I should like to submit from my point of view that that criticism has been very largely met by the most excellent Report published by the Port Commission which tends to show that with a very reasonable scale of charges increased freight tonnage of the port will easily meet interest and sinking fund on the further capital required.

The other point is the principle of construction by the Committee of branch railways throughout this Colony and it did then seem to me that we should walk warily in matters such as the Colonial loans and current expenditure until we had ascertained the full amount of the bill we shall have to meet under that head. In that respect may I say how pleased I am to note that we are walking very slowly under the Colonial Loan as detailed in the Building Committee's Report.

Under the second heading the criticism was raised that we were likely to overburden the Colony with heavy expenditure and interest and sinking fund. That criticism has been met by the most generous arrangements agreed to by Your Excellency's Government whereby the Report of the Building Committee on detailed proposals and schemes under the loan come before this hon. Council from time to time and any Member like myself who is timid as regards the Colonial loan has ample opportunity of raising his objections from time to time. It does away with the necessity of considering very seriously the items in the schedule because anybody like myself who at the moment thinks that certain items are too large, or perhaps that the policy we have heard is wrong, has, as I say, ample opportunity of raising objections in this hon. Council when the various Reports of the Building Committee of Government come before the House.

The third heading under which criticism came was undue haste and I think I have not the slightest desire to dwell on it—it is chiefly a political point—and I submit it has been amply justified.

The other principles I do want to raise for consideration of those who have the expending of moneys under the Colonial loan in hand is what appears to me a great danger of a confusion of two issues. The first issue is—I am referring to the building and that part of the Colonial loan composed of building—efficiency and health both in the office and in the homes and the other issue is what I call the aesthetic issue—the type, the style and all those sort of things which relate to large schemes and their relation to town-planning. It seems to me from what I have been able to hear so far that Government is in danger of sacrificing first efficiency and health for the purpose of trying to secure the second and it may easily happen with the extent of the building and works proposed under the Colonial loan by so eminent an architect as Mr. Herbert Baker. If that is so then it does mean that the staff of Your Excellency's Government will have to continue to work under conditions which have been condemned in a lot of cases for very much longer than should be necessary. I submit that if there is anything in that reasoning it would be still worth Government's attention examining a *via media*,

that is to say, one can make suggestions—but I am not an expert. My suggestions would be the postponement of the final building which after all would do no very great harm because if they are postponed Kenya will then be all the more ready and able to do things and the Government will know far more exactly what its requirements are. Further might I suggest for consideration a much more ugly-looking structure, the cheapest structure in the shape of steel-framed buildings with concrete blocks or brick fillings and floors. These would not be placed in a position which conflicted with the town-planning but they would be placed somewhere away from the permanent site of the building. Of course, it means postponing the buildings of the type now proposed for a very long time. The second point under that head, of concrete blocks, the same principle I should say, that steel-frame buildings with the fillings suggested should, I am told and informed on reliable authority, answer the purpose and they have two additional advantages. The first is that you do to a large extent escape the high prices of labour which is one of our difficulties to-day and you can, to a large extent, employ the labour offered by the native tribes of this country and they have the further advantage that they might be the means whereby some of the new industries might be developed in this Colony.

My second point under the same head is that in order to get on with this housing question it might be possible using the same method of construction to develop the building of flats especially in Mombasa where the land is limited on the Island and where good spaces are few and far between and where it seems hardly appropriate to give individuals bungalows in large areas of coral. I think that is the principle which requires close consideration in order that the necessary accommodation for the improvement of conditions both under which Government officers work and live may not be unduly delayed for the sake of a rather ambitious programme in style of architecture and so on.

THE HON. J. B. PANDYA: Your Excellency, I only wish to make one or two remarks in regard to what has been said to the Mombasa Town-planning scheme. I note from what the hon. Member for Nairobi North says that he wishes to be assured that this £50,000 for the improvement of Mombasa Old Town will be paid for by the Municipality or the town itself. Whilst I think that that is the case in this particular instance I should like to express an opinion that in regard to Mombasa Town-planning scheme and in particular to Mombasa Old Town improvement it would have been better if the Government had paid the interest on this particular item. It has been felt, and this view is shared by the District Committee,

Mombasa, that the Government has not given their attention to the Mombasa township that was its due. I do not think there is any justification that the town should pay for this scheme which is being delayed. In regard to the housing scheme I should like to draw the attention of the Government to the fact that the housing scheme for non-Europeans is also absolutely urgent and essential, especially in townships like Mombasa where houses are very scarce and the staff is paying rents out of all proportion or paying much more than what they get as house allowance. Further, I understand the question of the site for non-European houses in Mombasa in a most serious one. Although it has not been settled yet I should like to draw the attention of the Government to the fact that a site has been suggested near Makupa Bridge. It is a very unsatisfactory site from the point of view of the staff who are not in a position to keep motor-cars and so forth to come to their offices and this point should receive consideration.

THE HON. THE DIRECTOR OF PUBLIC WORKS: With regard, Your Excellency, to the remarks made by the hon. Member for Nairobi North, the question of health and cost may be lost sight of some extent in attaching greater importance to the aesthetic aspect and is one which I have given considerable consideration and that is a point which I think it is necessary we should bear in mind in dealing with the design of Government bungalows especially, more especially in out-stations. As regards the merits of steel-framed buildings we have at present designs for native hospitals in Reserves according to this type of construction and one is at present being erected at Kitui. That type of construction for Government bungalows is one which I shall bring before the notice of Mr. Baker's representative.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I do not think the remarks made by hon. Members call for an answer from me. I therefore move the motion standing in my name.

The question was put and carried.

BILLS.

THIRD READINGS.

THE CROP PRODUCTION AND LIVESTOCK ORDINANCE, 1926.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM): Your Excellency, I beg leave to move that a Bill intitled "An Ordinance to make provision for the control and improvement of crop production and livestock and the marketing thereof" be read a third time and passed.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE ARMS AND AMMUNITION (AMENDMENT) ORDINANCE, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that a Bill intitled "An Ordinance to amend the Arms and Ammunition Ordinance, 1925" be read a third time and passed.

HON. I. L. O. GOWER: I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE GAME (AMENDMENT) ORDINANCE, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that a Bill intitled "An Ordinance to amend the Game Ordinance, 1921," be read a third time and passed.

THE HON. I. L. O. GOWER: I beg leave to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

THE DETENTION CAMPS (AMENDMENT) ORDINANCE, 1926.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that a Bill intitled "An Ordinance to amend the Detention Camps Ordinance, 1925," be read a third time and passed.

THE HON. I. L. O. GOWER: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

MOTION

SOMALIS ON LAIKIPIA.

HIS EXCELLENCY: I understand the House is prepared to concur whereby the Standing Orders be suspended in order to enable the hon. and gallant Member for West Kenya to move the resolution standing in his name on the subject of the Report on the Somali situation in Laikipia.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, may I have the permission of the Council to take these two motions together? They are intimately bound up with one another. Do I move the suspension of the Standing Order?

HIS EXCELLENCY : No, it is a ruling of the Chair.

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

(1) That the majority interim report on the Somali situation on Laikipia be not approved.

(2) That the minority interim report on the Somali situation on Laikipia be approved.

I trust all hon. Members of this House have read the Report and I shall proceed on that hypothesis. The first reason why the majority report should not be accepted is because it affords no solution of the problem presented to it. It merely postpones it—Government is desirous of obtaining some solution of the matter and not a postponement. The matter was referred to this Committee and an indication given by Government to obtain a solution of the matter. One of the points made in this majority report was that it would effect the dissipation of Somali stock, but as a matter of fact it does not effect the dissipation of Somali stock but effects the concentration of Somali stock and effects that in an area which is limited by neither time nor distance. Moreover, it suggests that this concentration which it describes as dissipation should be effected in a certain area to make it possible to trade and in actual practice it recommends that this centre should be further away from the trading centres than at present to make it easier for the Somali to sell his stock so that he is taken away from the established market where he cannot sell his stock with ease. Another point, a very important point from the view of every settler in this country whether stock-breeder or not, and also, Your Excellency, a very important point from the view of the natives of the country who are engaged in the pastoral industry, and that is that this majority report definitely proposes that a Somali Reserve should be created. It may not be definitely stated in terms but it states that in effect and that is contrary to the wishes and welfare of every resident of Kenya Colony. I really do not think, Your Excellency, that hon. Member realise the degree of Somali penetration which Kenya is being subjected to to-day, it is steadily increasing year by year and I trust this hon. House will realise that. The rights of the people of this country are gradually being usurped by the Somali who is foreign to this country. We have found it difficult, and Government has found it difficult to maintain these rights. For years Government have endeavoured to maintain the individual rights of the classes of

this land and has failed to do so. Government has possibly now, or will shortly succeed in re-establishing this. The difficulty was experienced in establishing these rights owing to the Somali penetration. It is real and a menace. It has been suggested that the Somali in many cases has been a soldier and has served the King and deserves consideration. I should be the last man to dispute that, but there are others in this country who have done so as well—soldier settlers—who have also served the King and one must also consider one of the first duties and characteristics of a good soldier is, I maintain, Your Excellency, obedience. The Somali has not obeyed the Administration in Laikipia and if he is a good soldier he would have obeyed the order given by the Administration. There are other points which demonstrate his insubordination in this matter. We find that even under the strict military discipline on the Northern Frontier there has been a murder of a British subject, Mr. C. Maynier. There was also the shooting on the Kenya Police by Somalis on the Frontier and although that happened some three months ago no information has come through which shows the Somali is a difficult person to trace when he desires to hide himself. If Government, with all the means at its disposal, fails to get the information, it demonstrates the cunning and the ability of the Somali to hide himself when he desires to do so. The Somali in certain instances did good war services in this country, but we in this country know also that a large body of Somalis were recruited to do scouting work and further we know that body mutinied and if we are going to consider the Somali soldier's characteristics we must also consider his disability to obey orders and I trust hon. Members will bear this in mind if his special qualification as a soldier is brought up. Another instance of the Somali's refusal to obey the Government's orders was manifested in Laikipia. To make effective the dipping regulations of the Veterinary Department the Somali was asked to submit his cattle for number-branding purposes and the Somali refused to have this done. Number-branding is essential for effecting identification for dipping purposes and making quarantine effective, and these regulations were framed for the community at large and if any section of the community refuses to conform with these regulations it does so to the detriment of the community at large. In spite of the recommendation of the district officer that the Somali should reconsider his decision that decision was not reconsidered. If the question of land for ex-soldiers is considered I submit there are other ex-soldiers resident in Kenya who are at least as deserving of consideration as the Somali trader. Earlier on in the Report in paragraph 2 it states such trading was stopped by administrative action. May I correct that? I am sure the framers of the majority report will agree that

that is only partially true; they had facilities to trade and these facilities existed in auction centres at Gilgil, Naivasha and Rumuruti. That will not be disputed. It is admitted in paragraph 3 of the report that the residence of Somalis in a settlement area is a perpetual source of friction and danger to the community. I have demonstrated he is and I have demonstrated how. The report now suggests that the Somali should go on in the same legal status which he at present has and occupy a new area of land. It does not suggest his status should not be altered and his status is that of a farmer and not a trader. That begs the question inasmuch as it does not consider the Somali a trader. In effect also, Your Excellency, this majority report threatens the Somali and it threatens him with what he might consider an extremely severe penalty in dissipating his stock. In effect, this reports suggests that either the Somali should do what the report urges him to do, to sell his stock, or that he should be given from the assets of Kenya a very handsome present. I suggest that threat is hardly a reasonable alternative. If the Government, having pressed the Somali to sell his stock as a trader for years, now offers him a large reward in the terms as suggested it is hardly surprising he disobeys orders.

The farming community at large suffers from the presence of Somalis in Laikipia and it suffers not only from the existence of disease which is directly attributable to Somalis but also to the spread of disease also due to Somalis. That disease causes quarantine to be put on and the farmer is prevented from marketing his produce and so forth. The inhabitants of Nairobi will feel the repercussions of the Somali question in the increase in the price of meat and I trust the hon. Members for Nairobi North and South will support this because it is true there are certain quarantine restrictions imposed on the stock and the stock has been diverted to a route more expensive and far less satisfactory to grazing and water and somebody is going to pay for that and I am convinced according to the report it is going to be the individual purchaser of meat in Nairobi.

It is also suggested that further stock should be imported from the Northern Frontier. It seems a little unreasonable to suggest this when we have 5,000 head of Somali stock that have been for years in the neighbourhood of Rumuruti and which have not been sold and will not be sold unless this report is rejected.

Lastly, the report emphasises the importance of the trading business as opposed to the live-stock industry. The trading business in this country is, I think, not even a hundredth part in value and I trust the hon. Chief Native Commissioner will agree with me in this matter of the pastoral industry. The

trader is tremendously interested in propagating disease. I am stating this academically; but academically he is interested in the propagation of disease because it creates a market for him and that is a point to be borne in mind in considering the relative importance of the industry as established and the industry as suggested.

On these grounds I trust that this hon. Council will reject the majority report; and I will now proceed to deal with the minority report.

It is an unhappy coincidence that I happen to be the framer of this report in the minority of one, but I trust you will recognise that I am doing this purely impersonally on the merits of the situation alone. The reasons for the adoption of the minority report are embodied in the report itself. Briefly, they are these: first of all it provides a remedy—and an immediate remedy—and no postponement of the issue. Secondly, it safeguards the future by insisting that the trader shall have only the trader's status. One of the logical outcomes of the trader's existence is that he should trade, and this does enable him to trade and in fact he generally exists on his trade. Thirdly, it prevents the spread of disease by effectively controlling the stock. It also definitely states, and this I consider the most important point of all, that no Somali Reserve shall under any circumstances be tolerated in Kenya Colony. The Somali is provided with facilities for existence in this country. It has proved to be a man of desirable character as a soldier he can go and live with his stock and family quite happily in the K.A.R. Reserve. Also facilities are provided in certain parts of the country where he can live and raise his stock on the township areas. This does not penalise the Somali—it purely fails to encourage impetration, and that is important. The penetration is here. Another point: it protects the law-abiding community against the law-breaking community. Even the majority report recognises that a source of friction and danger constantly exists and constantly increases in Laikipia, and if the majority report can admit as much as that surely I can be justified in stating that the danger and friction does exist. Well, since that friction exists and exists because these people do break the law then I submit that this hon. Council should protect the pastoralist and law-abiding citizen and not protect the law-breaking infringing Somali trader.

Another point, and I think a not unimportant one, Your Excellency, is that the minority report attempts to maintain the dignity of Government which has been seriously jeopardised and will be more seriously jeopardised if the majority report is adopted, and that is because the Somali has stated definitely that Government dare not move him and will not move him, and the minority report suggests and maintains that

Government can and will move him, while the majority report suggests Government will not move him beyond any area to which he wishes to go.

Finally, Your Excellency, the country at large is behind the minority report and not the majority report. The country at large wants the Somali controlled; it wants the pastoralists industry protected against increase of disease and it wants the country protected against the penetration of the Somali in areas where he is not wanted, where he does a great deal of harm, and to which he is becoming more and more a thruster. I trust I have put a reasonable case for the rejection of the majority report and the adoption of the minority report, and I also trust that the decision of this hon. House will be on the lines I have indicated.

THE HON. W. MACLELLAN WILSON: For the purposes of discussion I beg to second the motion and any remarks which I may have to make. I would like to make later, Your Excellency.

HIS EXCELLENCY: The question is:

(1) That the majority interim report on the Somali situation on Laikipia be not approved.

(2) That the minority interim report on the Somali situation on Laikipia be approved.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, the mover of this motion has traversed a very wide field. I suggest to the hon. Members of this House that he has travelled a wider field and discussed questions which do not arise in the motion itself. He has in fact raised the whole issue of Government policy in respect of the Somali question, and that I submit has not been raised in the Interim Report submitted by the majority of the Committee, nor should it have been raised by the hon. mover himself in his Minority Report. I think I should first read to this hon. House the terms of reference to this Committee:—

“The question of the grazing and residential facilities to be afforded in the future to Somali stock traders, including those now squatting on the Laikipia Farms.”

In his Minority Report, the hon. mover has devoted a considerable amount of attention to the historical aspects of the question. The majority of the Committee say that these aspects do not arise under these terms of reference. Nor did the question of general policy arise within the terms of reference. The majority of the Committee in their report state as follows:—

“The Committee does not feel called upon to examine the reasons for the continued residence of Somalis with

their stock on Laikipia, or to refer to the past history of the case. Nor does the Committee wish at this stage to enter into general principles affecting the future of Somali traders in Kenya.”

Several aspects of the matter are bound up with the terms of reference to the Select Committee appointed by this House, viz. that one dealing with the movement of stock from the Northern Frontier District. The question of the grazing facilities and residential facilities to be afforded in the future to Somali stock traders is a question which I think will be more fully dealt with by the Committee in its main report.

The hon. mover of the motion has made statements and expressed his opinions in his Minority Report on which the remaining members of the Committee have offered no opinion, and I do not propose, and I do not think I am called upon, to deal with them now.

I will deal with one or two of the main features of the hon. Mover's case as he stated it to this hon. House. I suggest to hon. Members that there has been no postponement of the issue. In fact, Government has taken prompt action recently to move these Somali stockowners. He referred to a section of the Majority Report dealing with the dissipation of Somali stock from Laikipia. I will read to hon. Members what the report says, and it indicates that these Somali stockowners had no abiding residence in any particular place. The Majority Report reads:—

“The essence of the Committee's recommendations is that the Somalis with their stock should move from Laikipia without delay, that facilities should be afforded for them to trade their stock, and that if necessary as an interim measure they should be allowed temporary accommodation outside the settlement area.”

I can find no reference in the report—I hope my memory is serving me well—indicating the establishment of a Somali Reserve, nor do I find any reference in the Majority Report to the military services of the kind mentioned rendered by the Somali people. I therefore think that the hon. Member was not justified in raising these issues. Again, the report is quite correct in my opinion where it states that the movement of this stock was stopped by administrative action. The fact is that in 1923 pleuro-pneumonia was found to exist in the Northern Frontier District, and it was not considered safe to allow these cattle to come into the market in the alienated areas. Further, in regard to the above, no threat is indicated in the Majority Report as stated by the hon. mover of the motion.

Then I regret very much that the hon. mover used the words that the Government dare not and will not move the Somali . . .

CAPT. THE HON. E. M. V. KENEALY: On a point of order, I suggested that the Somali made that statement, not myself.

THE HON. THE DIRECTOR OF AGRICULTURE: I gladly withdraw the remark, but I do not recollect that the hon. mover . . .

CAPT. THE HON. E. M. V. KENEALY: On a point of order, I have not had to withdraw anything, I take it? I have not been asked to withdraw any expression?

HIS EXCELLENCY: Nobody has asked the hon. Member to withdraw anything.

THE HON. THE DIRECTOR OF AGRICULTURE: I did not hear the hon. mover say that it was a Somali that used those words. In any case, the position is that the Somalis are at the present moment being moved, and it is believed being moved successfully, and I will read to hon. Members the instruction issued by Government to the Senior Officer responsible for that removal:—

"As regards this matter, they should be informed very clearly and in writing that they have been allowed to proceed there temporarily to enable them to get grazing for their stock and that permission is not granted accordingly to make an abiding home in the territory."

I suggest that these instructions which have been issued to the officer in charge of the movement do away to a very great extent, if not wholly, with the objections raised by the hon. mover. In fact, I think that he has made no case for setting aside the Majority Report of the Committee and for asking this hon. House to support the Minority Report, and I am instructed to say on behalf of Government that Government does not accept the motion.

LT.-COL. THE HON. LORD FRANCIS SCOTT: It is very unfortunate, I think, that this debate should take place when the only two Elected Members who were on this Committee are not here to explain their point of view. I do know, however, that the Noble Lord the Member for the Rift Valley and the hon. and gallant Member for Plateau North felt that they were quite satisfied with this Majority Report, and believed that it would achieve the objects in view. If they did not believe that they would not have signed that report and agreed to it, and having listened very carefully myself—I do not know much about the question, but having listened very carefully—I cannot feel that the hon. and gallant Member for

West Kenya has made out a case to prove that the Majority Report will be of no value. It seems to me it will be better to see how it does work, and if it does prove ineffective then I should certainly support him in other measures to effect the object in view, which I think is the same object as the one wanted by both the majority and the minority. For these reasons, Your Excellency, I cannot support the motion.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I should like to reply to one or two points raised.

The hon. the Director of Agriculture has stated that the Majority Report contains no threat. I will withdraw the word "threat." It contains an alternative which I think will be admitted. Either they sell their stock or they get permission to move. We are told also that a temporary base for trading operations is not to be considered as a Somali Reserve, and that is just my point. In the Minority Report it definitely states that there shall be no Somali Reserve under any name or condition, and I maintain that this in effect is a Somali Reserve under some name or condition.

The hon. the Director of Agriculture has stressed the point that Government actually has done something. Well, Your Excellency, I think it is an extraordinary thing, because we have had an assurance from the hon. the Acting Colonial Secretary that that matter was still under discussion, so that how the former can claim this as endorsing the terms of the Minority Report escapes me. This is exactly what the Somali wanted and it is not what the country wanted. Another point is that the Somali was going to be told that the word "not" was underlined. Now, what a potent fact that is to the Somali! What a vast impression that will make upon the Somali! He is given no time limit and no area limit. In fact, the instructions are a pious hope piously expressed, and that is all. It has been suggested that if the measures adopted in the Majority Report are, as I will put it, unwisely approved, then we will be able to find out if the report will bear fruit, and if it does not bear fruit, then we will take action; and that is exactly my point, that we are pressing the postponement of the issue. The Minority Report deals with the matter and finishes the matter finally, whereas even Members on the other side who oppose my suggestion, agree that there is a possibility of the report being ineffective in operation. Your Excellency, I can say no more, except that I hope that a case has been made out for the adoption of the Minority Report and the rejection of the Majority Report, and I trust that the House will do so.

HIS EXCELLENCY: The question is:—

"(1) That the Majority Interim Report on the Somali situation on Laikipia be not approved.

"(2) That the Minority Interim Report on the Somali situation on Laikipia be approved."

Question put and lost, the only vote in favour of the motion being given by Capt. the hon. E. M. V. Kenealy.

CAPT. THE HON. E. M. V. KENEALY: May I have a record made of this It is an important thing to the country.

HIS EXCELLENCY: I will instruct the Clerk to make a note that the hon. Member voted alone for the motion.

Council now adjourns, but before doing so I should like to announce the composition of the various Committees which Government proposes:—

FINANCE COMMITTEE.

The Colonial Secretary (Chairman),
The Treasurer,
The Chief Native Commissioner,
Lieut.-Col. Lord Francis Scott, D.S.O.,
Mr. W. MacLellan Wilson,
Major H. F. Ward,
Capt. H. E. Schwartz,
Mr. W. A. M. Sim,
Mr. Shams-ud-Deen,
Mr. J. B. Pandya.

RAILWAY BRANCH LINES COMMITTEE.

The Colonial Secretary (Chairman),
The Treasurer,
The Chief Native Commissioner,
The General Manager, Kenya and Uganda Railways,
The Director of Agriculture,
The Commissioner of Lands,
The Director of Public Works,
All Elected Members of Council,
All Unofficial Nominated Members of Council, and such other Official Members as the hon. the Colonial Secretary may require.

COMMITTEE TO INVESTIGATE THE CIRCUMSTANCES OF THE ARREST OF MR. ARCHIBALD HOGG.

The General Manager, Kenya and Uganda Railways (Chairman),
The Commissioner of Lands,
Major H. F. Ward,

COMMITTEE TO CONSIDER THE PLANS OF NEW BUILDINGS AT GOVERNMENT HOUSE, WITH PARTICULAR REFERENCE TO ACCOMMODATION GIVEN TO THE LEGISLATIVE COUNCIL AND THE BEST SITE THEREFOR.

The Colonial Secretary (Chairman),
Sheikh Ali bin Salim,
Mr. Conway Harvey,
Capt. H. E. Schwartz,
Mr. R. S. Nehra,
Mrs. W. C. Hunter,
Mr. R. F. Mayer,
Mr. W. Dunn.

I suggest that this Committee should consider the plans of Government House in conjunction with the Works Committee, which is dealing with it.

Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL DEBATES,
1926

SECOND SESSION.

WEDNESDAY, 26th MAY, 1926.

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Wednesday, the 26th May, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

EX OFFICIO MEMBERS:

EVAN FERNEZER BISS, Acting Director of Education.

WALTER MIGHILLS LYNDE, Acting Director of Public Works.

NOMINATED OFFICIAL MEMBER:

MAJOR HERBERT BOWN, O.B.E., Acting Solicitor General.

ELECTED UNOFFICIAL MEMBERS:

THOMAS ALFRED WOOD, C.M.G., M.B.E., Acting Member for Nairobi North.

WILLIAM EVANS, Acting Member for Rift Valley.

MAJOR EDWARD PERCY HAMILTON PARDOE, Acting Member for Plateau South.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF COUNCIL: Before addressing you on the business on which Council has been called together this week, I am sure you would all wish me to express the pleasure of the Colony at the presence in our midst of His Excellency Admiral Ellerton, Commander-in-Chief of the East Indies Squadron, and to say how gladly we have welcomed the Naval detachment to Nairobi. The Royal Navy is one of the mainstays of the British Empire. There would be no Colonies if there had been no Navy. We therefore, in this Colony—and I am sure I speak for everyone in it—welcome with particular pleasure all visits which can be paid to us by the East Indies Squadron. We are glad to have them with us this year and we look forward to a more extended visit next year.

The business before Council this week is practical but unsensational. I have called Council together, not because there was any great urgency in the matters you will have to discuss, but because I am particularly anxious that Council throughout the year should keep well abreast of its business so as to avoid undue haste in the discussion of important questions, and so as to avoid in particular the accumulation of arrears.

The first business which you will have to discuss is a Supplementary Estimate. It is a large estimate, but I am glad to be able to inform you that the increase of expenditure is more than balanced by an increase in the estimated revenue and that there is no reason to anticipate anything but the existence of a surplus, and I hope, a considerable surplus, at the end of the year. The purposes for which the Supplementary Estimate is presented are necessary and urgent ones. The first purpose is an increase in the stations and staff of the police in different parts of the Colony and in particular in the Northern Frontier Province. The Commissioner of Police has been encountering many difficulties, particularly with regard to personnel, in the reorganization of the force which he has undertaken. I hope that everybody in the Colony realizes that so far as the police are concerned this is a period of transition and that the police is suffering particularly from an inevitable shortage of officers. I am taking all possible steps—with, I am sure, your full approval—to make this period of transition as short as possible, and I may say I have absolute confidence in the work being done by Colonel Spicer, the Commissioner of Police.

The next purpose with which the Supplementary Estimate is concerned is Education. We need plant for the Native Industrial Training Depot at Kabete, a matter of great importance to the Colony at the present time, and we need

rather more funds for native education generally. I have been paying considerable attention to the problem of native education. It formed the subject, as you may remember, of an important resolution passed at the Tukuyu Conference, with which the Governors in Conference at Nairobi found themselves in complete agreement. I am convinced myself that the character and the trend of native education lies at the root of the Colony's welfare, and money wisely devoted to that purpose cannot, I am sure, be devoted to a wiser object.

There are also considerable sums in the Supplementary Estimate for roads in Nairobi and for the purchase of certain plots in Nairobi. Together this amounts to a sum of over £14,000. With regard to the purchase of plots, this is an essential part of the Town Planning Scheme, and is unquestionably a sound economic outlay. As to the roads, I am sure that dwellers in Nairobi will agree that money spent on roads needs no argument. They are in a bad condition and work on them is urgently required.

We have also got a sum of £10,000 for road plant in the Supplementary Estimate, which I am sure is wisely put in, because it will represent not only better roads but a considerable saving in labour on roads.

To summarize, the main objects with which this Supplementary Estimate deals are in the first place public safety, about which I think there can be no argument; with certain expenditure arising out of existing commitments, with some of which I will deal later in my address; and finally with certain purposes of public economy and revenue-earning schemes the expenditure on which is met by new revenue. I should like to repeat that the increase of estimated revenue in the year will a good deal more than balance the increase in expenditure. A statement on the financial position will be laid by the Treasurer, which will make the position plain to Honourable Members.

You have also certain Bills before you. Two of them will be introduced for their first reading under a Certificate of Emergency which I have signed. The first is the Operation Bill, which deals with the Revised Laws of the Colony, and the second is the Town Planning (Amendment) Bill to adjust a certain grievance which has arisen in Nairobi owing to the fact that the Town Planning programme might suspend building and development in certain ways. The complaint is reasonable, and this Bill will put the matter right.

We have also to consider an Estate Duty (Consolidation) Bill. This is a Bill which is intended to bring the Estate Duty Laws of the Colony into line with those in existence in

other Colonies. At present they operate in a very unfair manner, and I am certain if not amended they would tend to keep capital away from the Colony.

I hope also that you will give your approval to the Game Birds Protection Bill. It is a tragedy in a Colony like this that game birds should have so largely disappeared, but I hope it is not too late to take adequate steps to protect them. This Bill is designed for that purpose.

The Mombasa Town Planning Scheme is also being laid before Council, and I attach great importance to it. It goes back over a very long period, in fact to the 17th July, 1920, and a Town Planning Scheme in Mombasa is long overdue. Certain objections have been taken to the Scheme by residents in Mombasa. They are partly objections in principle and partly objections in detail. The main objection in principle is against the arrangement by which land is taken without compensation for the creation of necessary roads. It is calculated that the value of property thus affected will be increased by at least 20 per cent by the Town Planning Scheme. The bearing of that provision is fully explained in paragraph 9a of the Memorandum which has been laid before you, and I have very little doubt that it will meet with your approval. The 20 per cent clause is in point of fact a very reasonable percentage in Town Planning Schemes. In other Town Planning Schemes the percentage has been placed much higher. In Singapore it is as high as 40 per cent. The figure of 20 per cent for Mombasa can hardly therefore meet with reasonable objection.

The other objections are objections in detail, and have been considered by Executive Council, which held that they had been fairly met by the Mombasa Authority. Since, however, some of these objections have not been withdrawn, the law requires that the Town Planning Scheme should be laid before Council during this session in order that an opportunity may be given of moving the rejection in whole or in part should any member choose to do so.

I trust this Scheme will go through. Mombasa Island is a very small area and the port is growing very fast, and the figures of increased tonnage are remarkable. It is absolutely urgent and necessary that some scheme should be introduced at once to regulate the development of Mombasa, and I find myself in complete accordance with the objects of the scheme as set out in paragraph 4 of the Memorandum, which says:—

“The object of the Scheme is to provide for the orderly development of the Island in accordance with the modern principles of sanitation and town planning. Access by good roads will thus be obtained to every plot, lines of

public travel will be established at conveniently near intervals, and provision will be made to ensure the health and amenities of the town in a period of rapid expansion which would otherwise lead to overcrowding and all the evils attendant upon it.”

I consider the improvement of Town Planning in Mombasa an essential part in the progress and organization of our port, and I trust all Members of Council will in that matter agree with me.

We shall also be laying before you a revised scheme of salaries for the Civil Service of the Colony. Members of Council are aware that an increase of 20 per cent all round on salaries, to form a substantive part of the salary, and to be pensionable, has been recommended for some time past by the Economic and Finance Committee and accepted by this Council. A sum of £19,000 was included in this year's Estimates and voted by Council for that purpose. The Secretary of State laid down, as I informed Council before, that the revision of salaries could not be introduced in Kenya until a joint scheme had been agreed with the Governors of Tanganyika and Uganda. In consequence of that decision I attended a conference towards the end of last year at Moshi, and we arrived at a revised scheme which systematized the application of the 20 per cent as a substantive part of the salary. The scheme presented by us to the Secretary of State was not as costly as that approved by Legislative Council. An economy has been effected and it will cost about £5,000 less than the £19,000 voted by Council this year. The Secretary of State has introduced one or two further modifications, and the scheme now represents a charge on the Colony which is considerably less than the sum actually voted. I propose to make a fuller statement on the whole scheme of revision on Friday. In the meanwhile, papers will be laid on the Table showing exactly what the revision is, in order that Members may have time to study it.

There is no Railway business actually before Council at this session; but business affecting us in many ways is at present being carried on in London, and I think it is desirable that I should make some general statement on Railway matters to-day. It is a curious thing that when the Railway was entirely confined or practically confined within the boundaries of Kenya Colony and Protectorate, it was always known as the “Uganda Railway.” Now that it has been extended to Uganda and the main line is about to reach the Nile, under the Order in Council it will be known as the “Kenya and Uganda Railway.” This is a remarkable example of the curious manner in which we make history in the British Empire.

The main line is almost completed in Kenya, and will be open to Tororo at the end of the year. The main line in Uganda will be open to the Nile at Mbulamuti by the end of 1927. What is most important to Uganda and Kenya and the Railway system as a whole is, however, not only the extension of the main line or the construction of branches, but three other matters which we have dealt with in our application for the £10,000,000 Loan. One of these, the most important, is the improvement of the Port at Kilindini. The second is improvement of the main line, which has been steadily going on, and the third is the provision of adequate rolling-stock and workshops. Those necessities have been considered in the application which we made for a share in the Imperial Transport Loan, and this was the order of precedence in which we put our requirements:—

- (1) Kilindini Port, including Mbaraki.
- (2) General improvement on the main line, to be spent over a period of eight or nine years.
- (3) Increased rolling-stock and workshops for existing lines.
- (4) Tororo-Jinja-Kampala Railway Extension, to be completed by December, 1929, I hope.
- (5) An extension *via* Soroti and Lira towards the Congo and the Sudan.
- (6) Rolling-stock and workshops for the new extensions in (4) and (5).

These in total work out to a sum of £5,550,000. That represents our application for a share, so far as railways and port are concerned, in the Ten-Million Loan. We shall not, of course, be granted the whole of that, but I hope we shall be granted a substantial part of it. We also applied for assistance from the loan in making arterial roads, the chief of which are:—

- Mombasa to the Tanganyika border.
- Mombasa to Nairobi.
- Nairobi to Uganda.
- Nairobi to Arusha.
- Yala Bridge in North Kavirondo.

The Committee which is dealing with applications for the Ten-Million Loan is still sitting in London and I cannot give Honourable Members of Council further information at present as to how our application will fare; but I have no reason to doubt that at any rate a substantial part of it will be granted.

I should also like to say a word on the question of branch lines, which are properly built both in Kenya and Uganda on a Colonial guarantee. We already have the money voted by this Council and provided under existing loan funds for the projected branch line in North Kavirondo. Surveys are proceeding to decide whether that line should best be built from the Tororo line southwards or from Kisumu northwards. The line will tap an area where native production is much on the increase and from which the Colony draws a very considerable part of its labour supply. From both points of view the construction of that line is important to the Colony as a whole. The money is already available in the loan funds and has been approved by Council, and I hope that progress may be made with that railway as other railway requirements permit.

Next in order of priority will come the proposed branch line to Thomson's Falls. There are good prospects for that line, and in all probability a still greater return after a short period of development. The area which it will tap is a large one, and I am in favour of proceeding with the construction of that line as other railway interests permit at the earliest date possible.

I should also like to say one word on rates. Rates are the foundation of railway finance, and are of course a matter of the greatest importance to producers and importers in the Colony. I have reason to believe from the trend of opinion in London that a decision will be given in favour of the construction of the proposed Tabora-Mwanza line. If that decision is given, a rate agreement with Tanganyika Territory will be necessary. I trust that this agreement will be made on lines which take into account the financial system of our own railway and which provide, as I have always thought it necessary to provide, for the demarcation of railway basins. If this cannot be done in the actual construction of railways, it certainly should be done so far as possible by the fixing of rates. That will be one of the most important questions bearing on rates on the Kenya and Uganda Railway that we shall have to deal with in the future.

Great importance from the same standpoint also attaches to the development of Lake Victoria. By the end of next year all the main traffic from Uganda will be carried by rail on the main line from the Nile *via* Tororo to Kilindini, and a very large part of the fleet on Lake Victoria will in consequence become idle. There are very great possibilities of development on Lake Victoria by means of feeder roads running to small and inexpensive lighter ports. This system has made possible an immense development of cotton growing in Uganda, the system of lighters drawn by tugs, with feeder roads to the lighter ports. I am convinced that the same

system will prove practicable and profitable in the southern half of Lake Victoria. It would employ our fleet, and it would be beneficial to all three territories on the Lake. My predecessor, Sir Robert Coryndon, who went round the Lake in 1923, also attached very great importance to this form of development. Little has been done in the interval; but when I was down at Dar-es-salaam the other day I discussed the matter very fully with Sir Donald Cameron, and I look confidently for prompt and practical co-operation on his part in the development of Lake traffic by this means. It is a matter of great importance to all territories on the Lake as well as to the Kenya and Uganda Railway.

I also investigated certain Customs difficulties which are undoubtedly impeding our import trade to the Lake, particularly to Tanganyika Territory. I hope early attention will be given to the Customs difficulties which exist, since these are unquestionably acting at the moment in restraint of trade.

Before leaving the subject of the Railway, I should like to make two other remarks. The first is to express my pleasure and admiration, after a survey of the line throughout its length and of the Lakes with their services, for the efficiency with which the transport services have been improved and developed during the last two or three years. The Railway has had to handle very serious arrears, and at the end of last year there were great complaints of overcrowding on the piers, particularly from Uganda. I was therefore very glad to find that in the first three months of this year the Railway had already carried 50 per cent more traffic than it carried in the first three months of last year. There was no sign of overcrowding or arrears anywhere, and I visited the piers everywhere. I consider that great credit is due to Mr. Felling, the General Manager, and to Major Rhodes, who is now acting for him.

The other point is that the Railway will be prepared in the near future to consider a reduction of rates on certain articles of necessity, particularly from the point of view of building, transport and machinery. The reduction of rates which will be made, I hope, in the near future does, however, depend to a large extent on the acceptance of the recommendations of the Port Commission by the Secretary of State. Since Railway finance is affected by that decision, we have to await a decision on the organization of the Port before we can go any further into the question of reduction of railway rates.

Before I sit down, I think hon. Members would like to hear a word on the progress being made with the loan building programme. Progress, I regret to say, is slow, because building enterprise is at present so much to seek in

the equipment of the Colony. This is a matter which seems to me exceedingly serious. Nearly £10,000 has been asked for in the Supplementary Estimate presented to you to-day for increased rents and for temporary accommodation in offices. That seems to me both an inefficient and wasteful form of expenditure. £10,000 represents the interest and sinking fund on over £150,000, and I am absolutely convinced the Colony would be getting better value by putting up good buildings and saving rent charges and expenditure on patching and extending practically valueless old buildings. I regard progress with the building programme as absolutely imperative—not only in the interest of efficiency, but in the interest of economy in this Colony. The position is this. We are awaiting tenders for the new Railway Offices in Nairobi which are due by the end of this month. I am told a certain number of tenders have been received from South Africa. When these tenders are here and have been examined, we shall have more information on the enterprise available for other buildings in Nairobi and elsewhere. Next month should therefore enable us to form a clearer view of the building prospect in the Colony.

I should like, before passing from that subject, to express my gratitude to the Works Committee which I appointed to deal with these building problems. Lord Delamere is now absent, and Lord Francis Scott has taken his place. Under the chairmanship of the Postmaster-General, and with the assistance of the Director of Public Works and the Acting General Manager of the Railway, the Works Committee has done most admirable service in studying the building problems. I believe the Colony in due course will derive great benefit from their exertions.

I am sure that all Council is glad to realize that good rains have fallen in practically all parts of the Colony. It is also satisfactory to know that, although we have had to present a second Supplementary Estimate to Council since the beginning of the year, revenue is in point of fact more than exceeding expenditure, and that we have reason to look forward to a good surplus at the end of the year. I hope, indeed, that the position of the Colony will prove to be even sounder and more satisfactory than before when Council meets in August next to consider the Estimates of Revenue and Expenditure for 1927.

MINUTES.

The minutes of the meeting of the 25th March, 1926, were read and confirmed.

HIS EXCELLENCY : I have a suggestion to make to Council with regard to the confirmation of minutes. It seems to me that much time is spent at present in reading the minutes and that the method of reading them out does not give hon. Members the opportunity of considering them. It takes up a great deal of time. I would suggest, therefore, in future that the minutes should be circulated to all Members of Council; that they should hand in—in writing—any amendments which they may desire to move, and that if there are amendments they should be moved by the Council; if there are no amendments the minutes shall be taken as read, and I shall declare them as confirmed. I should like to know if that system would meet with hon. Members' approval, and if so, I will introduce it. (Hear, hear).

Agreed to.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table :—

By **THE HON. THE ACTING COLONIAL SECRETARY (MR. G. A. S. NORTHCOTE)** :—

Report of the Select Committee on a Kenya Hansard.

Mombasa Town Planning Scheme (two memoranda and maps).

Memorandum on Revised Scales of Salary on Abolition of Local Allowance.

2nd Supplementary Estimates, 1926.

By **THE HON. THE TREASURER (MR. R. C. GRANNUM, C.M.G.)** :—

Statement of the Colony's Financial Position, May, 1926.

Explanatory Statement in connexion with the Supplementary Appropriation Ordinance, 1926.

By **THE HON. COMMISSIONER OF CUSTOMS (MR. G. WALSH)** :—
Annual Trade Report of Kenya and Uganda for the year ended 31st December, 1925.

NOTICE OF MOTION.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that at a later stage of the session I shall move a motion for the adoption of the Revised Scales of Salaries as laid on the table.

ORAL ANSWERS TO QUESTIONS.

CONSTRUCTION OF DAM IN THE KIPSONOI RIVER.

THE HON. CONWAY HARVEY : I beg leave to ask the first question standing in my name on the Order of the Day :—

" (1) Under what authority did the officer in charge of the Lumbwa Native Reserve grant permission to Charles Willie to construct a dam in the Kipsonoi River and erect a mill early in 1925?

(2) Is it a fact that the dam had the effect of flooding above five acres of a European farm on the opposite side of the river, and that the dam could not be removed for a considerable time owing to the danger of damage to other riparian owners further down stream? "

THE HON. THE ACTING COLONIAL SECRETARY : (1) The permission given by the officer in charge of the district to Charles Willie appears to have been of a verbal nature, and as the officer in charge is now on leave in England, it is not possible to ascertain its exact nature and extent.

(2) It appears that the dam had the effect of flooding about five acres of Mr. Fenwick's farm, but the information at the disposal of Government points to the fact that the damage done was negligible.

The delay which occurred in the removal of the dam was due to the cause suggested; the dam has now been demolished without any damage to the farms lower down.

THE HON. CONWAY HARVEY : Your Excellency, will Government endeavour to make good to Charles Willie in some way or other the enormous loss which he has sustained owing to an Administrative indiscretion?

THE HON. THE ACTING COLONIAL SECRETARY : I will undertake to give this matter consideration.

MOTOR BOATS.

THE HON. J. B. PANDYA : I beg leave to ask the question standing in the name of Mr. R. S. Nehra on the Order of the Day :—

" Would the Government state the names of the various Government Departments owning and controlling their separate motor boats in the Kilindini Harbour? "

THE HON. THE COMMISSIONER OF CUSTOMS: The following Departments own and control their separate motor boats:—

Port and Marine Department.

Customs Department.

Public Works Department.

The Police and Immigration and the Sanitation Departments each own one motor launch, which is under the Port and Marine votes for the purpose of upkeep.

ELECTRICAL INSPECTOR.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the first question standing in my name on the Order of the Day:—

"Will Government give the name of the new Electrical Inspector and state in detail his qualifications for the post?"

THE HON. T. FITZGERALD (POSTMASTER GENERAL): The officer whom it is proposed to appoint as Electrical Inspector is Mr. G. P. Willoughby, the newly appointed Chief Telegraph Engineer in the Posts and Telegraphs Department.

