

1927

No. 1056

SUBJECT

CO 533/372

Ancient monuments Preservation
Bill.

Previous

Subsequent J'low Decree
on 23005/28 26

2067/33

1927

KENYA

A. 10524

A. 10524

Ancient Monuments Preservation Bill

Previous

Makon
Deba
GAD
FEA.

2/2
3/4
17.

Subsequent Kenyan Decree
no. 2200/27/28.

3067/33

W.A. 22/11

E.A.D. 22/11

W.A. 22/11

Room 1 6/11

E.A.D. 6/11

M.A. 9/12

M.A. 9/12

M.A. 9/12

M.A. 15/12

FEA 15/12

W.A. 15/12

W.A. 22/11

Library (its note) 4/1

FEA 2/2

G.A.D. 2/2

1 ——— Gen Grigg ——— 29th October, 1927

Spare copies
to library

700
Enc. 3 copies of the Ancient Monuments Preservation Bill which passed its third reading on 16th Sept. Authenticated copies will follow in explanation, also enclosed three copies of Memorandum and three proof copies of Legis. Cl. Proceedings

Mr Allen
I await for a detailed decision, [sic] in regard to
[concern]

Edward 1121

We must await the rather heated

27/2/28 Copies - let keep in view Mr Allen

27/11

atance

K.D.

2 ——— Gen Grigg 755 ——— 10th Nov, 1927.

Spare copy
to library

Enc. two authenticated copies of the Ancient Monuments Preservation Order, 1927 (No. 17 of 1927), together with legal report by A. G. Printed copies will follow in due course

I suppose it is usual to have a clause

I had been told it
is usual to have
a clause
like no. 18

like no. 18 in Kenya

I refer to Mr Ehrhart's Order 19 of 1927

has been used in Kenya

(Edward)

4/1/28

~~DESTROYED~~

3 Jan 1928
Two 12 printed copies of Ordinance No
24 of 1924. The Ancient Monuments
Preservation Ordinance, 1924.

Spare copies to library.

9/1/28

J. Miller

1/2

1/2

1/1

~~DESTROYED~~

.....24th February 1928
Copy of Secretarial Circular No 19 of 1928.

1/1

1/1

1/1

(L.S.)

EDWARD GRIGG.

[22ND OCTOBER, 1927.]

No. XVII.

1927



Colony and Protectorate of Kenya.

IN THE EIGHTEENTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.

EDWARD WILLIAM MACLEAY GRIGG,
K.C.V.O., C.M.G., ESQ., M.C.,

Governor

[22ND OCTOBER, 1927.] Date of Assent.

An Ordinance to Provide for the Preservation of Ancient Monuments and Objects of Archaeo- logical, Historical or Artistic Interest.

22nd October, 1927

Date of
commencement

WHEREAS it is expedient to provide for the preservation of ancient monuments and antiquities, for the exercise of control over excavations in certain places, and for the protection and acquisition of ancient monuments and antiquities and of objects of archaeological, historical or artistic interest.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:

1. This Ordinance may be cited as "The Ancient Monuments Preservation Ordinance, 1927".

Short title

(2) A copy of every notice published under sub-section (1) of this section shall forthwith be posted in a conspicuous place on or near the monument or antiquity to which it relates.

(3) On the expiration of the said period of two months, the Governor, after considering the objections, if any, shall continue or withdraw the notice.

(4) A notice published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument or antiquity to which it relates is a protected monument or antiquity within the meaning of this Ordinance.

ANCIENT MONUMENTS

(1) The Government may, with the sanction of the Governor, acquire any property which is a protected monument or antiquity.

Acquisition of rights in or guardianship over monuments and antiquities

(2) The Government may, with the like sanction, accept a gift of any property which is a protected monument or antiquity.

(3) The owner of a protected monument or antiquity may, by a written instrument, constitute an Authority the guardian of such monument or antiquity, and an Authority may, with the sanction of the Government, accept such guardianship.

(4) When an Authority has accepted the guardianship of a monument or antiquity under sub-section (3) of this section, it shall, except as expressly provided in this Ordinance, have the same estate, right, title and interest in and to the monument or antiquity as if the Authority had not been constituted guardian thereof.

(5) When an Authority has accepted the guardianship of a monument or antiquity under sub-section (3) of this section, the provisions of this Ordinance relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.

(6) Where a protected monument or antiquity is without an Authority, the written sanction of the Governor, constituting the guardianship of such monument or antiquity

Preservation of
monuments and
antiquities by
agreement.

5. (1) An Authority may, with the sanction of the Governor, enter into a written agreement with the owner of any protected monument or antiquity for the protection or preservation of such monument or antiquity.