Mr. Willoughby's professional qualifications are as follows:—

B.Sc. (Hons.) (Electrical Engineering), Victoria University of Manchester.

M.Sc. (Tech.), Victoria University of Manchester.

Associate Member of the Institute of Electrical Engineers.

In addition, Mr. Willoughby possesses various diplomas and certificates in connexion with Electrical Science.

His practical experience consists of:—

(a) Service with the British Westinghouse Electrical Manufacturing Co., Manchester.

(b) Chief Assistant to a firm of Consulting Electrical Engineers, Manchester.

(c) Lecturer in Electrical Engineering in the Natal Technical College.

ERECTION OF HOUSES FROM LOAN FUND.

THE HON. CONWAY HARVEY: I beg leave to ask the second question standing in my name on the Order of the Day:—

"With reference to Appendix B, Colonial Loan Proposals, will Government be pleased to state in what localities it is intended to erect the six houses for the Central Kavirondo and Kisumu-Londiani Districts?"

THE HON. THE ACTING COLONIAL SECRETARY: The present intention is to build five of these houses at Kisumu and one at Lumbwa. This allocation is subject to revision in the event of an alternative allocation appearing to be preferable.

ROAD CONSTRUCTION.

THE HON. CONWAY HARVEY: I beg leave to ask the third question standing in my name on the Order of the Day:—

"What is the present position regarding representations made to Government by the Songhor farmers in regard to the construction of roads to the railways capable of carrying the heavy and increasing volume of traffic?"

THE HON. THE ACTING COLONIAL SECRETARY: The representations made by the Songhor farmers have been considered by the Economic and Finance Committee, which has recommended that a Technical Survey be made as soon as possible to ascertain how the requirements of the Songhor area in the way of transport facilities can best be met. Government has instructed the Executive Engineer at Kisumu to carry out this survey immediately.

THE HON. CONWAY HARVEY: In view of the fact that the Songhor community has been marooned for the last two months and the impossibility of getting produce to the railway, will Government do its utmost to expedite this very important matter?

THE HON. THE ACTING COLONIAL SECRETARY: I would refer the hon. Member to the last part of the answer which I gave just now, "to carry out this survey immediately." The work will be expedited as much as possible.

THE HON. CONWAY HARVEY: May I ask the date of that instruction?

THE HON. THE ACTING COLONIAL SECRETARY: I am afraid I must ask notice of that question. But I may state it is within a week of to-day.

THE HON. CONWAY HARVEY: May I ask an interpretation of the exact meaning of the word "immediately" in Government circles?

HIS EXCELLENCY: Order, order.

HOUSING CONDITIONS AT NAROK.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the second question standing in my name on the Order of the Day:—

"(1) Is Government aware of the housing conditions which obtain at Narok in connexion with Administrative officers?"

(2) Does Government consider these conditions satisfactory?"

(3) Have the houses in question been condemned by the Medical Officer of Health?"

(4) Will Government take immediate steps to remedy the existing state of affairs and provide suitable and proper accommodation?"

THE HON. THE ACTING COLONIAL SECRETARY: (1) The answer is in the affirmative.

(2) The answer is in the negative.

(3) The Medical Officer stationed at Narok reported in October last that both the houses occupied by Administrative Officers at that Station were extremely hot and enervating in the middle of the day. He added that it could be said that the houses for the European officials at Narok were inadequate and unhealthy.

(4) Provision has been passed by this hon. Council for two new houses for officers stationed at Narok. The subject of moving Provincial Headquarters has been under close consideration and a decision will be taken shortly.

WIDOWS' AND ORPHANS' PENSION ORDINANCE.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the third question standing in my name on the Order of the Day:—

"Will Government state the position under the Widows' and Orphans' Pension Ordinance, 1921, of a bachelor compelled to subscribe to the fund who—

(1) Dies after having made ten annual payments; and

(2) Completes his service and retires on pension?"

THE HON. THE ATTORNEY GENERAL (MR. W. O. HUGGARD): The answer to the hon. Member's question is contained in section 26 of the Widows' and Orphans' Pension Ordinance, 1921. One-half of the officer's total contribution without interest is repayable in case (1) to the officer's legal representatives, and in case (2) to the officer himself.

CHATELS TRANSFER LEGISLATION.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the fourth question standing in my name on the Order of the Day:—

"Have representations been made to Government as to the necessity for introducing legislation on the lines of the New Zealand Chattels Transfer Act, 1924?"

If so, is it the intention of Government to proceed with such legislation?"

THE HON. THE ATTORNEY GENERAL: (1) The answer to the first part of the question is in the affirmative.

(2) In regard to the second part of the question, His Excellency proposes to appoint, at an early date, a small Committee to consider and advise as to the desirability of altering the existing law applicable to Bills of Sale and Securities on movable property, either by the introduction of legislation on the lines of the New Zealand Chattels Transfer Act, 1924, or otherwise.

GOVERNMENT POLICY.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the fifth and last question standing in my name on the Order of the Day:—

"Is Government taking any steps to contradict the misrepresentations with regard to the policy of Government and the general attitude of the white settlers in the Colony persistently promulgated by means of questions addressed to the Secretary of State for the Colonies in the House of Commons with particular reference to the *suggestio falsi* :—

(1) That the Administration is being tightened to force natives to work for planters (Mr. Baker, M.P.);

(2) that settlers are to be appointed Resident Magistrates (Sir Robert Hamilton, M.P.)?"

THE HON. THE ACTING COLONIAL SECRETARY: The hon. Member no doubt recognizes that ill-informed questions in the House of Commons often arise from ill-advised suggestions put forward in irresponsible quarters here. The Government forwards the fullest possible information to the Secretary of State, and confidently relies upon him to defend the Colony's reputation whenever unfairly attacked.

MBARAKI ESTATE.

THE HON. J. B. PANDYA : I beg leave to ask the question standing in my name on the Order of the Day :—

“ Has the attention of the Government been drawn to the report of the Port Commission of Inquiry regarding Mbaraki Estate? Was the Government aware of the fact of a lease without any condition to terminate the lease by lessors? ”

Will the Government make a statement as to whether it would be necessary to pay any further sum for getting control of the part of the property leased? ”

THE HON. THE ACTING COLONIAL SECRETARY : The answers to the first and second portions of the question are in the affirmative.

With regard to the last portion, the Government is unaware of any grounds on which a further payment is likely to become necessary.

BILLS.

FIRST READINGS.

THE OPERATION BILL.

MAJOR THE HON. H. BOWN (ACTING SOLICITOR GENERAL) : I beg to move the first reading of the operation Bill.

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

The Bill was read a first time.

MAJOR THE HON. H. BOWN : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE ESTATE DUTY (CONSOLIDATION) BILL.

THE HON. THE ATTORNEY GENERAL : I beg to move the first reading of the Estate Duty (Consolidation) Bill.

THE HON. THE TREASURER : I beg to second.

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE GAME BIRDS PROTECTION BILL.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move the first reading of the Game Birds Protection Bill.

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

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE CHANGE OF MEDICAL TITLES BILL.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move the first reading of the Change of Medical Titles Bill.

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

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE ABUSE OF OPIATES PREVENTION (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : I beg to move the first reading of the Abuse of Opiates Prevention (Amendment) Bill.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to second.

The Bill was read a first time.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE TOWN PLANNING (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL : I beg to move the first reading of the Town Planning (Amendment) Bill.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to second.

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

THE STATISTICS (AMENDMENT) BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the first reading of the Statistics (Amendment) Bill.

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

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to give notice that I shall move the second reading of this Bill at a later stage of the session.

*Council adjourned until 10 a.m. on Friday,
the 28th May, 1926.*

FRIDAY, 28th MAY, 1926.

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Friday, the 28th day of May, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF COUNCIL, I promised on Wednesday that I would make a statement to you this morning on the revised Scale of Salaries. I do so now not because I am particularly fond of the sound of my own voice—particularly at 10 in the morning—but because I am responsible for the main outline of these proposals and negotiated them at considerable length with the Governors of Uganda and Tanganyika when we met at Moshi in November last. Since in those negotiations I had to take responsibility for the main outline which was agreed without reference to my advisors in Nairobi, I think you are entitled to hear from me the reasons why those scales were adopted and the grounds on which they are recommended for your approval. I do not intend to go into detail at all—I will deal only with the broad principles of the new scheme.

I think you will agree that this question of the revision of salaries and of the status and emoluments of the Civil Service has a very important bearing upon the welfare of the Colony. The Civil Service is important in all countries; but it is particularly important in countries where the races are mixed and where the more educated races are responsible for a very large number of backward ones. As everybody knows, the Native himself in some ways gains; and in other ways loses, from contact with civilization. Under the strong tide of new ideas which we bring to bear upon him and which he often imperfectly understands, many Natives slip the anchor of their old tribal customs and lose control of themselves in one way or another. One sign of that, and a serious sign of it, at the present time is the increase of crimes of violence in this Colony. No one can fail to take a serious view of that increase of crime, and I believe measures may be found necessary to deal with it. But the main safeguard against that tendency in the native mind is to build up a sound native opinion, because I am convinced that is the best safeguard against demoralization and degradation of the native mind.

This building up of sound native opinion can be done to some extent by all employers of native labour, and it is their responsibility to do so; but it depends in the main, of course, upon the officers of Government and particularly upon

officers in the Administrative Service, the Educational Service and the Medical Service. All of you who have moved about in countries governed as this Colony is governed must have realized how very widespread the influence of an officer is. A good officer influences hundreds directly and thousands indirectly every month of his life. On the other hand a weak officer spreads wrong feeling almost as rapidly wherever he goes. The native is very open to suggestion, but the suggestion must be continuous. Ideas suggested to native societies are like stones thrown into a stagnant pond. The ripples spread and spread, but ultimately they die away. If the suggestion is to be effective, it must be steadily maintained. That depends entirely upon the character and the personality of the officers of Government. We need here the very best officers we can get. We need men of energy and understanding, and above all we need men of personality; for there is something in personality, a hard thing to define, which appeals to backward peoples more than anything else. The whole history of native peoples shows that.

That is one of the great tasks before the Civil Service in this country, which it is performing at the present moment soundly and well. The duties of the Civil Service are indeed manifold. We have here in this Colony, as in other Colonies, a large number of native tribes to control and educate; but we have also a large community of European settlers and a large community of Indian settlers too. The existence of these three communities side by side, European, Indian and African, does put officers of Government to very special tests. They have to do their duty without fear or favour by all these communities, and it needs men of character and personality to do that. We are, moreover, in this Colony passing through a period of transition; we are passing gradually from the primitive Crown Colony stage to a slow development of parliamentary institutions. That puts a special strain upon an Administrative Service. They are accustomed to silent administrative work, and they are not always very good at explaining themselves. Indeed they are not trained to make statements or to unpack their hearts with words. The difficulty which that presents to Civil Servants has been shown in India in the last ten or twelve years, and the Indian Civil Service has proved how a great service with purely administrative traditions can adapt itself to Parliamentary work. I am certain that in the interests of this Colony the same development is needed here.

I make no complaint of the existing Civil Service. On the contrary, I admire them from the bottom of my heart, and I think they deserve all the encouragement we can give them. That has been recognized by the Colony generally, as

represented by the Elected Members, for you not only voted a 20 per cent increase in salaries, but also said you regarded that increase as overdue. The Civil Service here needs all the encouragement it can get, and it also needs reinforcement with the right kind of recruit. The present state of recruitment is unsatisfactory, and has been causing me much anxiety. It is unfortunately the fact that of our latest batch of recruits three have proved physically or otherwise unfit for the Colony. The Colonial Secretary and the Chief Native Commissioner are constantly pointing out to me how much the Colony is suffering from the present shortage of officers. Now men are needed in increasing strength in the Medical, Educational and other services. I think we must regard this state of recruitment seriously and look for a remedy.

I have no lack of confidence regarding the steps taken to secure the best recruits for us by the Secretary of State. I know the organization which deals with recruitment in the Colonial Office very well, and I know the head of the organization there. They do their utmost to get the best men available. We cannot look for readier or more painstaking assistance in that respect. But you must remember that competition is very great. More and more of the highly educated men who come down from the Universities are going into business. The professions are making great demands since the war, and there are other great Civil Services besides the Colonial Service which compete with us very seriously.

What is needed to put this right? I gave my mind to the subject even before I came to the Colony, and I had some discussion in London in the Colonial Office and elsewhere. I am convinced the first thing necessary is to assure to all men entering the service—men of good quality—that they should have reasonable prospects throughout their service in the way of salary and pension, even if they complete their service without reaching any of the posts which carry special salaries. There are bound to be a certain number of sound Civil Servants who will not reach the higher posts, and we should ensure that these men have prospects such as they deserve.

The other important consideration is that there should be an adequate number of higher posts for outstanding men, so that men of ambition, who feel they are capable of good administrative work, may be attracted to the service by the prospects offered to them when they rise from the lower ranks.

Our service and its conditions must compare favourably 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 unnecessary to include in our revision of salaries the special duty pay given in West Africa. We thought our salaries should compare with Nigerian salaries, less duty pay.

We also thought that the higher posts in our service should roughly bear the same proportion to the lower ranks as they do in Nigeria. In Nigeria there is one good post carrying a special salary to every eight men serving in the lower ranks. We have tried to establish that same proportion here, because undoubtedly that exercises a most important influence in getting men of character, ambition and personality.

I would just like to say in brief outline how these principles have been applied in the revision of salaries which has been before you for the last two or three days. In the first place, we have established long-grade scales. I would refer to Scale "D" in the paper before you, which refers to the Administrative and Educational Staff and to Resident Magistrates, and also to Scale "E", which is much the same, although it starts at a higher point and applies to the Medical Staff. The object of the long-grade scale is this. In the service at present promotion depends inevitably on a vacancy occurring, and a man with a good record and qualifications may wait a very long time in one post because there is no vacancy. Under the long-grade system established in West Africa he rises by annual increments, whether he is promoted or not from post to post, and goes on rising until eighteen years, when he reaches the maximum. We propose that he should start at £400 and rise to £920. If, however, you adopt long-grade scales, you must also make certain they are not exploited by men merely passing the time to reach their pensions. The long-grade scales are, therefore, divided up into four categories, which cannot be entered except by passing an efficiency bar. If a man does not satisfy his superiors at any of these stages,

he can be retired. The first bar comes after two years' service, which is a probationary period; the second after eight years, and the third after sixteen years' service. In the Medical scale, Scale "E", there is one bar after nine years' service.

I believe that the establishment of these long-grade scales will assist us very greatly in competing for the best men for the Administrative Service against the West Coast, where the system has been established for a long time. It is also established in most of the other great colonial services.

Let me also explain to you how we have provided for the proportion of higher posts. In West Africa the proportion of specially paid posts is one such post to eight in the lower ranks. We have provided for that in these scales by raising the position of Senior Commissioners, who are divided into two grades, and by adding two posts for Commissioners. These need not necessarily be filled at once. But I think they are desirable even in the existing situation in order to make our service as attractive as we need it to be.

Let me make one other remark about these scales of salary. It was a difficult matter to come to agreement in all cases about individual posts, and particularly about heads of departments, with the two other Territories, where conditions vary greatly; but we have managed to agree all along the line, and where it was impossible to do so we have as a rule agreed to make the substantive salary the same in every case, and where any particular individual was drawing a larger salary to make the additional sum a personal allowance to him during his tenure of office. I think the salaries attached to heads of departments are a most important element in the new scheme. We have to try to draw from the whole Colonial Service and from other services outside, and it is most important to this Colony to have conditions which attract the best men as the heads of its services.

As I say, these are scales of considerable complexity, and they have been agreed between three Territories. This involved a great deal of discussion and hard work. I trust, therefore, that Council will be prepared to take them as a whole, because alterations must mean fresh discussions with other territories and a considerable period of further delay. While I urge that point, however, I do not for a moment claim that this revision of salaries is a perfect scheme. I well know its imperfections, and I apologize to those officers who suffer from anomalies in it. We did our best, and I want to make it clear that I am perfectly ready to deal with any anomalies which are shown to me. There was a Committee on anomalies which sat a year ago, and I am not sure that all the anomalies then pointed out are adequately dealt

with in this revision of salaries. If they are not, I will endeavour to put them right. The same applies to any new anomalies which may come to light.

May I say also that if any special suggestions are conveyed to me regarding one post or another, I shall be very happy to give them my most careful consideration and to forward them to the Secretary of State. These kind of corrections and additions are possible without breaking down the whole scheme, but if we started to amend the scales, I am afraid we should get into a net of fresh negotiations with the other Territories and the whole scheme might be long delayed. I ask for these suggestions to be communicated to me privately, if Honourable Members are good enough to do so, because I think public discussion of individual salaries is always apt to be invidious and the Colony's interests will be best served if they are privately conveyed.

I come last to the most important thing of all—the finance of the scheme. My object throughout the negotiations was to keep within the sum voted by Council—a 20 per cent. increase on salaries all round, the increase to be pensionable. I am glad to say that I have done this successfully. Council, in the Estimates for 1926, voted a sum of £19,000 for this increase. The scheme which I lay before you now will cost only £13,000 and represents a great economy on what Council voted—an economy of £6,000. I would like moreover to point out to Civil Servants that they do not really lose by their salaries by annual increments instead of waiting for promotion until a vacancy occurs, which may be long delayed. They stand to gain more by this scheme than by the unsystematic addition of 20 per cent to their existing salaries.

Another important point is the ultimate charge under this scheme upon the finances of the Colony on account of the pensions list. In this the scheme does not differ materially from the scheme which you adopted of 20 per cent all round.

The maximum cost of the present scheme to the Colony will be £12,000 addition to the pension list in ten years' time, when the whole system has materialised. I do not think that is an increase greater than the Colony can bear, and I presume you yourselves think so since it was the increase which you sanctioned with the 20 per cent all round addition to salaries. If by any chance, however, the bearing of this new scheme of salaries upon the pensions list of the Colony proves to be too heavy a few years hence, I would say that, to my mind, it would be more in the interests of the Colony to revise passage allowances than to revise salaries and pensions. The passage

allowances are very high, and I am sure that the interests of the service would be much better served by the maintenance of good salaries and pensions than by the maintenance of the present very high passage allowances. I do not mean that you should alter passage allowances for men already in the service. That would be unfair. But you could alter them compulsorily for new men entering the service, and make it optional for those already here. That passage vote is the safety valve of the Colony in dealing with the finance of the Civil Service.

I remember reading some time ago a speech of Macaulay's made when compulsory education was first being mooted in England, in which he spoke of the great care which a man will take about the possession and protection of the key of his cellars, while the same man will quite readily hand over the key of his children's minds to any first-comer who will accept a pittance for a life of drudgery. That, I think, is so important a consideration that I ask your attention particularly to the fact that the Education service now stands beside the Administrative service in the scale of salaries. I am absolutely convinced that for European children in this country, for Indian children in this country, and for the development of the African races we need the very best we can get, and I therefore contend that it is right to put the Educational services on the highest scale with the Administrative and Medical. The Colony can make no better investment than this. The best men available are worth paying for; it is false economy to be content with second best. The principle applies, moreover, not only to the Educational services, but to all the services dealing with the African, because all these services are dealing with the child-mind. In such a task progress, and even security, requires the very best officers you can get.

Let me repeat that I do not regard this scheme as perfect. But with all its defects it represents much thought over several months, much negotiation and much hard work. I hope, therefore, that it will receive your approval and assent.

MINUTES.

The Minutes of the Meeting of 26th May, 1926, were confined.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

- By THE HON. THE TREASURER (MR. R. C. GRANNUM):—
 Financial Report and Statement for the year 1925.
 Statement of Unforeseen Expenditure for the Quarter ended 31st December, 1925.
 Statement regarding Colonial LAND.

By THE HON. THE DIRECTOR OF AGRICULTURE (MR. A. HOLM) :—

Annual Report of the Department of Agriculture for the year ended 31st December, 1925.

Agricultural Census Report for the year 1925.

Report of the Select Committee on the Movement of Stock from the Northern Frontier District.

By THE HON. THE ACTING DIRECTOR OF EDUCATION (MR. R. E. BISS) :—

Report on the Technical Departments of Mission Schools receiving Grants-in-Aid.

Appendices to the above Report.

NOTICE OF MOTIONS.

By THE HON. THE ACTING COLONIAL SECRETARY (MR. G. A. S. NORTHCOTE) :—

"That this Hon. Council approve the recommendations of the Select Committee on a Kenya Hansard."

By THE HON. J. B. PANDYA :—

"That this hon. Council is of opinion that the Mombasa Town Planning Scheme be amended by inserting the following provisions :—

- (1) Compensation in cash be paid for all land to be acquired under the scheme;
- (2) Interest on loan for this scheme to be met from General Revenue."

ORAL ANSWERS TO QUESTIONS.

CIVIL PROCEDURE ORDINANCE, 1924.

CAPT. THE HON. H. E. SCHWARTZ : I beg leave to ask the question standing in my name on the Order of the Day :—

"Is Government in a position to state when the Civil Procedure Ordinance, 1924, will come into force and can Government give an undertaking that the date will not be later than January 1st, 1927?"

HON. ATTORNEY GENERAL (MR. W. C. HUGGARD) : The hon. Council at an early date. Civil Procedure Ordinance, 1924, cannot be brought into operation until the Rules provided for in Part IX of the Ordinance have been prepared. These Rules have already been drafted and are now being considered by the Judges. The Government is not in a position to give any undertaking in the matter but it is hoped that the Rules will be ready to be laid before this

BANKRUPTCY ORDINANCE AND CIVIL PROCEDURE CODE.

HON. W. A. M. SIM : I beg leave to ask the question standing in my name on the Order of the Day :—

"When will the Bankruptcy Ordinance as consolidated and amended, and the new Civil Procedure Code, be brought into force?"

HON. ATTORNEY GENERAL : The reply to the hon. Member's question is as follows :—

With regard to the Civil Procedure Ordinance, the attention of the hon. Member is directed to the reply put on the 26th instant by the hon. and gallant Member for Nairobi South.

With regard to the Bankruptcy Ordinance, Rules have to be made under this Ordinance also before it can be brought into force. Steps are now being taken to prepare draft Rules which will be submitted to the Rules Committee with as little delay as possible. The Ordinance will be brought into operation as soon as the Rules have been approved by the Governor in Council.

TRADE AND INFORMATION OFFICE.

HON. CONWAY HARVEY : I beg leave to ask the question standing in my name on the Order of the Day :—

"(1) Whether the Kenya Government will be supplied with regular and frequent reports of the activities of H.M. East Africa Trade and Information Office as they affect Kenya?

(2) Whether such reports will be given the publicity of the local press?

(3) What are the terms of the arrangement under which the same gentleman acts as officer in charge of the Trade and Information Office and H.M. Trade Commissioner for East Africa, as regards (a) salary, (b) the time devoted to each position?

(4) What salary is paid to the gentleman in question as holder of each position?"

HON. ACTING COLONIAL SECRETARY :

(1) and (2) : The reply is in the affirmative.

(3) The gentleman holding these two posts receives emoluments on account of each; direct from the Department of Overseas Trade in one case, and from the funds of the office in the other. In regard to time, it is impossible to lay

down a hard and fast allocation. It is proposed that the Officer will spend half the year in East Africa and the balance in London.

(4) As His Majesty's Trade Commissioner the Officer is on a scale of salary from £800 to £1,000 per annum. As Officer in Charge of the Trade and Information Office he is paid £500 per annum.

MOTIONS.

DAYLIGHT SAVING.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to move:—

"That this hon. Council would welcome the introduction of a measure to effect daylight saving."

Your Excellency, I will try to be as brief as possible. I would like to recall to hon. Members of Council the history of the endeavours to obtain sanction for this motion. This motion has been up I think four or five times, and I think this is the fifth time it has been put up before this hon. Council. But prior to its introduction here it was discussed and approved by both the Municipal Council and the Convention of Associations, as well as the Nairobi Chamber of Commerce, and I venture to state in view of those facts that any hon. Member who asserts that the country as a whole is not in favour of a measure such as I suggest is confounded by such facts.

This scheme has had varying measures of support in this hon. Council. When it was first brought up many years ago, when General Norrhey was Governor, it was defeated I think by five votes, and perhaps I am not wrong in suggesting that its defeat was due in no little respect on that occasion to the very strong opposition which came from the Chair during the course of the debate. The next time the Government majority was against it, and there was an end to that matter. On the next two occasions it was a free vote, and I understand that Your Excellency has arranged for a free vote on this occasion.

Now, I have been accused of indulging in misnomers in talking about "Daylight Saving". Well, I do not mind if it is a misnomer or not, because I am sure that in deciding whether they are going to support or oppose this measure hon. Members will not be led astray by any question of a name.

It has been argued, and in discussions which invariably take place when I bring this matter up, opponents of this Bill—I am only presuming the want of better arguments—

invariably state "how can you say that a measure which is beneficial in England, where the climatic conditions are different, where they have longer hours of sun in the summer and shorter hours in the winter, can apply here?" It never appears to enter the heads of these gentlemen that a measure may be equally beneficial to two countries with entirely varying climatic conditions, but not necessarily for the same reasons. The objects which eventually swayed practically all the countries of Europe to adopt a measure of daylight saving for six months or so in the year were entirely economic: the sole object which induced support for this measure in those countries was to save light, gas, coal, electricity and so forth. I should be the last person to suggest that any such reasons exist here. I support this measure, and I support it most earnestly, purely on the grounds of health. I dare say I am looked upon as a maniac in this respect, but I honestly believe that a measure such as this would work incalculable benefit to the people of the towns and I base my arguments solely on that one point—that it would be helping the people in the towns.

If, Your Excellency, it can be shown that any measure can act beneficially towards a large portion of the country, and if it can be shown that the same measure, though not directly benefiting the remainder of the community at the same time will not be to their detriment, I submit with some confidence that fair minded people must admit that the measure taken as a whole is a good measure. Now, what is the scheme? The scheme is simply to advance the clock once and for all. I have been informed by a large number of people, certain hon. Members amongst them, that they are prepared to support this measure if I only ask that the clock should be advanced half-an-hour. Although personally if the matter rested in my hands I would rather see the clock advanced an hour, still on the assumption—which is only an assumption—generally acknowledged now that half a loaf is better than no bread at all, I am perfectly prepared to say to those who are prepared to support me that I will agree to that, and it simply means if this measure goes through—it is simply a matter of Proclamation by you, Sir—that that Proclamation should state that the clock should be advanced once and for all for half-an-hour.

Now, what would be the benefits and advantages? The benefits are these: In the towns where roughly speaking it is impossible to play games after half-past six, the majority of the people do not leave work before five o'clock. I refer to the employees and to the heads of the commercial houses, and also to the professional men in this town. They are very seldom able to get away at four or half-past four, or five.

Therefore, there is no time for them to get their exercise during the week. By the time they have got home and changed into tennis clothes, or put on golf shoes, it will be too dark, and the time is too short for them to have their game of tennis or to have their round of golf, as it gets dark at six or a little afterwards. If we can contrive a scheme by which each day of the week those workers can get this exercise, surely that is beneficial to them; surely no one is going to oppose that measure and pretend that it would not be beneficial to those workers?

I should like to ask hon. Members here what possible disadvantage the advancing of the clock half-an-hour would be. It cannot possibly affect the farmer or labourer on the farms. We all know that farm labour works by the sun; that they start with the sun and close with the sun. They will do exactly the same if the clock is advanced half-an-hour. They do not look at the clock and I do not think this measure can possibly be of any disadvantage to them, and I do not think it is seriously contended there can be any disadvantage to labour and farmers generally in advancing the clock.

On one occasion, when a fairly close vote was taken, opinion against the measure was largely influenced by the very strong opposition evinced by the hon. Director of Medical and Sanitary Services. I do hope that now that it has been agreed that the clock should be put on only half-an-hour he will seriously consider the measure before he opposes it. The argument has been put forward that children who come home from school will do so in the heat of the day. Is that really a sound argument? If it is felt that children should not come home in the heat of the day, all that has to be done is to alter the school hours accordingly. After all, in Calcutta and Bombay you have two times—the Railway time and the Town time, and it works there, and I suggest to the hon. Acting General Manager, seeing that he supported my motion last time, that he can support it again with a perfectly clear conscience as regards the impracticability of this measure or the inconvenience that it will cause to the Railway and the Railway Workshops.

Now, it has been said: "Yes, we agree that it would be most beneficial if somehow or other it can be achieved that people could get their exercise daily," and I have had two other suggestions: the first one is that everyone should get up earlier, that every business house, every professional business, Courts and all Government offices should start half-an-hour earlier and stop half-an-hour earlier, and the other is that the Shop Hours Act should be utilized to bring this about, namely: that shops should start at half-past seven and

close at half-past four. I submit that neither of those suggested alterations meets the case. First of all, as far as the Shop Hours Act is concerned, that does not apply to Nairobi, despite a general demand, simply because the local authority refused to make the necessary application, and they will not do it. But even presuming it were applied, a shop could not be expected to open half-an-hour before anyone goes into town, and then close just at the time when there is a certain amount of traffic. It is a fact that people leave their businesses and then do their shopping; a great deal of shopping is done between half-past four and five at present, and it would be quite useless to put that half-hour on at the beginning of the day, because in fact it would mean cutting down the shopping hours by half-an-hour.

With regard to the question of everyone starting earlier in the Government offices, and so on, and closing earlier, I suggest that that is also impracticable, because people would be taking the extra time for recreation from their hours of sleep, and one does not want to enter into an arrangement whereby you give people their exercise daily but deprive them of their sleep. That would simply weigh down the balance by a counter-weight and would be on the whole not beneficial to the health of the community. If you adopt this scheme it will simply mean that people will come in at a quarter-to-seven instead of a quarter-past-six; they would dine at any hour to suit themselves; they would retire to bed at whatever hour it is their practice to retire, and they would rise similarly at whatever hour it is their practice to rise now. Not a single person would feel it or notice the difference or that there was such a thing as daylight saving or that the clock was advanced.

I do really most earnestly appeal to hon. Members to give the scheme a trial. There can be no harm in giving it a trial. If it is not found a success—I am quite confident it will be a success—I will be the first to apologize to the whole country for wasting their time, but I do ask you, however much doubt there may be in your minds, to reward the "importunate widow"—do give a trial to this scheme, and I believe that afterwards you will come to me and say: "We gave it a trial, it is a success, and we thank you."

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I beg to second the motion.

HIS EXCELLENCY: The question is:—

"That this hon. Council would welcome the introduction of a measure to effect Daylight Saving."

HON. CONWAY HARVEY: I so often find myself in cordial agreement with my hon., learned, and gallant friend that it is positively painful to have to oppose him on this occasion. As a representative of farmers I would respectfully point out that the farmers do most strongly object to this proposal.

The hon. mover stated that it would make no difference to that section of the community, inasmuch as they start by the sun and knock off by the sun. Such is not the case. It is true that they start at cockerow, as soon as the sun begins to show itself, but they knock off by the clock, and I would ask hon. Members to consider what the loss of half-an-hour means, capitalized and spread over the whole agricultural interests of Kenya.

I did support this measure years ago, it is true, when I was possibly slightly less enlightened, and in case I may be charged with inconsistency in the matter, I would remind my hon., learned and gallant friend that "a foolish consistency is the hobgoblin of little minds."

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: I am sorry that this motion should have been brought up at this time when the Noble Lord, whose place I am very inadequately filling here, should be absent, for the simple reason that he has always been the chief opponent and because he has always entertained this hon. Council by introducing a considerable amount of humour when opposing this measure. I am afraid that having been born north of the Tweed I cannot rise to the fact that "It is midnight in Italy," or something of the sort, this I believe being one of the references made last time.

The hon., gallant and learned mover of this motion says that he has brought this up four or five times, and has always been turned down. I presume that he has brought it up again in the hope that if the importunate widow puts her hand often enough into the lucky bag she will eventually draw forth a prize.

One of my particular reasons for opposing this measure is that a few months ago, when the hon. mover of this motion was not in the country, this hon. Council spent many hours and weeks on the Shop Hours Act. One of the great objects of this Act was to achieve this extra half-hour for recreation for the people in the town. We passed this Act, although there was a certain amount of opposition from the hon. Members representing the Indian community. Having spent all that long time on the Act, Nairobi people themselves refused to put it into operation, and I do not see why the whole country should be penalised to bring about

this object, which really only applies to Nairobi, and which they have deliberately refused to take advantage of, when it was passed by this hon. Council to meet their wishes.

The hon. Member says it is impossible to close earlier and start earlier. A distinguished resident of Nairobi informed me only last night that for many years he has opened his office at eight and closed at four, and none of the people in his office would change the hours for anything, and so if one person can do it I do not see why the rest cannot do it. It is merely a question of getting into the habit; it is easy to get up earlier in the mornings here. It is not like England where it is so cold and dark in the winter-time. He also admitted that in England the reason for the adoption of this measure was purely economic, and he owned that here it did not apply at all.

Another argument put forward by the hon. mover was that it would not affect anybody's sleep. I entirely disagree with that. Instead of dining at eight you will dine at nine, as in England. If this comes into force the people will not dine at eight o'clock in the majority of cases. People will dine later and go to bed correspondingly later.

I believe there is considerable opposition to this measure on the part of the mothers of the Colony, the children of whom it would affect adversely.

The hon. mover referred to Calcutta and Bombay having two different times. I am not quite sure, but I rather think Bombay have given it up. Of course I speak subject to correction, but certainly they have given it up in Calcutta. It was a terrible nuisance because one usually missed one's train, as the railway time was different from the town time. Recently when I was in Tanganyika I discovered they had this daylight saving measure there, and they had three different times all over the country, with the result that one never knew what the correct time was, and it led to enormous confusion.

For all those reasons I am very sorry I have to disagree with my hon. and gallant friend the Importunate Widow, and I am afraid I must oppose this motion.

HON. W. A. M. SIM: Your Excellency, we are asked to welcome this motion. I understand that it has been put forward many times before, and been consistently rejected by this hon. Council, and as far as I can recollect my predecessors have all taken the view that such an enactment will be absolutely impracticable, at any rate at Mombasa. I ask you, Gentlemen, to figure yourselves what the Swahili labourer will reply when told it is six o'clock and it is pitch dark.

He will tell you in his own language that you are "a liar." I cannot see how any enactment of this nature would be practicable in this latitude. There is very little difference during the year in the rise and set of the sun. If the people want to commence work earlier they can get up earlier. I cannot see how any such law would be effective from a practicable point of view.

HON. J. B. PANDYA: Your Excellency, I do not find myself in agreement with the measure and I think one of the arguments against this motion at the Coast is this, that there people are more civilized, the labour particularly, and they go by the hour. Further, if the clock is put on half-an-hour and the time is wasted, as has been pointed out, we will lose considerably. In Mombasa I do not think there can be any necessity as the closing hour there is 4 p.m.

HON. COMMISSIONER OF LANDS (MR. H. T. MARTIN): Your Excellency, this particular motion seems to require support at the present moment. Unlike the second speaker, I often find myself in disagreement with the learned, hon. and gallant Member. I am glad to find myself in agreement with him now. This is the fifth time I shall have voted in favour of this motion. I have heard all the arguments and at the present moment I have only heard one new argument brought against the motion which has not been produced before, and that is the argument of mothers and children. I think I can literally say, speaking as a mother myself—I beg your pardon, Your Excellency—speaking as a parent myself, I do not understand that argument. I do not propose to traverse all the old arguments that seem to be taking just the same course as before. Everybody seems to be running away from these proposals as if there is something dangerous or inherently bad. It seems to me a perfectly straight forward experiment worth trying. I do not believe this half-hour reduction will be anything like as satisfactory as one hour, but I suppose it lessens the force of the opponents. I can see already that this proposal is going to suffer its usual fate, but I hope and I impress upon the mover that I shall have an opportunity of voting for him for the sixth time.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: Your Excellency, last year when I presented this motion I put forward the argument that Mombasa time varied from sun time by 20 minutes. Therefore the alteration of half-an-hour to Mombasa will only make a difference of 10 minutes.

HON. W. MACLELLAN WILSON: Your Excellency, the hon. Member for the Coast has said that if this goes through it will make a difference of 10 minutes in favour of Mombasa.

I took the trouble last night of working out some figures dealing first of all with the declination of the sun and the difference in time that makes; and with the equation of time and the solar time and mean time of the country. I find in the former instance there is a difference of 7 minutes, Mombasa being 4 degrees and 4 minutes south. This means it gives Mombasa a longer day by 14 minutes—7 minutes in the morning and 7 minutes in the evening. We might leave that out of the argument because we lose 14 minutes at another period of the year. We should take the equation of time. The month of November is the period of the largest difference between the sun-bearing time and the mean or clock time. The difference is 16 minutes. It is true that in November the clock is showing 5 hours 36 minutes when the sun rises, but it also shows in the evening 5 hours 36 minutes when the sun sets. We are not to add the 4 minutes which is a lengthy period of time so that really the clock time is only 20 minutes difference in the month of November. The middle of February is the next largest equation of time between the apparent and the mean time. There is still the same amount of 4 minutes extra daylight. The difference between Mombasa actual time and the Kenya time is about 8 minutes, that is to say in Mombasa your time is always 8 minutes slow of the sun. The meridian taken for Kenya is 37 degrees 30 minutes, which is a little west of Makindu. In the month of February according to the clock the sun rises at 6 minutes past 6 but the setting of the sun is 10 minutes past 6. I do not think that the little difference made of the equation of time which is half-an-hour each way enters into consideration of this question. We are talking about one hour. There is one point the hon. Member for Nairobi South omitted and that is there is a morning. He talks about the unfortunate widow. I will go further and quote the scripture: "The evening and the morning was the first day." He has talked of the evening; I am going to give you something of the morning. I entirely agree with him as to the necessity for a good long evening for sport for those who can enjoy it. I agree heartily with my Noble Friend Lord Francis Scott that people move their time to suit themselves, not according to the clock. I think it is a very selfish thing to be too much parochial minded. Even though Nairobi has the largest population of any town or city in Kenya, I think we have to consider people in other parts of the country as well. I will not deal with the argument about the farmer. Take Kisumu. The difference in Kisumu between the solar time and the mean time in this country is 11 minutes. I find from calculations that on the 1st November the sun rises in Kisumu at 5.55, but I find that in February the sun rises at 6.25. If you put an hour on that the sun is going to rise when

your clock is 7.25! The man will go to his office at 8. What is he going to do? The cook is not going to get up; the boys are not going to get up. You do not get your tea to-day until an hour after daylight and you will be getting your tea when the sun rises at 7.25 you will be getting it at 8.25; you have then got to get up, dress, etc., and when are you going to get to office? I think it is selfishness if you are not going to consider Kisumu and other parts of the country.

As far as the shops are concerned, if the shops open at 8 a.m. under the Shop Hours Act, who is going to shop? If the shop opens at what is really 7 a.m. according to sun time who will shop? Certainly not those people who have got to come in forty or fifty miles.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I think it is the mother and the child who come into this question as much as anyone else. The very person we want to serve, whom I am sure the hon. mover of this motion wants to serve, is the person who does not usually live in the lap of luxury and who works hard till 4 p.m. and is entitled to an hour's recreation and that type of person, Your Excellency, I am glad to say, is very often a parent and very often a mother. At the present moment if you take the ordinary young woman who has a couple of children, she can get away at 4 p.m. to play her games to 6 p.m. and to have conversation with her friends between 6 and 8 p.m., and then resume her household duties. The suggestion put forward only gives her half-an-hour for this and to put her children to bed and give them instruction.

I entirely agree with the hon. Member for Ukamba when he says that the effect of this measure if it is introduced and passed will be that people will dine later and the hon. mover has fought it on a complete fallacy when he says that that half-hour will be taken from between sundown and dinner time. It has been proved in England people dine later and it necessarily means that that half-hour which he hopes to save for the worker here will be taken from that worker's sleep. It must be so. The hon. mover does not appreciate it but the habits of a people are founded on convenience and it is owing to the general average of convenience that we dine at certain hours and sleep at certain hours and it will be the case that the parents of the family will dine later. It will equally be the case of those who value these hours of real friendship and real society whether in their own houses or in the club; they will not give up those hours and they also will dine later. These hours have an immense value. If I were asked what period of the day most of the spade work is put through I would say those hours you get at the club

when one talks over proposals. It is a most useful hour. It is a most important hour and all sorts of meetings are held during this hour. It would not be a benefit to the population and I feel very strongly on it. I cannot see anything that tends to weaken it. I took an observation last night. This motion came up on the 29th May last year, and to-day is the 28th of May. I tried to find out whether the mover of this motion moved it in any fixed orbit, but I have come to the conclusion that he is one of those wandering bodies regarding which there is no determined periodicity, probably due to what may be described as an "eccentric motion."

I do not believe there exists any parallel whatever between the English position and the position here. In England you get an immense variation in time and you get a fixed average habit. Eggs and bacon at half-past eight and soup at eight in the evening. Here you get a fixed time, a fixed thing, and the attempt is being made to vary the habit. It is like trying to make people good by legislation and it cannot be done. It is the case that habits are fixed by convenience and it will be found that even if people get more exercise, they will certainly get less sleep.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the views expressed against this motion (to my mind appear academic and mathematical or entirely frivolous. I have not heard a sound pungent reason why this measure should not be adopted. I have heard the suggestion that the farmer will be penalised, but I fail to see how. He works by the sun and the hon. Member for the Lake suggests he stops work by the clock and I suggest under this measure he will continue to do so. I feel, Your Excellency, a little more daylight might dissipate the spectre which appears to be in the minds of hon. Members. It is purely a bogey that is frightening them. I trust other hon. Members who are opposed to it will advance some arguments which are not frivolous and I trust the measure will go through.

HON. SHAMS-UD-DEEN: Your Excellency, there was a time when I voted in favour of a motion of this kind. I must confess the more and more I listen to the reasons against it and the more I consider the feasibility of the measure, if adopted, I come to the conclusion that it is bound to produce nothing but confusion in this country. It was mentioned by the hon. mover that there were two different times in force in Bombay and Calcutta. It is still in force at Bombay and it is a source of great confusion to any strangers in Bombay. It was many years before the inhabitants got used to standard time in that town. The natives here are just beginning to get used to the clock and the different methods of regulating

work and I think it will upset the whole country if they are told the time will be altered. It is a great difficulty for an enlightened member of society and it will be extremely difficult to enlighten a native. I feel the very perseverance of the hon. mover does really deserve. I should vote in favour of it but I must confess I am convinced it will serve no useful purpose. I think very valuable daylight has been wasted on this debate.

HIS EXCELLENCY: I do not think it is desirable that the President of this Assembly should, as a rule, intervene in debate, but since this is not a political motion before Council and since it is one on which I have long held rather strong views I should like to say something in support of the motion and in defence of what has unfairly been called Nairobi's parochial mind. I have attended two or three debates of considerable duration in the House of Commons on this subject and it was always remarkable to me the opponents of daylight saving managed to prove to their own satisfaction that it would undermine health, shatter morals, and destroy family life. I have heard the same argument advanced by the Colonial Secretary. It is very difficult for me to understand which of these important exercises and influences in family life to which he attached a proper value should be possible between the hours of 6 and 8 and impossible between the hours of 6.30 and 8.30, and that is all that is involved in the mover's motion. The remarkable fact about daylight saving is that the strength and solemnity with which it is always opposed when it is being discussed is only equalled by the unanimity with which it is accepted when it is passed. I do not know any country which has complained after it has been passed. The arguments used against it are very strong and seem to me extremely convincing but they seem to destroy themselves in a self-contradictory way. Lord Francis Scott told us daylight saving would not shorten the time between sunset and dinner and at the same time he said it would bear hardly upon mothers and children because the time between sunset and dinner is shorter.

The main ground upon which I support this measure and supported it in other countries is the ground put forward by Lord Francis Scott, the health of towns and the necessity for Kenya town dwellers to get the utmost possible exercise and fresh air. I know that the farmers are always opposed to these arguments. We have heard to-day of the farmer and his cow but my answer is this: I suppose France is the most highly developed agricultural country in the world. Scientific farming has been carried on there. France has adopted daylight saving and her agriculture is in no danger. The fact is that this motion has been universally adopted in Europe and wherever it has been adopted it has been approved and

maintained. I cannot say that the arguments which have been brought against its adoption in Nairobi are different because our latitudes are different here. Perhaps I might remark upon another argument which the hon. and gallant Member attributed to the Director of Medical and Sanitary Services. He apparently has on previous occasions objected that daylight saving will compel children to go home in the heat of the day. I do not see how that will apply to Nairobi as there is no afternoon school. In any case it can easily be met by a change in school hours. I should like to observe to my delight and astonishment when I went to Dar-es-Salaam the other day I found that daylight saving, by order of the Governor, was in full operation there and it produced no catastrophic results. Morals are apparently sound, health as sound as it can be and family life was not broken up. I am glad the hon. Member is going to content himself with half-an-hour only and it has my hearty approval. This question will be left to a free vote of the House and though I am afraid there is no prospect of its being carried, judging by the "Noes," I personally hope it will be carried and I shall record the vote which I possess in its favour.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I will reply very briefly. I should like to commence by saying how grateful I am for the support you, Sir, as President, have accorded this motion and I only hope and feel that that support will have the same effect as had the opposition of one of your predecessors.

I was going to mention that daylight saving is in force in Tanganyika and I have the authority of His Majesty's Trade Commissioner for saying that he was informed by everyone from the Governor downwards that the measure is a great success. It has had no catastrophic results.

I never thought I should rise in my place to say how glad I was that Lord Delamere is not present at our debate, but I do so this time not because of his opposition but because he invariably took the line of trying to introduce a spirit of buffoonery into these debates which has been absent to-day, chiefly because his understudy did not know his part!

The hon. Member for Mombasa said that all his predecessors had voted against this motion on past occasions and that Mombasa is opposed to it. I can only tell him that is not the case. On one occasion this motion was actually seconded by a Mombasa representative and in 1923 the Mombasa Committee favoured the introduction of this measure.

One argument used by two opponents is that people will dine later and it has been quoted that what takes place in England will take place here. The people in London object to dining with the sun up. That would not apply here.

I now come to the hon. Member for Kikuyu who quoted a mass of figures and most of those figures I suggest are irrelevant except any figures quoted for Kisumu. He put figures which, *prima facie*, sounded very convincing, but for a gentleman of his known standing I do not think on this occasion he kept up his reputation. He took 6.25 the extreme limit at one season of the year and adds an hour to it and proves by it that you will not get out of bed till 10 a.m. The 6.25 time operates for only a month in the year. At other periods of the year it is 5.55 and at other times 6.11. It is only a question of adding half-an-hour.

In conclusion I can only repeat what I said at the close of my opening speech which remarks are now strengthened by the knowledge that a neighbouring territory has given it an experiment and has succeeded and I would ask you to apply your support to this measure to permit His Excellency the Governor by proclamation to advance the clock by half-an-hour and give the thing a chance.

The question was put and lost by eighteen votes to fourteen.

Ayes.—Messrs. Biss, Bawn, Dobba, Gardner, Grannum, Huggard, Capt. Kencaty, Messrs. Lynde, Martin, Maxwell, Major Robertson-Eustace, Capt. Schwartze, Mr. Wood, His Excellency the Governor.

Noes.—Rev. Dr. Arthur, Messrs. Baker, Desai, Col. Doherty, Messrs. Evans, Fitzgerald, Harvey, Holm, Hope, Northcote, Pandya, Major Pardoe, Major Rhodes, Lieut.-Col. Lord Francis Scott, Messrs. Shams-ud-Deen, Sim, Walsh, Wilson.

Declined to vote.—Sheikh Ali bin Salim.

COMPASSIONATE GRATUITY: WIDOW OF L. J. FERNANDES.

HON. TREASURER: Your Excellency, I beg leave to move the following motion:—

"In consideration of the destitution of the widow of the late Mr. L. J. Fernandes who, after rendering 26 years 4 months and 7 days' satisfactory service in the Prisons and the Treasury Departments of this Colony, retired on the 14th July, 1924, on a pension of Sh. 3075/71 a year and died in Goa on the 11th June, 1925, this Hon. Council is pleased to award her a Compassionate Gratuity

of Sh. 3204, which amount is equivalent to six months' salary of her deceased husband at the rate drawn by him immediately prior to retirement."

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

The question was put and carried.

COMPASSIONATE GRATUITY: WIDOW OF D. F. LOBO.

HON. TREASURER: Your Excellency, I beg to move that:

"In consideration of the destitution of the widow of the late Mr. D. F. Lobo who, after rendering 8 years, 3 months and 25 days' satisfactory service in the Customs Department of this Colony, died at Mombasa on the 25th August, 1925 (when he had earned 4 months and 10 days' leave on full salary and a free second-class passage to India), this hon. Council is pleased to award her a Compassionate Gratuity of Sh. 4,740, which amount is equivalent to six months' salary of her deceased husband at the rate drawn by him at the time of death."

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

The question was put and carried.

COMPASSIONATE GRATUITY: WIDOW OF A. A. FERNANDES.

HON. TREASURER: Your Excellency, I beg to move that:

"In consideration of the destitution of the widow of the late Mr. A. A. Fernandes who, after rendering 25 years, 7 months and 28 days' satisfactory service in the Public Works Department of this Colony, retired on the 22nd of January, 1922, on a pension of Sh. 2,835 a year and died in Goa on the 26th November, 1924, this hon. Council is pleased to award her a gratuity of Sh. 3,060, which amount is equivalent to six months' salary of her deceased husband at the rate drawn by him immediately prior to retirement."

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

The question was put and carried.

SECOND SUPPLEMENTARY ESTIMATES, 1926.

HON. ACTING COLONIAL SECRETARY: Your Excellency, in moving the first motion standing in my name on the Order of the Day, I am mindful that at the beginning of this Session Your Excellency traversed with a certain amount of detail

(the major items in the Supplementary Estimates which are now before this hon. Council, and it is for that reason and also because I know there is a great deal of business to be done that I am most unwilling to detain hon. Members longer than is absolutely necessary. Supplementary Estimates are introduced on the grounds of necessity and urgency, and it is, I think, within the power of Government to defend each of the items in these Supplementary Estimates for those reasons. As Your Excellency said in your opening remarks this Session the whole spirit of these Estimates is that of public safety, and with these few remarks, Your Excellency, I beg leave to move :—

" That this hon. Council approve the Second Supplementary Estimates, 1926, as printed and laid on the Table."

HON. TREASURER : I beg to second the motion.

HIS EXCELLENCY : The question is :—

" That this hon. Council approve the Second Supplementary Estimates, 1926, as printed and laid on the Table."

LT.-COL. THE HON. LORD FRANCIS SCOTT : Your Excellency, in view of the very large amount which appears on these Estimates—something approaching £100,000—and in view of the fact that there is a great deal of criticism in the country of the expenditure, I would like to move that a Select Committee be appointed to consider these amounts in detail, so that each item can be scrutinised carefully and any possible savings effected.

CAPT. THE HON. H. E. SCHWARTZ : I beg to second that motion.

HIS EXCELLENCY : The question is that the Second Supplementary Estimates, 1926, be referred to a Select Committee.

The question was put and carried.

HIS EXCELLENCY : I assume that the Select Committee which normally deals with Estimates will be suitable to deal with the Supplementary Estimates.

REVISION OF SALARIES,

" That this hon. Council approve the Revised Scales of Salary on the abolition of Local Allowance, as shown in the Memorandum laid on the Table, with effect from the 1st of January, 1926."

HON. ACTING COLONIAL SECRETARY : In moving the second motion which stands in my name on the Order of the Day, I feel that after the very full and, if I may say so, very able way in which Your Excellency traversed all the underlying principles upon which this scheme is founded, it would be a work of supererogation on my part to attempt further to justify them or to offer any explanation. The memorandum which is in the hands of hon. Members, however, does give the actual details which have not been mentioned in the course of that address.

I am happy to be able to acknowledge the generous tribute which Your Excellency paid to the Civil Service and I can assure you, Sir, that your words will render the Service happy and will stimulate it in the carrying out of its duties. We are very grateful indeed for this expression on your part.

The position of the scheme, as far as the Secretary of State is concerned, is that the Secretary of State has informed this Government that he is prepared to agree generally with this scheme, but he wishes it debated in this hon. Council and the report of this debate forwarded to him, whereupon he will be in a position to give a decision.

I would take this opportunity of mentioning the fact that Government has appended to the scheme which went home to the Secretary of State provision for learners and juniors. I have no doubt whatever, from the opinions I have heard expressed on both sides of the House, that a definite scheme of this kind will meet with their approval. It is linked up with the new salaries and from enquiries and from the members of the Committee with whom I sat on the matter I understand and feel quite justified in saying that those salaries are reasonable and meet the case.

I feel, in the circumstances, that I shall best serve this hon. Council and promote the motion which stands in my name if I cease these introductory remarks and content myself with answering any questions which hon. Members may desire to put. I do, however, suggest to this hon. Council that this scheme, so closely considered, so delicately adjusted, be passed by this hon. Council without amendment.

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

I understand from Your Excellency this morning that should this be adopted any anomalies would be dealt with on their merits. I was not, however, quite sure whether the Anomalies Committee would go into that again or whether it was to be brought up by notice.

HIS EXCELLENCY: I am in the hands of hon. Members in this connexion, but if the Council would like the Anomalies Committee to sit again it would be the most useful procedure.

HON. ACTING COLONIAL SECRETARY: If I may suggest it, I will consult Heads of Departments and find out what anomalies there are and the Committee can then be appointed at once.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Yes, that would meet the case, and I beg leave to second the motion.

CAPT. THE HON. H. E. SCHWARTZ: While fully supporting the motion which has been proposed by the hon. Acting Colonial Secretary and seconded by the Noble Lord, there are one or two outstanding points I should like to mention. I understood from the hon. Acting Colonial Secretary that it would be in order if I mentioned these, and I am sure the Secretary of State would also like to know them, although I am not in any way proposing any alterations or additions which may tend to delay or wreck the scheme. I merely wish to mention first the question of anomalies; I would suggest that on thinking it over no good purpose would be served by the Anomalies Committee reconsidering anomalies which they have already considered, but I would most earnestly ask Your Excellency to allow the members of this Committee to see Your Excellency in private with their report and point out some of the outstanding anomalies which have not been touched upon. There is naturally amongst those people who have seen this report and who think that because they are not included their cases have not been dealt with a little uneasiness, but I am perfectly certain when it is known that Your Excellency has agreed to meet the Anomalies Committee so that representations can be made to the Secretary of State that that uneasiness will cease. But I should like to suggest that if Heads of Departments think that new anomalies are created by this scheme they should come before the reconstituted Anomalies Committee who are taking up any new points which arise under this scheme.

The second point, Your Excellency, is that I do think it would be a good thing if the hon. Acting Colonial Secretary could explain briefly the exact reasons for these personal and pensionable allowances. As the country is paying for these, I think an explanation should be given.

Finally, there is one point which I am bringing up—in no case would I have suggested this alteration at the present moment, because it is a matter for the Estimates—but in view of what Your Excellency said this morning, that this scheme was prepared and based on the Nigerian scales, I think the matter should be brought up now. There is one outstanding point in connexion with these scales which differs entirely from the Nigerian scale, and I only mention it because I mention this matter year after year. A perusal of the Nigerian scale shows that the salaries and emoluments of Crown Counsel are in excess of the salary and emoluments of Resident Magistrates. Here they are very much below. I mention this because it does seem to me, with great respect to Your Excellency, to be a wrong principle which requires consideration. I shall certainly bring this up again when the Estimates are being considered in August next.

With these remarks, I beg to support the motion.

HON. SHAMS-UD-DIN: No one can doubt the soundness of the principles mentioned by Your Excellency this morning, that in order to maintain the efficiency, integrity and interest of the Civil Service, salaries should be attractive enough for educated and highly trained Civil Servants to come to this country, and I think it is my duty to vote for bringing in these scales, but my only regret is that the same principle is not equally applied to the lower grades of the Service. I think it stands to the great credit of Kenya Colony that during the last few years in this country the Civil Servants and even the Railway Departments have been singularly fortunate that no suggestion or suspicion of any kind of grievance has ever been mentioned in the Services here, and I am confident that that reputation will be maintained by taking the steps you are taking now. Unfortunately, Your Excellency, an opposite step has been taken as far as the case of the Railway Administration Lower Grade Staff is concerned, and I hope that Government will consider at some future date the extension of the same principle to the lower grades, and especially to the Uganda Railway Administration as far as its lower grades are concerned.

HON. CONWAY HARVEY: In reply to what has just been said about the lower grades, may I point out that at the time of the currency fixation these people had their emoluments

permanently increased by no less than 50 per cent, so I do suggest there is no disadvantage whatever.

HON. J. B. PANDYA: With regard to the remarks which have just been made, I should like to explain this question of exchange. The salaries were not increased during that period. It was the exchange that increased by 33 per cent, not 50 per cent. But what we wish to maintain here is that the man should be paid in this country in accordance with the increased cost of living, as well as be in a position to maintain his family and his position in Kenya. I should like to speak in support of the argument which has been brought forward by my hon. friend, Mr. Shams-ud-Deen, that the lower grades are not satisfactorily paid and that the principle which is advanced in regard to the higher grades should apply equally to the lower grades. You require, Sir, efficiency all round. The fact that the head of the Department is efficient does not necessarily imply that his clerks are efficient. If you require efficiency all round then you want efficient men, and for that we must pay. I am bound to express my opinion that that efficiency is not to-day in existence in accordance with the requirements, and I maintain that the present scales should be replaced by something better, and that the men in the lower grades should be given their due.

HON. ACTING COLONIAL SECRETARY: Your Excellency, may I express gratitude for the way in which this motion has been received in this hon. Council? I would assure the hon. and gallant Member for Nairobi South that if there is any uneasiness in the Civil Service after this debate, and if there are any other steps which it is possible to take to allay that uneasiness, I have not the faintest doubt that Your Excellency will take such steps at once.

On the point of personal allowances, Your Excellency gave the chief reason for their existence in this scheme in your opening address. In certain other instances personal allowance comes in through a readjustment of the value of posts; where the holders of two posts had been drawing an identical salary but it was considered in the light of long experience that one post was of higher value than the other the substantive salaries of the two posts were adjusted accordingly in order that no injury should be done to the existing holder of the now lower paid post, he being given a personal allowance to render his remuneration equal to that which he would have drawn had no such adjustment been made.

I do not propose to enter to-day into this question of the salary of the Asiatic grades. The Asiatic staff of the Colony have always received very sympathetic consideration and I am sure that all Members present will be ready to extend their sympathetic consideration again when called upon to do so.

HIS EXCELLENCY: The question is:—

“ That this hon. Council approve the Revised Scales of Salary on the abolition of Local Allowance, as shown in the Memorandum laid on the Table, with effect from the 1st of January, 1926.”

The question was put and carried.

BILLS.

SECOND READING.

REVISED EDITION OF THE LAWS (OPERATION) BILL.

MAJOR THE HON. H. BOWN (ACTING SOLICITOR GENERAL): Your Excellency, I beg to move that a Bill to Amend the Revised Edition of the Laws of the Colony in accordance with the Amendments in the years 1924, 1925 and 1926 to the Ordinances now included in the Revised Edition of the Laws of the Colony be read a second time.

I would point out to hon. Members that the Statement of Objects and Reasons is published with this Bill. The Revised Laws of the Colony have now been printed and it is hoped that a sufficient number will be bound for the laws to be available by June 30th of this year. The Proclamation by Your Excellency will be made. The Revised Edition embodies all Ordinances in force up to the end of December, 1923. During the intervening period this hon. Council has not been idle, and much legislation has been passed. It will be obvious to hon. Members that the legislation that has been passed has had reference in to-day's Revised Laws, but inasmuch as the old Ordinances will disappear as soon as the Revised Edition is ready, it is clear that these amending Ordinances of 1924, 1925 and 1926 are of no further use, for they amend, not the Revised Laws, but the original Ordinances. It is necessary, therefore, to repeal these amending Ordinances and to re-enact their provisions in relation to the various Chapters of the Revised Edition. This is being done in the Bill now before Council.

I must emphasize to hon. Members that no new measures are being introduced by this Bill. Occasionally sections have had to be re-numbered and the necessary adjustments made, so in considering the Bill I hope hon. Members will realize that nothing is here that should not have been inserted.

I would draw the attention of this hon. Council to the fact that the Bill itself is comparatively short, consisting of five sections, and the principle of the Bill is embodied in the Schedule.

HON. ATTORNEY GENERAL: I beg to second.

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

The question was put and carried.

ESTATE DUTY (CONSOLIDATION) BILL.

HON. ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill intituled an Ordinance to provide for Duties on Estates of Deceased Persons be read a second time.

This Bill was prepared and published before I arrived in the Colony, and therefore it is with some diffidence that I take charge of it. However, I shall endeavour to communicate to the House the circumstances which made it necessary to introduce this Bill and the principal amendments which it provides, and I shall rely upon my hon. friends the Treasurer and Solicitor General, who are more familiar with the subject than I am, to come to my rescue if I get into difficulties. It will be noticed that the short title of this Bill is the "Estate Duty (Consolidation) Ordinance." That short title may perhaps to some small extent be misleading because although the Bill is certainly a consolidating measure it goes considerably further and amends the existing law in a number of important particulars.

The first Estate Duty Ordinance passed in this Colony was the Estate Duty Ordinance, 1918. I have been unable to trace the actual source of some of the provisions in that Ordinance, but it seems clear that so far as the general principles are concerned it was intended to follow the lines of Part I of the Finance Act, 1894, of the Imperial Parliament. Now, that Act was no doubt an excellent model to follow, but unfortunately in adopting the provisions of that enactment to suit local conditions we omitted to include one very important provision, namely, the provision which limits the property upon which Estate Duty is payable. The particular provision of the Imperial Act to which I refer is section II, sub-section (2) of the Finance Act of 1894, and that section in fact provides that the property of a deceased person upon which Estate Duty is payable is all property movable and immovable situated in the United Kingdom, and if the deceased person was domiciled in the United Kingdom then his movable property wherever situated. If, however, the deceased person

was not domiciled in the United Kingdom, the only property of his liable to Estate Duty is the property movable and immovable in the United Kingdom. Now, the effect of the omission from our Ordinance of a corresponding provision was and is that where a person dies leaving property in Kenya not only is that property in Kenya liable to Estate Duty, but all that person's property all over the world is also liable. That position can best be understood by taking a single illustration. Suppose, for example, a South African millionaire dies leaving amongst his other assets £500 worth of property in Kenya. Now, applying the provisions of the English law to this case the property which would be liable to Estate Duty would be merely the property in Kenya. Under our law, however, as it exists at the present time not only would the £500 worth of property in Kenya be required to pay an Estate Duty, but all the millions in South Africa as well, and that although the deceased millionaire has never set foot in Kenya in his life. Now, that position may perhaps in a sense seem attractive from the point of view of general revenue in Kenya, but I think it will be admitted that it is hardly equitable, and I am quite sure I may safely suggest that when this hon. Council passed the Estate Duty Ordinance of 1918 they did not intend for a moment that it should have such a far-reaching effect. I can hardly imagine, and Your Excellency referred to this point in your Address to this hon. Council a few days ago, any provision in our law which would be better calculated to scare away capital from this country. If, for instance, the intending investor were to realize that the effect of his investing money, however little, in Kenya, would be to render his property all over the world liable to Kenya Estate Duty on his death then, Sir, I think he would have little hesitation in deciding to place his money in some other part of the world.

Now, Sir, this Bill is designed amongst other things to get over that extraordinary position, and the Bill is really a second attempt to follow the lines of the Imperial Legislation dealing with Estate Duty, and this time I hope we have succeeded in avoiding pitfalls and anomalies of the kind I have just mentioned.

The most important clause in the Bill is clause 12; sub-clause (2) of that clause, which appears on page four of the Bill, is what I may call the missing link of the existing legislation. The effect of the insertion of this sub-clause is that where a person dies leaving property in Kenya the liability to Kenya Estate Duty will attach to all that person's property situated in Kenya, and if the deceased person is domiciled in Kenya then the law will also attach to that person's movable property wherever situated. If, however,

the deceased is not domiciled in Kenya, his liability will be limited to the Kenya property only. It will be seen, therefore, that as regards this sub-clause the local law will come exactly into line with the law in the United Kingdom. I might remark here that the liability to Estate Duty in respect of property owned in some parts of the world other than Kenya is further limited by sub-clause (5) of clause 12. Sub-clause (5) provides that where property in the United Kingdom or a British possession is liable to duty both in the United Kingdom or British possession and also in Kenya then a deduction shall be allowed in Kenya equal to the amount of the duty payable in respect of that property in the United Kingdom or British possession, as the case may be, and sub-clause (6) contains a corresponding provision as regards property situated in a foreign country, but in this case the duty payable in a foreign country is to be deducted against the value of the property in Kenya, and any against the value of the Estate Duty itself is in the rest of the preceding sub-clause. Those two sub-clauses follow exactly, both in principle and in form, the provision of the Imperial Act. I have already said that clause 12 is the most important clause in this Bill, and turning now to sub-clause (1) of that clause on page 3 of the Bill it will be seen that this sub-clause reproduces in an amended form the provisions of the corresponding section of the present law. In fact, sub-clause (1) has been entirely re-drafted. Its provisions are based entirely on the Imperial legislation and the form and phraseology of the sub-clause have been taken from the Estate Duty Ordinance of British Guiana, an Ordinance which has been in operation in that Colony for nearly thirty years, which has therefore stood the test of time, and with which my hon. friend the Treasurer is very familiar. Sub-clause (2) of clause 12 I have already dealt with.

Sub-clause (3) is new and deals with Estate Duty payable on ships registered in the Colony. This sub-clause is also taken from British Guiana and I think it is of importance to Kenya, particularly in view of the proposal which I understand is coming up for consideration at the present moment to make Mombasa a port for registering ships.

Sub-clause (4) is new, but only so far as the form is concerned. The provisions already appear in the present law and the new sub-clause follows the lines of the British Guiana model. I have already dealt with sub-clauses (5) and (6).

Clause 13 of the Bill represents the corresponding section of the existing law, amended so as to bring it into line exactly with the law in the United Kingdom.

The next clause of the Bill to which I have to direct the attention of this hon. Council is sub-clause (4) of clause 14. That is at the top of page six of the Bill. Under the present law interest at 6 per cent on Estate Duty is payable from six months after the date of the death to the date of delivery of the Estate Duty affidavit. But at present no further interest is payable once the Estate Duty Affidavit is passed, so the person accountable for Estate Duty having filed his affidavit may be as deliberate as he wishes in making the actual payment. To get over this difficulty and to encourage persons accountable to pay the Estate Duty punctually, it is proposed that 8 per cent on the duty shall be payable from thirty days from the date of assessment to the date of payment. That, I think, will be considered a reasonable charge.

Then clause 15 (2) on the same page is new and designed to limit the circumstances in which in valuing an estate for the purposes of duty allowance may be made for debts due to persons resident out of the Colony. The effect of the sub-clause is that if the debts were contracted to be paid within the Colony then they may be deducted from the property so charged. If they were not contracted to be paid in the Colony or if so charged in the Colony then they might be paid out of the person's estate abroad and can only be a charge against the local property if the property abroad is found to be insufficient to pay for these debts.

The remaining clauses of the Bill merely re-enact the provisions of the present law and it is unnecessary for me to detain the Council by discussing them in detail.

The schedule of rates remains unchanged, but in this connexion I should like to draw the attention of Council to clause 11 of the Bill, the provision of which is new and provides that where the value of an estate or share of an estate passing to the widow and/or minor children of the deceased, including property situate out of the Colony, does not exceed £2,500, duty shall be payable on such estate or share at half the rates set forth in the said schedule. This is a provision in favour of widows and children who are left in more or less poor circumstances. This, I think, will meet with the approval of this hon. House, but with regard to this particular clause I understand my hon. friend the Treasurer wishes to move an amendment in Committee.

I think I have now sufficiently communicated the changes in the present law which the Bill before you is intended to effect. If any point of detail arises in Committee I shall endeavour, with the assistance of my hon. friends, to deal with it. I shall also in Committee move the amendments which stand in my name and of which notice has been given.

I now beg leave to move the second reading of the Bill.

HON. TREASURER: I beg to second.

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

CAPT. THE HON. H. E. SCHWARTZ: Dealing with the main principles of this Bill, there are one or two points I should like to raise and ask for an explanation. First of all, with reference to clause 12, sub-clause (1) (b). That provides in the first half, as in England, that gifts made by deceased within three years of his death are still subject to death duties, but it goes on to say:—

"or taken under any gift whenever made, if bona fide possession and enjoyment of such property has not been assumed by the donee immediately upon the gift; and thenceforward retained to the entire exclusion of the donor, or of any benefit to him? by contract or otherwise."

I should like to know from the hon. Attorney General whether that is the same provision and whether those last words appear in the English Act or not. If they do, and we are following the English Act, I have no more to say, but I rather suspect that those words are not taken from the English Act. I do not like the words "by contract or otherwise," because it really means if a person's father makes over the whole of his fortune to his son and gets nothing at all from his son back by way of a contract, that that would upset the whole of this gift and would make the whole amount subject to Estate Duty on the death of the donor.

The next is the same clause, only sub-section (c); I cannot see, unless the hon. Attorney General mentioned it and gave no reasons, why, if Estate Duty is payable on property situated in a foreign country, the amount of Estate Duty so payable instead of being deducted from the total Estate Duty payable in this country should be deducted from the value of the estate. It is really worthless. You may have property in a foreign State on which they charge you say £35 duty. Instead of getting that £35 duty deducted from the duty payable in Kenya, it merely gets deducted from the value of the estate, and I do not see any reason why that provision should not apply in this country.

Clause 15 (2): I understand that no allowance is made for debts if payable out of the Colony unless they are contracted to be paid in the Colony or are a charge on specific property. Surely, Your Excellency, that is not right? Surely that is not fair? A person may die here having no property

anywhere except in this country. His estate is worth a gross value of £10,000, and he may owe £2,000 to someone in England; now why on earth should not that be deducted from the gross value of the estate and pay duty on the net balance? I must say I am strongly opposed to the schedule remaining as it is, and I trust that this Bill, certainly so far as the schedule is concerned, will go to a small Select Committee. This schedule of rates of Estate Duty payable is similar to that in England. I think I am right in saying that Death Duties in England were introduced as a temporary measure by Sir William Harcourt, and here it is going up and up. I understand the hon. Treasurer will say that we have no Income Tax and we ought not to complain. The tremendous taxation in England has been owing to the war and the Loan Debt, and the fact that we are paying our creditors and are not being paid by our debtors, and these things make matters very different, and I do suggest that a scale like this is unduly harsh for a country like this and may have deleterious effects where settlers are concerned here.

I do not suggest you should not have a reasonable scale, but to have the same scale as in England will press very hardy on people like the hon. Member for the Lake, who works very hard and never takes a holiday.

HON. J. B. PANDYA: Your Excellency, I do think that the schedule requires revision, and I have no doubt that when it goes before a Committee it will receive attention. I want to know why it is necessary to have this law put back to 1924. I cannot understand the reason for getting this retrospective effect in this legislation.

HON. ATTORNEY GENERAL: I understood from my hon. friend the Member for Nairobi South that he seemed to think that a Select Committee on this Bill would be desirable. Personally, I am not prepared to oppose that for a second, but what I do feel is that the sooner the Bill becomes law the better, so as to avoid this extraordinary position which has cropped up. If it is intended that this Bill should go to a Select Committee then I think all the points that have been mentioned can be dealt with in Select Committee, but no motion so far has been moved to this effect.

CAPT. THE HON. H. E. SCHWARTZ: I believe you cannot pass a motion until the second reading is passed. I am quite prepared to sit at once, so that we can report on Monday. I shall move, with Your Excellency's permission, the appointment of a Committee as soon as the second reading has been passed.

HON. ATTORNEY GENERAL: Then I had better deal with the points raised by the hon. Members. The first point is in clause 12, sub-clause (1) (b), and the hon. Member's question was as to whether that is taken from the English Act. I am afraid at the moment I cannot answer that question as I have not had time to go into it, but I think it carries out the provisions of the English Act. I think I can say that that sub-clause is to all intents and purposes exactly the same as we have at present in our present Ordinance, and the hon. Member will find the corresponding section in the Estate Duty Ordinance, 1918, in the same section 12, sub-section (2), so that although this particular sub-clause may not follow exactly the English wording, it makes no change in the present law of this Colony.

The next criticism that my hon. friend made was in regard to clause 15, sub-clause (2). That is the sub-clause dealing with the payment of debts out of the Colony. I am not in a position to offer any reply to his criticisms. I will simply say that this section appears in the English Act and as our policy in regard to this particular subject is to follow the English legislation then that is the reason why this sub-clause appears in the Bill.

My hon. friend's other criticism was in regard to clause 12, sub-clause (6), and he pointed out that there was no reason why a foreign country should be treated differently from a British Possession or the United Kingdom. I can only suggest that the more favourable terms given to the United Kingdom of the British Possessions is more or less patriotic and that it was felt that foreign countries or property in a foreign country should not be dealt with as favourably. That again, as I said before, was taken direct from the English Act.

The schedule of rates I am not at the moment concerned with; as I have stated there is no change suggested in the rates, which have been in force here for some five years.

My hon. friend Mr. Pandya raised the question as to why this Bill was made retrospective from the 1st June, 1924. That was a point which I wanted to deal with in the notice of amendment which stands in my name, but I have only to say that it was made retrospective for quite a considerable period in order to get over difficulties which have arisen in connexion with large estates during the last couple of years, and in connexion with these estates it was felt to be most unfair to charge Estate Duty on property all over the world, whereas the obvious intention of the local Ordinance had been to limit the charge to property in Kenya, and that is why it is proposed to make the Bill retrospective.

28th May, 1926

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

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: I beg to move, with Your Excellency's permission, that a Select Committee of this hon. Council be appointed to consider this Bill and report.

HON. J. B. PANDYA: I beg to second the motion.

HIS EXCELLENCY: The question is that the Bill be referred to a Select Committee.

The question was put and carried.

HIS EXCELLENCY: I think it would be convenient if the hon. Attorney General discusses with the hon. Member for Nairobi South the composition of that Select Committee and I will make an announcement after the interval.

THE GAME BIRDS PROTECTION BILL.

HON. ACTING COLONIAL SECRETARY: Your Excellency, in moving the second reading of the Bill to make provision for the Protection of Game Birds, I am in the happy position, I know, of moving a measure which is not contentious, and it is for that reason that I propose to confine my remarks to a very small space. Long ago it was realized how necessary it was becoming to protect these game birds. The Bill for that purpose is now before you, and it is sincerely to be hoped that this hon. Council will pass it without delay so as to prevent the further depletion in those areas where at one time game birds were plentiful and where they are now becoming extinct. It is in order to get at the matter from the very root—to prevent the sale of game birds—that this Bill is now before this Council. The whole trouble, of course, lies in this question of sale. It will possibly be alleged that in England and in other countries the sale of game birds is allowed, and that it would seem strange that this sale is not allowed here. The difference, of course, is great. In England the sale of game birds is from estates where the object of the owners is to keep their stock up but not to allow it to overcrowd. Here no such conditions exist. With the spread of inter-transportation the opportunities of those who would get rich at the expense of the game birds has increased and there is no doubt whatever that this depletion will extend rapidly unless measures are taken to cope with it.

The Bill contains all the usual measures which are used for the protection of game. There is provision for the institution of close seasons, and an effort to see that none

of the birds mentioned in the schedule are killed or captured, and that eggs are protected. There is prohibition against the use of traps or poisons, or any other unduly destructive methods of killing game birds.

The Bill is fully explained in the Objects and Reasons, which hon. Members will find at the end of the Bill.

With those few remarks, I will leave the Bill to the mercy of hon. Members.

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

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

The question was put and carried.

THE CHANGE OF MEDICAL TITLES BILL.

HON. ACTING COLONIAL SECRETARY: In moving the second reading of a Bill intituled an Ordinance to Provide for New Medical Designations, I need only say in the words of the statement of Objects and Reasons that "this Bill is necessitated by the instructions of the Secretary of State for the Colonies concerning changes of title in the staff of the Medical Department."

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

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

The question was put and carried.

THE ABUSE OF OPIATES PREVENTION (AMENDMENT) BILL.

HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES: I beg leave to move the second reading of a Bill intituled "An Ordinance to Amend the Abuse of Opiates Prevention Ordinance, 1913."

In moving this, I think there is very little which is required to be said about it. The principles of the Ordinance as they have existed up to now have not been varied in any way. The instrument is made a little fuller and it has been altered so as to bring the law in this country into accordance with the laws which obtained last year with regard to opiates generally. At the second Opium Conference which took place in 1924 an agreement was come to between the buyers as to the legislation which should be introduced and this amending Ordinance has endeavoured to bring our local legislation into line with that.

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

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

The question was put and carried.

TOWN PLANNING (AMENDMENT) BILL.

HON. ATTORNEY GENERAL: I beg to move the second reading of a Bill to amend the Town Planning Ordinance, 1919.

This Bill provides for two small but rather important amendments to the principal Ordinance. The first amendment is dealt with in clause 2 of the Bill, which relates to compensation to owners whose property is injuriously affected by the Town Planning Scheme. As the law stands at present no compensation can be paid in respect of any building erected after the date on which application for authority to prepare the scheme was made. A considerable period must necessarily elapse between the date for the authority and the date for the scheme to be approved, and as at present any owner who develops work during that period does so at his own risk, because if subsequently it becomes necessary to demolish and injuriously affect that work of development the owner is entitled to no compensation. It is felt that the provisions of the existing law are unduly wide and that they tend to retard the ordinary development of a town. It is therefore proposed to amend the existing law by preserving the right to compensation to owners who before they commence any work of development on their property obtain the consent or approval of the Town Planning Authority.

The second amendment is dealt with in clause 3 of the Bill. As the paragraph in question at present appears in the principal Ordinance, it is I understand owing to a printers' error mathematically incorrect. It is proposed therefore to replace the present paragraph by a new one which is mathematically correct, which is more clearly put, and carries out the original intention of the Ordinance.

In clause 4 it will be noticed that it is proposed that this clause should come into operation on the 5th November, 1919. That is the date that the principal Ordinance came into operation.

HON. COMMISSIONER OF LANDS: I beg to second the motion.

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

The question was put and carried.

Council adjourned to 2.15 p.m.

ON RESUMING.

APPOINTMENT OF SELECT COMMITTEE.

HIS EXCELLENCY: I understand as a result of conversations on the appointment of a Select Committee to consider the Estate Duty (Consolidation) Bill the following Gentlemen have been named:—

The Attorney General, *Chairman*.

The Treasurer.

Captain H. E. Schwartzo.

Mr. R. S. Nehra.

The question was put and carried.

PAPERS LAID ON THE TABLE.

HON. ACTING COLONIAL SECRETARY: With Your Excellency's permission and the permission of this hon. House, I beg to lay on the Table the Report of the Committee appointed to enquire into and report on the case of the illegal arrest of Mr. Archibald Hogg.

THE STATISTICS (AMENDMENT) BILL.

HON. ACTING COLONIAL SECRETARY: I beg leave to move that a Bill intitled an Ordinance to amend the Statistics Ordinance, 1918, be read a second time.

The main object of this Bill is merely to extend the powers of Government to take statistics in any desirable matters and it results from the report of the Committee of which the hon. Director of Agriculture was Chairman. It is scarcely necessary to commend this Bill further to hon. Members as there is really nothing further in it requiring explanation.

HON. ATTORNEY GENERAL: I beg to second.

The question was put and carried.

HON. ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that Council resolve itself into a Committee of the whole House to consider the Bills of which the second readings have been read with the exception of the Estate Duty (Consolidation) Ordinance.

HON. ATTORNEY GENERAL: I beg to second.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee.

THE OPERATION BILL.

MAJOR THE HON. H. BOWEN: Your Excellency, I beg to move the following amendments:—

- (1) That the First Schedule be amended by the deletion of "Ordinance 21 of 1924—The Estate Duty (Amendment) Ordinance, 1924."
- (2) That the Second Schedule be amended by the deletion of "Chapter 63 (Estate Duty)" and the two succeeding paragraphs.

The question was put and carried.

THE GAME BIRDS PROTECTION BILL.

MAJOR THE HON. H. BOWEN: I beg leave to move the following amendments:—

- (1) Clause 13, by the deletion of the figure "1921". This is excised in view of the fact that this Ordinance will refer to the Revised Laws and not to a particular year.
- (2) Clause 20, by the deletion of the figure "1921" for the same reason.
- (3) Clause 21, that the following be inserted in lieu of clause 21—
"The Wild Birds Protection Ordinance (Chapter 162 of the Revised Edition) is hereby repealed."
The reason is that it is intended before this Bill is assented to by Your Excellency the Revised Laws of the Colony will be in force and therefore the reference will be to the laws as appearing in the revised edition and not the present law.
- (4) Schedule, Note 1.—The deletion of the figures "1921".

The question was put and carried.

THE CHANGE OF MEDICAL TITLES BILL.

No amendments proposed.

THE ABUSE OF OPIATES PREVENTION (AMENDMENT) BILL.

HON. ATTORNEY GENERAL: Your Excellency, may I ask that clause 1 be reconsidered for the purpose of deleting the figures "1913" for the same reason as that given in the case of the Game Birds Ordinance?

The question was put and carried.

THE TOWN PLANNING (AMENDMENT) BILL.

HON. ATTORNEY GENERAL: I beg leave to move the deletion of the figures "1919" in clause 1 of the Bill.

The question was put and carried.

THE STATISTICS (AMENDMENT) BILL.

MAJOR THE HON. H. BOWEN: I beg to move the deletion of the figures "1918" from clause 1 of the Bill.

The question was put and carried.

HON. ACTING COLONIAL SECRETARY: I beg leave to move that the following Bills be reported to Council:—

- The Operation Bill as amended.
- The Game Birds Protection Bill as amended.
- The Change of Medical Titles Bill unamended.
- The Abuse of Opiates Prevention (Amendment) Bill as amended.
- The Town Planning (Amendment) Bill as amended.
- The Statistics (Amendment) Bill as amended.

Council resumed its sitting.

HIS EXCELLENCY: I have to inform Council that the Operation Bill has passed through Committee of the whole Council and is reported back to Council with amendments.

HON. ACTING COLONIAL SECRETARY: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

HIS EXCELLENCY: I have to inform Council that the Game Birds Protection Bill has passed through Committee of the whole Council and is reported back to Council with amendments.

HON. ACTING COLONIAL SECRETARY: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

HIS EXCELLENCY: I have to inform Council that the Change of Medical Titles Bill has passed through Committee of the whole Council and is reported back to Council without amendments.

HON. ACTING COLONIAL SECRETARY: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

HIS EXCELLENCY: I have to inform Council that the Abuse of Opiates Prevention (Amendment) Bill has passed through Committee of the whole Council and is reported back to Council with amendments.

HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

HIS EXCELLENCY: I have to inform Council that the Town Planning (Amendment) Bill has passed through Committee of the whole Council and is reported back to Council with amendments.

HON. ATTORNEY GENERAL: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

HIS EXCELLENCY: I have to inform Council that the Statistics (Amendment) Bill has passed through Committee of the whole Council and is reported back to Council with amendments.

HON. ACTING COLONIAL SECRETARY: Your Excellency, I beg to give notice that I will move the third reading of this Bill at a later stage of the Session.

*Council adjourned to 10 a.m. on Monday,
May 31st, 1926.*

MONDAY, 31st MAY, 1926

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on the 31st day of May, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

COMMUNICATION FROM THE CHAIR.

HIS EXCELLENCY: I think there are two announcements which ought to be made to Council before it adjourns this week, and it may be to the convenience of hon. Members in all parts of Council that I should make those announcements now. I think this is the best opportunity.

The first announcement is with regard to the boundaries of the native reserves. I am glad to inform Council that these boundaries have now been finally agreed upon. The provisional boundaries as laid down by previous Gazettes and as arranged after discussion between the hon. Chief Native Commissioner and the hon. Commissioner of Lands were published on October 13th last year, and all interested parties were invited to send in then any objections which they might have to make. During the months which have intervened many objections have been carefully considered, and complete agreement in regard to them was finally arrived at between the Chief Native Commissioner and the Commissioner of Lands.

In order, however, that objectors might have the fullest opportunity of being heard, further notice was given that if any of them desire to press their objections they would be heard in Executive Council on 27th May. Only two objections were pressed in that way. One was with regard to the proposed inclusion in the Kitui Reserve of a triangle on the Yatta Plateau between the Tana River and a line joining the junction of the Thika and Tana Rivers to Kangondi. Mr. Clay and Major MacMaster appeared before Executive Council to represent those who made this objection; and Executive Council heard them in full. As a result of that discussion it was shown that no natives were in fact in occupation of that triangle, that there was no native need or demand for that triangle, and that therefore there was no reason for the inclusion of that triangle in the Kitui Reserve.

The other objection related to the Masai Reserve and particularly to a piece of land west of the Mau-Narok grant included in what has been known for years past as the

"Promised Land." Mr. Powys Cobb appeared before Executive Council and represented the views of those who objected to the inclusion of this Promised Land in the Masai Reserve. After hearing his case very fully Executive Council decided that a definite promise had been given by Sir Edward Northey that this land should be included in the Masai Reserve and that Sir Edward Northey's promise should be upheld. The Promised Land west of Mau-Narok will, therefore, now be added to the Masai Reserve.

The only other point on which any doubt remains at all relates to the Nyeri and Meru Reserves. There is no argument in that case; but the southern boundaries remain to be surveyed and until that delimitation takes place upon the ground, the actual boundaries there cannot be gazetted. As I have said, however, there is no disagreement there at all. It is merely a question of fixing the line upon the ground.

The proclamation will, therefore, be issued now with the least possible delay, announcing that these are the final boundaries of the native reserves. Legislation is also under consideration to give complete security of tenure to native tribes, settlers and all concerned.

The other announcement which I have to make is with regard to the Municipal Commission, which I announced my intention of appointing when Council last met. I have been very anxious to secure for the Commission a Chairman with wide experience of problems such as those with which the Commission will have to deal, and have been fortunate in obtaining as Chairman Mr. Justice Feetham, a Judge in the Transvaal Division of the Union of South Africa.

I know of no one better qualified to undertake this work. Mr. Justice Feetham came out to South Africa under Lord Milner in 1902. He was for some time Deputy Town Clerk of Johannesburg and afterwards for two years Town Clerk. For some years afterwards he was Legal Adviser to the High Commissioner in South Africa. He was also a Member of the Legislative Council of the Transvaal for some years, and when the Union was achieved he was for eight years a member of the House of Assembly. During the war he served in the 1st Battalion of the Cape Corps. He also has considerable experience outside South Africa, for he was a member of the Southborough Committee appointed to deal with the Indian Reforms, and also a member of the India Office Committee which dealt with the Government of India Bill. He has acted as President of the Supreme Court of Swaziland, and as I say, he is now a Judge in the Transvaal Division in South Africa.

It speaks eloquently of the opinion held in England of Mr. Justice Feetham's character and capacity that he was chosen for the most difficult task for which I think an individual could be chosen, namely, the chairmanship of the Irish Boundaries Commission. His handling of that supremely difficult problem made a deep impression on all parties to the controversy. I have known Mr. Justice Feetham for many years, and there is no one to whom I would more readily confide this investigation in the Colony here. It is agreed, I think, by all who know him that he is a man distinguished by wide experience, great political insight, absolute fairness of mind, and a broad understanding of men and affairs. He arrives here towards the end of July, and I shall announce later the composition and terms of reference of the Commission. I hope that he will be able to deal with the problem of Nairobi first.