(2) An agreement under this section may provide for all or any of the following matters:—

- (a) The maintenance of the monument or antiquity;
 - (b) The custody of the monument or antiquity, and the duties of any person who may be employed in connection therewith;
 - (c) The restrictions of the owner's right to destroy, remove, alter or deface the monument or antiquity or to build on or near the site of the monument or antiquity;
 - (d) The facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Authority to inspect or to maintain the monument or antiquity;
 - (e) The notice to be given to the Authority in case the land on which the monument or antiquity is situated is offered for sale by the owner, and the right to be reserved to the Authority to purchase such land or any specified portion of such land at its market value;
 - (f) The payment of any expenses incurred by the owner or by the Authority in connection with the protection or preservation of the monument or antiquity;
 - (g) The procedure relating to the settlement of any dispute arising out of the agreement; and
 - (h) Any matter connected with the preservation of the monument or antiquity which is a proper subject of agreement between the owner and the Authority.
- (3) The terms of an agreement under this section may be altered from time to time with the sanction of the Governor and with the consent of the owner.
- (4) Subject to the sanction of the Governor, an Authority may terminate an agreement under this section on giving six months' notice in writing to the owner.
- (5) The owner may terminate an agreement under this section on giving six months' notice to the Authority.

(6) An agreement under this section shall be binding on any person claiming to be owner of the monument or antiquity to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(7) Any rights acquired by the Authority in respect of expenses incurred in protecting or preserving a monument or antiquity shall not be affected by the termination of an agreement under this section.

6. If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by the last preceding section.

Owners under
disability.

7. (1) If an Authority apprehends that the owner or occupier of a monument or antiquity intends to build on or near the site of any protected monument or antiquity in contravention of the terms of an agreement for its protection or preservation under section 5 of this Ordinance, the Authority may make an order prohibiting any such contravention of the agreement.

Enforcement
of agreement.

(2) If an owner or other person who is bound by an agreement for the protection, preservation or maintenance of a monument or antiquity under section 5 refuses to do any act which is in the opinion of the Authority necessary to such protection, preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Authority, the Authority may authorise any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner.

(3) A person aggrieved by an order made under this section may appeal to the Governor, who may cancel or modify it and whose decision shall be final.

8. (1) If the Governor apprehends that a protected monument or antiquity is in danger of being destroyed, injured or allowed to fall into decay, the Governor may proceed to acquire such monument or antiquity under the provisions of the Indian Land Acquisition Act, 1894, as if the preservation of a protected monument or antiquity were a "public purpose" within the meaning of that Act.

Compulsory
purchase of
monuments and
antiquities.

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

11. (1) A place of worship or tomb maintained by an Authority under this Ordinance shall not be used for any purpose inconsistent with its character.

Protection of places of worship, etc., from misuse, pollution or desecration.

(2) When an Authority has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest thereof, or has accepted the guardianship thereof, and such monument or any part thereof is periodically used for religious worship or observances by any community, the Authority shall make due provision for the protection of such monument or such part thereof from pollution or desecration—

- (a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used; or
- (b) by taking such other action as the Authority may think necessary in this behalf.

12. Subject to the sanction of the Governor, an Authority may—

Relinquishment of rights in a monument or antiquity.

- (a) where rights have been acquired by such Authority in respect of any monument or antiquity under this Ordinance by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument or antiquity if such rights had not been acquired; or
- (b) relinquish any guardianship which such Authority has accepted under this Ordinance.

13. Subject to such rules as may be made by the Governor in Council under section 19, the public shall have a right of access to any monument or antiquity maintained by an Authority under this Ordinance.

Right of access by public to protected monuments and antiquities.

Offences.

14. Any person who destroys, removes, injures, alters, defaces or imperils a protected monument or antiquity, and any owner or occupier who contravenes an order made under subsection (1) of section 7, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred pounds or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

EXCAVATIONS

Power of
Governor to
control
excavations

15. (1) If the Governor in Council is of opinion that an excavation within the limits of any area ought to be restricted or regulated for the purpose of protecting or preserving any monument or antiquity, the Governor in Council may make rules—

- (a) fixing the boundaries of the area to which the rules are to apply; and
- (b) prescribing the Authority by which, and the terms upon which, licences to excavate may be granted.

GENERAL

Assessment of
market value

16. The market value of any property which the Governor is empowered to purchase at such value under this Ordinance shall, where any dispute arises touching the amount of such market value, be ascertained in the manner provided by the Indian Land Acquisition Act, 1904, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable.

Exemption from
stamp duty

17. Any instrument executed under section 4 or section 5 of this Ordinance shall be exempt from stamp duty.

Protection of
public servants
acting under
the Ordinance

18. No suit for compensation and no criminal proceedings shall lie against any public servant or Authority in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Ordinance.