Before leaving the subject I should like to express—and I am sure that this will meet with the concurrence of all parts of the House—the thanks of the Colony to the Union Government of South Africa for putting Mr. Justice Feetham's services at our disposal. The Union Government has always shown us great kindness and understanding in these matters. We have to thank them for the loan of many useful advisers. By giving us the services of Mr. Justice Feetham they have acted with a consideration which I am sure the whole Colony greatly appreciates.

The Colonial Secretary has just handed me a note to remind me that in the interests of Council we propose to appoint shortly a Committee to deal with Standing Orders, as in everybody's opinion the present Orders are rather vague. I should like to discuss the composition of that Committee in various quarters of Council and announce it later.

May I also say a word of explanation on another point? I observe that the question put by the hon. and gallant Member for Nairobi South last week and answered by the Colonial Secretary, in regard to questions asked in the House of Commons about this Colony has been taken in some quarters to contain some reflection on the Convention of Associations. In view of the language which I myself used to the Convention of Associations, I think it unnecessary for me to say that no reflection was intended on that body. It is, however, the fact that individual and local expressions of opinion of an unguarded character, for which the Convention of Associations and its Executive have no responsibility, do get through to England, and are carefully studied there by many of those who are interested in the Colony and who take strong views

about its politics. It is those expressions of opinion, purely local and often purely individual, which are taken as representative and do the harm.

MINUTES.

The Minutes of the meetings of 26th and 28th May, 1926, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTHCOOTE) :—

Report of the Select Committee on 2nd Supplementary Estimates, 1926.

By THE HON. THE ATTORNEY GENERAL (MR. HUGGARD) :—

Report of the Select Committee on the Estate Duty (Consolidation) Bill.

QUESTIONS.

ELECTROCUTIONS IN MOMBASA.

THE HON. W. A. M. SIM : I beg leave to ask the first question standing in my name on the Order of the Day :—

"Will Government state what action they intend taking with regard to the recommendations of the Committee on Electrocutions, Mombasa?"

THE HON. THE ACTING COLONIAL SECRETARY : Government is advised with regard to the first three recommendations of the Committee on Electrocutions at Mombasa that the necessary regulations exist but that in order to administer the regulations the appointment of an Electrical Inspector and of an Electrician is necessary. Provision for these appointments was inserted in 1st Supplementary Estimates, 1926.

The services of Mr. Willoughby, Telegraph Engineer, have been obtained to fill the post of Electric Inspector and his appointment will shortly be gazetted. The post of Electrician has not yet been filled.

HIDES AND SKINS.

THE HON. W. A. M. SIM : I beg leave to ask the second question standing in my name on the Order of the Day :—

"Whether it has been brought to the notice of Government that large sums of money are lost to the natives of this country through the export of improperly cured skins and hides, and if so, what steps have been taken by the proper authority to lessen or obviate this loss to the Colony."

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM) : Government is aware that better prices would be obtained from the sale of hides and skins if greater care were exercised in their preparation for market. Attention has been given to their improvement, chiefly through the Veterinary Staff, by education, demonstration and the distribution of leaflets conveying instructions.

Arrangements have been made for an officer to study the preparation of hides and skins and the trade therein generally, under the auspices of the United Tanners' Federation.

There is already evidence that hides and skins of better quality are being produced and it is to be hoped that improvement in the organization of the trade in the reserves will be effected so that natives may share in the increased value of the properly prepared hides and skins.

RAILWAY QUARTERS.

THE HON. J. B. PANDYA : I beg leave to ask the first question standing in my name on the Order of the Day :—

"Has the attention of the hon. General Manager, Kenya and Uganda Railways, been drawn to the fact that present quarters have not sufficient accommodation for members of his Asian Staff with large families and grown-up children?"

Will he take steps in such cases to provide larger quarters?"

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY (MAJOR RHODES) : The answer to the first part of the question is in the affirmative.

The answer to the second part of the question is in the affirmative, but on a limited scale only. A large number of the Asian Staff of the Railway are drawing house allowance, and it is considered that the largest number of houses possible should be provided out of available funds to meet the demand before special requirements are dealt with. In any case we cannot be expected to provide accommodation for grown-up children.

MAINTENANCE OF CIVIL DEBTORS.

THE HON. J. B. PANDYA : I beg leave to ask the second question standing in my name on the Order of the Day :—

"Has the attention of the Government been drawn to the fact that for civil jail payment for food is made at Sh. 1/12 a day whereas cost of living having gone up it costs Sh. 2 per day?"

Will the Government take steps to alter the figure to the present cost of living?"

THE HON. THE ACTING COLONIAL SECRETARY: The answer to the first part of the question is in the negative.

As regards the second part of the question, it is not proposed to take any steps to alter the scale for maintenance of civil debtors in prisons.

EDUCATION OF INDIAN CHILDREN IN MOMBASA.

THE HON. J. B. PANDYA: I beg leave to ask the third question standing in my name on the Order of the Day:—

"Will the hon. the Director of Education state:—

1. If he is aware of the fact that there are in Mombasa 150 to 175 Indian boys of the age from six to ten years old who are unable to go to the Allidina Visram High School owing to the building of the said school being at a considerable distance from the residential area of the old township of Mombasa?

2. If so, what action he has taken to provide them with education?

3. If he is aware of the fact that there are two private schools in Mombasa where about 100 boys are attending but owing to lack of funds these private schools are unable to provide sufficient accommodation, staff and equipments?

4. If the Education Department is unable at present to start an infant school in the residential area of the old township of Mombasa will he take steps through the school committee to get these two private schools amalgamated into one and aid the said school with grant-in-aid until such time when the Government school is opened in the old township?"

THE HON. THE ACTING DIRECTOR OF EDUCATION (MR. BIRSE):

1. It is known that there is a number of Indian boys in Mombasa who are not attending school and that some of the parents have stated the reason to be that the Allidina Visram High School is too far from the town.

2 and 3. The Department has been informed that about 100 of these boys are attending two private schools in Mombasa; the circumstances of these schools will be investigated.

4. The question of giving a grant-in-aid for the education of these boys on certain conditions is under consideration.

INDIAN BOYS' SCHOOL, LAMU.

THE HON. J. B. PANDYA: I beg leave to ask the fourth question standing in my name on the Order of the Day:—

"Will the hon. Director of Education state what action has been taken by his Department to start an Indian Boys' School at Lamu, and when the school will be opened?"

THE HON. THE ACTING DIRECTOR OF EDUCATION: Provision for starting an Indian School at Lamu has been placed in the 2nd Supplementary Estimates.

It is expected that the school will be opened on 1st July, 1926.

IRRIGATION REPORT.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: I beg leave to ask the first question standing in my name on the Order of the Day:—

"When will Government publish the report of the irrigation expert?"

THE HON. THE ACTING COLONIAL SECRETARY: The report is being printed in England owing to the impossibility of reproducing the diagrams in this country. It is hoped that it will be ready for publication towards the end of the year.

PRONUNCIATION OF "KENYA."

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: I beg leave to ask the second question standing in my name on the Order of the Day:—

"Will Government give a ruling as to the correct pronunciation of the name of this Colony?"

THE HON. THE ACTING COLONIAL SECRETARY: The pronunciation "Kenya" with the "e" long was accepted by the Permanent Committee on Geographical Names for British Official Use in December, 1931.

NGONG-MBAGATHI AREA: POSTAL FACILITIES.

THE HON. W. MACLELLAN WILSON: I beg leave to ask the question standing in my name on the Order of the Day:—

"1. Is the hon. Postmaster-General aware of the many complaints from residents of Ngong and Mbagathi during the last five years of the total absence of telegraphic, telephonic and postal services at Ngong?"

2. Is it within his knowledge that the development of that district is being retarded, and great loss and inconvenience is being experienced every year through lack of these services?

3. Has he in fact approved of the principle of a Telephone Service and Post Office at Ngong and, if such is the case, what is the reason of the delay in establishing them?"

THE HON. T. FITZGERALD :

1. The reply is in the affirmative.

2. The reply is in the negative.

3. The Department has offered to open a contract Post Office at Ngong provided a suitable contractor is forthcoming; remuneration to depend on the volume of business transacted.

The Department has also agreed to provide telegraph and telephone facilities subject to the residents guaranteeing a minimum revenue of £45 per annum from the line. In respect of such guarantee Ngong is not being treated exceptionally.

DACOITIES.

THE HON. J. B. PANDYA : I beg leave to ask the fifth question standing in my name on the Order of the Day :—

"Will the Government state the names of persons involved in the recent dacoities and shootings committed on unarmed traders at Donyo Sabuk, Makuyu, Mbunyuni and Makindi, how many of the said dacoits were apprehended and prosecuted, the results of the prosecutions, and the sources from which the dacoits obtained their fire-arms?"

(2) Will the Government state what special steps it has taken since these dacoities to protect the lives and properties of defenceless Indian traders?"

THE HON. THE ACTING COLONIAL SECRETARY :

(1) The cases are still under investigation and it would be inadvisable to make any statement in this connexion at present.

(2) Police have specially patrolled the districts concerned and special Police officers have been posted in these areas.

NAIROBI RESIDENTIAL PLOTS.

THE HON. M. A. DESAI : I beg leave to ask the first question standing in my name on the Order of the Day :—

"When does the Government propose to alienate the Kyambu Road and Kileleshwa plots of Crown land to enable the Indian community of Nairobi to acquire residential plots?"

THE HON. THE COMMISSIONER OF LANDS (MR. MARTIN) : Proposals for the auction of plots in the Ngara Road area are now under consideration by Government and it is expected that the sale will take place within two or three months.

The alienation of plots in Kileleshwa must be delayed for a considerable time until the Town Planning Scheme now in course of preparation has been approved and put into operation.

TRANSFER OF MR. COOKE.

THE HON. M. A. DESAI : I beg leave to ask the second question standing in my name on the Order of the Day :—

"Will the Government hold an inquiry into the causes of the transfer of A.D.C. Mr. Cooke from Fort Hall to Embu, as desired by him and as recommended by the Barth Commission which inquired into certain complaints alleged against him by certain white farmers of the Ruiru District?"

THE HON. THE ACTING COLONIAL SECRETARY : An inquiry into the causes of the transfer of Mr. S. V. Cooke, A.D.C., from Fort Hall to Embu was made as recommended by the Commission of Inquiry under His Honour the Chief Justice.

The inquiry established the fact that there was no foundation for the suggestion that Mr. Cooke was transferred in consequence of the complaints of European farmers, and Mr. Cooke was so informed at the time.

INDIAN HOSPITAL, NAIROBI.

THE HON. M. A. DESAI : I beg leave to ask the third question standing in my name on the Order of the Day :—

"Will the Government state what progress has been made in the matter of building a hospital for the Indian community of Nairobi."

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS) : The Nairobi Town Planning Authority has recommended a site on Plot No. 117, Parklands.

This recommendation has been approved by Government, and the Public Works Department have been instructed to draw up plans for a hospital on that site as early as possible.

AFRICAN RAILWAY SERVANTS.

THE HON. M. A. DESAI: I beg leave to ask the fourth question standing in my name on the Order of the Day:—

"Is it a fact that the young President of the Railway African Union had to resign his post as a Signaller in charge at the Nairobi Railway Station as he was not given any promotion since 1919, having then reached his maximum, and that other competent African Railway servants, particularly those attached to the Signalling Department, are following suit as they see no prospects before them?"

(b) In view of the desirability of encouraging the indigenous natives to take their full share in the civil administration of the Colony, will the Government consider the advisability of revising the African scale of salaries making a more generous provision all round?"

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY: It is a fact that the President of the African Staff Union did resign his post recently, on the grounds that he was dissatisfied with his prospects. He had received his last increment at the end of 1920, which brought him to the top of his grade.

2. One other African Signaller also resigned recently, but he had been in receipt of regular increments since 1919. His particular complaint was to the effect that he did not get an additional increment between two incremental dates, on promotion to a higher grade.

3. A third African—a clerk—has been getting regular increments and accelerated promotion since the date of appointment at the beginning of 1924. His complaint was to the effect that he was not getting the same salary as an Asian whom he had replaced.

4. Revised terms of service for the African Clerical Services are under consideration.

INDIAN HIGH SCHOOL, NAIROBI.

THE HON. M. A. DESAI: I beg leave to ask the fifth question standing in my name on the Order of the Day:—

"When does the Government propose to start building the Indian High School in Nairobi, and when will it be completed?"

(2) Is the Government aware that about 200 Indian children of school-going age are at present debarred from admission to the school for want of accommodation, and will the Government be pleased to find temporary additional accommodation for these children pending the erection of the new High School building?"

THE HON. THE ACTING DIRECTOR OF EDUCATION: His Excellency the Governor has directed that the building of the Indian School at Nairobi be expedited. It is impossible to give any date for the completion of the building but it is hoped that it will be finished by the end of 1927.

(2) There is not at the moment accommodation for sixty-nine children whose names have been submitted to the Headmaster for admission to the Indian School at Nairobi. It is believed that an even larger number would attend the school if accommodation were provided. Three additional temporary classrooms were provided at the commencement of this year, and arrangements are being made for two or three more at the earliest possible moment.

INDIAN QUESTION.

THE HON. M. A. DESAI: I beg leave to ask the sixth question standing in my name on the Order of the Day:—

"Will the Government lay on the Council table copies of all despatches and other correspondence during the last five years containing their views on the controversy in connexion with the civic rights of His Majesty's Indian subjects in Kenya. If not, why not?"

THE HON. THE ACTING COLONIAL SECRETARY: The answer is in the negative. The correspondence is voluminous and for the most part confidential and the Government considers no useful purpose would be served by seeking authority to publish it.

THE HON. M. A. DESAI: May I inquire whether the correspondence which is not confidential will be placed at my disposal?

HIS EXCELLENCY: The hon. Member must give notice of that question.

OUTRAGES ON EUROPEAN WOMEN.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: I beg leave to ask the third question standing in my name on the Order of the Day:—

"Has the attention of Government been called to recent outrages on European women, and can Government make any statement to alleviate the feeling of insecurity at present prevalent amongst the white community of the Colony?"

THE HON. THE ACTING COLONIAL SECRETARY: Government recognizes that recent crimes of violence have given rise to widespread anxiety for the safety of European women and children. It is confident that these crimes are regarded with horror by all sound native opinion and is calling upon the Chiefs and Elders of the native tribes to use all the influence which they possess to prevent the recurrence of such offences. Measures are also under close consideration for strengthening the law dealing with crimes of this nature. The Noble Lord may rest assured that Government will do all in its power, in the interests alike of the non-native and native communities, to restore a sense of security throughout the Colony.

LAND BANK.

CAPT. THE HON. H. E. SCHWARTZ: I beg leave to ask the question standing in my name on the Order of the Day:—

"Is there any truth in the report that Government is negotiating with a financial expert in England to visit this Colony with a view to the possibility of the institution of a Land Bank and for the further purpose of investigating the whole financial position of the Colony, including assets, liabilities and commitments and reporting thereon?"

If not, will Government consider the feasibility of entering into such negotiations?"

THE HON. THE ACTING COLONIAL SECRETARY: The Governors' Conference decided to obtain if possible the advice of a financial expert upon the possibility of establishing a Land and Agricultural Bank for the East African Territories. Steps have been taken accordingly by the Conference Secretariat, but at present without success. Government here regards such advice as highly desirable and is still endeavouring to secure it. With regard to the financial position of the Colony, Government has complete confidence in its own advisers, official and unofficial and sees no reason whatever for any outside inquiry into matters which, under the constitution, are solely the concern of the Governor and Legislative Council, subject to the supervision, always carefully exercised, of the Secretary of State. These, the proper authorities, have recently made an exhaustive study of the Colony's assets and liabilities and have complete confidence in its credit and stability.

CENTRAL KIKUYU ASSOCIATION.

THE HON. M. A. DRSAI: I beg leave to ask the seventh question standing in my name on the Order of the Day:—

"Will the Government inform the House of the action taken on the points raised in the petition of the Central Kikuyu Association, Fort Hall, presented to His Excellency the Governor by the said Association in December last—especially in regard to their prayer for the release of their political leaders now undergoing deportation?"

THE HON. THE CHIEF NATIVE COMMISSIONER: All the points raised in the petition of the Central Kikuyu Association, Fort Hall, have received the attention of Government. The Association is devoid of any representative character and its members have been informed that any representations they desire to make should be addressed to the District Commissioner, Fort Hall, or to the Senior Commissioner, Kikuyu, as the case may be.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: Your Excellency, there are three questions in my name which have not been taken. As Council may not be sitting again after to-day, may I ask if I can have written replies to them?

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, the same applies in my case.

HIS EXCELLENCY: Certainly.

THE HON. SHAMS-UD-DEEN: Your Excellency, I want to know if I am in order at this juncture in asking the Government to consider if it is possible to make any other arrangements for a hall where this hon. Council can sit? I can hardly see or hear anything in this hall and I would like Government to take into consideration that the next session should take place in any other place except the Memorial Hall.

HIS EXCELLENCY: I am sure all Members have sympathy with the suggestion. Government is giving consideration to the possibility of finding better accommodation for Legislative Council and if anything can be done it will be done.

THE HON. T. A. WOOD: Your Excellency, I do not think the minutes have been confirmed yet.

HIS EXCELLENCY: Unless there are any objections to be raised to them they should be taken as confirmed.

THE HON. T. A. WOOD: Your Excellency, I understood formal sanction was necessary.

HIS EXCELLENCY: No formal confirmation is given of the minutes in the House of Commons.

THE HON. THE ATTORNEY GENERAL: The Standing Rule states that the minutes of the last meeting of the Council are to be read by the Clerk or may be taken as read and shall be confirmed or amended.

HIS EXCELLENCY: Has the Clerk received any objections to the minutes of the last meeting?

THE CLERK OF THE COUNCIL: No, Sir.

HIS EXCELLENCY: I declare these minutes confirmed.

MOTIONS.

ARREST OF MR. ARCHIBALD HOGG.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY: Your Excellency, I beg leave to move:

"That this Honourable Council approves the recommendation contained in the report of the Committee appointed to investigate the circumstances of the arrest of Mr. Archibald Hogg."

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

The question was put and carried.

KENYA HANSARD.

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

"That this Honourable Council approve the recommendations of the Select Committee on a Kenya Hansard."

In view of the report which was laid before hon. Members last week on the subject of my motion, I feel it is unnecessary for me to speak at any length in its support. Hon. Members will remember as far as history goes that during the last year the Right Hon. Lord Delamere moved that this Committee be appointed, a motion that was seconded from this side of the House. The meetings of the Committee were short, and I am glad to say, achieved unanimity very easily. I will only touch upon three points this morning. Firstly,

in regard to the value of verbatim reports here described as a "Hansard." The reports to-day—and I say it with a very high appreciation of the efforts of those whose duty it is to make them, and of the Press for the very able reports which are produced at short notice under great difficulties—reports of Council proceedings to-day are, I am afraid, as far as the proceedings of this Council go, of very little value indeed. As a record and a matter of interest to posterity they have a very high value, but the improvement we wish to bring about is that they should also have a value to the conduct of business in this Council and enable Members to speak with some greater security upon the business before Council. At the present moment Members are compelled to rely entirely upon memory and the short reports in the Press, and I am afraid our memories are at times highly inconvenient. It is of the utmost importance that verbatim reports should be in the hands of Members on the very next morning after the business has been transacted. On the point of feasibility. Of course, anything is possible if sufficient money is spent. The Committee were, however, particularly concerned that its recommendations to the Government should, as far as possible, be governed by economy and the smallest possible expense which would make the working of a scheme like this feasible. That has been their excuse for suggesting a very considerable interference with the business of this hon. Council and their whole recommendations are based upon the proposal that this Council should meet only in the mornings and so reduce the staff which would be required for the reporting and the printing of verbatim reports. I will not say for a moment that is the only reason which actuated the Committee in recommending this Council should sit only in the morning. There are very many other strong reasons. I am sure Members will recognize how vastly the work of committees would be facilitated, and the Heads of Departments in particular will sympathize with any suggestion which will free them for an occasional afternoon during which to conduct their departmental business. The necessity for a half-day sitting so far as the recommendations of the Committee go lies solely in the fact, in the scheme as put forward in this report, the staff for the Kenya Hansard can be easily and economically absorbed in the working staff of the Government. I am not so sure that would be the case were this Council to sit for five hours a day. It would mean a staff of some six verbatim reporters of a very high standard instead of three and considerable difficulty might be found in arranging for the remainder of the year when Council was not sitting. In regard to the cost, I have already mentioned one of the main factors of the scheme was the use of certain members of existing Government staffs in producing this

verbatim report. By means of this the Committee estimate that the cost of producing this verbatim report will be no more than £600 a year. The details of that will be found on the fifth page of the report where it is shown the total cost is estimated at £1,533 of which £925 is already in the estimates of the Colony. Against that £600 there may be set very considerable expenditure which this Colony may find it necessary to undergo. As a single example of that—I would instance the Port Commission which sat at the beginning of the year, the reporting for which alone cost £125. The Port Commission is by no means the only commission of the present day. A very important commission has been mentioned more than once, over which Mr. Justice Feetham will preside, and which will study the municipal problem of the Colony. It is of the utmost importance that a commission of that kind should be reported verbatim. The same is very much the case with regard to the printing. This Council recently approved the amalgamation of the two Presses, the Railway and Government Presses, and the Government is now negotiating with the Secretary of State to obtain a Printer who will be able to supervise that enlarged amalgamated Press. The figures go to show very clearly how very inadequate the present machinery is for the printing of Government business. I need only state that in 1925 £1,425 was spent on outside printing to show that a very large margin can be transferred to the accounts of the Colony by enlarging and improving the present Press. The Report has somewhat over-generously ascribed one of the reasons of the total additional cost of this scheme for verbatim reporting to the Hansard. I say over-generously, because it is my firm conviction even if this Hansard were not to be adopted an enlargement of the Press is very necessary. Much of it is necessary to-day and were an investigating Committee to be appointed it would be found that no less than what is asked for here would be asked for by them. In order not to exaggerate the case, there has been charged against this verbatim report one-seventh of that additional cost which in recurrent expenditure means £260 and an extraordinary expenditure of £550.

I would refer hon. Members for further information to the Report which is in their hands and of the opportunity which I shall have at the end of the discussion of answering any questions which may be put to me upon the Committee's recommendations. I would ask hon. Members to agree that such a thing as a verbatim report would not only be desirable but that it is an absolute necessity if the business of the Council is to be conducted properly. I would ask them secondly to agree to this proposal here of using to its full

the additional staff and that it is in the interests of economy to do so, and with that not very long introduction I would leave the matter in the hands of the Council.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, in seconding the motion I merely wish to add a word in regard to the one possible question which may cause a little doubt in the minds of Members who have to come long distances in the work of this Council. I would ask them not to oppose the recommendations of this Committee on these grounds, more especially when a perusal of this Report will show a maximum loss of two-and-a-half hours a week only and as is quoted in the Report itself if an alteration is made in the Standing Orders (I welcome the announcement about the appointment of a Committee to redraft these Orders) if an alteration is made that will almost meet the loss of time, but I would suggest in passing, and I think the hon. Attorney General will agree with me, that the whole of that time can be saved, and probably more, by going further than that and saying with regard to the second readings of Bills in which the requisite twenty-eight days' notice has been given, there is no reason why the second reading should not be taken after the first reading immediately. With regard to motions, twenty-four hours is as perfectly good as forty-eight hours and if that is accepted, instead of losing time, under the new system you will be saving time and getting your verbatim reports. I would ask hon. Members on this side of the House to support the recommendations of the Committee.

The question was put and carried.

SECOND SUPPLEMENTARY ESTIMATES.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that Council resolve itself into a Committee of the whole Council to consider the Second Supplementary Estimates.

THE HON. THE TREASURER (MR. GRANNUM): I beg to second.

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee.

HEAD IVA.—CONFERENCE OF EAST AFRICAN GOVERNORS.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the deletion of the sum of £1,200. This sum is not required as it has already been voted.

HEAD XVIII.—EDUCATION.

THE HON. M. A. DESAI: Your Excellency, I beg leave to move that the sum of £1,500 be added to this vote to meet the additional requirements of Indian Education.

THE HON. W. MACLELLAN WILSON: On a point of order. There is an amendment in the Committee's report.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move that under "Contribution to Day School," for £582 read £445. The Select Committee consider that adjustments of salary should not appear as an item in Supplementary Estimates and, while recommending approval of the proposal to increase the efficiency of the Broderstroom School by the appointment of an additional teacher, propose that the amount included for such adjustment, amounting to £137, should be deleted. Further, under Native Education, Grants to Missions, etc., Expected Savings, delete the sum of £21,500. The Select Committee learn that grants to Missions though in accordance with the principles approved by the Legislative Council will give no saving such as that shown in the Supplementary Estimates, and recommends the deletion of this sub-head. Thirdly, under Native Industrial Training Depot, Kabete, for £1,000 read £2,500. Having heard the hon. the Director of Education, the Select Committee recommends the provision of £2,500 as necessary for the purchase of equipment and plant for this depot.

THE HON. M. A. DESAI: Your Excellency, I beg to move that the sum of £1,500 be added to the Education vote to meet the additional requirements of Indian Education.

HIS EXCELLENCY: The hon. Member cannot move additions to the Estimates without special leave. I am not prepared to give him that leave now. It should have been dealt with in Select Committee.

THE HON. M. A. DESAI: I have given notice of the amendment. I inquired what amount would be necessary.

HIS EXCELLENCY: Order, order. This question should have been dealt with in Select Committee, and I am not prepared to deal with it now.

HEAD XXV.—MISCELLANEOUS SERVICES.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to move as an amendment that the sum for the Rowett Research Institute and the honorarium to Dr. Orr be deleted. It seems that by a purely private body Dr. Orr was invited to come to this country. We have no assurance that Dr. Orr's report has been asked for by the country. We are told the report is of great value and that it is confidential. If the report is confidential, I submit it is useless. If the report is essential, let us have it, and let us know what we are buying from the Institute and Dr. Orr.

HIS EXCELLENCY: There is no question of the report not being published, and I have asked leave to publish it from the Secretary of State.

CAPT. THE HON. E. M. V. KENEALY: Will the report be made available by Government or be obtainable by purchase?

THE HON. THE ACTING COLONIAL SECRETARY: It will be treated in the ordinary way and be obtainable by purchase.

CAPT. THE HON. E. M. V. KENEALY: In that case I withdraw my opposition.

HEAD XXVIII.—PUBLIC WORKS RECURRENT.

THE HON. THE ACTING COLONIAL SECRETARY: Under the head, Maintenance and Improvement of Roads and Bridges, I beg to move the deletion of the £5,000 shown as savings, and for this sum

to be placed in the column "Amount now asked for," with a consequential change in the fourth column. The hon. the Director of Public Works states that owing to extensive storm damage additional money is required for this purpose. The Select Committee consider that the early provision of this sum will obviate the necessity for providing a greater amount of money at a later date after further deterioration in roads throughout the country has occurred.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, with regard to the sum of £500 for the European School at Nanyuki. We were assured by Government that building would be built.

HIS EXCELLENCY: Order, order. That is in the next head.

HEAD XXIX.—PUBLIC WORKS EXTRAORDINARY.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, we had an assurance from Government that that sum for the building of the school at Nanyuki would come out of Loan Funds, and that the alterations would entail no delay in the building of the Nanyuki School. It has not been built, and has not been started, and now at this stage the sum of £500 is being re-inserted in Public Works Extraordinary. I hope the Government will give an explanation of the discrepancy in words.

THE HON. THE ACTING COLONIAL SECRETARY: No delay has been caused by this alteration, and I can assure the hon. Member that expedition will be shown in regard to this school. The money is provided here, and it does not affect the school whether the money is found in the Estimates or the Loan Schedule.

I beg to move that Council resume and the Supplementary Estimates as amended be reported to Council.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Second Supplementary Estimates have been considered in Committee of the whole Council and have been reported back with amendments to Council.

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

"That this Honourable Council approve the Second Supplementary Estimates, 1926, as printed and laid on the Table."

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

CAPT. THE HON. H. E. SCHWARTZ: I should like to say one word on this motion, Your Excellency. It is to ask, or to suggest—I do not know how—if it can be possible to find some means whereby we can avoid such very large Supplementary Estimates. I do not suggest that the items passed were not proper items. The Committee realize they are necessary. With a Budget of about £3,000,000, we have Supplementary Estimates which come to nearly £100,000. It does give a feeling that our expenditure is not being based on our revenue—which may be an incorrect feeling, though that feeling will prevail. I realize the tremendous difficulty Heads of Departments have in preparing their Estimates in

June for the following year, but the Council will agree with me that wherever possible if items which are necessary can be budgeted for when the main Budget is taken, thereby reducing the amount of Supplementary Estimates, it would be better for everyone concerned.

THE HON. R. S. NEHRA : In supporting the remarks made by the hon. Member who has just spoken I want to add that this system of Supplementary Estimates in such large amounts is not good for the finances of the Colony. We have had the Budget, the First Supplementary Estimates, the Second Supplementary Estimates, and in the Committee stage I heard something about a Third Supplementary Estimate. Although we agree there are certain things which become necessary and which must appear in Supplementary Estimates, I do submit it is the duty of Heads of Departments to see that the proper amount for the whole year is inserted in the ordinary Budget. If this is done we can avoid Supplementary Estimates and only absolutely necessary and inevitable expenditure included in Supplementary Estimates, and even then they should be as low as possible.

THE HON. THE TREASURER : I did not catch the remarks of the last speaker, but I think he made some reference to the Treasury.

There is a well-known rule of the Colonial Office that when the Estimates of the year are passed, the expenditure of the year should be regarded as fixed; but I do submit in a young growing Colony like Kenya it is most difficult always to foresee and provide in the annual Estimates all the expenditure which may become necessary in the interests of the Colony itself. Further, I think there is a certain justification when dealing with an annual Estimate in striking out items in a Colony like Kenya if they have the effect of showing a balance on the wrong side, though they may be justified subsequently if it is found the revenue estimate is likely to be better than was anticipated when the Budget was passed. A certain amount of elasticity is necessary in a young country like this. I am entirely opposed to Supplementary Estimates if they can be avoided. But I do submit there are occasions in a Colony like this when Supplementary Estimates are necessary though they are not so bad as they appear in an older Colony where the expenditure and revenue can be foreseen with much greater accuracy.

The question was put and carried.

JUSTICES OF THE PEACE.

CAPT. THE HON. E. M. V. KENKALY : With reference to the motion standing in my name on the Order of the Day :—

" That in the opinion of this Honourable Council the administration of Justice in the Colony would be materially benefited by the endowment of Selected Justices of the Peace with magisterial powers "

on the assurance of Government that the matter is receiving consideration by the Attorney General's Departments in Kenya and Tanganyika, and that the matter is being gone into—the possibilities and the likelihood of advocating this—I will withdraw it at the moment.

THE HON. M. A. DESAI : I would like the Government to consider the question of appointing Asiatics to be Justices of the Peace . . .

HIS EXCELLENCY : Order, order.

GODOWN PLOTS ON SOLAI BRANCH LINE.

THE HON. CONWAY HARVEY : I beg leave to move the motion standing in my name on the Order of the Day :—

" While agreeing to the principle that storage for bulk export produce should generally be provided by private enterprise, this hon. Council is of the opinion that the terms and conditions laid down in connexion with the acquisition of godown plots on the Solai branch line are unreasonable and should be amended."

" Beware when all men speak well of you " is a trite saying, the significance of which the very able gentlemen who compose the Inter-Colonial Railway Council doubtless fully appreciate. Having associated myself in no small measure with the universal praise of the manner in which that body has functioned hitherto, I should like to emphasize that my criticism at this moment is specific and not general. Perhaps it is but natural that the Railway Administration wish to take the tide at its flood and make the most of their opportunities, but I would respectfully suggest that in this particular case they have gone a little far, Sir, and that a mistake has been made; fortunately it is a mistake which can be easily and speedily corrected.

Whether or not it is the duty of the Railway Administration to provide storage for all produce offered for transportation has been the subject of discussion for a considerable number of years, and I think I can safely say that all reasonable people agree with the view expressed by Mr. Felling that it is absolutely impossible for the Railway Administration to do that. It would be economically unsound and quite unfair to ask the Railway Authorities to provide such a colossal amount of storage as would be required. I do, however, suggest that

it is their bounden duty to place every possible facility in the way of private enterprise which wishes to perform that service for itself.

Now, Sir, the position on the Rongai branch line is as follows: Sites for godown plots in extent 150 ft. by 50 ft. are being offered at a stand premium of Sh. 3,000, plus an annual rent of £6. That works out at the rate of about £850 per acre, and let me point out in this connexion that the Railway Authorities acquired this land at prices varying from £5/15/0 to £8 per acre. The total rent is, therefore, £180, which makes a total of £330 for a plot 150 ft. by 50 ft., which is equal to about £2,000 per acre.

The proposed lease states that the grantee shall erect on the plot a rat-proof godown constructed of the best material to satisfy the requirements of the Director of Medical and Sanitary Services and the General Manager of the Railways. There are other obligations on the part of the plot-holders. Sir, in the shape of constructing a platform at truck floor level, which brings up the cost of erecting the godown to a figure which I suggest is entirely prohibitive.

Now, regarding it from a purely ascetic point of view, one can appreciate the desire of the Railway Authorities to have really *malidadi*, nice-looking buildings on their property, but I do submit most seriously that their present requirements are entirely outside the need and capacity of the community which it is intended to serve.

In the first place, Your Excellency, no capitalist in his right mind would dream of spending the enormous amount of capital demanded on so insecure a tenure as a thirty years' lease. Secondly, we must remember that maize is a relatively low-priced product; consequently, overhead charges in connexion with handling, storage and transportation must be reduced to a minimum if the industry is to flourish.

Thirdly, the inevitable result of this policy will be that those who may wish to erect godowns will acquire other freehold land adjacent to the Railway at about £5 per acre, have a railway siding put in at a cost of 275, and will erect godowns which will easily satisfy their requirements for the storage of maize for a few days awaiting the arrival of railway trucks, and the Railway land, I imagine, will be left stranded—and of no use to anybody.

Since the commencement of the construction of this branch line maize growers in that area have looked forward to the day when they will be able to erect their own godowns at a cost within their means, and deal with their produce in a quick and businesslike manner. I would further say that

these very deserving people are most keenly and bitterly disappointed at the attitude of the Railway Administration in connexion with this, to them, most important matter.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: I beg leave to second the motion.

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAY: Your Excellency, I must confess to a small feeling of surprise that this matter has been brought in this House, because during the past month or six weeks we have been to considerable trouble and pains to explain to the people concerned how these exorbitant costs have been arrived at. I am not surprised that the matter should have been brought up by the hon. mover of the motion since the hon. Member actually representing the district concerned has had the matter explained to him very fully. The hon. Mover of this motion, however, has not been to see me, otherwise I would have been only too glad to explain the position to him also. However, it is just as well that these matters should be clearly explained to everybody, so that perhaps this is a very good opportunity which has been given to do so.

I should like to draw attention to the old methods that have been in force previously with regard to godown areas and godown plots. It will be remembered by all who had any dealings in that connexion that the old method has been to draw up some sort of a scheme through the Land Office, get the Railway to prepare estimates and costs for sidings, and then to get the Public Works Department to prepare similar estimates and costs. The Land Office arranged to estimate the land valuations, and to that they add these various costs of sidings and roads. Auctions are then held and upset prices are fixed on the value of the land and the development that is proposed to take place. In many cases the cost of the sidings and roads are not included in the upset price, but a clause is put into the contract to the effect that should sidings and roads and plant be required they must be paid for according to the actual cost as they work out in the future. That position means that no plot-holder knows where he is at all. He does not know what the future cost is going to be, and the position has been so unsatisfactory in that respect in all the areas that hitherto have been dealt with that we were specially asked to give some sort of arrangement whereby finality could be reached. It has therefore been arranged that at all stations where demands for godowns have been made we should endeavour to acquire land by purchase or otherwise for the purpose of laying down fully-developed godown areas. That is the policy which has been followed in connexion with the Solai branch, and we work as agents for

the Government in that connexion. The land is placed at our disposal subject to certain conditions as regards accounting, that their land accounts should be opened and that the statements of the finances as regards these plots should be furnished to Government yearly and if there are any profits at the end of five years, those profits should go to Government. Therefore, the actual position is this: the cost of development of these godown sites is being collected in the way of stand premiums from the purchasers of the plots. The probable number of purchasers to begin with will not equal the amount of money that has to be spent on those plots, and for some considerable number of years the expenditure will far exceed the revenue. That, the hon. Member will put down to the fact that the price is too high. However, the fact is that the price we are asking is practically entirely the cost of the development involved in preparing those plots for use; that is, the cost of providing a siding, providing a road, maintenance, etc. The Railway and the Government will, I consider, for many years lose money on the scheme. In fact, in many cases during our negotiations for land in certain areas where people did not wish to harbour any extra acreage for this purpose I put it up to them that if they would themselves develop the area in this way we would be very glad to avail ourselves of their services. We found no one prepared to take up that offer.

With regard to the question of buildings, so far as the Railway is concerned, all we require is a substantial building that will not fall down, one that will not burn down, and one that is suitable for loading facilities to enable goods to be loaded on to trucks with a minimum amount of labour. The medical requirements are outside my province, but I imagine that in asking for godown buildings to be rat-proof the Medical Department is not exceeding its discretion. I think the point will probably arise later in the Solai Valley, if there should be an outbreak of plague, that the conditions laid down for godown plots would also have to be laid down for private warehouses. It is of course a very important question that plague should not be spread in any way throughout the country.

Although we quote these godown sidings, there are alternatives. As mentioned by the hon. Mover of this motion, there are private sidings and private siding arrangements, and any member of the community in the neighbourhood of the Solai branch is at liberty to apply for a private siding; provided he can fulfil the conditions of a private siding; but the sole relief he would be likely to get in that case would be with regard to the Medical Department's requirements for a rat-proof building. If, as has been

suggested, maize is such a low-paying commodity, maize growers might group themselves together and apply for individual plots, and so intensify the use to which their godowns can be put. That might be an attractive financial proposition.

The other point made by the hon. Mover is that of a substantial building being necessary. I do not think that any of the conditions laid down call for a *malidadi* building. It has to be a substantial building, one that does not fall down and one that is rat-proof. The thirty years' lease condition is no hardship. That was fixed because under the present Ordinance the purchaser of a plot is allowed to remove his building—which can be done to any steel-framed building—if he does not wish to continue the use of his plot after the thirty years. Provision is made in the clauses whereby a plot-holder will have the first option to renew his lease should he desire to do so.

I do not think there are any other points which I need touch upon at the present moment. The fact of the matter is that the figure we ask for is based on the development charges—the development costs, and that is all there is to it.

THE HON. T. A. WOOD: Your Excellency, I undertook to offer a few remarks on this subject. As hon. Members will notice, the resolution is divided up into two parts. The object of the first portion is to try and get this principle established in a country where it is still to a large extent controversial. Quite right too. It is only within recent years that the Government authorities in Vancouver had to erect a grain elevator to commence the wheat trade in grain. They could not even find private enterprise to do it and they started to build up an elevator of one million bushel capacity. Private enterprise should put up these godowns but if we agree to that principle we are not going to agree that these "marble palaces" should be built for these transit sheds. The hon. General Manager has just told us that one of the reasons—the principal reason—for the thirty years' lease was so that the individual could move his building. I should like to see the building moved which conformed to the definition of "rat-proof." These idealists who propose these rat-proof buildings forget that if they are proof against rats, they are also proof against any ordinary uses. What these people want is a plain shed to store maize. I agree it should be inflammable. I should have thought a steel frame with an iron roof should have been sufficient and the Railway, in the interests of the community generally, should provide accommodation for storage of export products and I should think they would have developed the land and charged a reasonable rate of

interest. The hon. General Manager has said the Government is going to expend a lot of money and is not going to get it back. I do not think they will get anything back. It will be twenty years before anyone takes up these godown sites at the price and I am convinced it is very necessary for Government to amend that price. I am not one of those people who believe that new countries should start where other people have left off. I think we have to go through the natural process of evolution and development and we must not attempt to start out in the middle of the veldt just because we have put up a new branch line. We do not need all these marble palace conditions in the early stages. Let us learn how to walk before we attempt to run. Government cannot get away from that.

THE HON. W. EVANS: Your Excellency, in support of this motion I must say that the Solai Branch, which happens to be in the district I represent to-day, is given as a specific case, but we look on it as a general question and one which is going to arise in other districts in the near future. What we want to do is to get reasonable facilities for building storage and to get it right on the ground floor. We want it without anyone making a profit out of us. We must have these godowns to conform to the requirements of the Railway. Take the case of the people in the Solai. Many of them are thirty miles from the Railway and bring their produce in wagons. Trucks may not be available but if we had godowns from which we could fill—nothing very elaborate—I suggest it is going to facilitate the handling immensely. It will tend to release trucks which may be required elsewhere and from every point of view it is most essentially a case where there should be no sign of being exploited.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES: Your Excellency, a good many remarks have been made in the last few minutes with regard to "rat-proof" buildings. It is open to doubt whether there is such a thing. I think it is probably correct that there is no such building as an entirely rat-proof building, but we have got to do the best we can. This country is a very great deal dependent on its maize trade. We have plague here, plague is extending, and I think plague will continue to extend. We need not get frightened about it; it has always been here, but we have got to take precautions because we have got it, and one of the greatest disasters is that plague may be exported. There was a great deal of trouble a little while ago at Njoro where there were a great number of bad buildings. We must not have these new places where we are going to store this grain infested by rats because the greater the infestation the greater

danger from plague and if we once started exporting plague from here our trade will be very greatly affected. Ships will not run the risk of getting their loads held up at home. We must take every precaution to prevent this thing happening.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I feel sure that the members of the Railway Council will appreciate the tribute which has been paid to them by the mover of this motion. In saying that, I would add that this subject was reported to the last meeting of the Railway Council and on the information then presented to Council no member of the Council, including the hon. Member who is deputizing for Lord Dehamere, suggested that these terms and conditions should be brought under review. I hope that my friends on the other side of the House will not think that because I am not supporting this motion that I am unmindful of the interests of producers in this country. But I think, Sir, that no case has been made for this hon. House to approve of the motion as it stands. Expressions of opinion have been given that in principle everything that can be done to cheapen the costs of export of the produce of the Colony should be done. I submit that has been the policy of the Railway department since the first Railway Council sat in 1921. I would remind hon. Members that with the application of cheap export rates for bulk produce the Railway department, as an organization, undertook the very heavy capital and erection costs in respect of the provision of godown accommodation at the stations right throughout the railway system. The hon. Member for Nairobi North was not quite correct when he made a comparison between the godowns and grain elevators. The service rendered by a grain elevator at centre points and ports is one thing and the service rendered by godowns is another. My information is this: that the same terms and conditions in respect of the Solai Branch apply elsewhere throughout the Colony and only on this particular branch line has any complaint been made. On the Kitale Branch Line I am told these godown sites are selling well and they are in demand and no complaint has been made with regard to the cost. I would emphasize the point made by my hon. friend the General Manager that the Railway department is making no profits out of these transactions—in fact, as far as I can see the case, the Railway is likely to incur a loss. I would also express the view, having regard to what has appeared in the Press this morning from an association in that part of the country to be served by this Solai branch line, that this should not be regarded as a community service. It should be met by the user and not by the community. As to the cost itself, I made a rough calculation that even supposing these sites were free of charge from

the Railway department, and supposing that only 10,000 bags were passed through a godown in the course of the season; that that only represents a charge, in respect of interest and sinking fund on the capital expenditure in respect of the godown plots a ratio of 4 cents a bag. I do feel, therefore, inasmuch as these complaints have been made it is well they should be properly examined, and I do not doubt that you, Sir, in your capacity as High Commissioner will see that if these complaints are really justified, they will be looked into, and the only suggestion I can offer—and I make it in no sense of committing the Government in any way—that consideration might be given in spreading the capital cost of the godown site over a period of a few years. When associations or individuals have to find the money to meet this capital cost they not infrequently experience some difficulty. I think that will ease the difficulty of these comparatively small associations—if this £150 or £300 capital charge were spread over a few years. I hope, therefore, that this hon. Council will not pass the motion as it stands in the light of the information given.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, there has been in certain parts of the country considerable criticism against the Railway because they will not provide storage for this bulk produce. In this resolution we are supporting the Railway in their general principle that this should be done by private enterprise, but what is felt is that while supporting them in the general principle, it is up to the Railway, and to the Railway's advantage as well as the private individual that every facility possible should be given to private enterprise to erect their own godowns. Speaking now not as the Member for Ukamba, but as a Member of the Nakuru District Committee, I can assure you there have been a great many complaints on this subject and people have come to the conclusion that it will pay them better to erect godowns on their own land and get a siding installed at their own expense instead of acquiring a plot at the price proposed. The hon. General Manager has assured us there is no profit being made and I am sure the Railway do not wish to do so. It is considered the price is excessive and if it can be reduced I think it will benefit everyone. The hon. Director of Agriculture has said there has been no complaint regarding the Kitale sites. I believe I am correct in saying that the plots in Nakuru itself, where you would imagine the land is much more valuable, are sold at a cheaper price than those. Apart from this question of the Solai branch there have been complaints from other parts of the country that obstacles are really put into their way of arranging for their export and storage of their produce. One particular instance was at

Elmenteita station. There is a large amount of wheat to be exported from there and a gentleman went away complaining the other day that he found it very difficult to get the land to erect his own godown, so I do hope that the hon. General Manager and the Railway Council will go very thoroughly into this and see if facilities cannot be improved, and the cost in this particular case reduced. The hon. Director of Agriculture worked out the cost at only 4 cents a bag. Did he include the cost of building these marble palaces? Judging from the specifications they must cost a considerable amount of money!

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, one reason why I am so glad to see the hon. Member for Nairobi North taking the Oath again of this hon. Council was that I was quite sure we would have a reference to these "marble palaces". I think the last time these "palaces" were mentioned the whole Council took fright and went to the European Hospital to see what it was composed of. They reported it was not of marble! The principle is, I am glad to see, accepted by both sides that the cost to the user of these godowns shall equal, and not exceed and not be less, than the cost of erecting them. It is only with the matter of attempting to reduce that cost in any way that this motion really deals. I am authorized by Your Excellency as High Commissioner of the Railway to say that you, as High Commissioner, are quite willing to examine any such proposal for spreading the cost or take any other steps which may reduce to the user of the godown the cost of that godown provided that the main principle is maintained.

THE HON. CONWAY HARVEY: Your Excellency, with your permission I should like to reply very briefly to certain points which have not been dealt with by supporters of this motion. I naturally did not go to my hon. friend the General Manager before bringing the motion forward before this House because my brief stated quite clearly and definitely he had been approached by other people and had definitely declined to reconsider the matter in any shape or form. He stated that the Railway authorities would probably be out of their money for a very considerable period, inasmuch as they felt it necessary to provide roads and trains in advance of these godown plots being taken up or before they knew what the requirements will be. I do suggest that is thoroughly bad business. I do appreciate the point of my hon. friend the Director of Medical and Sanitary Services with regard to rat infestation, but when one thinks of the hundreds and thousands of grain stores throughout the country I do not think that half-a-dozen godowns on the Solai

branch line will make much difference. We were told the Trans Nzoia farmers had made no complaint whatever and that the conditions laid down on the Rongai branch lines were general. It is therefore a matter of very great interest to everyone in the country and I consider it extremely probable that the full significance of this matter has not yet penetrated the minds of the Trans Nzoia farmers; but I can say quite honestly that a very large number of the farmers' associations have expressed their desire to associate themselves to the fullest possible degree with the representations of the Rongai farmers in this connexion. The hon. Director of Agriculture can hardly be unaware of the fact that the elevators of the C.P.R. store vast quantities of grain until it is convenient for it to be moved away. The godowns on the Rongai line are only to be used as collecting stations for probably a few days at a time until there is a decent consignment for the Railway to move away. At present I do not feel inclined to withdraw my motion because I do consider I have put up a thoroughly sound case and that we have a perfectly genuine grievance and it is most unfair of the Railway authorities to decline to reconsider the matter.

THE HON. THE ACTING COLONIAL SECRETARY: On a point of order. May I say I should have added the hon. General Manager is in entire agreement that the hon. Director of Agriculture's proposal should be considered so that he has not definitely closed down the matter of reconsideration.

The question was put and lost by 13 votes to 17.

Ayes: Messrs. Desai, Evans, Harvey, Captain Kenealy, Messrs. Nehra, Pandya, Major Robertson-Eustace, Capt. Schwartz, Lieut.-Col. Lord Francis Scott, Messrs. Shamsud-Deen, Sim, Wilson and Wood.

Noes: Messrs. Baker, Bisi, Bown, Col. Davies, Col. Doherty, Messrs. FitzGerald, Gardner, Dr. Gilks, Messrs. Grannum, Hohn, Huggard, Lynde, Maxwell, Northcote, Major Rhodes, Sheikh Ali bin Salim, Mr. Walsh.

Declined to vote: Rev. Dr. Arthur.

MOMBASA TOWN PLANNING SCHEME.

HIS EXCELLENCY: Before calling upon Mr. Pandya to move his motion, I should like to make it clear to him that I have given a good deal of licence in allowing this motion to be brought before Council. There is a Standing Order—No. 12—which lays down that no motion should be moved in Council which increases or varies the charge upon the revenues of the Colony without the special leave of the President. I want to make it perfectly clear I am doing so only in order

that those who have objections to the Mombasa Town Planning Scheme may have the opportunity of stating their objections, and it is not to be regarded as a precedent.

THE HON. J. B. PANDYA: Your Excellency, I beg to move:—

“That this hon. Council is of opinion that the Mombasa Town Planning Scheme be amended by inserting the following provisions:—

- (1) Compensation in cash be paid for all land to be acquired under the scheme.
- (2) Interest on Loan for this scheme be met from General Revenue.”

I thank you, Sir, for giving me this opportunity and in regard to the second portion of the motion it is only an expression of opinion, and I do not mean that it should be an extra charge on the general revenue because I understand the question of taxation has not been yet finally settled by the Government. In moving this motion I know that I have very little sympathy from the Government benches as well as the hon. Members on this side of the House, but I am sure that I am putting up quite a strong case. Those who are affected by this scheme are mainly the Indian landowners in Mombasa and they have felt so strongly in this matter that during the last few days they have continued sending me telegrams and letters to represent this case strongly in this House. I am not inclined to discuss this scheme in detail and am only touching on the broad principles. With regard to the necessity for a Town Planning Scheme for Mombasa; there can be no two minds in the matter. The Arab and other landowners have declared in their objections that they are keenly sensible to the need for improvement in Mombasa. The Indian landowners have prefaced their objections to this scheme by saying they are in entire sympathy with the object of the scheme so that as far as the object of the scheme is concerned we are all unanimous. The objection is to the detail and comes under two heads, the principle of acquisition without compensation and the principle of taxation for this scheme.

The history of this Town Planning is this. In 1917 the Mombasa Building Rules were passed and under these rules it was laid down that anyone who wished to divide his land could do so but he would have to plan his roads and access would be given to him to the main roads. It was found that Government was unable to provide these main roads and in 1919 it was necessary that the Town Planning for Mombasa should be authorized. To-day we have that Town Planning

Scheme before us after many years. The Indian and Arab landowners have objected to this principle of taking land without compensation and the fact that they have not withdrawn these objections points to the fact that they consider they have a right case. This Mombasa Town Planning Scheme is not required only in the interests of Mombasa itself, but also in the interests of the country as a whole and I therefore think that improvements which are going to benefit the country as a whole should not be paid for by Mombasa alone.

HIS EXCELLENCY: Order, order. The hon. gentleman recognizes there is nothing about taxation in this scheme which is being discussed before Council. The question of taxation as the basis of this scheme is not before Council.

THE HON. J. B. PANDYA: I was only referring to the 20 per cent of land. I did not mean taxation; 20 per cent of land paid by the landowners is a benefit to the community and to the whole country. The land in Mombasa is mostly freehold and the vested interests there do feel this form of taking away their land without compensation is most unjust and unfair. In India, whatever land is required for public purposes and to which no objection can be taken, is always paid for and I do not see the necessity in this country to acquire this land without paying for it. It is said that if the land is bought for this the amount will be so large that the scheme would be impossible. I have seen very large schemes put in force in this country for which a large loan is necessary and has been obtained, and if the scheme is considered so essential to the benefit of the community at large, I do not see why this scheme should not be paid for in the same way. I have seen in the First Supplementary Estimates a certain portion of the Nairobi Township being acquired for the Town Planning purpose, and I do not see why the same principle should not be applied to the Mombasa scheme as well. Further, there is a scheme in regard to the Mombasa Old Town for roads and so forth, and in that scheme any land acquired is paid for by compensation. There are two different principles involved in the same township. In the old township land acquired for public purposes is paid for; whereas under this Town Planning scheme land acquired up to 20 per cent receives no compensation. It has been argued that the land required is not acquired without compensation, as the value of the land will immediately go up, and the man get the benefit. I have not heard any argument advanced on more hypothetical grounds. Mombasa is very limited, and if 20 per cent is taken away naturally the balance has a lesser value. That is not a fair thing. I cannot understand why it

is considered the improvement effected is actually more than 20 per cent when it is proved that the improvement is limited to the extent of the acquisition of land. In certain cases it may be that the improvement is claimed to be 40 per cent, and in others nothing. On these grounds I do not consider the acquisition of these lands will be justified. With regard to the value of the land—it has been claimed by the Government that under this scheme the value has got to be compared but not the acreage. In regard to the value, I imagine it is only a question of supply and demand. If immediately after the town planning the people think they have got roads and they plant their land and immediately put it up for sale. I am quite sure, and the House will agree, that the land will go at a very cheap price. On the other hand, if the landowners do not part with their land at any price, or demand a very high price, the land will be worth double the price it is to-day. I therefore do not see how the value of the land will be affected by this road scheme and Town Planning scheme. I think therefore this question of the acquisition of land should be considered on its merits, and that compensation in cash is the only form which is fair and equitable. In this connexion I should like to quote a few remarks from the objections raised by Mr. P. H. Clarke (all his objections have since been withdrawn):—

“The planned roads cannot increase the value of any plots until the roads are actually in existence. The authority nevertheless contemplates a levy on a hypothetical increased value. Whether in fact any plot is increased in value has to be determined by the arbitration of a single arbitrator to be appointed by the Governor in Council, unless the parties agree on some other method of determination.

“The scheme under which all land is pooled is socialistic. Depriving an owner of land, which is so favourably situated, as to be very valuable, in order to provide access for an owner of other land less favourably situated, is a distinct inroad on the rights of the individual. More particularly as half the increased value of the land less favourably situated goes to the authority and not to the owner of the favourably situated land.

“The principle of making proprietors of land give up twenty per cent of their property, without compensation, so as to provide amenities for the general public, resident and non-resident, is a gross interference with the rights to property, and is tantamount to a levy on capital for the benefit of the proletariat. Improvements should be paid for out of general revenue.”

THE HON. THE DIRECTOR OF AGRICULTURE: On a point of order. Is the hon. speaker entitled to use an argument which has been withdrawn by the objector?

HIS EXCELLENCY: I understand the hon. gentleman is endeavouring to borrow a few arguments which are better than his own.

THE HON. J. B. PANDYA: I did not say the arguments which I have just advanced are my own. I advanced the arguments put forward by Mr. Clarke. As Your Excellency has ruled I am not entitled to speak on the question of expenditure, I will not touch upon it, except to say that as that question has not been finally decided I may say I am sure Government will give objectors every opportunity to put their case.

THE HON. M. A. DESAI: I beg to second the motion. In seconding the motion, I want to offer my congratulations to the Government for placing all the correspondence and all the information at the disposal of this House, but I am sorry to say that the Government has come to a decision which is, in my opinion, and in the opinion of the people whom I represent, very undesirable.

The history of the case shows that since 1917 the landowners who are going to be affected by this Town Planning scheme have not been able to do anything with their land, and they are suffering a great loss. By adopting this Town Planning scheme we are going to increase the loss which they have already suffered. I have looked up the legislation on this subject, and I find that the legislation and the scheme are in their infancy. I am quite sure if the legislation on this subject is examined you will find that in the majority of cases of Town Planning schemes landowners have been compensated in actual cash. Now, Sir, the Government is going to make the landowners lose if they go ahead with this scheme. I put a very serious question to the Government: Do they expect the landowners affected to accept this scheme without question?

After dealing with the correspondence I have come to the conclusion that those who are affected by the scheme are against the scheme, and those who are not affected by the scheme are in favour of it. Now for passing legislation of this sort in connexion with any schemes like this one it is very necessary that the State should obtain the approval of the people affected. I find from the correspondence that nobody is in favour of this scheme, especially to acquire 20 per cent of the land without any compensation.

I note that it is said that all the land in Mombasa is agricultural land. Well, Sir, these landowners do not get any appreciable income from this land as agricultural land, and they all look upon it as land for residential plots. Now, if people were to go there and buy land and then sell it at a very good price, it would be quite all right; but if so many thousand plots are going to be cut up at Mombasa, it does not take very much to recognize that the price of land for residential plots is sure to go down. This scheme is going to benefit not only Mombasa, but it is going to benefit Kenya, Uganda and a part of Tanganyika Territory. When such large areas are going to benefit, I do not see any reason why we should ask the landowners here to take the risk.

HIS EXCELLENCY: The question is—

"That this hon. Council is of opinion that the Mombasa Town Planning Scheme be amended by inserting the following provisions:—

- (1) Compensation in cash be paid for all land to be acquired under the scheme;
- (2) Interest on loan for this scheme be met from general revenue."

THE HON. A. G. BAKER: I much regret that the hon. Member moved this motion, and I am very disappointed. I have devoted much time to discussing the merits of the scheme with the landowners of Mombasa, and with the principal objectors to the scheme. I had hoped that I had succeeded in converting most of them, but I was too optimistic. One of my chief converts, incidentally, was Mr. P. H. Clarke, whose original objections we had quoted at considerable length, and I am glad to say that Mr. Clarke has changed his views, and I hope the hon. mover will do so too. As Your Excellency pointed out in your opening address to Council, the essential principle of a Town Planning scheme is the surrendering of land, free of compensation, for roads and other purposes.

I can assure the hon. seconder of the motion that the law of Germany for thirty years stated that 95 per cent of the land had to be surrendered free of compensation, and that law was amended and the amount brought up to 40 per cent. The local authority has been very moderate in its demands, and has made it only 20 per cent free of compensation. So I do not think that is a legitimate grievance.

Who are the landowners of Mombasa who made these objections? If much land was still held by the old Arab families, who had inherited it from their ancestors, I should

sympathise with the motion, as they are conservative people, who might not wish to develop their properties, but they own only 13 per cent of the land affected to-day, and there is a very large number of them. Much of the land is held by the hon. Liwali, and I am very glad to see that he is an enthusiastic supporter of the scheme. Government holds 50 per cent of the land, and the balance is held by Europeans, Indians and Goans. What use are they making of the land at present? There has been no development since the Building Rules of 1917 came into force. It provides grazing for goats and produces coco-nuts. They did not invest their money for this purpose, but as a business proposition bordering on some such scheme as this, by which their misshapen plots, with no road access, will be made of a regular shape and suitable for subdivision and with road access.

If the landowners can prove that they have lost by the scheme they can claim compensation for injurious action, and if their properties have been unduly enhanced in value, the local authority can claim betterment.

I understand that the hon. mover has withdrawn the second part of his motion, and so I shall not refer to the question of finance, except to say—and I am authorized to state—that Government as a landowner will bear its fair share of the burden of the cost.

I would appeal to the hon. mover to withdraw his motion, as I am convinced he is not really acting in the best interests of his constituents by pressing it.

THE HON. W. A. M. SIM: I agree with the hon. Director of Land Surveys in asking that the hon. mover should withdraw this motion. As you may all be aware, if this motion is by any mischance passed it means the abandonment absolutely of the Mombasa Town Planning Scheme. That is a scheme which did not emanate from Government, I can assure you. Many years ago the idea came from Mombasa in the first place. For many years we have been asking for this, and if it is thrown out now the effect will be deplorable, and great disappointment will be caused at the Port.

As regards the maximum of 20 per cent to be taken without compensation, anybody who knows Mombasa I think will agree with me in realizing what a very moderate percentage this is. It has been pointed out what vast areas of land there are in Mombasa which are really incapable of being developed, because of no roads of access to them. If the owners do want these roads of access it means very great cost. This Town Planning scheme is the closest and nearest approach to perfection we can humanly get, and these large

areas in certain parts of the Island will be thrown open very soon, I hope, for development. This development is not because Mombasa is Mombasa; I hope you all realize that Mombasa is the Port of a very magnificent country. The development of Mombasa goes hand in hand with the development of this country, and I can assure all hon. Members here that my knowledge of Mombasa, which is fairly extensive, is to the effect that the appreciation of land values after the scheme has been put through will be enormous. As I have stated, land is practically valueless now for want of roads of access. This scheme will do away with that.

I was rather bewildered, I must say, at the arguments put forward by the hon. mover and the hon. seconder of the motion. They say that they want the scheme, but I take it they do not want to pay for it; they want to have the cake and eat it, too. That is a most unreasonable argument; it means that many of the landowners in Mombasa are going to benefit, and for that benefit they are going to be paid. I can assure you, gentlemen, that this scheme is a very keenly looked forward to scheme in Mombasa, and it has been looked forward to for many years, and it will be deplorable I think if this motion is passed.

THE HON. SHEIKH ALI BIN SALIM: Your Excellency, I am afraid that the hon. mover of this motion has given to hon. Members of this House an absolutely misleading statement. He used the word "Indian" and also the word "Arabs." No doubt the hon. Members in this House now are under the impression that every Indian at Mombasa and every Arab there are against this Town Planning scheme. That is not the case. There are only a few of them who are against it. I think they ought to have the case put before them, because very few of the hon. Members here can really understand the position at Mombasa. Now, again, the hon. mover says as regards this Town Planning scheme he cannot see what benefit it is going to be to the land or the landowners. Your Excellency, it is well known—every business man knows—that if he spends one sovereign he expects to be paid 25/-. Now, I can assure you that none of these people who have owned land for the last thirty years in Mombasa have ever got a penny back. I myself have had land at Mombasa for many, many years—for more than thirty years, as a matter of fact—and I have not yet had a penny income out of the land, except where there are roads of access constructed by the Government. Before the Government made the roads not a single man could get a renter for his land, but immediately after the Government made the roads there were offers, and the first man came along and offered £3 a year rental. Later the plots went up to £15 a year rental. Later, the Manager

of the Standard Bank and others let plots at £22 a year. Now they are letting plots for £45 a year rent, and yet they say they do not see the benefit to the landowner if these roads are to be made, particularly if the Government are going to ask for 20 per cent. Years ago, long before the scheme was thought of, many of the Arabs (including myself), Indians and Swahilis offered the land to the Government free. We did not ask the Government to give us a penny. At the time we all saw the benefit of it. Now, Your Excellency, we are entering the acres into plots and leasing them. Now, supposing the Government say to me, "We want the land; so many feet free, and also we will pay compensation for the road." Think of the benefit I will derive from the improvements on account of the road in ten years' time. As I said just now, the rental started at £5, then went up to £15, then to £45. Where is the loss?—The only way in which I can get my money back is by giving some of the land to the Government for development. Up to this day we have not yet had a penny. This scheme should be allowed to go on, and we will get our money back; otherwise, if we are going to wait until the land goes up in value in order that the new people may come and buy the land, I do not think myself that it is going to be a very good way of doing things. Certainly, as regards the interest on the money which we have to spend, the best way is to allow this scheme to go through; and personally, I myself—I am one of the landowners—and many other Arabs and Swahilis, did agree to this scheme entirely, and I hope the hon. Members of this House will support the scheme. (Hear, hear.)

THE HON. T. A. WOOD: Your Excellency, the hon. mover of this resolution stated that he did not expect to get very much support from this House, and although I do not wish to occupy your time in labouring the arguments against the motion, I think it only right to add my comments to justify the opinions for voting against it. The hon. mover seems to have forgotten a great many of the important principles concerned when he talks about losing this land for this development. What percentage of land does a man lose if he happens to have a ten-acre plot in a town and he develops it for residential purposes and shops? I think the 20 per cent asked for by the Government is extraordinarily low. It is not acquiring land in the public interest this opening up of a large estate which is standing perfectly useless, in my opinion at any rate, until it is opened up, and there is a vast problem at Mombasa by reason of the fact that so many pieces of land are such irregular shapes that if the owners were pushed to the necessity of developing on their own, I think a great many of them would lose a great deal more than 20 per cent.

There is another point, that although this is a Town Planning Scheme, covering a large area, I do not suppose the authorities are going to rush in immediately and take the land. I anticipate that this development will be gradual, and I further anticipate that there will be a large number of these landowners who appear to be objecting to it who will be coming forward at a later stage saying, "For God's sake, will you get on with this road improvement on our land; we want to market it." The point put up that opening up this land will reduce the price of land is one that leaves me absolutely cold. I want the price of land reducing. It is a jolly sight too high in most of these towns, and I welcome any measures, although I own land myself to some extent, that tend to bring the price of land down. (Hear, hear.)

There was a reference made by the hon. mover for an apparently different method of treatment in the case of Old Mombasa and the rest of the Island—presumably one can hardly call it New Mombasa. In Mombasa, in the case of the old town, this is to a large extent developed, but if in the public interests it is necessary to run a road through, presumably that land will be acquired in the public interest.

I do think that gentlemen such as the hon. mover of this motion ought to try and visualize that this portion of the Island is also a large estate. Assuming that it was in the hands of half a dozen men, what would happen? Why should the whole of the community have to compensate them for developing their own land? It seems a very strange proposal to me; I cannot follow it at all, and I do not imagine that there is more than a very small minority in this House who will support the motion.

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, I should like to move that the question be now put, if it is in order.

HIS EXCELLENCY: I think that those hon. Members who desire to speak should still have an opportunity of doing so.

THE HON. R. S. NEIRA: Your Excellency, it is a great pity that the majority of the Members in this House are not acquainted with the actual conditions in Mombasa, and consequently some of the speakers have been basing their opinions on some vague arguments. I think, Your Excellency, if you would allow me to do so, I should like to state the objections to the Town Planning scheme. I may say in a few words that if the scheme is passed through at present, owing to the circumstances of Mombasa, in my opinion it will be a very

high-handed measure. I will take the objections seriatim, and also try to show that the previous speakers have made certain statements which are unfair.

Now, there is a general idea that it is believed that an urgent need exists in Mombasa for a Town Planning scheme. It is a belief of many people, but it is solely based on the representations made by certain officials or certain people who have not many interests in Mombasa at present.

A VOICE : Question.

HIS EXCELLENCY : Order, order. I understand the hon. Member is now speaking against the adoption of any Town Planning scheme for Mombasa. That is not the motion. You must speak to the terms of the motion.

THE HON. R. S. NEHRA : I bow to Your Excellency's ruling. I will confine myself to the motion before the House.

There have been certain statements made that the hon. mover of this motion is misrepresenting things to the House, and endeavours have been made to show that he is not representing the ideas which he does represent. I would refer this House to the memorandum on the Mombasa Town Planning Scheme. There appears the name of the hon. mover, and I also was present at the meeting of the District Committee and represented the views of the people. All through it has been shown by us and the hon. mover, Mr. Pandya, to the District Committee that this demand on the landholders of 20 per cent is really unjustifiable. It is only assumed that if this land is taken free and is used for making roads that the value of the plots will be enhanced. I think this is a theoretical delusion. I understand that during the last three years they have taken certain areas where houses are going up to a certain extent, but there is more than ample place in Mombasa at the present time to build even 200 houses, and the few roads that are going to be opened up, whether they will materially increase the land which is opened up or not. I submit they cannot increase in value, because there is plenty of land available already for building purposes, and no buildings have gone up during the last few years; there is no capital available for this purpose. I submit, what reason is there to suppose that if you open up another road there will be such a rush, seeing that you are taking 20 per cent of the plot; it will really mean a decrease in the price of land. I think the argument is very strong that we should consider the question of supply and demand, and that the value will come down much more, and consequently the argument for

the betterment by taking 20 per cent goes to the ground, and these people whose land will be taken will have no compensation.

Regarding the remarks made by the hon. the Director of Land Surveys, he submitted that only 30 per cent of the landowners are hereditary landowners. I am speaking subject to correction, but I also understood him to say that he could only have sympathy with those people who have had land left to them by their ancestors; they would be willing to part with it, and it means that only 30 per cent of the owners are hereditary owners, and the rest are persons who have acquired by their own money and by their own business acumen land. I submit that we must be fair and just to those people who have spent their own money and efforts to acquire their land, and that they should be given compensation. I have no sympathy at all with those people who have inherited land from their ancestors and who want to make money out of it. Certainly a man must buy land himself to know what it means. The man who has not bought land and paid for it will be very generous because he has not worked for it.

I submit that the hon. the Director of Land Surveys' argument that the interest at stake is that of the majority of people in Mombasa, who belong to the Indian community.

THE HON. THE DIRECTOR OF LAND SURVEYS : On a point of order, I did not refer to the number of persons concerned.

THE HON. R. S. NEHRA : I am sorry. Even so, I do submit there is no argument advanced that this scheme did not come from the Government. I submit it is quite different. If it is suggested that this scheme emanated from the people themselves, then I submit that is absolutely contrary to the true facts.

HIS EXCELLENCY : Order, order. The hon. Member will insist on addressing himself to arguments which are opposed to any Town Planning scheme. This is simply a motion that the Town Planning scheme be amended in certain respects. If the hon. mover cannot confine himself to that I shall ask him to resume his seat.

THE HON. R. S. NEHRA : I was only trying to show that the arguments were not true to facts; I am trying to contradict statements made. I submit, Your Excellency, that it is my duty to represent to the House that there is strong opinion behind the statements made by the hon. mover, and the demand made in the motion that there should be compensation to the landowners for the land taken by the Government. I

submit that if the Land Acquisition Act will apply, that will satisfy the objectors, and will also prove that the Mombasa Town Planning Scheme is going to be done fairly and justly.

With these few remarks, Your Excellency, I will leave the motion for the consideration of the House. I understand Your Excellency has ruled that any question on general revenue, which is dealt with in the second part of the motion, is not in order. I suppose there will be an opportunity to give my views on that point later.

THE HON. SHAMS-UD-DIEN : I can see that this motion is not going through. I shall confine myself, Your Excellency, to a very brief statement. To me it seems rather an enigma; why, if this scheme is so beneficial, and if the acquisition of 20 per cent of land is not really harmful to the owners of the land, and is really beneficial to them, should I have so many telegrams every day asking me to represent this matter in the House. I am not going to take up the time of this hon. Council simply for the sake of making a speech, or making myself heard, or wasting the time of the House, but I feel, Your Excellency, that I am in duty bound to put the case before this hon. Council.

To me it appears not to be so much a case of a legal nature, but it is the dangerousness of the principle that we are trying to accent. We have heard from Your Excellency that such a precedent was in existence in Singapore. I do not know exactly the details under which the system obtained there, but I imagine it must have been done by unanimous agreement. Anyhow, I do think that it is rather a singular sort of thing that has been adopted in very few places. Germany has been mentioned as another place as far as we know where land was acquired to the extent of 40 per cent or 45 per cent. It is certainly a departure from the general principle that the rights of private individuals should be interfered with. I was rather surprised at the statement of the hon. Member for Nairobi North, who began by saying that it was not a case where the public was actually going to benefit, but that it was in the interests of the individual owners themselves. Well, if that is so, why should the State force them to accept this position? Let them do it themselves. I should like to see that the Town Planning scheme as it is at present is amended so that there should be local option. All those people who realise the benefits of the scheme should be allowed to benefit by it, but others should not be forced to do it. I cannot understand why the people are sending in representations to the Members of this House clamouring that they are against the thing.

I submit that it is the duty of the State to undertake all roads and railway improvement schemes. They are in the interests of the public, and this Town Planning scheme for Mombasa is either in the interests of the public or it is not. If it is in the interests of the public, then it is only fair that the ordinary methods of acquiring land where it is necessary for the public should be applicable. I cannot possibly imagine any of the community acquiescing in any other principle. The only justification for it appears to be that the community in Mombasa to whom this land belongs is inarticulate, and is not capable of stating its case properly; otherwise I cannot imagine that if such principles were extended to the whole of this country and to the whole of the British Empire the people would tolerate it.

THE HON. J. B. PANDYA : I do not wish to take up the time of the House, but I have to reply to the remarks which have been made by the hon. Liwali. He has mentioned that Government has supported this scheme by giving a loan of £119,000. I should like to mention that that loan interest has got to be borne by the community, and that it is not a free grant.

It has also been stated that I have misrepresented matters; I should like to contradict that, and I am sure the majority of the people in Mombasa would object to that, too.

My hon. friend has stated that the income from the land has already increased on account of the roads. I should like to point out, in this matter particularly, the very road which he has mentioned. He has mentioned that people are very willing to give the land to the Government to make roads, and that they will give the land free of charge. But he forgot one condition which was made, and that was that the Government should make the road, and the Government has spent £3,000 on making that road. In this particular instance, however, the road is not made by the Government but by the landowners who are interested, and there would be no benefit to the community at all.

Another thing; it has been mentioned that because of the roads the income from the land will increase, and also the value of the land will go up. I should like to state that on the Hobley Road there is one building that has been put up since the road was constructed. With the exception of one man, nobody has done anything, and this man divided his property, made gardens and everything there, and the plots are still unsold; nobody has bought them. Even if the roads are there, it does not follow that you sell your land. There is no demand in the areas where the roads are in existence,

and therefore I do not think the hon. Liwali has put up a good case. I do not think it is fair, and I do maintain that the motion which I move is quite fair.

HIS EXCELLENCY: The question is:—

"That this hon. Council is of opinion that the Mombasa Town Planning Scheme be amended by inserting the following provisions:—

- (1) Compensation in cash be paid for all land to be acquired under the scheme;
- (2) Interest on loan for this scheme be met from general revenue."

The question was put and lost by 4 votes to 26.

Ayes: Messrs. Desai, Nehra, Pandya, and Shams-ud-Deen.

Noes: Rev. Dr. Arthur, Messrs. Baker, Biss, Bown, Colonel Davies, Colonel Doherty, Messrs. Evans, FitzGerald, Gardner, Dr. Gilks, Messrs. Grønnum, Holm, Huggard, Captain Kenealy, Messrs. Lynde, Maxwell, Northcote, Major Rhodes, Major Robertson-Eustace, Captain Schwartz, Lieut.-Colonel Lord Francis Scott, Sheikh Ali bin Salim, Messrs. Sim, Walsh, Wilson and Wood.

BILLS.

THIRD READINGS.

THE REVISED EDITION OF THE LAWS (OPERATION) BILL.

MAJOR THE HON. H. BOWN: Your Excellency, I beg leave to move that a Bill intitled a Bill to Amend the Revised Edition of the Laws of the Colony in accordance with the Amendments in the years 1924, 1925 and 1926 to the Ordinances now included in the Revised Edition of the Laws, be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE GAME BIRDS PROTECTION BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg leave to move that a Bill intitled an Ordinance to make provision for the Protection of Game Birds be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE CHANGE OF MEDICAL TITLES BILL.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES: Your Excellency, I beg leave to move that a Bill intitled an Ordinance to Provide for new Medical Designations be read a third time and passed.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE ABUSE OF OPIATES PREVENTION (AMENDMENT) BILL.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES: Your Excellency, I beg leave to move that a Bill intitled an Ordinance to Amend the Abuse of Opiates Prevention Ordinance, 1913, be read a third time and passed.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE TOWN PLANNING (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that a Bill intitled an Ordinance to Amend the Town Planning Ordinance, 1919, be read a third time and passed.

THE HON. THE COMMISSIONER OF LANDS: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

THE STATISTICS (AMENDMENT) BILL.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg leave to move that a Bill intitled an Ordinance to Amend the Statistics Ordinance, 1918, be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

THE ESTATE DUTY (CONSOLIDATION) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that this hon. Council resolves itself into a Committee to consider the Report of the Select Committee appointed to consider and report on the Estate Duty (Consolidation) Bill, and also the Costs in Criminal Cases Bill.

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

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee:

THE HON. THE ATTORNEY GENERAL: I beg leave to move the adoption of the report of the Select Committee appointed to consider the Estate Duty (Consolidation) Bill.

Hon. Members who have had an opportunity of examining the Bill will see that only one material amendment was proposed in the Bill in regard to Schedule rates. It will be remembered in this Bill as originally presented to Council no alteration was proposed in the existing rates, but by a provision in clause 11 of the Bill it was proposed that where the estate or care of an estate passing to the widow or children did not exceed £2,500, those schedule rates should be reduced by half. The Select Committee held that the existing rates are unnecessarily high in regard to a widow and children. In paragraph 8 of the Report the Committee has recommended a general reduction of the rates. Hon. Members who have had an opportunity of comparing the schedule of rates as proposed by the Select Committee with the schedule as appearing in the Bill will notice that in the first place it is proposed to exempt entirely estates the value of which does not exceed £300 as against £100 at present. Secondly, that a general reduction of rates all down the scale is proposed to the extent of roughly one-third. If this proposed reduction is approved, it would possibly mean some loss of revenue, but the Select Committee do not anticipate that the loss will be serious and, in any case, they feel strongly that the loss will be more than counterbalanced by the considerations which make it desirable to reduce the rates. It is unnecessary for me to go into these considerations, the most important of which is the investment of capital in this Colony. I am sure this House and the community generally will welcome the reduction in the rates of Estate Duty. I do not propose to take up the time of the Council by dealing in detail with the other recommendations of the Committee, but I should like to refer to paragraph 7 of the Report by which it is proposed that clause 35 of the Bill be deleted. That clause is the clause which was intended to make the operation of the Ordinance retrospective to the 1st of January, 1924. The Committee felt that if the reduction of rates is approved, that reduction should only apply to the future and not be made retrospective to 1924. If the clause remains in the Bill it would, of course, mean in the case of all estates dealt with since the 1st of January, 1924, refunds would have to be made. At the same time, the Committee feels these estates dealt with since should have the benefit of the more liberal definition, and in order to give effect to that it is proposed in paragraph 3 of the Report that a further sub-clause should be added to clause 12 of the Bill, making that clause and that section alone retrospective to the 1st January, 1924. That would enable estates dealt with during the last two years to be dealt with as if this clause was in existence at that time.

I formally move the adoption of the Report, and as we go through the Bill I shall move the amendments.

Clause 2.

THE HON. THE ATTORNEY GENERAL: I beg to move in clause 2 the amendments recommended by the Select Committee be inserted.

Clause 11.

THE HON. THE ATTORNEY GENERAL: I beg to move that the clause appearing in paragraph 2 of the Report be inserted in the Bill as new clause 11.

Clause 12.

THE HON. THE ATTORNEY GENERAL: I beg to move that clause 12 be amended by the addition of a sub-clause (7), as recommended in the Report.

Clause 21.

THE HON. THE ATTORNEY GENERAL: I beg leave to move that the figures "1014" be deleted from clause 21 of the Bill.

Clause 32.

THE HON. THE ATTORNEY GENERAL: I beg to move that the word "wiffully" be inserted in clause 32 after the word "who."

Clause 34.

THE HON. THE ATTORNEY GENERAL: I beg leave to move that the new clause 34 as recommended in the Report be substituted for clause 34.

Clause 35.

THE HON. THE ATTORNEY GENERAL: I beg leave to move the deletion of this clause from the Bill.

Schedule.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Schedule as set out in the Report of the Select Committee be inserted in lieu of the Schedule appearing in the Bill.

THE COSTS IN CRIMINAL CASES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, this Bill has already passed through a Committee stage of this House, and I move that the Bill be re-committed in order to make two or three amendments. It is such a long time since the Bill was before the House that I think it will refresh the memories of hon. Members if I recapitulate the history of it. This Bill was first laid before this House in the early part of 1925. It passed its second reading and was referred to a Select Committee. The Select Committee reported, recommending certain amendments to the Bill, and the Bill was then considered in a Committee of the whole House, and reported to Council with some further amendments. The third reading was postponed to enable the views of the Law Society on the Bill as amended to be obtained. I regret to say the Law Society, which were originally opposed to the Bill, have not seen their way to withdraw their objection to it in its amended form. I understand from the hon. Member for Nairobi South that the Society is by no means unanimous in regard to this Bill.

The Bill has two objects, which are provided for in clauses 3 and 4. The first is to enable courts in criminal cases to order a person convicted to pay the cost of the prosecution up to a limit of £50 in the Supreme Court and £25 in the subordinate court. The second is to enable courts in similar cases where the person is acquitted on a charge laid by a private prosecutor to order the prosecutor to pay to the person accused reasonable costs in the case of the Supreme Court up to £50, and in the subordinate court up to £25. These two principles form part of the law in England, and the Government has been urged for some considerable time to introduce them in this Colony. I believe I am right in saying this Bill has the support of their Honours the Judges.

Clause 1.

THE HON. THE ATTORNEY GENERAL: I beg to move that in clause 1 the figures "1925" be altered to read "1926."

Clause 4.

THE HON. THE ATTORNEY GENERAL: I beg to move that in the last line the figures "1913" be deleted.

Clause 7.

THE HON. THE ATTORNEY GENERAL: I beg to move that in the last line the figures "1913" be deleted.

Clause 8.

THE HON. THE ATTORNEY GENERAL: In clause 8, in the last line, I beg to move that the word "due" be altered to read "awarded."

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Estate Duty (Consolidation) Bill and the Costs in Criminal Cases Bill be reported to Council.

The Council resumed its sitting.

HIS EXCELLENCY: I have to inform Council that the Estate Duty (Consolidation) Bill and the Costs in Criminal Cases Bill have been considered in Committee of the whole Council and have been reported back to Council with amendments.

THIRD READINGS.**THE ESTATE DUTY (CONSOLIDATION) BILL.**

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill intitled an Ordinance to Provide for Duties on Estates of Deceased Persons 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.

THE COSTS IN CRIMINAL CASES BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that a Bill intitled an Ordinance to make Provision for the Payment of Costs in Criminal Cases be read a third time and passed.

MAJOR THE HON. H. BOWN: I beg to second.

The question was put and carried.

The Bill was read a third time and passed.

Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

1926

THIRD SESSION

WEDNESDAY, 30th JUNE, 1926

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Wednesday, the 30th day of June, 1926, His Excellency the Governor (LIEUTENANT-COLONEL SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

The Clerk to the Legislative Council read the Proclamation summoning the Council.

The Oath of Allegiance was administered to:—

HERBERT LAURENCE BAYLES, Acting Treasurer.

JOHN ARCHIBALD ANGUS, Provisional Member for Plateau North.

MINUTES.

The minutes of the meeting of May 31st, 1926, were confirmed.

CAPT. THE HON. E. M. V. KENZALE: Your Excellency, I put in several questions which have not been incorporated in the Order of the Day. May I ask if there is any time limit to the notice required to questions?

HIS EXCELLENCY: There is no time limit. Questions are not incorporated in the Order of the Day unless I give my permission for them to be included. I will look into the matter.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, due notice was given, and I was promised written answers would be furnished, but so far I have not yet had them.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, the same applies to me. There are three questions of mine. One has been answered, but the other two are still outstanding.

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTHCOTE): Your Excellency, the matter will have my consideration.

HIS EXCELLENCY: I understand that attention is being given to these questions and they will be answered in due course. I do not think their incorporation in the minutes is necessary. Has any other hon. Member any amendment to the minutes? I declare the minutes confirmed.

PAPERS LAID ON THE TABLE.

THE HON. THE ATTORNEY GENERAL (MR. HUGGARD): Your Excellency, I beg leave to lay on the table of the House a Certificate of Emergency, signed by Your Excellency, to the effect that it is necessary in the public interest that the Standing Rules and Orders be suspended in order to enable the Criminal Law Amendment Bill to be introduced and passed through all its stages without due notice.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in accordance with the Certificate of Emergency laid on the table, I beg to move the motion standing in my name that the Standing Rules and Orders be suspended to enable the Criminal Law Amendment Bill to be introduced and passed through all its stages without due notice.

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

The question was put and carried.

THE CRIMINAL LAW AMENDMENT BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, Standing Orders having been suspended, I now beg leave to move that a Bill to Amend the Criminal Law (Amendment) Ordinance be read a first time.

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

The Bill was read a first time.

HIS EXCELLENCY: Before I call upon the Attorney General to move the second reading of the Bill, I think it is desirable that I should make some statement to Council regarding the special circumstances in which this meeting has been summoned. As you will remember, when Council adjourned last month, there was no intention of its meeting again until it meets in August to deal with the Estimates, and the other normal business of the year. This meeting is an emergency meeting, and I have summoned it solely in order that Council may deal promptly with the Criminal Law Amendment Bill, which has just been read a first time. No other business will be laid before you at this Session of Council. I think you will all agree that it is desirable that the special purpose of this meeting should stand out clear for all men in the Colony to understand. That purpose is to express the horror and detestation which have been evoked by recent brutal crimes against lonely and unprotected women, and to take without delay the necessary constitutional steps to strengthen the law against all criminals of that savage and repulsive type.

The notice usually required for legislation introduced into this Council is one month. Since you have accepted the Certificate of Emergency which has been laid upon the table, and passed the motion to suspend the Standing Orders, I think I may assume that you all agree with me that a delay of a month in this case was undesirable. There is a widespread sense of insecurity in the Colony at the present time. It is felt that a change in the law is urgently required. The more promptly and decisively the law is changed, the greater the effect.

I suggest therefore that the following procedure be adopted to-day. When I sit down, I will call upon the Attorney General to move the second reading of the Bill, in order that he may give you a full exposition of its contents. If convenient to hon. Members, I would suggest that Council should then adjourn, in order that all Members who have not had time to study the Bill may be able to give it full consideration. Council might then resume to-morrow morning and complete the remaining stages which are necessary to make the Bill into law.

I think I need not review at length the circumstances which have made this change in the law so urgently required. Two terrible assaults have been committed in the Colony within a very few weeks, one in an isolated farmhouse, the other in

a street of the Capital at dusk. These crimes do not stand alone. I have it from leaders in the Colony, whose word I cannot doubt, that there are other cases of this nature which are not brought to the notice of the police because the victims and their relations naturally shun public exposure of the event. Suppression of that kind is particularly natural in cases where attempts are made upon young girls. The horror of the outrage in itself is sufficiently great. It is too much to ask of them that they should be dragged through the shame and ordeal of exposure in Court, especially when such exposure may shadow all their after lives.

The strong feeling in the Colony upon this subject is therefore, I think, only natural. It has been so strong that some anxiety has been felt in all responsible quarters regarding the possibility of lawless action being taken against the alleged perpetrators of these crimes. Now, I am sure that every Member of this Council would condemn such action. Lawlessness of that kind is treachery to our civilization; it is treachery to the cause for which the Empire stands pre-eminent—that is, the reign of law. Any such attempt, if it had been committed, would have done irreparable harm to the good name of the Colony. I therefore desire to acknowledge with gratitude the efforts which have been made in many quarters, official and unofficial, to make counsels of moderation prevail. I desire particularly to express my gratitude for the efforts of the Noble Lord and his colleagues on that side of the House, for the efforts of the Executive of the Convention of Associations, for the efforts of the East African Women's League, and other leading institutions in the Colony.