Power to
make rules

19. The Governor in Council may make rules for carrying out any of the purposes of this Ordinance.

Passed in the Legislative Council the sixteenth day of September in the year of Our Lord one thousand nine hundred and twenty-seven.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct printed copy of the said Bill.

G. R. SANDFORD,

Clerk of the Legislative Council.

2



GOVERNMENT HOUSE,
NAIROBI.
KENYA.

KENYA.

No. 733

AS.

RECEIVED
-5DEC1927
COL OF

10th November, 1927.

Sir,

I have the honour to refer to my Despatch No.700 of the 29th October, 1927, and to transmit herewith two authenticated copies of "An Ordinance to Provide for the Preservation of Ancient Monuments and Objects of Archaeological, Historical or Artistic Interest" - No.XVII of 1927, together with a copy of the Legal Report by the Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 16th day of September, 1927, and I assented to it in the name of His Majesty on the 22nd day of October, 1927.

3. Twelve printed copies of the Ordinance will be sent to you in due course.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Edward Gigg

GOVERNOR.

Ordinance.

Legal Report

No. 1

DEC 1927

Rec'd 10/11

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.B.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

LEGAL REPORT.

THE ANCIENT MONUMENTS PRESERVATION BILL, 1937.

In 1924 it was suggested that the question of the preservation of ancient monuments should be taken up and a circular was issued to Administrative Officers by Government. This invited suggestions for the due preservation and identification of such memorials as the graves of early explorers, officials and pioneers, old Government stations and evidences of earlier civilisations.

In 1925 the Acting Governor called attention to the state in which he found the graveyards during his tours and required a return of graves.

The aims of Government in introducing this Bill may be summarised as follows:-

(a) Ancient Ruins.

Ruins, ancient in the strict sense of the word, are only to be found on the Coast. There are, however, relics of stone-age dwellings in various parts of the country and these are probably more important in this Colony, one of the chief migration areas of Africa, than any other type of relic of the past. It is therefore in the interests of archaeology and of science that care should be taken of such memorials.

(b) Modern Ruins.

These are mainly old Government stations and the like and present no difficulty, a tablet is sufficient to commemorate them when desirable.

(c) Memorials.

(c) Memorials.

Under this head come such memorials as the Davall Memorial and Sir William Mackinnon's statue in Mombasa, the War Memorials in Nairobi and Muthaiga, memorial churches as the Boughton-Knight at Kisumu, memorial buildings as the Colonists Memorial Hall in Nairobi and the like. Here the State, apart from any trustees, has an interest in preservation and so legal provision must be made for preservation by the State in certain circumstances. It must also be recognised that in the later years it may be considered essential, as in the case of certain churches in the City of London to day, for the land or structure or both to be used for other purposes and so provision should be made for the State to be consulted before this is done.

(d) Graves and Graveyards.

This is a more complex matter. There are the graves of private persons and of officials, some on private land, some on Crown land and the others in Native Reserves. There are graveyards in Government stations, graveyards on private holdings and graveyards in municipal and town areas. There are graves unmarked which should be marked, there are graves marked and unmarked, which should be fenced. There are Christian graves, Mohammedan graves, idolatrous graves, and heathen graves. The State is scarcely concerned with the graves of other than celebrated individuals; it is, however, concerned with the establishment of graveyards as a measure of health. It is, therefore, of itself, or through its municipalities and other agents, concerned in the

preservation of graveyards and the memory of noted men. The Government apart from the State, is, of its charity, concerned with the preservation of the graves of its servants when their relatives fail or are not.

(c) Antiquities.

By this is meant such objects as the written Chronicles of Pate, the Horn of Shella, preserved now by the District Commissioner, Lamu; the old china plates set into various monuments on the Coast. In many cases relics as these have been pillaged or lost.

The Bill follows generally the lines of the Ancient Monuments Preservation Act, 1904, of India.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

W. J. ...

Nairobi,

21st October, 1927.

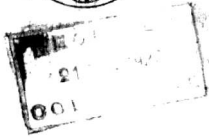
ATTORNEY GENERAL.

13 /



GOVERNMENT HOUSE
NAIROBI.
KENYA.

KENYA.
No 700



29th OCTOBER, 1927.

Sir,

I have the honour to transmit for your information three copies of the Ancient Monuments Preservation Bill which passed its third reading in Legislative Council on the 10th September. Authenticated copies will follow in due course.