The urgency and the gravity of the appeal which all those leaders in the Colony issued showed that feeling here was stirred to its depths. With the unanimous support of Executive Council, I had already determined that the law should take better account of the conditions of life in the Colony and of the particular dangers to women and children which these conditions inevitably create. It is, of course—and I emphasize this point—impossible to alter the law retrospectively, so as to make it apply to crimes already committed; but some much stronger deterrent is needed to avert the recurrence of such crimes.

I accordingly made representations on the matter to the Secretary of State, and the Bill before you to-day is the result. I should like to express the appreciation and gratitude which I feel, and in which I am sure I have your concurrence, for the prompt consent given to this legislation by the Secretary of State.

With regard to the Bill, I would only call attention to three cardinal points: the more detailed exposition of it I leave to the Attorney General.

For the crime of rape, the law will now be the same as for the crime of murder. Rape may be visited with the extremest penalty within the scope of the law—the penalty of death. As in South African law, and as in our own law with regard to murder, the death penalty will be optional and at the discretion of the court. As also in South African law and as in our own law for murder, there will in the new law regarding rape be absolutely no discrimination with regard to race. Whatever be the race of the criminal, and whatever the race of the victim, the penalty will be the same.

Attempts at crimes of this nature are also more severely punished under the law which you are asked to pass to-day. The terms of imprisonment are considerably increased, and I think I may say without impropriety that the severity with which the law will now punish completed offences of this type is bound to increase the gravity with which the courts regard an attempted offence.

The law, I repeat, makes no discrimination of race. But it would be idle to ignore that the change of law now proposed to you is due to attacks on European women and children by African men. By the legislation which we are proposing to enact to-day we are demanding a high standard of conduct from natives who lack the powerful environment of social instinct and tradition into which we were born. We are right, I am sure, in demanding that standard, for their sakes as well as for our own. But the passage of this law emphasises two duties of which we should never lose sight, and on which I desire to say a very few words before I sit down.

The first duty to which it points is a duty to ourselves. If we demand such standards of the native, we must be very sure that we ourselves conform in manners and in conduct to the high tradition which should distinguish a governing race. I have much sympathy with the protests which have been universal in the Colony of late against the disparagement and calumny of white settlement which are still so consistently carried on in other parts of the world, and particularly in our own home, in England. I have said, and I repeat it, that I regard it as one of my first duties to fight such calumny wherever it shows its head. But let us remember that neither to individual men, nor to communities of men, can ungrounded calumny do any deep or lasting harm. Our reputation is in our own keeping. It is in the keeping of every civilized man and every civilized woman in the land, and those who do not

strive to live up to the cleanest English code in behaviour and in speech are traitors to the civilization in whose name this legislation is submitted to you to-day.

The other duty on which I wish to speak and to which our action points most clearly to-day is a duty towards the native races. This legislation is necessary to restore a sense of security throughout the Colony, to dig deeper the foundations of peace and order, to fasten the hold of law upon all men, and to prevent the growth of bitterness between the races of which the Colony is composed. From such bitterness, if it grew, terrible evils would flow.

But it is essential to remember that purely negative or penal action is never completely effective by itself. We must seek not only to hold in check the brutal instincts from which crimes of the nature with which we are dealing to-day are derived, but we must seek also to sow better instincts in their place. We have, indeed, a positive as well as a negative duty to perform. Our native population is asking now for all the education that we can give. Native Councils are voting money every day of their own accord. Wherever schools exist, they are thronged. To that appeal for light and leading we must whole-heartedly respond; and we must seek so to order the life and government of the Colony that the more backward races within it move always towards a better understanding and acceptance of the laws in which, from century to century, all human progress has been gradually expressed.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Criminal Law Amendment Ordinance be now read a second time.

In view of the manner in which Your Excellency has just dealt with the matter, it is, I think, unnecessary for me to add anything with regard to the circumstances in which the Government has decided to submit for the consideration of this Council a Bill to increase the penalties for sexual offences. I shall therefore confine myself to the explaining, as clearly as I can, the provisions of this Bill and the amendments in the law which it is intended to effect.

It is proposed by clause 2 of the Bill to increase the punishment for the three most serious sexual offences contained in our law, namely, rape, assaults with intent to commit rape, and assaults with intent to outrage modesty. Let me deal first with the case of rape.

Under the present law, which Members will see set out on the left-hand page of the Bill, rape is punishable by imprisonment which may extend to fourteen years, and with a fine. Unfortunately, it is evident from recent occurrences

that the punishments so provided do not constitute an adequate deterrent to the commission of these offences. This being so, it is, I submit, the duty of Government to strengthen the law, not only for the purpose of adequately punishing the offender when he transgresses that law, but also for the purpose of providing an additional or stronger deterrent to the commission of the offence and so preventing, as far as may be possible, the recurrence of crimes such as have recently excited universal horror and indignation in the Colony. I feel sure that every hon. Member of this Council will agree that, generally speaking, the crime of rape is one for which no penalty can be too severe. That is the view of Your Excellency and your advisers, and it is in these circumstances that this House is now asked to accept and approve of a Bill the main object of which is to impose for the crime of rape the most severe penalty known to British law, namely, the penalty of death.

I feel sure it is unnecessary for me, particularly in view of what Your Excellency has just said, to attempt to justify the imposition of the death penalty for this offence. The existing law has been found wanting, and it is our duty to amend that law so that as far as possible the punishment may fit the crime. In imposing the death penalty for rape, as Your Excellency has just said, we bring our law into line with the law in South Africa and in Southern Rhodesia, the only parts of the British Empire, so far as I know, where the death penalty exists for rape.

It will be noticed that an alternative is provided for the death penalty in cases of rape, that is to say, the death penalty is not to be compulsory, but is to be within the discretion of the court in every case. This discretion already exists in the law of South Africa and of Southern Rhodesia, and it exists in our own law, even in regard to the crime of murder.

The reasons which make it essential why this discretion should exist are; I submit, sufficiently obvious. As I said a moment ago, the crime of rape is one for which, generally speaking, no penalty can be too severe, but at the same time hon. Members can well appreciate that there may frequently be cases where the imposition of the death penalty would be out of the question. To meet such cases the Bill provides the alternative of imprisonment which may extend to life, but which must not be less than three years. In imposing a minimum sentence for this offence, we follow the law in force in the United Kingdom, and this is a provision which I hope hon. Members will see their way to accept.

As Your Excellency remarked, under the provisions now proposed, the punishment for the crime of rape will be exactly

the same as the punishment for the crime of murder, except that in the case of rape a minimum term of imprisonment is provided, namely, three years.

The second part of clause 2 of the Bill deals with assaults with intent to commit rape and with assaults with intent to outrage modesty. In the case of assaults with intent to commit rape, it is proposed to increase the maximum penalty from ten years to fourteen years; and in the case of assaults with intent to outrage modesty, it is proposed to increase the maximum sentence from seven years to ten years. It is also proposed to make a change in the law with regard to the imposition of a fine for this offence. If hon. Members will refer to the existing law, they will see that at present a fine may be imposed for this offence in lieu of imprisonment. It is now proposed to alter that by providing that, while a fine may still be imposed, it must be in addition to and not in lieu of a sentence of imprisonment. It is necessary therefore for this offence that a sentence of imprisonment shall be imposed in every case and a fine may be imposed in addition at the discretion of the court.

Before I pass from clause 2, I should like to make one point clear, and that is that the provisions of this clause are of general application; that is to say, they apply to all persons regardless of the race of the offender or the race of the person against whom the offence is committed. On this point, I do not think I need say more than to remind hon. Members that no racial discrimination exists in the present law dealing with this offence, and no racial discrimination exists in the corresponding enactments in South Africa and Southern Rhodesia.

I now come to clause 3 of the Bill, which deals with the jurisdiction to try these sexual cases. Under the present law subordinate courts have jurisdiction to deal with all cases of rape and of attempted rape, except where the offence has been committed by a native upon a non-native woman. In view of the imposition of the death penalty for rape, it is now necessary to provide that all cases of rape shall be committed for trial to the Supreme Court, and in the case of attempted offences it is also provided that, where the offence is committed against a non-native woman, the case shall be committed for trial to the Supreme Court.

Clause 4 deals with the power to order corporal punishment for sexual offences. Under the present law, courts have power to order whipping in all cases where the person convicted is a native. In the case of non-natives, however, the power to order whipping is confined to second or subsequent

offences. It is now proposed to remove entirely any discrimination on this point and to empower the court to order whipping in every case regardless of the race of the offender.

I think I have now dealt sufficiently with the details of the Bill, but if there is any point which I have not made quite clear I shall be glad to remedy the deficiency when replying to the debate or in the Committee stage.

Before I sit down, I should like to emphasize one point, and that is with regard to the operation of this Bill. This Bill will come into force on the date on which Your Excellency assents to it. It will therefore not apply to any offences committed before that date. There is no intention, nor would it be possible, to make the provisions of this Bill retrospective, and in this connexion I cannot do better than to quote from one of Your Excellency's recent speeches dealing with this matter, in which you said:—

"It is one of the fundamental principles of law that penalties imposed by the law cannot be retrospective. If a man sins against the law, by that law must be judged, and not by afterthoughts regarding the law, introduced when the offence has been committed."

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

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

LT.-COL. THE HON. LORD FRANCIS SCOTT: In view of the fact that we have only this morning had the Bill before us, and that Members have not had a chance of giving it consideration, I should like to beg leave to move that Council adjourns until to-morrow morning at 10 a.m.

HIS EXCELLENCY: I will accept that and adjourn Council until 10 a.m. to-morrow.

Council adjourned until 10 a.m. on Thursday,
July 1st, 1926.

THURSDAY, 1st JULY, 1926

The Council assembled at 10 a.m., at the Memorial Hall, Nairobi, on Thursday, the 1st day of July, 1926, His EXCELLENCY THE GOVERNOR (LIEUTENANT-COLONEL SIR E. W. M. GRIGG, K.C.V.O., C.M.G., M.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES

The minutes of the meeting of June 30th, 1926, were confirmed.

HIS EXCELLENCY: I will now put the question that the Criminal Law Amendment Bill be read a second time.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in your speech yesterday you made reference to the very deep feeling which has been aroused in the country by these outrages which have recently taken place, and you spoke in kindly terms of the efforts made by the leaders of the unofficial community to keep indignation so justly excited within legal bounds. May I say, Sir, whatever efforts we made would have been valueless if it had not been that we knew Your Excellency had immediately taken steps to deal with this matter as soon as it came to your notice. I should like now to thank you on behalf of the unofficial community for your very prompt action which has given a feeling of confidence throughout the country and which has undoubtedly averted any unfortunate incidents which might possibly have occurred. May I say further, Sir, that I had cabled home to England to Lord Delamere to ask him if he would go to the Colonial Office and do what he could to help. He replied saying, "Went to Colonial Office yesterday found matters already arranged thanks to Governor." I should like the country to know that. And in thanking you, I should like to pay my meed of gratitude to the official members amongst your advisers who have been very staunch and helpful in this matter and I should like to thank the Secretary of State for the prompt way in which he agreed to the imposition of the death penalty for this offence.

To come to the Bill. There are certain points in it which I feel it my duty to criticize—in no unfriendly spirit, Sir—on the principles and various points which have arisen and which have been discussed throughout the country. The first point is the fact that this Bill is devoid of all racial discrimination. As the Bill stood before there was no racial discrimination with regard to the penalties with the one exception of the whipping. Your Excellency, I am not in any way cavilling at the decision

that there should be no racial discrimination. In this somewhat difficult and complicated matter it is probably the right thing to do, but at the same time I do want to stress the point that it is no good trying to pretend that the natives, who are barely emerged from a state of savagery, can be judged by exactly the same standard of the Europeans with hundreds of years of civilization behind them. I am not trying to suggest that this should be amended in any way to bring in any racial discrimination; all I want to say is that we, on this side of the House, by agreeing that there should be no racial discrimination, do not wish it to be taken as a precedent that in all cases that should be accepted as a permanent fact. There is no question about it. It would not be fair on the natives, any more than on the white man, if he is going to be put on the same level. He has not had time to rise to the same standard and there must be discrimination until the backward races have so far advanced as to reach the civilization of the old established ones. In this particular case you cannot get away from the fact that the result of some of these offences to a European woman is worse than death, while in some of the tribes it is a matter of comparatively small account. Of course, as we raise the standard of the natives and the native women, we hope that they will reach the same level as regards feeling as our own people. That, however, cannot come for some time.

The next point for criticism is with regard to section 354, subsections 1 and 2: the punishment for attempted rape and for other outrages. I think the feeling is general that as the bill stands before us the punishment does not go quite far enough. On this side of the House we have tabled two amendments to increase the fourteen years to a life sentence, and to increase the sentence in section 2 from ten years to fourteen years. Many people in the Colony feel very strongly that death should be the penalty for attempted rape as much as for rape. I believe it is the penalty in Southern Rhodesia though it is not so in the Union of South Africa. There are two ways of looking at the penalty I think. One is as a deterrent and the other as a punishment. As far as a deterrent goes as long as one has death as the penalty for the completed offence, as a deterrent it equally applies to attempted cases because obviously no one who starts out to commit any of these offences means to stop at the offence without putting the whole thing through. As long as we have death as the penalty for completed rape, I think it has the desired effect; but with regard to punishment, the man who attempts rape is just as guilty as the man who completes it. On these grounds many people feel that death should be the penalty for attempts as well. Of course, Sir, where the difference really comes in is from the result of attempted rape. The result of attempted rape may

be very very bad but it cannot have quite the same results as the completed offence. We are not pressing from this side of the House to have death the penalty for attempted rape, because we realize we are pressing for something we could not get and we might lose all that we hope we shall get in this Bill. We have therefore put down an amendment that the life sentence should be made the maximum for the attempt.

The other point, Sir, which I wish to bring up, is the question of whipping. I think it is very generally felt on all sides that for these forms of offences there is no question, in any case where the death penalty is not inflicted, that the culprit should receive a flogging. As the law stands it is a bit weak as the whipping is done with a cane, and I do hope that the Bench in dealing with these cases will take seriously into consideration that there is this penalty of flogging which can be awarded, and it should not be treated as an afterthought to the other things. In saying this, I do not wish it to be thought that I am trying to instruct the Bench in any way but I do want to bring forward the fact that there is a very strong feeling that flogging should be included in the punishment for these offences, and I think it should be possible for this particular offence that we should follow the example which has recently been brought into England where the cat-o'-nine-tails has been re-introduced for grave offences of this kind under the Garroting Act. It has been suggested in many quarters that a very effective punishment is that of repeated floggings, but I should like to point out that as the law stands it is definitely laid down in the Criminal Procedure Ordinance, section 311, that no sentence of whipping shall be administered by instalments. That form of punishment has proved very efficacious in many parts of the Empire. If we found that that should be brought in, it would mean that particular paragraph of the Criminal Procedure Code would have to be altered. However, it has been suggested in many quarters that that should be a form of punishment.

In the law before us here a fine can also be imposed on the actual offender. Another proposal which has been suggested in many quarters is that some form of collective fine or the tribe or location from which the criminal comes should be imposed. That, I think, Sir, if the offence became prevalent, would be a very efficacious way of bringing it home to the natives of the different tribes, but here again it means changing the law governing collective punishments. As it stands at present that could not be applied and there are, of course, many difficulties in the application of that.

I think these are the chief points which have come up during discussions on this particular class of offence and which come under this Bill to-day.

There is on other thing I should like to refer to and that is in my mind these offences are only the outward sign of something rather deeper and that is that there is a growing tendency towards lawlessness amongst the native inhabitants of this country and I believe the cause of that is that the natives of this country lack those two great essentials on which all our best British institutions have been built up—tradition and discipline. Look at all our great institutions. Look at our Royal Navy, and, if I may say so, that great regiment you and I, Sir, have had the honour of serving in. All their great successes have been built up on tradition and discipline. Some people think discipline means bullying and knocking people and breaking their spirit and reducing them to a sort of cringing spirit of servility. That is not discipline. Proper discipline means setting a very high standard and accepting nothing less than living up to that standard and the result of it is self-respect and civility in the community in which we move. That has been the secret of the successes of our great regiments and our great navy because they have had this strict discipline and have had the tradition of service to live up to and I do feel that the time has come when we have definitely got to try and find some way in which we can give tradition to the natives in simple ways—tradition, truth, diligence, industry and chivalry and such like things. I do feel it is incumbent on every white person in this country who has anything to do with natives, whether on farms or in the missions or in administrative work and especially those who have to do with education, to try and set a high standard and work up the natives to a greater sense of tradition. In asking that from natives I reiterate what Your Excellency said yesterday in your speech, that it is incumbent on every white person in this Colony to do his utmost to set a high standard of living and to try and live by a high standard of life which will earn the respect of the natives with whom they come into contact. We have had laid upon us a great responsibility and a great duty and I do trust that every white man and every white woman in this Colony will try to live up to that so that we may be an example to the whole world in one of the most difficult problems which have ever faced any country—this dual policy of the development of black and white side by side.

There is one point I must make clear. When I was speaking of racial discrimination I hope no one will think that I was in any way meaning that white man committing these offences should not be treated as anyone else. Such a man can be of no use to this Colony and if he leaves it by the scaffold or in some other way so much the better for the country. I was referring to natives amongst themselves—offences as between native men and women.

CAPT. THE HON. E. M. V. KENALY: Your Excellency, the legislation now before the House is due entirely to increasing assaults on white women by native men. That being so, it should be openly recognized and openly stated. The issue should not be confused by widening the scope of the legislation and by introducing the element, or rather introducing a principle of refraining from racial discrimination where racial discrimination in my opinion is essential, for these reasons.

Twelve or fifteen years ago the natives of Kenya Colony considered an European a half-God; he does not think so to-day. Why? Has the type of European that has come to the country varied considerably? I think I am right in saying no, but the native has changed his view because the principles of intellectual, social and racial equality have been inculcated into him, to his disadvantage and to the disaster of the present relationship between European and native. Only the most biased or the most ignorant person could dispute the fact; it is evident to anybody who has studied the question, and even the most biased or the most ignorant could not sustain the contrary in a public debate. Is the native mental attitude in regard to crimes of a sexual nature different to ours? I think it will be generally admitted that it is, and there is a reason for it. A native views his wife and his female children in terms of relative value to his other possessions, and he treats them accordingly. We view our wives and our female children in terms of absolute value and not in terms of relative value. That is a fundamental difference between the native mentality and European; it is manifest and it cannot be ignored for long. In a native woman chastity is often considered unimportant. A European woman would rather lose her life than her chastity—it is the dominating factor in her life; in a native woman, owing to their tribal thoughts and customs, chastity is often measured in terms of other property. There is a relationship between that and other things. I think I may state definitely that a European man is prepared to sacrifice his life for the chastity of his womenkind and if we once lose that ideal as a race we perish. I think it is philosophically correct to state that the degree of punishment for any offence lies in its reflex action in the eyes of the sufferer—not in the eyes of some academic person but in the eyes of the individual person who has suffered the assault or the injury, whatever the injury is, and the reason why we utilize State services in punishing an individual is because we do not wish further to penalize the unfortunate person who has already suffered, because in most instances it would involve suffering for that person to apply the punishment which she or he thinks fit for the crime. The State deals with that and applies the punishment, but the

individual who suffers the crime is the deciding factor as to what the punishment should be, and that is philosophically correct.

In this instance we are dealing with the white community. They are the sufferers and they are right in suggesting that their view of the punishment is the correct one, and I am here to support that view.

Since nature has made such manifest differences between the races it is futile and hypocritical to ignore them. I maintain that there should be racial discrimination not only in this legislation but in most legislation. It is not a courageous act to ignore these manifest differences. It is a cowardly course to ignore the obvious racial differences and it is reasonable to recognize these differences in legislation. We want legislation to protect our womenkind against the native; why obfuscate the issue by pretending that there are other factors.

The issue of constitutional law has been brought up. I should like to comment on that fact from a purely philosophical point of view. Constitutional law to-day is democracy—the giving effect to the wishes of the majority of the people. I have already stated that it is philosophically correct also that the sufferer should decide the penalty. In this instance, it is the European community which has suffered. It is right, therefore, that the European community should suggest the penalty, and any law framed academically by persons outside the scope of its possible activity is no true law. The law should be framed by the people whom it affects, and we are the people whom it affects because we are the sufferers in this instance. The settler is the most menaced. The Government official, even in the smallest out-station, has the protection of the police and disciplined natives. He has police or tribal retainers; he has certain persons at his disposal to protect him. He is, too, a sojourner, not a homemaker. It is the settler on the lonely farms who is the sufferer. The degree of anxiety . . .

HIS EXCELLENCY: Order, order. I must ask the hon. and gallant Member to limit his remarks to the second reading before the House. I have listened for some time to the philosophical disquisition, but I have not been able yet to see its bearing on the subject before the Council. I shall be glad if he will confine his remarks to what he wishes altered in the Bill.

CAPT. THE HON. E. M. V. KENEALY: I thought I was in order in dealing with the principles before coming to the . . .

HIS EXCELLENCY: I have not been able to see it yet.

CAPT. THE HON. E. M. V. KENEALY: One of the principles of the Bill is that it is based on the wishes of the majority of the people in this country. We have heard a great deal of native opinion in regard to these assaults, and yet in spite of a Government manifesto and in spite of very loyal prompting by District Administrative Officers and by native chiefs and headmen to the natives under their direct control, there has not been an appeal from the native for the death penalty; no such appeal has come from the native. We feel that the natives themselves should have asked for this penalty. The country is grievously disappointed. If these native chiefs cannot recognize the ethical aspect to the case let us instead instruct them by penal legislation that our womenkind must be inviolate.

I now come to the details of the Bill.

I agree with section 376—the death penalty for rape. In regard to the death penalty for attempted rape, let me put before you, gentlemen, a case . . .

HIS EXCELLENCY: Order, order. Will the hon. and gallant Member please remember the Chair; he is not addressing a public meeting.

CAPT. THE HON. E. M. V. KENEALY: I beg your pardon, Sir.

Your Excellency, may I put before this hon. Council a case which is not outside the possibility of likelihood; an exceedingly likely possibility probably.

Let us consider a woman in child who is assaulted by a native unsuccessfully. He does not accomplish his purpose. He fails in that, and he is tried for attempted rape. That unborn child may die, or be insane, after the man is tried. The woman may be driven mad and the child may be deformed. I think the average man is incapable of realizing the enormous possibilities of such a crime on the woman. I can appeal only to the medical community to give us details of such things. Your Excellency, hon. Members must recognize that the results of such cases are infinitely worse than death. This must be admitted. Is it logical to apply a less penalty for a greater crime? I have given an instance where they must agree that the penalty should be more for the crime because the crime is greater than murder. I wanted to move an amendment—that attempted rape should also be punished with death. I have, however, failed to get a seconder. I hope that ultimately we shall get that passed. I do not mean to let the matter rest and I feel now is the time to do it, and I also feel we should not wait for the necessity to be further demonstrated. I think the necessity is evident to-day and we must provide for that legislation.

Your Excellency, I do not mean to oppose the amendment coming from this side of the House that the life sentence should be imposed in lieu of the sentence of fourteen years. I trust that will go through. I consider the life sentence should apply where an attempt has been made to outrage a woman's modesty—I consider that merits a life sentence. We are not dictating to the Bench or the Courts, Your Excellency; we have no intention of telling them what the proper interpretation of the law should be. But let us give them as great a scope as possible if they consider the crime is worthy of the severest punishment. One must consider this factor owing to our views on chastity. A woman is much more likely to readily admit to an unsuccessful attempt or to outrage of modesty than to a successful attempt, her ideas of chastity having been formed by generations of civilization. Let this Council admit, as the civilized world admits, that man's life is a lesser thing than woman's chastity and legislate accordingly.

HON. SHAMS-UD-DEEN: Your Excellency, I was under the impression that this Bill was of an absolutely non-controversial nature and one which should not have taken more than about fifteen minutes for this hon. House to pass. After all, the principles that are embodied in this Bill are such that no citizen of purity and good character need be afraid of it, neither European, Asiatic nor native. Although it is true the natives have made no representations to the Government asking for such a provision as this Bill proposes, it is perfectly true that the majority of the natives, and I am speaking as a result of my conversations with a large number of natives since we read for the first time Your Excellency's speech at Kitale, that all good and responsible natives in this country simply welcome this Bill. I think, Your Excellency, it is rather unfortunate that irrelevant and unnecessary points should have been introduced into the controversy this morning. It is a Bill which is devoid of any racial discrimination and one that no one need be afraid of, though I am of opinion it is rather premature. My own personal opinion as a result of my residence in this country for the last twenty-six years is that the natives of this country are really not, from the settler point of view, such a dangerous criminal body as the world at large might gather from the passing of this Bill.

I think, Your Excellency, one point has been completely missed by those who framed this Bill and that is that no punishment has been provided for an ordinary assault upon women. I am convinced that all assaults which have taken place in this country began with the intention to rob money, and the moment any resistance had been offered, the perpetrator considers he has done something wrong and simply goes from one step to the other and does not stop at any step

and goes to the extreme. I think the real thing which would have stopped these assaults in this country would have been for a simple Bill to be introduced making it punishable for an assault on women whatever the intention, whether to rob or assault her. Unfortunately there is no provision for such offences. I shall take an opportunity of moving an amendment in the committee stage of embodying a clause which should make any assault on women punishable, whatever the intention, as I am quite certain that will stop these assaults. I am rather sorry it has been found necessary for this Bill to be introduced at this stage because it is not a good advertisement for the country for intending settlers, either from Europe or British India. When this Bill is passed it will give an impression to the outside world that the natives of this country are very dangerous and that the chastity of women folk is not safe, which, I maintain, is not correct. It is a great pity that because of a few bad characters the whole community has got to suffer. I do know that the prime reason for the introduction of this Bill is the misbehaviour of a few natives.

I wish to support this Bill although in the opinion of some people the capital sentence is only a relative part, but I cannot associate with that opinion being a Mussulman myself, I think it only brings the law of this country, which has been the law of the Mohammedan people for the last thirteen hundred years, the same as the law of the other Asiatic communities such as the Hindu.

As far as the amendment with regard to attempted offences is concerned, I do not know whether I am in order in speaking to it, but I do say, talking of the principle, that once having carried the offence of rape to the point of the offence of murder, we cannot carry it any further. If we can find any law in any other part of the world where death is the penalty for any attempted murder, by all means take it to that point. The points mentioned by the last honourable speaker also arise in cases of attempted murder. The victim might survive for some months after punishment has been dealt out to the perpetrator and he might succumb to some injuries.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, on a point of order. May I explain that I said the results of an attempted rape compared with the results of an attempted murder.

HON. SHAMS-UD-DEEN: Your Excellency, I am sorry if I misunderstood the hon. Member, but I should certainly maintain that if for an attempted offence of murder you can inflict the punishment of death, you can also consider such punishment in the present circumstances. I know the indignant feeling of the community of the country and they have my

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entire sympathy. I am not alone in that. The whole community are equally indignant at the offences which have been committed recently but, after all, we have to keep our indignation in bounds. We cannot punish a man with more than the capital punishment, and for attempted offences I think the present provision in this Bill should be found sufficient.

There is only one other remark I am in duty bound to make and that is as regards racial discrimination. It has been advocated here this morning that racial discrimination must be observed in certain legislation. When that time comes we will deal with it. As far as the bodily injury is concerned, I do not think the principle can be countenanced for one minute that as far as the life or bodily injury of persons is concerned, there should be no discrimination at all. No one with any extreme views can maintain that the life of a native or an Asiatic can be considered as of less value than an European. I must contradict that remark as I think it is contrary to all the principles of justice. I shall have an opportunity of touching on other points in Committee. I consider it is my duty to support this Bill, although I must repeat I feel it is somewhat premature.

REV. DR. THE HON. J. W. ARTHUR: Your Excellency, in common with all sections of the community in this country we cannot but feel the deep reason for the introduction of legislation of this kind, and amongst all men and women of every race in this country there is the abhorrence of the crimes that have been committed. There is, too, Sir, I feel amongst all men and women the sympathy that goes out to those who have been the sufferers of crimes of this nature, and I am certain that the African men and women also do abhor crimes of the nature of these crimes, and that their sympathy does go out to the people who have suffered. I know personally that they do sympathize, from the expressions of opinion of Africans made to me along these lines since these crimes have been committed. I feel, Sir, that as the result of this an African might well feel sore in this country for the many things that have been said, and I wish—along with my hon. friend Mr. Shams-ud-Deen—to say that, after all, these things are done by individuals of the community. We do not, for instance, in connexion with the whites of this country, because certain individuals may commit certain things and because people say certain things in regard to the white community of this country, say that these things are necessarily correct, or are condoned by the white community of this country. So it is with the native community, and I feel that they are against these individuals and these individual acts; that the great mass of Africans, not only of the chiefs and headmen and elders,

but of the African young manhood of Kenya, who are law-abiding members of society, do resent such crimes of violence and punish them severely according to their own tribal customs. While it is true that to-day there is a lack of discipline in some instances amongst the young manhood of some tribes, yet I believe it is equally true that in some ways there is a growing self-discipline amongst many of these tribes in the matter of sexual offences. There are thousands of young men and young women in the tribes of Kenya who in this very matter of sex-relationship have learned and are learning what self-discipline means. When one thinks of the lustful life of such young people in their own tribal life as it was and as it still is amongst so many, because it is tribal custom, I stand amazed at the self-discipline amongst young men and women which is manifested to-day.

In connexion with this matter, I for one am grateful for Your Excellency's strong words both in your speech at Kitale and here yesterday, for your appeal to the white races of this land to be true to the best English traditions. If we desire the African to respect our women folk, we must also respect the African women.

I am going to support the Bill because it seems to me that the case has been so strong that it has been proved such legislation should be introduced. It must be brought home to the African mind the seriousness of such offences and everything must be done to put deterrents in their way so that these offences should not be committed. I shall give my support to this Bill because it is non-racial. If there had been any racial discrimination in it I could not have voted for it, but I do vote for it because it is non-racial and there is no discrimination between the races. Again, I will give my support because the death penalty is the ultimate penalty and not the only penalty. Circumstances must after all always alter cases, and such legislation in so far as Africans at this stage of their civilization are concerned, and in so far as crimes of this nature committed among themselves are concerned, must make possible much lesser forms of punishment which is not the ultimate punishment of death.

In taking this attitude I know I have the support of the majority of the missionaries in this country and I believe that the Africans themselves knowing that this is the case will take up the same position as myself.

In closing I would like also to thank Your Excellency for the memorandum which you have caused to be circulated amongst all members of all tribes in this country, and I can assure Your Excellency that as far as the missionaries are concerned they are doing everything to see that that circular is brought to the notice of the pupils in the schools. I think

that everything should be done to make known this fact and also that this legislation is being passed to-day. I would appeal to Your Excellency to add to that memorandum which has already been sent round by sending out another one informing people that the death penalty has now been introduced. This is a matter in which everybody should co-operate so that the news may be spread amongst the people not only in the Reserves but also those working on the farms and in the towns, so that the utmost knowledge may be afforded to the native peoples to enable them to know what the consequences will be of such actions.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, after the comprehensive, admirable and earnest speech with which the debate was opened this morning by the Noble Lord, I feel there is little or nothing left for any one else to say. I wish merely to make an appeal to Your Excellency to consider the advisability of adopting a practice which cannot be introduced into any legislation and that is that any accused native man convicted either of the major or of the minor offences or sentenced to the capital punishment for the major offence, or whipping in the minor offence, that this should take place in the presence of certain members of that native's tribe. I do not suggest it should take place in public, but it should take place in the presence of some members of that native's tribe, and if he is a detribalized native, in the presence of some members of the native location where he resides. They can then go back and tell the others what they have seen, and I am convinced, if Your Excellency can adopt that, the deterrent effect of these two punishments would be more than doubled.

THE HON. THE ATTORNEY GENERAL: Your Excellency, it is, I think, unnecessary for me to reply to the debate at any length. It is gratifying to find that the Bill now before the House has been received, so far as the principle involved is concerned, with so large a measure of acceptance. Speaking on behalf of hon. Members on this side of the House, I desire to say that we appreciate very highly the remarks of the Noble Lord who opened the debate this morning.

The Noble Lord referred to one or two matters which do not strictly arise in connexion with this Bill, such as repeated whippings, instead of as the law stands at present, one whipping for offences. I am sure the Noble Lord's remarks will have Your Excellency's careful consideration, but they do not arise in the present Bill.

With regard to the remarks of the hon. and gallant Member for West Kenya, I find myself in rather a difficulty as to replying to him. I fail entirely to follow his arguments

which he states are based on philosophy. He suggests that where a crime is committed, it is the function of the person against whom that crime was committed to lay down the penalty. That is a proposition I have not heard before, and I find it impossible, without very careful consideration, to frame an adequate answer, if it does require an answer! This Bill contains no provision for any racial discrimination and I am glad to find that with the exception of the hon. and gallant Member for West Kenya, that principle has been universally accepted by my hon. friends on the other side of the House.

The hon. Mr. Shams-ud-Deen suggested that this Bill might have dealt with ordinary assaults upon women. This Bill is framed to cope with sexual offences and I suggest the clause relating to ordinary assaults against women would hardly find its place properly in this Bill. Apart from that, I have not heard it suggested that the present law dealing with ordinary assaults is inadequate or has failed to serve its purpose. If any suggestions are made to Government that the law relating to ordinary assaults requires strengthening, they will have the Government's most careful consideration.

The hon. Member for Nairobi South suggested that where the sentence of death is imposed, or a sentence of flogging is ordered, members of the tribe of the convicted person might be required to be present. I am informed that that is the practice, perhaps not universal, but it is the practice which is at present in existence in certain cases, and I am authorized to say it has Your Excellency's entire sympathy.

I now formally move the second reading of the Bill.

The question that the Bill be read a second time was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that Council resolve itself into Committee to consider the provisions of this Bill.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to move that section 2, sub-section (2) (1), be amended by deleting the words "fourteen years" and substituting the word "life."

THE HON. THE ATTORNEY GENERAL: On behalf of Government, I accept that amendment.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, is the acceptance by Government equivalent to seconding an amendment?

HIS EXCELLENCY: Of course not.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to move that section 2, sub-section (2) (2), be amended by deleting the word "ten" and substituting the word "fourteen."

THE HON. THE ATTORNEY GENERAL: Your Excellency, on behalf of Government, I accept that amendment.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I beg to move that section 4 be amended by deleting the word "whipping" and substituting the words "flogging with a cat-o-nine-tails."

It is the custom in the country at the moment that for all offences whipping should only be done with a light cane, and we feel very strongly on this side of the House that for these particular crimes for sexual offences the proper punishment should be flogging with a cat-o-nine-tails.

HIS EXCELLENCY: Perhaps it will be for the convenience of the Committee if I explain the position in regard to whipping in the Colony. The word "whipping" used in the Bill does include power to whip with the cat-o-nine-tails, the law being that the instrument to be used is to be prescribed by the Governor. The Noble Lord is right in saying that the instrument used at the present time is the cane. In view of previous practice, I will have to refer the question to the Secretary of State, but I am in full agreement that the instrument used for brutal offences of this kind should be the cat-o-nine-tails. I propose to make representations to the Secretary of State that I should use my discretion in that way, and I have little doubt the Secretary of State will approve my doing so. Perhaps with that assurance, the Noble Lord may not think it necessary to press his amendment.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I understand that, if the Secretary of State will agree, that you will have power to order that the weapon used for this particular offence will be the cat-o-nine-tails? On that assurance, I beg leave to withdraw my amendment that section 4 be amended.

HON. SHAMS-UD-DEEN: Your Excellency, before reporting progress, I would like Your Excellency's ruling on one point, and that is whether I am in order in moving an amendment in this Bill, and if not, I should like to have some reasons as to why an amendment cannot be moved to provide for punishment for assault on people with intent to commit robbery.

HIS EXCELLENCY: With regard to the point of order which Mr. Shams-ud-Deen has raised, the position is that the Standing Orders at the present moment are rather obscure in the matter, but I have already informed Council I cannot accept the amendment in Committee unless notice is given of the amendment, because the legal effect of the amendment may not be at all clear. I am therefore not prepared to accept the amendment in Committee. With regard to the particular amendment Mr. Shams-ud-Deen wishes to insert, I think his proper course would be—I speak subject to correction by the Attorney General—to move an amendment to the law dealing with that particular kind of offence.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the offence of assault with intent to rob is not dealt with in the Criminal Law Amendment Ordinance which is now being amended. It is provided for in the Indian Penal Code.

I beg to move that the Bill as amended be reported to Council.

The Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Criminal Law Amendment Bill has been considered in Committee of the whole Council and has been reported back to Council with two amendments.

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

THE HON. THE ACTING COLONIAL SECRETARY: I beg to second.

HIS EXCELLENCY: I listened with attention and sympathy to the suggestion put forward by Dr. Arthur on behalf of the missions that I should issue another manifesto to the natives of the Colony making it clear that this legislation has been passed. I am very glad to accept his suggestion and will see that this is done.

The question was put and carried.

The Bill was read a third time and passed.

Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1926

FOURTH SESSION.

TUESDAY, 10th AUGUST, 1926

The Council assembled at 10 a.m. at the Supreme Court, Mombasa, the 10th day of August, 1926, HIS EXCELLENCY THE GOVERNOR (LIEUTENANT-COLONEL SIR E. W. M. GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF OATH.

The Oath was administered to:—

CHRISTOPHER JAMES WILSON, Acting Director of Medical and Sanitary Services.

HAROLD ROBERT MONTGOMERY, Acting Senior Commissioner, Coast.

BHAGWAN SINGH VARMA, Nominated Indian Unofficial Member.

HIS EXCELLENCY:

HONOURABLE MEMBERS OF COUNCIL:

I believe it is customary for the Governor in this Colony to review the events of the preceding year when he opens Council for its first session in August. I must, in the first place, record my regret at the death of a Member of this Council, Mr. Desai, which has taken place most unexpectedly since our last meeting. Mr. Desai had definite aims and strong convictions and he worked for them unremittingly. I am certain that all Members of Council, without any thought of political differences, will desire to express their sympathy with his relatives, his friends, and the whole Indian community.

I should like also, before I begin my review to express the pleasure which I feel in seeing Lord Delamere and Mr. Felling back in their places in this Council. They are very important participants in our public life. Mr. Felling is not present here to-day, but his return to this Colony is, I am sure, welcomed by all.

I propose now to refer briefly to the more salient events of the last twelve months and then to deal, by anticipation, with the most important business remaining for this year, that is, the framing of next year's Estimates.

I have been in the Colony for barely ten months, and this is the first ceremonial opening of Council which I have had the honour to perform. I should like to thank Members in all parts for the courtesy and good feeling with which they have conducted the proceedings of this Council during the past ten months. I am sure we are building up a good tradition, for courtesy in debate is of the essence of the British Parliamentary tradition, and in this country, where races are mixed, the same tradition of courtesy will count for much in the political progress of the whole Colony.

I have a word to say on the business of Council. The arrangement of the business has been rendered difficult owing to the date fixed for the Unofficial Conference at Livingstone. I make no complaint of that, because I know there were many factors to be taken into account. I was very anxious not to make it more difficult for a representative delegation to go to that Conference from this Colony. I was also anxious that consideration of the Estimates should not be hurried. My first idea therefore was to take the second reading of the Estimates now and take the Committee stage in October when the delegates returned from the Conference. But this has not been possible. The necessary investigations preliminary to framing the Estimates are not complete, and I am sure you will all agree that hurried drafting would have been most undesirable. The Estimates, therefore, will be introduced in October. But I propose to-day to give Council a brief review of the financial position of the Colony. Such a review is, I think, desirable at the present moment.

Apart, however, from the Estimates, this meeting of Council has been summoned to pass a certain number of Bills, two of which are particularly important, the Customs Management Bill and the Crown Lands (Amendment) Bill. These will be explained by the Commissioner of Customs and the Commissioner of Lands. It is very desirable that they should be passed without delay. The Customs Management Bill has been agreed to by the other Colonies concerned, and until the Crown Lands (Amendment) Bill is passed it will not be

possible to proceed with the final establishment of the native reserves, which is of the utmost importance at the present time.

The most salient piece of legislation of the past year was the Criminal Law Amendment Act, which imposed the death penalty for rape on all communities. I have received lately a spontaneous letter from a representative Kikuyu gathering expressing their horror of crimes of this nature and their determination to suppress them so far as they are able. I appreciate and welcome this very much. It does its authors credit. I propose to send the letter to the Press.

Another piece of legislation which is perhaps worth mentioning, is the amendment of the Death Duties which was passed by Council earlier in the year. The Death Duties have not only been amended but the rates have been reduced, and I hope this will be an encouragement to investors in the Colony.

We have also passed the Mombasa Town Plan. Here in Mombasa it is very nice to see signs of private buildings going up in different parts, and I hope similar results will follow the application of Town Planning in other parts of the Colony. Town Planning is of the utmost importance to Mombasa and I hope it will help to make Mombasa what it ought to be—one of the greatest ports in Africa and one of the most charming harbour-towns in the world.

The Port Commission reported at the beginning of the year, and that report was published. I therefore need not deal with its terms now. The report was forwarded immediately to the Secretary of State and has been for some time in the hands of the Imperial Shipping Committee, which has certain observations to make upon it. I understand these observations are to be published, and until they are received no more comment is required from me.

I am very glad to know that the Local Government Commission, under the Chairmanship of Mr. Justice Feetham, has already set to work. Mr. Justice Feetham's advice will, I am sure, be of the greatest value to the Colony. He has undertaken responsible work in all parts of the Empire and has never undertaken such work without earning the high regard of all concerned in it. So far as Mombasa is concerned the task is a fairly easy one, but I thought it was desirable that evidence should be taken in order that all members of the community who desired to express their opinion might be able to do so, and I also thought it well to have expert advice as to the limits of the Municipality—whether it should extend beyond the Island or not.

Nairobi, the capital, presents a much graver problem. As you know, the limits of the town have spread far beyond the boundary of the Municipal area, and all sorts of complicated questions arise over services controlled by the Municipality and paid for by the Municipality and enjoyed by people outside. The present conditions cannot last, and I am certain further organization is imperative. I propose therefore to ask Mr. Justice Feetham to proceed to the problem of Nairobi as soon as his investigations at Mombasa are complete. When he has finished with Nairobi, I hope that he will deal with possible forms of devolution of local affairs to local bodies throughout the settled areas of the Colony. There is, I am sure, too much centralization at the present time, and centralization in a country like this is a system which is slow, cumbersome, inefficient and expensive. I am certain that the development of local government will make both for economy and for efficiency in the Highlands.

The Governor's Conference which met earlier in the year sent home a complete account of its proceedings, and the Secretary of State announced some time ago that these proceedings will be published. I have not had word yet, but I presume the report will soon be available to all those interested in it. The Secretary of State has approved of the permanent organization of the Secretariat, and of the location of that Secretariat in Nairobi, as the Governors' Conference unanimously advised.

Perhaps I should say a word about the Railways in this review although I would rather leave the details of Railway problems to the General Manager when he introduces the Estimates. During the year the High Commissionership, assisted by the Inter-Colonial Council, has been established, and I hope this system will serve the interests of both Territories. The Kitale Branch Line has been opened and good progress has been made with the Nyeri Line. These branches are most certainly justified by development, but it is important to realize that they will not immediately pay. The difficulty is that as soon as a branch line has been completed, export traffic proceeds over it at a considerable rate, but the import traffic is much slower in developing. It is the import traffic which pays the railway, and branch lines cannot be remunerative until the import traffic excels in value the traffic out.

Great progress has been made with railway construction in Uganda, but I think we will have to take a conservative estimate of traffic from Uganda at the present time. The cotton crop is not fully up to previous years, and there are heavy stocks of imports in the hands of dealers which will not

be cleared by the end of the present year. We cannot expect an increase in the coming months. On the contrary, there may be a decrease.

With regard to the Mwanza Line, which has been approved by the Secretary of State, meetings are now being arranged in order to discuss the problems of rates, and I trust we shall be able to come to an agreement with the Government of Tanganyika Territory.

If the prospects in Uganda are not so favourable at the present time, the prospects in Kenya are good. The drought has been followed by good rains. There has unfortunately been a prevalence of sickness, and I should like to express my sympathy with all who have suffered from it. There have been several sad cases of illness and death owing to the prevalence of malaria after the rains.

I think a very good season may now be anticipated. I am told, for instance, that the export of maize ought to rise to 1,000,000 bags this year.

I am conscious that production has suffered in some parts of the Colony from labour difficulties. There is indeed no productive region in the world where labour difficulties are still unknown. Kenya cannot avoid its share of a problem which is universal in its prevalence, and much of the remedy lies in its own hands. Economy of labour has been carried a long way in many parts of the Colony; in others it is still far to seek. The existing labour supply, which will slowly increase, is by no means pulling its full weight. Government in Kenya, in full accordance with the views of the Governors' Conference, will use its influence to ensure that idle natives work, either in their own reserves or for wages on farms, according to their choice. But much depends upon employers themselves, and I trust that no serious body of opinion in the Colony will press for contract labour imported from other parts of the world.

There is no true avenue to better conditions in any policy of that sort. The sources of indentured labour are scarce, India will not permit it. Coming from China, it would be totally unsuitable and dangerous. Africa alone remains, and the surplus labour of Africa is already employed to the full by mining undertakings which offer great attractions and pay a very high wage. From the economic point of view, the importation of such labour would prejudicially affect the basis of production throughout the Colony. From the standpoint of health, such importation would entail the gravest risks. I therefore think it just to say that Government, in agreement with the views of the Convention of Associations expressed in February last, is unfavourable to the importation of contract

labour, partly because it is convinced that such importation would not serve the true interests of the Colony, and partly because it knows of no suitable source.

I come now to a review of the financial position and I must ask you to bear with me if this review is rather dull. It is hard to make finance interesting, and I am afraid I do not possess the gifts of the Chancellor of the Exchequer in England who can make a mass of figures very interesting.

The revenue, I am glad to say, showed an excess over the Estimates up to April 30th of £68,000. In spite of this I think a conservative estimate of revenue is desirable. Speaking on the Estimates last year, I gave a warning as to the effect of strikes in England and other parts of the world. At present there is a seasonal fall in the revenue. It is certainly not below the ordinary fall at this time, but it may be that the coal strike which continues in England will have an effect upon our revenue in the latter part of this year more considerable than in the last two or three months. On the other hand, the effect of the better season will not be realized till the latter part of 1927. I think, therefore, that the proper attitude towards the coming year is one of cautious optimism.

With regard to expenditure, the need for caution is much more pronounced. There have been heavy increases since 1921, and I have instituted comparisons with the expenditure of other colonies in order to assure myself that the expenditure in this Colony was not becoming excessive in any way.

These comparisons are very difficult to make. It is hard to ensure that you are comparing like with like, but I do not think that matters greatly provided the same classification is taken for all the countries concerned.

There is, however, a further difficulty and a much more serious one. What measure are you to use? Expenditure must be related to wealth in order to arrive at standards of comparison. Export trade is not a true measure of wealth. The relation of export trade to total business varies greatly in different communities. Experts agree that the truest measure is the total trade turnover, but statistics of this are hard to obtain and there are no banking returns in Kenya. I have therefore taken the total trade returns as the best available measure. But I must repeat that since these returns take no account of internal trade they are not a satisfactory measure, and that, in relation to colonies, without a strong settler population, the comparison is unfair to Kenya. I will not trouble Council with masses of statistics and percentages. These make hard reading and even harder hearing. In order to be

reasonably brief and, I hope, reasonably lucid, I will deal only with the broad conclusions which seem to emerge from these comparisons.

First I will deal with Loan Expenditure.

LOAN EXPENDITURE.

Kenya's loan expenditure on railways and ports, by comparison with its total trade, is unquestionably high. Its loan expenditure for all other purposes is, on the other hand, extremely low.

Analysed, the allocation of all loans at present issued or approved, works out as follows:—

Railway	... ..	£8,770,000
Harbour	... ..	£1,080,000
Colony	... ..	£2,443,410
Total	... ..	£12,293,410

That is the total of all loans, at present issued or approved, for which Kenya is liable.

Of these loans, the amounts spent up to April 30th, 1926, are as follows:—

Railway	... ..	£5,997,800
Harbour	... ..	£1,771,237
Colony	... ..	£850,533
Total	... ..	£8,599,570

Deducting these from the total amounts approved, there remain available the following amounts still unexpended:—

Railway	... ..	£2,792,194
Port	... ..	£208,763
Colony	... ..	£1,592,877
Total (approved but unexpended)	... ..	£4,593,834

The details of the loans here summarized, and the charges for interest and sinking fund, are given in a statement which will be published with the printed report of this address.

I must apologize for giving so many figures, but the credit of the Colony is involved; and I feel that a statement of the loan position, as clear and non-technical and complete as

possible, is very desirable at the present time. In order to put the position completely before you, I must add in certain contingent liabilities which may or may not mature.

(1) *The Colonial Loan.*

The Colonial Loan, which consists at present of £1,693,410 approved and £100,533 spent, was calculated at a total of three millions by the Committee on Loan Proposals which reported last year. I am hopeful that the necessary works may be completed for a much smaller sum—for reasons which I will give when I come to the building question later in my address. In order, however, that the total loan burden of the Colony may be in no way minimized, I will assume that the issue of the whole three millions on the Colonial Loan is approved. That will mean the addition of £1,306,590 to the total at present approved, and will bring the total debt of the Colony proper to £3,750,000. With this addition the total debt of Colony, Railway and Harbour combined will be £14,500,000.

(2) *The £10,000,000 Transport Loan.*

I come secondly to the proposed £10,000,000 Transport Loan, which is to carry an Imperial guarantee. The allocation of that loan between the East African Territories is at present unknown; but for the purpose of this calculation I will make the sanguine assumption that half of it, namely, five millions, is assigned to Kenya and Uganda, and that Kenya's liability will extend to half of that sum, namely, two and a half millions.

(3) *The original Uganda Railway Loan.*

There is also to be considered the original Imperial loan of £5,500,000 on which the Uganda Railway was built. The railway was first undertaken for great considerations of Imperial policy—to make good the claims of the Empire in the Congo Basin; and to secure the sources of the Nile for the benefit of Egypt and the Sudan. These purposes have been achieved, and in the process the Empire has also created two splendid Colonies—Kenya and Uganda. The original loan has now been entirely paid off by the British taxpayer, and the question whether or not the several Territories which benefited by it are to repay the whole or any part of the loan has been deferred till 1934.

(4) *The Colony's War Debt.*

It is necessary, finally, to take into account a part of the costs of the war which was shouldered at the time by the British Government but which may in eight years' time be reassigned to the Colony. During the war the Colony paid a total of £736,000 from revenue for the cost of the King's African Rifles and certain volunteer and other purely local units. It also undertook considerable expenditure for stores

and equipment. This latter expenditure was met at the time from revenue, but in the stringency of 1923 the whole or the greater part of it was charged to the £5,000,000 loan then raised, and an equivalent sum paid into the revenue of the Colony. This is the origin of Item 4, amounting to £600,000, entered in the description of the £5,000,000 loan as "Repayment to Revenue of Advances made from Revenue for Military Expenditure in connexion with the War and Purchase of Reserve Stores for Railway and Steamer Services."

In addition to these items of war expenditure the Colony carries a contingent liability for the cost of the 5th Battalion, King's African Rifles, formed from detachments of King's African Rifles and Police for service in Jubaland during the war. An Inter-Departmental Committee representing the Treasury, the Colonial Office and the War Office was formed at home to consider the final apportionment of East African war expenditure, and reported in October last year. In this report Kenya's contingent liability was limited to the cost of the Jubaland Battalion, and certain other minor charges, totalling together £1,405,016. The decision as to whether or not Kenya should be charged with this amount was postponed till 1934.

It will be seen that the Imperial Government, although it found itself unable to accept the late Lord Milner's recommendation that the whole cost of the campaign in German East Africa should be charged to Imperial funds, has taken a generous view by postponing final consideration of the original railway debt and of the specific war charges just mentioned till 1934. I trust, therefore, that the Colony will not seem guilty of ingratitude if I observe that these contingent liabilities are apt to discourage thrift, since it is only human to feel that the more you have in reserve when the time comes, the more will be taken from you.

I propose, however, to trample such feelings underfoot, and to make an estimate of the charges which may, at the worst, fall to the Colony in 1934. I put these, for the railway debt and the war charges combined, at a maximum of £4,000,000. But I must add at once that I do not admit in advance the justice of so large a claim against the Colony. There are many arguments to be advanced when the time comes which I need not enumerate now, and I have no doubt that a broad and generous view of the subject will then be taken by the Imperial Government. I take the maximum of £4,000,000 now simply in order that the Colony may understand the total amount, at the worst computation, of its loan obligations.

The total, on this basis, works out as follows for the Colony, Railway and Port combined:—

Already issued or approved	£19,193,410.
Contingent—	
(a) Colonial Loan	£1,306,500.
(b) Share of £10,000,000 Transport Loan	£2,500,000.
•(c) Share of original railway debt ...	} £4,000,000.
•(d) War charge for Jubaland Battalion	
Total ...	£21,000,000.

In a recent speech a distinguished pioneer, who speaks with considerable experience of the Colony's finances, put the total liability of the Colony, actual and contingent, at £39,000,000. I do not differ from the argument* to which this calculation lent strength, namely, that the recurrent expenditure of the Colony needs to be most carefully checked and scrutinized. But I must point out, since the credit of the Colony is involved, that the calculation of £39,000,000 is incorrect, and that the total liability of the Colony, actual and contingent, is in reality little more than half that amount. The actual debt of the Colony, Railway and Port, issued or approved, is just over £13,000,000; the contingent liability, at the worst, is just under £8,000,000. The total, at the most unfavourable computation, is £21,000,000 by 1935.

I return on this basis to the comparison of the debt charges of this Colony with those of other Colonies. Nineteenths of the loan money actually spent has been spent on the railway and the port. More than three-quarters of the total contingent liability is also for the railway and the port. This is a heavy liability; but it must be remembered that the railway and the port are not only serving the rapidly increasing trade of two territories, but are also beginning to draw upon a wide hinterland in the basin of Lake Victoria and the north-east of the Belgian Congo. It is not my purpose to-day to deal with the finance of the railway and the port. The proper time for that is when the General Manager presents his Estimates. I have, however, no doubt, that large as the liability is, it will be fully justified by the event.

As compared with the loans for railway and port, and as compared also with loan expenditure for Government or municipal services in other Colonies, the loan expenditure so far undertaken by Kenya for Government and municipal

*For decision in 1934.

services is very low. Of the £850,531 spent up to April of this year for the Colony proper, apart from the railway and the port, no less a sum than £635,529 is for the item with which I have already dealt, of £600,000 war expenditure transferred to loan account with the proportionate expenses of issue. The remaining £200,000 has been devoted practically entirely to municipal services such as water supply, sanitation, etc., in Nairobi, Mombasa, Kisumu, and Eldoret; and to such undertakings as the maize-drying and cold-storage installations at the Coast. Many of these are reproductive and involve no charge upon the Colony.

There remains in round figures about £1,500,000 of the Colonial Loan which has been sanctioned in principle by this Council and approved by the Secretary of State, but which has not yet been expended. Rather more than a third of this sum is allocated to public and municipal purposes of the kind already described, and there is no doubt that the sums allocated under these headings must be added to in the near future. Nairobi, for instance, is in urgent need of loan money for further services, such as sanitation and water supply. It would be of advantage to the Colony if some of these essential services were undertaken by private enterprise. If not, they must be undertaken by the municipality with the help of Government; for the health of the capital is at present bad.

The remainder of the sum approved but not expended, amounting to about £900,000, is allocated to buildings. I divide these into two categories. Over half a million is for the housing of officials; the remaining £400,000 is for public buildings, schools and hospitals in different parts of the Colony.

With regard to the housing of officials, I have no doubt that in outstations the necessary houses must be built by Government. Contractors and builders are not as a rule interested in small works far from their headquarters. But I am inclining more and more strongly to the view that in Nairobi and Mombasa the housing of officials should be undertaken by private enterprise or entrusted to building societies, and that by such agencies they will be built both more quickly and more economically.

If this can be done, the saving to the Colony will not be limited to the cost of construction alone; there will also be a considerable saving in recurrent charges. I will deal with this aspect of the matter in a few moments, when I come to consider the whole question of recurrent expenditure. The point that concerns me here is this—that if private enterprise can be encouraged to put up the houses urgently needed both in

Nairobi and Mombasa, it will lift, with advantage to all, a heavy burden of expenditure from the shoulders of the Colony, and will greatly reduce the total sum of £8,000,000 originally contemplated for the Colonial Loan.

Government, on the other hand, cannot wisely or economically renounce the proposed loan expenditure on schools, hospitals and public offices. The State has many ledgers, and none of them calls for greater care and foresight than that in which it records the health and character of its people. These things do not enter into Treasury accounts or bank returns, but they affect them vitally. Every inefficient and ill-conditioned member of society wastes its wealth in one way or another, and ultimately increases the burden which taxpayers have to pay. All industrious and healthy members of society add, on the other hand, to the wealth of the community. Health and character are capital assets of the first importance, particularly in the testing conditions created by a mixture of races added to the other problems of a young Colony.

I would urge a similar plea for the erection of adequate public offices. It is not sound, for instance, to raise new railway offices and new commercial buildings of substance and character, and to leave the Supreme Court housed in a tin shanty. Appearances count with all races, civilized or otherwise, and every great commercial house in the world has shown its belief in the practical value of good premises. A Government responsible for law and order in a Colony like this cannot neglect considerations tested by world-wide experience.

I am not suggesting that loan expenditure for these purposes should not be closely watched and scrutinized; but I am satisfied that on saving for maintenance, at present a very heavy charge, and on values to be gained by setting free the sites of many public offices for commercial purposes, the taxpayer has nothing to lose by meeting the comparatively small charges on the loan expenditure allocated to public buildings. No loan money has been spent hitherto upon such buildings, and by comparison with other Colonies of the same age and stature this Colony is, at present, most ill-provided.

I may now summarize this review of the loan obligations of the Colony. While our loan expenditure on railway and port is heavy, our loan expenditure for other public services is light. Savings on the Colonial Loan may nevertheless be effected by encouraging private enterprise in the building of houses. The remaining loan expenditure allocated to colonial or municipal purposes is small by comparison with other countries. It is, moreover, much to the interest of the Colony, and not beyond a conservative estimate of its resources.

RECURRENT EXPENDITURE.

I come now to the question of recurrent expenditure, and I hope that Honourable Members of Council will bear with me a little further in a scrutiny necessarily dull but very important to the taxpayer.

I have been impressed, in this connexion, by a comparison between the annual expenditure of this Colony and that of a well-organized administration system such as exists in the Colony of Nigeria. In Nigeria the cost of the primary services of Government, such as administration, defence, law and order, totals 10 per cent of the total export and import trade. In Kenya it totals 12 per cent. In Nigeria the cost of the secondary services, such as those represented by the Educational, Medical and Agricultural Departments, amounts to 8 per cent of the total export and import trade. In Kenya it amounts to 10 per cent.

I must repeat what I said earlier in this address—that the measure of export and import trade as applied to Kenya and Nigeria works out unfairly for Kenya. Seaboard export and import trade does not represent the whole trade of any country, and it is certain that Kenya's internal trade, which is not shown in such returns, is larger proportionately than that of Nigeria. It must also be remembered that most of the secondary services, such as Educational and Agricultural services, necessarily cost more in a community of mixed races such as we have in Kenya.

But when all proper allowances are made, the comparison indicates the need for very careful study of recurrent expenditure in Kenya; and I have been endeavouring for some months to sift the Estimates and arrive at reasonable conclusions.

The revised estimates for 1926 shows that, over a period of only two years, the expenditure has risen from £1,861,510 in 1924 to £2,485,532 in 1926. That is an increase of £624,000 or 33 per cent. Of this increase £160,000 is due to charges incurred on behalf of the port and the railway and reimbursed by the latter. Another £30,000 is due to charges incurred on behalf of other Governments, which they also reimburse to us. A sum of £190,000 therefore out of the total increase of £624,000 is not a charge on the finances of Kenya. But the remaining increase of £434,000 in the annual expenditure of 1926 over that of 1924 is serious enough, and for that the Government of Kenya is solely responsible.

I am convinced that the interests of all parts of the Colony will suffer by annual increases of expenditure on this scale. I am equally convinced, on the other hand, that a

steady expansion of certain services, particularly the Educational and Medical services, is necessary for the welfare of all our races. That, in a nutshell, is the dilemma presented by the Estimates which will be laid before you in October.

Analysed, three-quarters of the increase comes under six heads in the Estimates. These are as follows:—

	Increase,
Public Works Department and Public Works Recurrent	£113,000
Medical Department	£56,000
Educational Department	£52,000
Agricultural Department	£37,000
Administration	£30,000
Police	£23,000
Total	£311,000

It is necessary also to point out that the pensions list, already heavy, will almost double in the next fourteen years. It is heavy at the moment owing to the retrenchments of 1923. One hundred and eighteen officers were added to the list from 1923 to 1925. The cost in 1926 is £96,000. In 1940 it will be near £180,000 without calculating for any increase in the present strength of Government services. This charge is not, I think, disproportionate to the services which the Colony will require, but it points to the necessity of great caution in adding to the number of pensionable officers upon the Colony's pay roll.

What is the remedy? How are we to provide for the expansion of some services which are greatly required without at the same time incurring an increase of recurrent charges beyond our means? Government hopes to give a definite and detailed answer to that question in the Estimates which will be presented to Council in October. But in the meantime it is, I think, desirable that I should indicate some of the measures for which, as it seems to Government, the situation calls.

The first essential is certainly to make the most of the available personnel. The quality of the officers recruited by the Colony is much more important than the quantity; and I am convinced that from this standpoint the revision of salaries which this Council sanctioned three months ago was a wise and prudent measure. Good men are worth good salaries, and there is no reason to doubt that good men will be available in the new conditions for the service of the Empire in East Africa. Since the war, or rather since the supply of good men of the

right age with war experience became exhausted, the difficulties of recruitment have been formidable and our recent experience has not been encouraged. But England has the men, and we shall get them if the call of our service is not weaker than the call of the Colonial Service in other parts of the world.

The problem, however, will not be solved only by securing good men. In present conditions one-third of the whole Civil Service sails from the Colony on leave in the course of every year. The expense of such a system is very heavy, and it is the opinion of Government that the leave conditions prevailing in the Colony call for reform. I have had the question investigated, and this investigation shows that if the tour of service is extended from the present average of thirty months to an average of forty-eight, the saving to the Colony, when the results mature, will amount to £92,000 a year, or more than three times the charges for interest and sinking fund on the expenditure allocated to public buildings in the Colonial Loan. That example illustrates the importance of taking normal recurrent charges as well as loan charges into consideration when estimating the burden of Government expenditure upon the Colony.

The Acting Colonial Secretary has prepared an admirable memorandum upon this subject, which I propose to refer to the Committee which reported some little time ago upon leave conditions in the Colony. I am hopeful that useful new proposals will result, which will commend themselves to all branches of the service. For the service has much to gain by a wise revision of leave conditions. The saving on overseas passages alone, for instance, should enable Government to give facilities for short privilege leave on easy terms once a year. Such leave is, in the opinion of many, more saving to health than long leave after a long tour when health has broken down. It will also make both for efficiency and for economy by reducing the constant rotation of officers which arises from leave conditions at the present time. Finally, by keeping down the number of junior in proportion to senior posts, it will accelerate promotion with all the stimulus which that entails. With all these objects in view, I look forward to the recommendations of the Committee with considerable hope.

In the second place, it is necessary to effect certain definite economies. The cost of every pensionable officer to the Colony amounts at present, when the cost of pension is added in, to 50 per cent more than his salary. This expenditure is swelled by charges which require careful scrutiny. Travelling

allowances, for instance, have increased by £22,000 in two years. Nearly £17,000 of this amount is due to four departments. The figures are as follows:—

	1924	1926	Increase.
Medical Department ...	£7,074	£12,200	£5,126
Public Works Department	5,203	10,472	5,270
Agricultural Department ...	11,973	15,800	3,828
Administration ...	20,170	23,180	3,010
Total ...			£16,734

I do not believe this increase of expenditure to be justified. The charge must be considerably reduced.

There is also definite need for economy in rent and house allowances, the cost of which has increased by £10,000 in two years. I have already called attention to the desirability of reducing loan charges for official housing by encouraging private or co-operative enterprise. It is possible that the saving in interest charges which would result would not fully meet the necessary charges for house allowance; but the saving in overhead charges for maintenance, repair, clerical work, salaries and pensions would much more than compensate any loss of that kind. A Committee appointed to investigate the possibility of establishing co-operative building societies has recently reported on this aspect of the matter in the following terms:—

"The Committee observes that State building and State ownership involve a number of additional overhead charges, both in the maintenance of staff for erection and repairs and in the secretarial and accounting establishment which such additional staff involves. These charges are to a large extent hidden, but their cumulative effect is to swell the general recurrent expenditure of the Colony.

"The Committee considers that better results can be obtained by encouraging landowners to develop their properties, and feels that building by the State must in some measure discourage such development on the grounds that it is instantly competitive and reduces the attraction of such an investment to potential builders."

I entirely concur with the Committee's remarks, and trust that the call to private enterprise will not be sounded in vain. In this direction also I hope for the co-operation, in the Colony's and its own interest, of the Civil Service.

In the third place, it is becoming clear that certain State services should not be extended where the needs of the community can be met by enlightened private enterprise. There are, for instance, certain branches both of the Medical and Agricultural Departments where private enterprise may now, with advantage to the taxpayer, step in. A case in point is the construction, or at least the maintenance, of European and Indian hospitals. Government will readily assist in the building and maintenance of such hospitals, but much can be done by co-operative enterprise. The War Hospital at Nakuru is a signal example, and the wonderful support given to my wife's Child Welfare movement leads me to hope that much more may be achieved by co-operative enterprise in the future than in the past. If taxpayers only realize how much their pockets may be saved by co-operation in the establishment of services which have hitherto been left entirely to Government, they will, I am sure, hasten in other places to follow the example of Nakuru and to do all they can for themselves.

In the fourth place, there can be no doubt that the cost of certain services falls at present too heavily on the general revenue and too little on the individuals to whom those services are of use. I will not trouble Council with all the instances which I might quote; but proposals to correct existing inequalities will be made in the forthcoming Estimates. I am inclined, moreover, to think that the schooling of children is to some extent an example of a burden which falls unfairly upon different parts of the community. The fees at present paid in no way represent the cost of the education given. Where parents cannot afford the fees, the State should undoubtedly assist; but those who can afford the full cost would not, I am sure, desire to place a part of it on shoulders which cannot carry it with equal ease.

It is also clear that the large expansion required for European and Indian education cannot be properly met from the existing sources of revenue. Such expansion as the revenue permits is required for Arab and African education and medical training, in which the need is great. Government therefore proposes to provide for the increased cost of European and Indian educational services by the method, already agreed, of a cess so calculated as to add to the revenue an amount equal to the European and Indian educational charges which the revenue must meet. I believe this proposal is endorsed by sound opinion throughout the European and Indian communities.

It is not, however, the intention of Government to use the savings produced by this education cess for fresh expenditure in other branches of the Administration. On the contrary,

the savings will be used to swell the surplus balances which are needed to safeguard the Colony against seasonal depressions or losses from outside factors in its Customs revenue.

My last word on the subject of finance is, indeed, to repeat the plea which I made last year for a steady enlargement of our surplus balances. I have hitherto dwelt upon expenditure. To make a true picture, I must also credit the Colony with what it has saved. In 1923 there was an actual deficit of £350,163. By December 31st, 1923, the whole of this debt had been wiped out. In the present year the Colony has paid off a liability for Unallocated Stores amounting to £242,000. Its surplus balances, nevertheless, now stand at a total of £139,723. This total will certainly be considerably swelled at the end of the present year.

It is, however, essential that the surplus balances should be still further increased. For this purpose Government intends in future to credit to surplus balances a sum equivalent to that received from contributions to the Widows' and Orphans' Fund and also the total proceeds of land sales. Upon these principles, and with the aid of the education cess, I have confidence that the total of the surplus balances, which save the Colony interest, will be greatly enlarged by the end of 1927.

The growth of surplus balances and the checking of recurrent expenditure in the directions I have named will be found possible, I believe, without arresting the expansion of those services which the welfare of the Colony most urgently requires. Apart from the increase of certain overhead charges which can be reduced, the financial position of the country is sound, and there is good reason to anticipate a long period of steady development. I hope and believe that, under Providence, the Session of this Council which now begins will mark an era of sound and solid progress throughout the Colony and Protectorate.

Statement of Loans Issued or Approved as at August 1st, 1926.

	Railway	Harbour	Colony	Total
£5,000,000 Loan ..	£ 2,850,000	£ 1,400,000	£ 750,000	£ 5,000,000
£3,000,000 Loan ..	2,420,000	580,000	..	3,000,000
£3,500,000 Loan ..	3,500,000	..	..	3,500,000
Colonial Loan ..	..	..	1,693,410	1,693,410
Colonial Loan (not yet approved but anticipated, including cost of issue)	8,770,000	1,980,000	2,443,410	13,193,410
	..	..	1,306,590	1,306,590
	£ 8,770,000	1,980,000	3,750,000	14,500,000

Of these Loans the amounts spent up to the 30th of April, 1926, are :—

	Railway	Harbour	Colony	Total
£5,000,000 Loan ..	£ 2,850,000	£ 1,328,237	£ 750,000	£ 4,928,237
£3,000,000 Loan ..	1,869,067	443,000	..	2,312,067
£3,500,000 Loan ..	1,258,739	..	..	1,258,739
Colonial Loan ..	..	..	100,533	100,533
	£ 5,977,806	1,771,237	850,533	8,599,576

The amounts authorized but not yet spent on these Loans are :—

	Railway	Harbour	Colony	Total
£5,000,000 Loan ..	£ ..	£ 71,663	£ ..	£ 71,663
£3,000,000 Loan ..	550,933	137,000	..	687,933
£3,500,000 Loan ..	2,241,261	..	..	2,241,261
Colonial Loan ..	..	..	1,592,877	1,592,877
	£ 2,792,194	208,763	1,592,877	4,593,834

The amounts authorized but not yet spent on these Loans as follows :—

INTEREST

	Railway	Harbour	Colony	Total
	£	£	£	£
£5,000,000 Loan ..	171,000	84,000	45,000	300,000
£3,000,000 Loan ..	121,000	29,000	..	150,000
£3,500,000 Loan ..	210,000	..	..	*210,000
Colonial Loan ..	..	..	84,670	84,670
	502,000	113,000	129,670	744,670
Colonial Loan anticipated expenditure ..	..	..	65,330	65,330
	£ 502,000	113,000	195,000	810,000

*Including Redemption.

SINKING FUND

	Railway	Harbour	Colony	Total
£5,000,000 Loan ..	£ 37,050	£ 18,200	£ 9,750	£ 65,000
£3,000,000 Loan ..	31,460	7,540	..	39,000
£3,500,000 Loan ..	included in interest payment	..	..	..
Colonial Loan ..	..	..	22,014	22,014
Colonial Loan anticipated expenditure ..	68,510	25,740	31,764	126,014
			16,986	16,986
£	68,510	25,740	48,750	143,000

The Minutes of the Meeting of 1st July, 1926, were confirmed.

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTH-COTE) : Your Excellency, I beg to move, in the Order of the Day, a motion of the regret of all members of this Council at the death of the late Mr. Desai. As Your Excellency, in your communication from the Chair referred, on this hon. Council's behalf, to this unfortunate happening, there remains but little for me to say in moving this motion. Mr. Desai entered this Council last year as the fifth member of the Indian party. From the moment of his entry he took a prominent part in the proceedings of the Council and his attitude, as Your Excellency has stated, was always shown by courage and decisive criticism. He spared no pains and no patience in his interpretation of public duties.

With the leave of the Council I beg to move :—

"That this hon. Council records its deep regret at the death of the late hon. Mr. A. Desai and its sympathy with his relatives."

THE RT. HON. LORD DELAMERE : I beg to second this resolution and to put forward the sincere condolence of the Unofficial Members of this Council with the relatives of the deceased.

THE HON. J. B. PANDYA replied on behalf of the Indian community and the late Mr. Desai's relatives.

The question was put and carried.

PAPERS LAID ON THE TABLE.

THE HON. THE ATTORNEY GENERAL (MR. HUGGARD) : I beg to lay on the table two Certificates of Emergency signed by Your Excellency under Standing Order 72 to the effect that it is necessary in the public interest that the Standing Rules

and Orders be suspended to enable the Crown Lands (Amendment) Bill and the Township (Amendment) Bill to be carried through their several stages without notice.

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTH-COTE) : I beg to lay on the table the Report of the Committee on the Utilization of the Services of Medical Missions and the Report of the Committee appointed to enquire into the Lights, Marks, Beacons, etc., on the Kenya Coast; and to lay further on the table on behalf of the hon. the General Manager the Report of the Acting General Manager on the Administration of the Railway and Marine Services for the year ended 31st December, 1925.

THE HON. THE ACTING TREASURER (MR. BAYLES) : I beg leave to give notice to move the motion standing in my name.

BILLS.

FIRST READING.

THE HON. THE ATTORNEY GENERAL : I beg leave to move the first reading of a Bill for the Carriage of Goods by Sea.

MAJOR THE HON. H. DOWN : I beg to second the motion. The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

I beg to move that a Bill to Amend the East Africa State Railway Provident Fund Ordinance be read a first time.

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

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move the first reading of a Bill to provide a further sum of money for the Service of the year ended December 31st 1925.

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

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

I beg to move the first reading of a Bill to Amend the Supplementary Appropriation (Railway) Ordinance, 1924.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLLS) : I beg to second the motion.

The Bill was read a first time.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

THE HON. THE COMMISSIONER OF LANDS (MR. MARTIN) : I beg to move the first reading of a Bill to Amend the Mining Ordinance, 1925.

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

The Bill was read a first time.

THE HON. THE COMMISSIONER OF LANDS : I beg to give notice that I shall move the second reading of this Bill at a later stage of the Session.

THE HON. THE ATTORNEY GENERAL : I beg to move that a Bill to Amend the Mohammedan Marriage, Divorce and Succession Ordinance be read a first time.

MAJOR THE HON. H. BOWN : I beg to second the motion.

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL : I beg to give notice that I shall move the second reading of the Bill at a later stage of the Session.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. WALSH) : I beg to move the first reading of a Bill to Consolidate and Amend the Law Relating to the Management of Customs.

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

The Bill was read a first time.

THE HON. THE COMMISSIONER OF CUSTOMS : I beg to give notice that I shall move the second reading of this Bill at a later stage in the Session.

THE HON. THE COMMISSIONER OF LANDS : I beg to move that Standing Orders be suspended to enable a Bill intitled "The Crown Lands (Amendment) Bill" to be read a first time and passed through its subsequent stages without due notice.

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

THE HON. THE ACTING COLONIAL SECRETARY : I should explain. The Certificate of Emergency is called for in view of the fact that this Bill has not yet been published for the full statutory period of twenty-eight days. I believe that it was only published for twenty-five days and therefore the necessity arises for the Suspension of Orders.

I might say that that also applies to the last Bill on the Order of the Day.

The question was put and carried.

THE HON. THE COMMISSIONER OF LANDS : Standing Orders having been suspended I beg to move that a Bill intitled "the Crown Lands (Amendment) Ordinance" be read for the first time.

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

The Bill was read a first time.

THE HON. THE COMMISSIONER OF LANDS : I beg to give notice that I shall move the second reading at later stage of the Session.

THE HON. THE ATTORNEY GENERAL : In accordance with the Certificate of Emergency that was laid on the table I beg to move that the Standing Orders be suspended to enable a Bill to Amend the Townships Ordinance to be read a first time and passed through its various stages. This Bill has been published for only twenty-four days and thus it is four days short of the period required by Standing Orders.

It is urgently required as the result of a recent judicial decision when it was held that a certain township (Muthaiga) is not entitled to levy rates and a Bill is therefore required to legalize the position.

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

THE HON. THE ATTORNEY GENERAL : I beg to move that a Bill to Amend the Townships Ordinance be read a first time.

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

The Bill was read a first time.

THE HON. THE ATTORNEY GENERAL: I beg to give notice that at a subsequent stage of the Session I shall move that this Bill be read a second time.

Council adjourned until 9 a.m. on Thursday,
August 12th, 1926.

THURSDAY, 12th AUGUST, 1926

The Council assembled at 9 a.m., His EXCELLENCY THE GOVERNOR (LIEUTENANT-COLONEL SIR E. W. M. GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

The Minutes of the meeting of 10th August, 1926, were confirmed.

QUESTIONS.

STOCK INSPECTOR A. E. HUDSON.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I beg leave to ask the question standing in my name in the Order of the Day:—

“ Why Stock Inspector A. E. Hudson, of the Veterinary Department, was dismissed and no reason given him after serving 5½ years in the Department and no adverse report against him? ”

Why was a certificate of service withheld and has this now been given him? ”

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM): Stock Inspector A. E. Hudson was serving under a Class “ B ” agreement which provided that the contract of service might be terminated by either party on three months' notice or alternately on payment of one month's salary. It was decided to terminate his services under that agreement, and the officer named accepted one month's salary in lieu of notice.

It is not correct to say that there was “ no adverse report against him. ”

The certificate of service was transmitted to Mr. Hudson upon the final decision in regard to the termination of his services.

CAPT THE HON. E. M. V. KENEALY: On a point of order, may an opportunity be given for asking supplementary questions based on answers received during the recess, not oral answers but written ones.

HIS EXCELLENCY: I do not understand the question. I take it the hon. Member can put down another question.

KITALA POST OFFICE.

THE HON. J. B. PANDYA: I beg leave to ask the first question standing in my name in the Order of the Day:—

" 1. If the Postmaster General has received recommendation from the Kitale District Committee to have at Kitale Post Office, three separate counters, for Europeans, Asians and Natives?

" 2. If he has issued any instructions in favour or against such segregation policy at the Post Office counter?"

THE HON. THE ACTING COLONIAL SECRETARY (MR. NORTHCOLE): The reply to both questions is in the negative.

KITALE WATER SUPPLY.

THE HON. J. B. PANDYA: I beg leave to ask the second question standing in my name in the Order of the Day:—

" Will the Government state if any scheme of water supply to Kitale Township is under consideration, and if so, when the supply is likely to be available? "

THE HON. THE ACTING DIRECTOR OF PUBLIC WORKS (MR. LYNDE): A scheme for a gravitation supply has been provisionally considered, but no funds have as yet been provided for the purpose.

MOTION.

COMPASSIONATE PENSION: WIDOW OF CAPTAIN H. PIDCOCK.

THE HON. THE ACTING TREASURER (MR. BAYLES): I beg leave to move the motion standing in my name:—

" In consideration of the destitution of the widow of the late Captain H. Pidcock, who after 20 years' 5 months' and 15 days' satisfactory service in the Port and Marine Department of this Colony, retired on the 16th of December, 1915, on a pension of £375 a year and died in England on the 9th of March, 1926, this hon. Council is pleased to award her a compassionate pension at the rate of £91.13.4 a year (which represents one-sixth of the emoluments drawn by her deceased husband last before retirement) with effect from the 10th of March, 1926, inclusive."

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

THE HON. T. A. WOOD: I do not wish to oppose this motion. The only thing I wish to suggest is that if this unfortunate widow is destitute £91.13.4 per annum is not going to be much use to her even in the old country in these days, and I would like to suggest to the Government, if the motion is passed, that enquiries be made as to the actual position and that at a later stage Government put up a supplementary Bill to make it into a piece of bread and butter instead of what

appears to me to be a stone to-day. I am aware that it is departing from precedent but after all, these systems are not too good. One-sixth of the emoluments is all right in the case of a gentleman drawing £1,500 a year. One-sixth of the emoluments of a low pre-war salary does not give a subsistence allowance.

THE HON. THE ACTING TREASURER: Your Excellency, enquiries have already been made. I am not in a position to state the detailed circumstances, but I have no reasons to suspect that this allowance of £91.13.4 will not be sufficient to keep her in suitable circumstances.

The question was put and carried.

BILLS.

SECOND READINGS.

CARRIAGE OF GOODS BY SEA BILL.

MAJOR THE HON. H. BOWN: Your Excellency, I beg to move the second reading of a Bill intitled "The Carriage of Goods by Sea Ordinance, 1926." This Bill has been drafted by the Secretary of State and closely follows English legislation. It is to give effect to the Maritime Convention which was held at Brussels in 1923. I think at this stage, with all that has been said about it, that the law when it is passed will be the same as that of the United Kingdom.

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

The question was put and carried.

STATE RAILWAY PROVIDENT FUND (AMENDMENT) BILL.

MAJOR THE HON. H. BOWN: Your Excellency, I beg to move the second reading of a Bill to Amend the State Railway Provident Fund Ordinance, 1908. This is to give to the High Commissioner of Transport the power previously enjoyed by the Governor of this Colony in regard to the Provident Fund for Railway Servants.

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

The question was put and carried.

SUPPLEMENTARY APPROPRIATION BILL.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the second reading of a Bill to Supply a Further Sum of Money for the Service of the Year ended 31st December, 1925.

The majority of the items which appear in the schedule have already received the sanction of this hon. Council. Three items—apparently only two here but in effect three—which have not been before hon. Members are those No. IVb, Governors' Conference, which covers a very small expenditure inserted last year in anticipation of the Conference which was held at the beginning of this year. No estimate was made because at the time the estimates were drawn such expenditure was entirely unexpected.

Under Head No. XXV there are two items which require a remark only. The first is a sum of £10,000 required to write off a sum owing by a bankrupt firm that some short time prior to its bankruptcy purchased that value of hoes from the Government.

Some hon. Members will remember the unfortunate history of these hoes. They were ordered during the wartime in the hope that they would greatly stimulate agriculture, a view which had the blessing of all who considered it, but actually they became very much of a white elephant and Government was only able to dispose of them at nothing like the price we paid for them and ultimately they were sold off in large lots to various firms. This particular lot was sold to the firm of Mr. Parr who very shortly afterwards had a very large bankruptcy and the sum of £10,000 now to be written off is inevitable (only a paper transaction now) but it is inevitable expenditure as the case has been adjudicated and no further dividend is possible.

The last matter which requires any mention is the sum of £242,000 which towards the end of the year was put to the reduction of the railway unallocated stores. That is a subject which has been frequently ventilated before this hon. Council and I think it requires nothing further from me except a statement to the effect that every Member endorses the action of Government in removing this so-called asset from our list of assets.

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

THE HON. J. B. PANDYA: I only wish to make a few remarks in regard to the item of £10,000 which has been just mentioned by the hon. the Colonial Secretary. I think it is time the Government departed from the very recognized principle of giving credit to a business firm, with the result that the taxpayer has to pay this £10,000. I only wish to bring it to the notice of the Government that that principle should not apply in future and that it is always necessary in future to have payment in advance.

The question was put and carried.

SUPPLEMENTARY APPROPRIATION (RAILWAY) (AMENDMENT) BILL.

THE HON. THE COLONIAL SECRETARY: I beg leave to move the second reading of a Bill to Amend the Supplementary Appropriation (Railway) Ordinance, 1924. All the items herein have received the approval of this hon. Council at a resolution which was passed on the 9th December last year and this is merely a formal method of obtaining the necessary funds. Actually the amount voted at that time by the Council is greater than the sum now asked for by £9,258. The matter is purely formal and no remarks are called for in the circumstances.

THE HON. THE DIRECTOR OF AGRICULTURE: I beg to second the motion.

The question was put and carried.

MINING (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF LANDS: Your Excellency, I beg to move the second reading of the Mining (Amendment) Bill. The full objects and reasons are stated in the printed explanation and merely come to this, that whereas the rights of civil servants in this country to embark on some sort of mining venture is limited by the Governor's consent at the present moment, the object of this Bill is to remove such qualification and to prohibit the exercising of any such rights at all.

I think the reason for that is quite sound and very simple. Mining rights, I think, are not on all fours with land rights, such land rights as civil servants possess in this country, such as taking up a farm and merely developing it. Although perhaps mining in this country is not so widely existing as in other countries there is always the potentiality and I think it would be unwise to have Government servants scrambling in mining also. I feel also that although there is this old formal limitation of the Governor's consent, in practice that might not be the complete check which it is meant to be. But I think there is a better reason for this small amendment and I can say from my experience of mining elsewhere that it is to have some control of mining, as the civil servant is in most cases put in a most unfair position to compete with an ordinary member of the public as a result of possessing inside knowledge. I feel convinced that if mining is to assume large proportions in this country and civil servants are allowed to join in the scramble in a diamond rush with any sort of excuse, then I think we should get into difficulties which it is most necessary to avoid.

Your Excellency, I have to formally move the second reading of the Bill.

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

THE HON. CONWAY HARVEY: Your Excellency, I cordially agree with the necessity for introducing this particular Bill, but I do very strongly object to the second paragraph of the objects and reasons and I think, Sir, that the whole of my colleagues in this hon. Council will support me. I do suggest that it is unreasonable, inequitable and a hardship that members of the Civil Service shall be deprived of the right to make any investment whatever in Kenya. As the paragraph at the moment states "the Secretary of State has directed that Government officials should in no case be permitted to acquire local interests in mining or other enterprises of a speculative character, and has directed the deletion of the words "without the previous sanction of the Governor." I do suggest our Governor can be trusted to exercise discretion in this matter and I consider it extremely unfair for this sort of order to come from home where the most estimable gentlemen who control our destiny are not in the position to know the local facts and circumstances.

THE HON. T. A. WOOD: Your Excellency, I shall vote against the second reading of this Bill as a matter of principle. For many years we have endeavoured to take the Civil Servant out of his water-tight compartment and convert him into a member of the community generally. I have no particular objection to an interest being taken in the officials, especially as regards mining investments, having had even more experience in these matters than the hon. Mover of the Bill. But the Bill as it stands gives Your Excellency-in-Council quite sufficient scope to exercise that parental interest in the flock, and as the hon. Member for the Lake has said, it is inequitable that Government should prevent them taking any interest in anything of a speculative character. I suggest in regard to speculative interests that I know of nothing more speculative than a commercial life. My farming friends, on the other hand, say that farming beats it hollow. What is there that is not speculative? I shall certainly vote against the Bill as it is a definite attempt to upset a piece of very hard work brought to a successful conclusion in the time of Sir Edward Northey, and I do not propose to join in any attempt in a movement of this kind.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, in this legislation one is driven to the conclusion that there are two alternatives. One is, that the country requires protection against the possibility of a breach of its trust by an official. Such a suggestion cannot be supported by the Elected Members of this hon. Council. We have faith in the officials; therefore

that suggestion falls to the ground and the legislation cannot be proposed on those grounds. The alternative suggestion is that the officials require protection against themselves, the suggestion being that they have not the intelligence to understand ordinary business enterprise themselves. That, I trust, will be decided by the officials themselves. The conclusion drawn is that both sides of the House will oppose this suggested legislation. It is evident that it is required by the Colonial Office and I suggest the Colonial Office Regulations, and not the laws of this country, should give effect to this desire. The laws of this country, I hope will not discriminate between official and settler. The whole thing falls to the ground as both these alternatives fail in their application.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I have just one word to say. It is not for me to express an opinion as to the merits or otherwise of the proposed amendment. With regard to the second paragraph of the objects and reasons, I think it right to inform this hon. Council that it represents practically the identical words used by the Secretary of State in his despatch on the Principal Ordinance.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order. The Government Members, I take it, being interested parties, will not be allowed to vote?

The question was put and carried by 23 votes to 12.

HIS EXCELLENCY: Perhaps, as strong feeling has been expressed in this Council on the subject of this Bill, I may inform Council that I propose, when the Bill has been passed, to reserve my assent to it until I have laid the whole question again before the Secretary of State.

THE MOHAMMEDAN, MARRIAGE, DIVORCE AND SUCCESSION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move that a Bill intitled "An Ordinance to Amend the Mohammedan, Marriage, Divorce and Succession Ordinance," be read a second time.

It is proposed in this Bill to make a small but important amendment in the present Ordinance. The section of the Principal Ordinance which it is proposed to amend relates to the jurisdiction of the Supreme Court to deal with matrimonial suits in Mohammedan marriages. Under the present law that jurisdiction is limited to cases where both parties to the marriage are resident in the Colony at the time of the institution of the suit. This requirement has had the effect of allowing a respondent to a suit to evade the jurisdiction of the court as all that he or she has to do is to cease to reside in the Colony before the institution of the suit and thereupon the

petitioner is left without a remedy. Accordingly, it is now proposed to amend the law so as to require only the petitioner to be resident in the Colony at the time of the institution of the suit and if this requirement is fulfilled the Supreme Court will have jurisdiction to deal with the matter, subject, of course to the respondent being served with the necessary notice.

MAJOR THE HON. H. BOWN: Your Excellency, I beg to second the motion.

The question was put and carried.

THE CUSTOMS MANAGEMENT BILL.

THE HON. THE COMMISSIONER OF CUSTOMS (MR. WALSH): Your Excellency, I beg leave to move the second reading of A Bill intituled "An Ordinance to Consolidate and Amend the Law Relating to Customs."

As stated in the printed Objects and Reasons, this Bill is the outcome of a successful endeavour to co-ordinate the Customs Management Laws of Kenya, Uganda, Tanganyika Territory and Zanzibar. Negotiations with this object in view were initiated in March, 1925, and since that date continuous endeavours have been made to bring the draft Bills of each country into complete uniformity. So far as Kenya and Uganda are concerned this result has been successfully achieved, the draft Bills of Tanganyika Territory and Zanzibar only differing in matters of detail from the measure now before this hon. House.

Hon. Members and more particularly those directly connected with trade and shipping will realize the very substantial advantages which accrue from a unification of Customs procedure over the whole of British Eastern Africa. It will of course be understood that the present Bill has reference only to the machinery necessary for the proper collection of Customs dues and the control of external trade and does not deal with tariffs which are embodied in the Customs Tariff Ordinances as distinct from Customs Management Ordinances, but the fact that traders both in East Africa and Overseas will know in future that Customs requirements and procedure are virtually the same in the four British territories of Eastern Africa cannot fail to have a beneficial effect on trade in and with the countries concerned.

For some considerable time there has been an insistent demand on the part of the public generally for the institution of a system of free trade between Kenya, Uganda and Tanganyika Territory. The restrictions on trade consequent upon the existing status of Tanganyika Territory as a foreign country for Customs purposes are becoming daily more marked and the double payment of duty on broken bulk goods duty paid

in one territory and subsequently exported to the other not only restricts trade but inflicts a definite hardship on the community.

Agreement in matters of this sort is very difficult to attain, but all main obstacles have now been overcome. The tariffs of the territories have been virtually identical since 1922, the free interchange of local produce has been allowed since 1923, and the present Bill with agreed Regulations, standardizes Customs forms and procedure in the three territories. In addition, the actual principle of single payment of duty has been accepted by the three Governments, the only difficulty now outstanding being the precise method of application. Negotiations on this point are still proceeding.

Clause 263 of the Bill, which is adapted from a similar enactment in the Union of South Africa, empowers Government to enter into agreements of this nature with neighbouring British dependencies, and if this clause is accepted, the legal machinery necessary for the inception of free trade between Kenya, Uganda and Tanganyika Territory (and possibly Zanzibar at some future date) will be complete with the exception of a small amendment required to the Customs Tariff Ordinance exempting goods on which duty has been paid in a reciprocating territory from further payment of full duties on importation into this territory.

As regards the other main provisions of the Bill, Clause 2 provides that the Ordinance shall come into operation on a date to be fixed by the Governor by notice in the Gazette. This is inserted in order that the measure may become operative on a date mutually agreed upon by the Governments enacting similar legislation. January 1st next is suggested as a convenient date.

As stated in the printed Objects and Reasons no clause has been inserted in the Bill for which a precedent does not exist and all the main provisions of the legislation hitherto in force in this Colony have been included. It is therefore perhaps only necessary for me to point out and explain the principal clauses which differ from existing legislation.

Clause 29 gives more adequate control over goods imported through the Parcels Post and furnishes Government with very necessary power to impose penalties in cases where wilful misdeclaration is made.

Clause 60 and 70 increase the control over lighters and boats used in the conveyance of uncleared merchandise and applies to this territory the practice of registration of such vessels followed in other countries.

Clauses 75 to 102 amplify the regulations governing the deposit of goods in bonded warehouses, the licensing of such warehouses, etc., a necessary amplification in view of the greatly extended use to which bonded warehouses are now put.

Clause 95 gives power to remit duty on ascertained unavoidable losses in warehouse and relaxes to some extent existing procedure.

Clauses 129 to 132 are inserted to cover the increasing trade in ship's stores and follow similar legislation in other countries.

Clause 150 provides a necessary safeguard to traders in respect of agreements for the sale or delivery of goods duty paid when an alteration of duty takes place before they are entered for home consumption.

Clause 158 allows for the deposit and subsequent refund of duty on certain goods imported for temporary use in the country. It is suggested that this regulation should be applied to travellers' samples, stage paraphernalia and articles not intended for consumption in the territory imported by bona fide tourists for their use, convenience or comfort while in the territory. This last heading would include portable typewriters, tents and camp equipment and motor vehicles imported for temporary use and would permit of the extension to this territory of the tryptic system for touring motor vehicles.

Clause 162 safeguards importers against arbitrary rulings by the Commissioner of Customs in respect of the classification of goods for duty. Hitherto, there has been no method of redress in cases of this sort, but it is felt that opportunity for reference to the Courts for settlement of disputes should be afforded.

Clauses 174 to 177 provide for the registration and licensing of Customs Agents. This also safeguards the importer, as principals are responsible for the acts of their agents and power to license persons engaged in the business of Customs Clearing Agents should ensure that these persons are reasonably competent to undertake business of this nature.

The necessity for inclusion of Clause 263 has already been explained. With the exception of the clauses to which I have drawn attention the provisions of the Bill are generally similar to, but a good deal more comprehensive, than the provisions contained in the Customs Ordinance, 1910, and its various amendments which the Bill supersedes.

As I have already stated, agreement in all main principles has already been reached with the Governments of Uganda, Tanganyika Territory and Zanzibar only after protracted discussion, and I trust, therefore, that the Bill now before this

hon. House will be accepted in its entirety so that the uniformity already attained may not be disturbed.

If the second reading is agreed to I suggest, with Your Excellency's permission, that the Bill be referred to a small Select Committee for examination in detail and subsequent report to this hon. House.

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

THE HON. R. S. NEIMA: Your Excellency, in supporting this Bill I just want to express my opinion that it is a highly desirable measure and it provides certain facilities by which inter-colonial trade will be encouraged. That is a step in the right direction and it will, to a very great extent, ultimately cheapen the cost of living on account of the inter-colonial produce which will be exchanged. On these grounds I beg to support the Bill.

THE HON. W. A. M. SIM: Your Excellency, I think I am voicing the opinion of the community generally when I say this Bill will be welcomed. It is a step towards Customs Union which has been under discussion in the commercial community for a considerable time, and if my blessing will do it any good I have much pleasure in seconding it.

The question was put and carried.

HIS EXCELLENCY: The Select Committee to which it is proposed to refer this Bill is constituted as follows:—

The Commissioner of Customs as Chairman.

The Acting Solicitor General.

The Member for Mombasa.

The Member for Nairobi North.

The Hon. Mr. Pandya.

The question was put and carried.

THE CROWN LANDS (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF LANDS: Your Excellency, I beg to move that a Bill intituled "An Ordinance to Amend the Crown Lands Ordinance," be read a second time.

My hon. friend, the Attorney General, stated the Objects and Reasons of this Crown Lands Amendment Bill so lucidly that I have very little to add to it. At the same time I should like to put the objects of this Bill in a slightly different way, and possibly from a different angle and to do so I should like to remind this hon. Council of a debate which took place just

over a year ago in Nairobi at a time when the Second or Third Supplementary Estimates of the year were presented, when we discussed legislative powers arising out of a long detailed schedule of payments to the Native Trust Fund. Now the whole object underlying that vote was the recognition that the proceeds of land sales which are an integral part of and inside existing native reserves should go to the new Native Councils for the direct benefit of the native tribe. At the same time, the law as it then stood, and as it stands now, has not recognized that such areas as township areas and so on are part of any native reserve in which they are situate. If we take an ordinary trade centre which is used very often by natives it is automatically, under the existing law, excised from the reserve. It will be agreed unanimously by Council, I think, that that principle was not intended and at any rate it was time that principle is changed. The alienation to traders, shopkeepers and so on which so far have been made under the Crown Lands Ordinance, have not been made in any sense which deals with native reserves. The object of this Bill, under the now clause 55, is to restore such lands to the native reserves and regularize the licensing to traders of the lands which in the past have been so alienated and such land will remain in the future similarly alienated. Unless I explain the matter in these terms it is possible that section 55 might be misunderstood by people in this country and elsewhere. The effect of this particular section is that these lands, which must of necessity be leased to shopkeepers and so on who are non-natives, will now be an integral part of the reserves. That is the sole effect of section 55.

That, to my mind, is the main object, and this particular section is the most important of the Bill because not only does it regularize properly the status of these leased lands, but it also enables the native reserves to be gazetted in the manner in which they have never before been gazetted. If we were trying to gazette the native reserves under the law as it stands, we should have to cut out all these areas which it is agreed should contribute towards the Native Trust Fund. But it was not the object of this Council a year ago and it is not so now. As soon as this Bill becomes law we can legally at once proceed with the final gazetting of the native reserves of the country.

Also under section 55 a native reserve can be determined or established. This power, which one would expect to see used in the body of the law itself in the Crown Lands Ordinance dealing with native reserves, does not so far appear in it at all except in a marginal note. That is all there is to be said about this Ordinance. Any further explanations required I can make when replying to questions which may be raised as to the exact bearing of one section or another.

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

REV. DR. THE HON. J. W. ARTHUR: Your Excellency, I should like to say that so far as I am personally concerned I welcome the introduction of this Bill as explained by the hon. Commissioner of Lands. It seemed to me on first reading over the objects and reasons in this Bill that there might be some misunderstanding as to the exact meaning of the first paragraph of the Objects and Reasons as if it would appear that at the back of this Bill there was a desire to get powers in order that land in the native reserves should be sold, leased or otherwise disposed of without laying the necessary emphasis on the fact that it was for the safeguarding of those areas which had already been alienated or would be disposed of in this way in future. I think that the hon. mover of this Bill has explained more fully the reasons for it and I myself am satisfied with the explanation that he has given. I do hope that this Bill is but the first step towards the emphasizing to the native mind the desire on the part of Government to safeguard native lands. There has been unrest in the native mind for years past now and largely, Sir, as the result of the Crown Lands Ordinance of 1915. I agree that the step now being taken is one of the greatest importance to the native peoples of this country. Further, I do hope that Government will take further steps shortly to dispel the fear which exists in their minds especially in regard to native interest of land and native policy in regard to land and especially in regard to possible individual native reserves. This will set the native mind at rest on the question of native lands and the whole question of its policy.

THE HON. J. B. PANDYA: Your Excellency, to a certain extent I also share the views which have just been expressed by the hon. Member who sat down. I think that this section applies equally to agriculture and I should like to be satisfied on that point and that when the mover of the motion definitely mentioned that it only applied to areas which are required as townships in native areas, and if it is that only I think it is a step in the right direction and I will heartily support it from the point of view that the natives get something which they did not up to now, but if it applies to agricultural land I am afraid the probability of leasing it or even selling it is to be deprecated.

I require a sort of reply or assurance from Government that it does not apply to agricultural land.

THE HON. W. MACLELLAN WILSON: We think it is a little unfortunate that the word "sold" should have crept into the wording of the first paragraph of the Objects and Reasons of this Bill. So far as I can see in the Bill there is no intention

to sell any of the land which will now be known as native reserve legally. There is one thing, Sir, which I must give my hearty support to in this new Ordinance and that is that although the native reserve is defined as being entirely for natives and native purposes that the land is still held under the Crown. I should like to emphasize this point, however, to make it perfectly clear with my reading of the present Ordinance and by this additional amending Ordinance the reason why the Crown became—what shall I say—owners of the land. From this amending Ordinance I see that is also dealt with in No. 2 "Provided that such reservation shall not confer on any tribe or member of any tribe any right to alienate the land so reserved or any part thereof."

I think we put the natives in a very strong sound position so far as their land is concerned and I hope that the friends of the natives should make it clear to them. It is true that there has been a great deal amongst natives of dissatisfaction and suspicion which, however, I have held to be entirely unfounded. I trust now that when this Bill becomes law, as no doubt it will do, that those friends of the natives will make it perfectly clear to them what all through these years the Government has done in assisting to reserve to natives the communal rights in the land.

CAPT. THE HON. E. M. V. KENKALY: Your Excellency, the only criticism I have to make on this point is. I require some reassurance on Clause 54 (1), "The Governor in Council may by notice in the Gazette declare that any area of Crown land, either by general or particular description and whether the same has been surveyed or not, shall be a Native Reserve." That is all right, Sir, under the present régime, but we do not know what will happen at home. We may get a Labour Government at home and we may get a Labour Governor in this country and although I believe and hope that all members of the present Government are Conservative, there is a great danger of that, and if it does occur the people of this country, who are Conservatives, will resent it and resist it. The officials of this country will unhappily not be able to resent it. They will be instructed to perform certain actions, and if they are loyal to the people who employ them, they will perform them whatever views they have and they will perform them to the detriment of Kenya Colony.

I think if we agree to this as it is printed we are putting a tremendous weapon into the hands of our enemies who can ultimately demonstrate their animus on Kenya Colony and I hope we will oppose it before we do so.

THE HON. SHAMS-UD-DEEN: I think I must make clear that I am expressing my personal views as regards this Bill when I say that I feel I do not like the principle that is

involved in this Bill. It is unholding the artificial policy which has been enunciated in this country of dividing the whole country into different compartments as reserves, making them a sort of non-official water tight compartment, namely, the game reserve, native reserves, and the Highlands which might be called a European reserve. I should personally like, in the first instance, that land should be set aside for natives to compensate them for any loss or for any disturbance of the conditions which has been necessitated by the advent of foreign people into this country, but after that the rights of natives to deal with their own property should not be tampered with. I should like to see the fullest liberty of an individual's gain given to him, so that if he likes he can sell it to a European and an Asiatic or to another native. I believe that principle is in force in Uganda. I really think we are only going a step backward when we are only going to continue this policy. I only say I do not like it.

THE HON. R. S. NEHLA: Your Excellency, there is one criticism I would like to make on this Bill, that it gives power that certain land in the reserve areas may be sold to non-natives. What I am wondering at is whether that power would involve or imply at some time or other that large tracts of land in the native reserves might be leased out for a large number of years, say for ninety-nine or some such period, and thereby large tracts or areas might be taken away from the possession of the natives. It might do good to non-natives for development or other purposes but I would like to see something a little more definite in the Ordinance thereby just to enable these objects to be realized. The staple measure of the Bill is to enable the natives to have shops for the benefit of the natives. If that is the object, and I do not think it is, I would like it to be stated and I would like some statement on this point by the Commissioner of Lands whether there is any intention or likelihood or large tracts to be leased or sold for such purpose and if there is anything to be said against it.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I support this Bill for two reasons, firstly for a long time past there has been a great deal of argument and uncertainty as to the actual limitations of these native reserves and it has caused a great deal of uncertainty in the minds of natives which might be changed. I welcome getting this to a definite basis. I cannot say personally I am in favour of native reserves but where we adhere to that system I think that everything should keep to those lines.

We are trying to get at what are the correct boundaries and this Bill will enable Your Excellency to get these reserves definitely settled. The second point is we have here the objection to this of what might happen, but what seems to me

as the whole crux is in section 55 "for purposes beneficial to the inhabitants of such Reserve." Anything that will be beneficial to the natives will be beneficial to the country at large.

THE HON. THE COMMISSIONER OF LANDS: I am sure I speak on behalf of Government in saying that it is very welcome to see the almost unanimous approval with which this Bill has been treated, but there have been, at the same time, a few points raised which I am very glad have been raised now and not later, though I think they can be dealt with and discussed at once. They are such points as I was expecting to find raised.

I intended in my opening remarks to include every sort or type of land which in the past has been alienated, the proceeds of which are to go to Native Trust Funds. There are farms which have been alienated in the last twenty years all the proceeds of which, we all agree, are to go to Trust Funds.

Now with reference to the status of native reserves as Crown land. I do not now wish to touch on that, I do not think it best to touch on that now. The point has just been mentioned and I think on the whole the hon. Member who raised the point can be quite satisfied that the Crown must be the best director of the native interests in such matters.

Now the next point is an important one. I think it was raised by the gentleman who spoke last. We are committed to the policy of native lands and I do not think it would be of very much advantage to discuss the theory. I should, however, just like to point out that when we look back on the history of the last twenty years in this Colony, I do not believe there is anything which the Government has not done to finally settle what are to be reserves when once the reserve system had been definitely decided upon. That has been the whole difficulty. We are committed, as the Noble Lord said, to this system and the only thing that remains and the only thing which is essential is to get it in at once what the reserves may be. I do not think anybody can dispute that.

The point has already been raised as to what further alienations, if any, are contemplated in the reserves and what checks on these alienations will be. I can only say, Your Excellency, that there cannot be a single man in this room who can give an answer to that question. As native industries grow so will some scheme be formulated to give them the opportunity of learning to build up another industry and so on. But checks under this Bill are the checks which are under consideration in the present Ordinance. I think one speaker seems to be under the impression that this is a Bill without any connecting links or any dependence on the general

Ordinance and I would direct his attention to sections 56 and 58 of the Crown Lands Ordinance. In the first the authority of the Secretary of State has to be obtained and in the second the rules mention that any sort of alienation has got to be subject to the approval of the Governor in Council.

The point, Your Excellency, is it may or may not be necessary to modify these checks. I am expressing no opinion at the moment but there is not one single thing in this Bill, I think I can safely say, which is not an enlargement of the security and existing security of native tenure.

The question was put and carried.

TOWNSHIPS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg leave to move that a Bill to Amend the Townships Ordinance be read a second time.

Under the Townships Ordinance, power is conferred on the Governor in Council to make rules providing for the fixing and levying of rates for any township and the Ordinance indicates that any such rates are to be levied on the assessed value of property in the Township. Rules for the Township of Muthaiga were made under this Ordinance in 1922 and provided for the levying of rates, but as the municipal expenses of Muthaiga were small it was not thought necessary to have an assessed value of property and accordingly the rules merely provided for the payment of a flat rate of Sh. 20 per acre per annum on all land in the Township. This flat rate has been paid by resident in Muthaiga ever since 1922 and it was not until quite recently, when the township committee was so unfortunate as to visit the Supreme Court, that they discovered, for the first time, that the rule imposing this flat rate was *ultra vires* inasmuch as it was not based on the rateable value of property.

The consequence of this judicial decision is that rates have been illegally collected in Muthaiga for the last four years and it is now necessary to legislate to put the matter right. The intention of the amendment now proposed is to enable township rates to be levied either on acreage or on rateable value of property, provision being made that where the rate is based on acreage the rate shall not exceed Sh. 50 per acre per annum. In order to validate the collection of rates in previous years, although this may strictly speaking not be necessary, it is proposed that this Ordinance shall be deemed to have come into operation on the 25th day of March, 1922, that being the date on which the Muthaiga Township Rules came into operation.

I beg to move the second reading of the Bill.

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

THE HON. T. A. WOOD: I am not opposing the Bill. I have already put in one amendment which will go before the Committee but I do not wish to let it go in absolute silence. The principle of hasty legislation and the consequent amendment of it is a great deal of the work of this hon. Council.

I must point out that although this is a provision for meeting a situation which has arisen it is certain that at an early stage it will require a further amendment by reason of the fact that there is no relationship between the two systems.

In regard to what the people apply for, you are making the Bill cover their application so as to bring it within the law and the two principles are strictly opposed to each other. Sh. 50 an acre was two-sevenths of the rateable value. It just bears away this. It may suit a small area of suburban country which is not in one township, unless I am very mistaken as to what should be a township, but as a resident or occupant of property in Government Road, Nairobi, I should be very happy if I could be taxed on this basis.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move that this hon. Council resolve itself into Committee of the whole Council to consider the Bills which are on the Order of the Day, clause by clause with the exception of the Bill relating to Customs Management.

HIS EXCELLENCY: Before resuming in Committee perhaps I may say that the following composition of the Select Committee commends itself to all parts of the Council:—

- Commissioner of Customs (Chairman).
- Acting Solicitor General.
- Mr. W. A. M. Sim.
- Mr. T. A. Wood.
- Mr. J. B. Pandya.

In Committee.

THE CARRIAGE OF GOODS BY SEA BILL.

THE HON. W. MACLELLAN WILSON: I would like some explanation to be given to us as to the meaning of the clause "contract for carrying of goods by sea," there is no undertaking to provide a seaworthy ship. Under Articles 3 (1) and 4 (1) only a ship is to be made seaworthy.

THE HON. THE ATTORNEY GENERAL: Your Excellency, this Bill is copied from the "Carriage of Goods by Sea" Act of the United Kingdom and has been presented here by the direction of the Secretary of State. I do not profess to be an expert on the question of bills of lading and carriage of goods by sea, but on the question put by the Member I do not think the clause of the Bill and the particular rules which the Member has referred to are contradictory. Clause 3

merely states that there shall not be implied in any contract an undertaking by the carrier to provide a seaworthy ship and the rule goes on to provide that the carrier of goods shall exercise due diligence to make the ship seaworthy. That is a duty imposed by the rules, but the actual contract itself for the carriage of goods by sea is not deemed to imply any such undertaking by the carrier.

THE HON. SHAMS-UD-DEEN: Your Excellency, I should like to know from the Attorney General as to what extent this Bill has been varied from the Act from which it has been copied. I want to know what the deviations are.

THE HON. THE ATTORNEY GENERAL: The Bill is a faithful copy of the United Kingdom Act with the exception of the purely formal parts. The effective part of the Bill is a verbatim of the English Act.

THE HON. SHAMS-UD-DEEN: I should like to have an explanation. It seems rather contradictory, it says that "Every bill of lading, or similar document of title, issued in the Colony which contains or is evidence of any contract to which the Rules apply, shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this Ordinance." Then we come on to these Rules, for instance it says that this Bill exempts a special contract being made for the carriage of any goods as against the intention of the rules which is unless it is a shippod and consists of goods of a special nature. Some relationship should be made.

THE HON. THE ATTORNEY: I do not quite appreciate the hon. Member's difficulty. I have carefully compared the Bill with the rules and there did not seem to me to be anything contradictory between the text of the Bill and the rules under it.

I am quite willing, however, that the matter be postponed and any difficulties that arise out of the Bill, I shall be glad to go into with the hon. Member.

THE EAST AFRICAN STATE RAILWAY PROVIDENT FUND (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move the first amendment standing in my name. "That the title of the Bill be amended so as to read as follows:—'A Bill to amend the State Railway Provident Fund Ordinance.'" The proposed amendment is purely technical and is the result of the revision of the law.

The question was put and carried.

THE HON. W. MACLELLAN WILSON: Your Excellency, with regard to Clause 2. May we know if this State Railway will approve of the railways being built departmentally, and also will it approve the Magadi Railway coming under this Ordinance? The Magadi Railway is run by the railway authorities, and I presume it will come under this Provident Fund.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I understand the Magadi Railway is not a State Railway under this Ordinance. A State Railway means a State Railway open to public traffic and presumably means a railway owned by the State.

THE HON. W. MACLELLAN WILSON: Your Excellency, I do not quite understand the position. What I would like to know is, can you compel men working on the Magadi Railway to pay money into this Provident Fund the same as people on the Uganda Railway have to pay?

THE HON. THE ATTORNEY GENERAL: Your Excellency, if the employees who are working on the Magadi Railway or any railway are the employees of the State, then I presume they can be compelled to subscribe to a Provident Fund under this Ordinance.

Clause 2 was put and carried.

Clause 3 and 4 were put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg leave to move the second amendment standing in my name "that the following clause be substituted for Clause 1 of the Bill:—'Short Title. 1. This Ordinance may be cited as "the State Railway Provident Fund (Amendment) Ordinance, 1920," and shall be read as one with the State Railway Provident Fund Ordinance (Chapter 35 of the Revised Edition) hereinafter referred to as "the Principal Ordinance."'

The question was put and carried.

THE SUPPLEMENTARY APPROPRIATION BILL.

The Bill passed through Committee stage without amendment.

THE SUPPLEMENTARY APPROPRIATION (RAILWAY) AMENDMENT BILL.

The Bill passed through Committee stage without amendment.

THE MINING (AMENDMENT) BILL.

The Bill passed through Committee stage without amendment.

THE MOHAMMEDAN MARRIAGE, DIVORCE AND SUCCESSION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, may I be allowed to move a small amendment by the insertion of the word "of" in Clause 2, first line, after the words 'subsection 2 of section 3'?

The question was put and carried.

THE CROWN LANDS (AMENDMENT) BILL.

The Bill passed through Committee stage without amendment.

THE TOWNSHIPS (AMENDMENT) BILL.

THE HON. T. A. WOOD: Your Excellency, in regard to Clause 2, I beg to move that in subsection (3) (a) the following amendment be made; that the words "75 per cent of" be inserted between the word "exceed" and "its." The amended clause will then read, "The rateable value of any property shall not exceed 75 per cent of its annual value."

The reason for this amendment is the taking of the gross annual rental as the annual value on which the assessors' rates are levied. This is not equitable and it is not in accordance with the English practice on the subject, and although it might have been standing in this Bill previously I think we might as well take the present opportunity of amending it. The gross annual rental of a property taken as a valuation includes such allowances for insurance, ground rent to be paid to the Crown, and possibly repairs and renewals. It also departs entirely from English practice which was founded on making approximately an allowance of one-seventh of the amount of the property so presumed for rating purposes. It has in some instances been taken as high as 25 per cent. My reason for putting this at 25 per cent is to allow for the one-seventh and the balance to cover the rateable value.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in principle I have no objection to raise against the proposed amendment, but I read, "This Ordinance shall be deemed to have commenced and come into operation on the 25th day of March, 1923." Has he considered previous years? It may, I anticipate, make no difference at all, but I should like him to consider that.

THE HON. T. A. WOOD: I am not aware it will make any proper difference in any township. If this is only retrospective to the year 1923, it cannot have any retrospective effect except in regard to any particular township the amendment is designed to meet. Nairobi has the rating of sites values system which is entirely different to the rating of annual values, and I am not aware that any township in the country has any rateable value within recent years.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I do not think, in any case, the rateable value of property in any township would exceed 75 per cent of its gross value and therefore I think it is safe to accept the amendment.

The amendment was put and carried.

THE NOTARIES PUBLIC (AMENDMENT) BILL

THE HON. THE ATTORNEY GENERAL: Your Excellency, before we go through the clauses perhaps I may be allowed to say a word or two in explanation. The Bill was introduced into this hon. Council in October last year and came up for second reading in the following December. In the course of the debate on the second reading it was found that the views of the Kenya Law Society had not been obtained on the Bill and it was felt desirable to obtain those views before proceeding to the Committee stage. The Bill was read a second time and the Committee stage postponed until the views of the Society were received. Those views have now been received and, generally speaking, the Society has approved of the Bill, but the Society suggests in regard to the annual fees paid that some differentiation should be made in the fees paid by Notaries practising in Nairobi, Mombasa and Nakuru and those practising elsewhere. To give effect to this suggestion, I shall move that the schedule be amended when we come to it. In the meantime I beg to move the first amendment standing in my name "that the following clause be substituted for Clause 1 of the Bill:

"Short title. 1. This Ordinance may be cited as "the Notaries Public (Amendment) Ordinance, 1920," and shall be read as one with the Notaries Public Ordinance (Chapter 19 of the Revised Edition), hereinafter referred to as "the Principal Ordinance."

This is a purely formal amendment and is necessary owing to the fact that the Bill was drafted before the Revised Edition of the Laws came into force.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move a small amendment in Clause 2 in the first line, that the first line should read "sections 2 and 3" instead of sections 1 and 2.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Clause 3 of the Bill be amended by the deletion of the words and figures:

"On yearly renewal of certificate ...	£5
and by the substitution thereof of the following:—	
"On yearly renewal of certificates:—	£5
In Nairobi, Mombasa and Nakuru ...	£3."
Elsewhere ...	

The view of the Kenya Law Society with regard to this suggestion is that there ought to be a difference between the annual fee for a certificate payable by Notaries in Nairobi, Mombasa and Nakuru, and those practising elsewhere, owing to the difference in the amount of work available in the more populated places. This suggestion has been considered by Your Excellency in Executive Council and it was decided to submit the amendment for consideration in this Council.

THE HON. T. A. WOOD: Your Excellency, might I ask for a ruling on this? I recognize that reason, but what is going to happen when Eldoret becomes an important place? I understand Kisumu to be sufficiently important; I understand Kitale will outstrip Nairobi. It only means another amendment at a later stage. I should personally prefer an amendment in which the fees were reduced to £3 all round. I must confess I do not like this distinction applying to three places because it is a new country and comparatively it is still a new country. We do not know how the development is going to proceed, and it

means further work at a later stage unless it is a question of revenue. There cannot be so many of the legal fraternity even in Nairobi that it is going to make any appreciable difference to the revenue, and I understand the whole of the legal fraternity do not participate in the profession of a Notary Public. It is a very little difference, and I do suggest an amendment to reduce the fee all round would be more appropriate.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, the position is that the suggestions originally made were to increase the fees very much all round. The Law Society did not in any way wish to oppose that as they presumed the increase was put forward owing to reasons of revenue and they did not wish to erode their share. At the same time, the position in England is that the fee is different within ten miles of the General Post Office in London, and in other places such as Kisumu, Eldoret and Kitale the position is that it really does not pay anyone to be a Notary Public, but they do it in order to meet the Bankers who would experience very great inconvenience indeed in attending Bills if they had to send them down to some Notary Public at Nairobi or Mombasa or Nakuru. It was only to meet the convenience of the Banks at these smaller towns that we suggested there should be some differentiation. It may be in time to come these towns will grow very big and it may become necessary to alter the schedule, but it is only a very small amount of work. Of course, if Your Excellency is prepared to adopt the suggestion of the hon. Member for Nairobi North that it should come down to £3, I shall not complain. However, I think there should be some differentiation. The only possible alteration which might meet the case is whether we should leave out Nakuru and take only Nairobi and Mombasa, one the capital and the other the port and leave Nairobi and Mombasa as the equivalent of 10 miles of London. By only keeping Nairobi and Mombasa and cutting out Nakuru it will relieve the position as they are the two main centres of the Colony.

I beg to move this alteration.

THE HON. THE ATTORNEY GENERAL: Your Excellency, the Bill originally provided an increase from £3 to £5 and although I was not here at the time I presume that the increase was very carefully considered. I am inclined to agree with the suggestion made by the hon. Member for Nairobi South to the effect that the higher fee should be charged only in Nairobi and Mombasa. I think there is something to be said for a lower fee in the lesser towns. It is a question of Notary Publics making money; it is a question of obliging the public. If Your Excellency gives me permission, I am prepared to accept the amendment to place the fee for Nairobi and Mombasa at £5 and elsewhere at £3.

HIS EXCELLENCY: I think the best plan will be for the hon. Member for Nairobi South to move an amendment to that effect.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to move that the words "and Nakuru" be deleted and that the word "and" be inserted between the words "Nairobi, Mombasa."

The amendment was put and carried.

THE HON. THE ATTORNEY GENERAL: With Your Excellency's permission I beg to move the deletion of the figures "1000" in Clause 1. This is necessitated owing to the revision of the laws.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Bills which have passed through Committee be now reported to Council.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the following Bills have passed through the Committee stage and are reported back to Council:—

- The Notaries Public (Amendment) Bill.
- The Carriage of Goods by Sea Bill.
- The East Africa State Railway Provident Fund (Amendment) Bill.
- The Supplementary Appropriation Bill.
- The Second Supplementary Appropriation (Railway) Bill.
- The Mining (Amendment) Bill.
- The Mohammedan Marriage, Divorce and Succession (Amendment) Bill.
- The Crown Lands (Amendment) Bill.
- The Townships (Amendment) Bill.

THE HON. THE ATTORNEY GENERAL: I beg to give notice that I will move the third reading at later stage of the following Bills:—

- The Carriage of Goods by Sea Bill.
- The East Africa State Railway Provident Fund (Amendment) Bill.
- The Townships (Amendment) Bill.
- The Notaries Public (Amendment) Bill.
- The Mohammedan Marriage, Divorce and Succession (Amendment) Bill.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to give notice that at a later stage of the Session I will move the third reading of the following Bills:—

- The Supplementary Appropriation Bill.
- The Second Supplementary Appropriation (Railway) Bill.

THE HON. THE COMMISSIONER OF LANDS: Your Excellency, I beg to give notice that at a later stage of the Session, I will move the third reading of the following Bills:—

- The Crown Lands (Amendment) Bill.
- The Mining (Amendment) Bill.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, am I in order now before the adjournment to bring to the notice of this Council a telegram I have just received from Nairobi?

HIS EXCELLENCY: There is some other business to come first.

THE HON. THE COLONIAL SECRETARY: Your Excellency, in order to enable this Session to close to-morrow I propose, unless any objection is raised, to move to-morrow the suspension of the Standing Orders to allow the third reading of these Bills to be taken instead of waiting the statutory forty-eight hours.

HIS EXCELLENCY: I am prepared to accept that Motion. It will be moved at the commencement of business to-morrow. The Customs Management Bill will also be taken to-morrow.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I am not aware of the procedure I should follow in view of the fact there is no time to put down a motion before Council adjourns in Mombasa and there is no time for a question. I have just received a telegram from the Master Builders' Association in Nairobi and with Your Excellency's permission I should like to read it:—

"Kenya Master Builders' Association in Committee unanimously state African labour almost unobtainable resulting in total inability to tender for any building programme except at Asiatic labour rates very nearly ten times over present costs. Earnestly request matter be brought to notice of Legislative Council."

I do not wish to protract this sitting, but I think this matter should be brought to Your Excellency's notice and the Members of this hon. Council so that Your Excellency may consider the matter with your advisers.

HIS EXCELLENCY: Does the hon. Member wish to call the attention of the Council to the telegram?

CAPT. THE HON. H. E. SCHWARTZ: At the moment, as there is not time to bring it up in any other form.

*Council adjourned till 9 a.m. Friday, the
13th August, 1926.*

FRIDAY, 13th AUGUST, 1926

The Council assembled at 9 a.m., **HIS EXCELLENCY THE GOVERNOR** (LIEUTENANT-COLONEL SIR E. W. M. GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

HIS EXCELLENCY opened the Council with prayer.

The minutes of the meeting of 12th August were confirmed.

PAPERS LAY ON THE TABLE

THE HON. THE COMMISSIONER OF CUSTOMS: I beg to lay upon the Table the Report of the Select Committee appointed to consider the Customs Management Bill.

THE HON. THE ATTORNEY GENERAL: I beg to lay upon the Table the Report of the Select Committee appointed to consider the Custody of Children Bill.

THE HON. THE ACTING TREASURER: I beg to lay upon the table a statement regarding the Colonial Loans.

QUESTIONS.

ROADS NEAR KIBOS.

THE HON. J. B. PANDYA: I beg leave to ask the question standing in my name in the Order of the Day:—

"Will the hon. the Director of Public Works state:—

1. The amount sanctioned in 1926 for roads in Indian settled areas near Kibos in Kisumu District?
2. The amount spent up to now during 1926?
3. In view of absence of roads and impassable condition of existing tracks, will be take steps, at least to make passable, roads in this area?"

THE HON. THE DIRECTOR OF PUBLIC WORKS: No funds have been allocated for this area up to the present from the 1926 road estimates. The improvement of communications in this area shall have my early attention.

DESPATCH OF MAILS THROUGH MARSEILLES.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: I beg leave to ask the question standing in my name in the Order of the day:—

"As most of the vessels of the principal steamship lines coming to this country now call at Marseilles at regular intervals, whether arrangements could not be made that mails for this country should be put on board at Marseilles instead of being picked up at Aden?"

THE HON. THE COLONIAL SECRETARY: The arrangements for mails to this Colony from the United Kingdom lie with the Post Office Authorities in London, but it is the case that taking all United Kingdom mails for this Colony into consideration the present system is the most efficient and expeditious.

ALIENATION OF LAND.

CAPT. THE HON. E. M. V. KENEALY: I beg leave to ask the first question standing in my name:—

“Will Government immediately proceed with preparations for the alienation of more land on a large scale?”

THE HON. THE COMMISSIONER OF LANDS: Government is already engaged in measures for the alienation of a further considerable area of Crown land.

LAND POLICY.

CAPT. THE HON. E. M. V. KENEALY: I beg leave to ask second question standing in my name:—

“Does the land policy of Kenya require the existence of special circumstances before land can become available to meet the demand for land.”

THE HON. THE COMMISSIONER OF LANDS: The answer is in the negative.

LAND SALES.

CAPT. THE HON. E. M. V. KENEALY: I beg leave to ask the third question standing in my name:—

“As three months is insufficient for the proper advertisement of land sales, will Government give longer notice and issue public advertisement thereof.”

THE HON. THE COMMISSIONER OF LANDS: If in the opinion of hon. Members longer notice is necessary, Government is prepared to extend the period of three months' notice which has hitherto been usual for the purpose.

CAPT. THE HON. E. M. V. KENEALY: Arising out of that answer, may we have the Government's assurance that public advertisement will also be in the Dominions as well as at home.

THE HON. THE COMMISSIONER OF LANDS: Your Excellency, I think that the answer to that question lies really in what is the opinion of hon. Members which was stated by my substantive answer.

REPORT OF PORT COMMISSION.

LT.-COL. THE HON. LORD FRANCOIS SCOTT: I beg leave to ask the question standing in my name in the Supplementary Order of the Day:—

“Will Government state the position with regard to the action being taken on the report of the Port Commission and state when some definite decision may be expected.”

THE HON. THE ACTING COLONIAL SECRETARY: The Report of the Port Commission was forwarded in January to the Secretary of State who referred it to the Imperial Shipping Committee.

It is understood that the Secretary of State has now received the comments of that Committee; that those comments are being published in England and that they will shortly reach this Colony. The Government considers an early decision imperative, and is taking all possible steps to secure it.

SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: I beg leave to move the suspension of Standing Orders in order to enable the third reading of the Bills in the Order of the Day being taken without the necessary notice prescribed in the Standing Orders.

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

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I wish to oppose this motion on grounds that questions which were asked by me dealing with the land question of this country about three months ago have not been answered. I have tried to get them answered to-day, but have again failed. As the land question is the dominating part of our interests I think it is essential that they be answered and as a protest against them not being answered I oppose the Suspension of Standing Orders.

THE HON. THE ACTING COLONIAL SECRETARY: With regard to that matter, a certain number of questions were put in by the hon. Member, I think I am right in saying yesterday, and three out of these four questions have been answered to-day at a considerable amount of inconvenience. The fourth question is not one which I or the Commissioner of Lands can answer at the present moment, but I trust the hon. Member will agree that twenty-four hours is not a very long period in which to have the answer to questions, especially when so far removed from one's base, that I will undertake that an answer is given to the hon. Member as soon as possible in writing.

CAPT. THE HON. E. M. V. KENYALY : I require an explanation. May I state that these questions were put in about three months ago and not only yesterday.

HIS EXCELLENCY : As the hon. Member has a grievance in the matter, I think I should point out that the answers to questions which he asked for in writing were sent to him. To one question on July 10th and to the other on July 17th. He has therefore had a period between three weeks and a month to ask any further question he wishes to in regard to the answers. In spite of that he has only asked questions yesterday. He must show some consideration to Government servants in asking questions. Far more notice is given in other assemblies.

The motion that Standing Rules and Orders be suspended was put and carried.

BILLS.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL : Standing Orders, having been suspended, I beg leave to move that a Bill for the Carriage of Goods by Sea be read a third time and passed.

MAJOR THE HON. H. BOWN : I beg to second the motion. The question was put and carried. The Bill was read a third time and passed.

THE HON. THE ATTORNEY GENERAL : I beg leave to move that the State Railway Provident Fund Bill be read a third time and passed. In moving the third reading I have to ask permission to make a small amendment in the title of the Bill. The amendment I propose is the deletion of the figures "1908."

I beg to move that the title of the Bill be amended by the deletion of the figures "1908."

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move the third reading of a Bill for the Supply of a Further Sum of Money for the Year ended 31st December, 1925.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move the third reading of the Second Supplementary Appropriation (Railway) Bill.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE COMMISSIONER OF LANDS : I beg to move the third reading of a Bill to Amend the Mining Ordinance.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ATTORNEY GENERAL : I beg to move the third reading of a Bill to Amend the Mohammedan Marriage, Divorce and Succession Ordinance.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE COMMISSIONER OF LANDS : I beg to move the third reading of the Crown Lands (Amendment) Ordinance.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ATTORNEY GENERAL : I beg to move the third reading of a Bill to Amend the Township Ordinance.

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

The question was put and carried.

The Bill was read a third time and passed.

THE HON. THE ATTORNEY GENERAL : I beg to move the third reading of a Bill to Amend the Notaries Public Ordinance.

THE HON. THE ACTING SOLICITOR GENERAL: I beg to second the motion.

The question was put and carried.

The Bill was read a third time and passed.

CUSTOMS MANAGEMENT BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that Council resolves itself into a Committee to consider the provisions of the Customs Management Bill.

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

The Council resolved itself into a Committee of the whole Council, His Excellency the Governor presiding.

In Committee.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in Clause 53 I beg to move the deletion of the words "one league" in the first line and the substitution of the words "three nautical miles" therefor.

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in Clause 67 I beg to move the deletion of the words "one league" in the first line and the substitution of the words "three nautical miles" therefor.

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in Clause 83 I beg to move the deletion of sub-clause (b) and the substitution of the following sub-clause (b): "The warehouse shall cease to be a licensed warehouse unless re-licensed under this Ordinance."

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in Clause 179, second line, I beg to move the deletion of the words "one league" and the substitution of the words "three nautical miles" therefor.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, in Clause 210, subsection 2, I beg to move the deletion of the words "one league" and the substitution of the words "three nautical miles" therefor, and similar amendments in subsections 3 and 6.

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS: I beg to move that the Bill as amended be reported back to Council.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that a Bill intitled "The Customs Management Ordinance" has passed through Committee with certain amendments and is reported back to Council.

THE CUSTOMS MANAGEMENT BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that a Bill intitled "An Ordinance to Consolidate and Amend the Law Relating to Customs" be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

Council adjourned sine die.

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