I also enclose three copies of a memorandum in explanation of the measures which was published in the Official Gazette of the 7th June last together with three proof copies of the Legislative Council Proceedings of the 13th - 16th September. The relative speeches of the Colonial Secretary, Sir Edward Derham K.B.E., M.P., and the Liwali for the Coast, Sheik Ali bin Salim S. will be found on pages 326 - 330 and 350 - 355 of this pamphlet.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Edward Gigg

GOVERNOR.

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C., M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DORSET STREET,
LONDON S.W.



A BILL TO PROVIDE FOR THE PRESER-
VATION OF ANCIENT MONUMENTS AND
OBJECTS OF ARCHAEOLOGICAL, HISTORICAL
OR ARTISTIC INTEREST.

A Bill to Provide for the Preservation of Ancient Monuments and Objects of Archaeological, Historical or Artistic Interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments and antiquities, for the exercise of control over excavations in certain places, and for the protection and acquisition of ancient monuments and antiquities and of objects of archaeological, historical or artistic interest

BE IT THEREFORE ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows —

1. This Ordinance may be cited as "the Ancient Monuments Preservation Ordinance, 1927" Short title

2. In this Ordinance, unless the context otherwise requires— Interpretation

5 "Monument" means any structure, erection or memorial or any tumulus or place of interment, or any cave, rock sculpture, inscription or monolith, which is of archaeological, historical or artistic interest, or any remains thereof, and includes

10 (a) the site of monument;

(b) such portion of land adjoining the site of monument as may be required for fencing or covering in or otherwise preserving such monument; and

15 (c) the means of access to and convenient inspection of monument.

"Antiquity" includes any movable object which the Governor, by reason of its archaeological or historical associations, may think it necessary to protect against injury, removal or dispersion;

20 "Authority" includes all Senior Commissioners and any person or body of persons authorised by the Governor to perform the duties of an Authority under this Ordinance;

25 "Maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument or antiquity, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or antiquity or of securing convenient access thereto.

30 "Owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any agent or trustee exercising powers of management over a monument or antiquity, and the successor in title of any such owner and the successor in office of any such agent or trustee.

Provided that nothing in this Ordinance shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee

- (d) The facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner of the Authority to inspect or to maintain the monument or antiquity;
- 5 (e) The notice to be given to the Authority in case the land on which the monument or antiquity is situated is offered for sale by the owner, and the right to be reserved to the Authority to purchase such land or any specified portion of such land at its market value;
- 10 (f) The payment of any expenses incurred by the owner or by the Authority in connection with the protection or preservation of the monument or antiquity;
- (g) The procedure relating to the settlement of any dispute arising out of the agreement; and
- 15 (h) Any matter connected with the preservation of the monument or antiquity which is a proper subject of agreement between the owner and the Authority

(3) The terms of an agreement under this section may be altered from time to time with the sanction of the Governor and with the consent of the owner.

(4) Subject to the sanction of the Governor, an Authority may terminate an agreement under this section on giving six months' notice in writing to the owner.

(5) The owner may terminate an agreement under this section on giving six months' notice to the Authority

(6) An agreement under this section shall be binding on any person claiming to be owner of the monument or antiquity to which it relates, through or under a party by whom or on whose behalf the agreement was executed

(7) Any rights acquired by the Authority in respect of expense incurred in protecting or preserving a monument or antiquity shall not be affected by the termination of an agreement under this section

35 6. If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by the last preceding section. Owners under disability

40 7. (1) If an Authority apprehends that the owner or occupier of a monument or antiquity intends to build on or near the site of any protected monument or antiquity in contravention of the terms of an agreement for its protection or preservation under section 5 of this Ordinance, the Authority may make an order prohibiting any such contravention of the agreement. Enforcement of agreement

45 (2) If an owner or other person who is bound by an agreement for the protection, preservation or maintenance of a monument or antiquity under section 5 refuses to do any act which is in the opinion of the Authority necessary to such protection, preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Authority, the Authority may authorise any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner.

50 (3) A person aggrieved by an order made under this section may appeal to the Governor, who may cancel or modify it and whose decision shall be final.

religious worship or observances by any community, the Authority shall make due provision for the protection of such monument or such part thereof from pollution or desecration—

- 5 (a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used; or
- 10 (b) by taking such other action as the Authority may think necessary in this behalf.

12. Subject to the sanction of the Governor, an Authority may—

Relinquishment of rights in a monument or antiquity

- 15 (a) where rights have been acquired by such Authority in respect of any monument or antiquity under this Ordinance by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument or antiquity if such rights had not been acquired; or
- 20 (b) relinquish any guardianship which such Authority has accepted under this Ordinance.

13. Subject to such rules as may be made by the Governor in Council under section 19, the public shall have a right of access to any monument or antiquity maintained by an Authority under this Ordinance.

Right of access by public to protected monuments and antiquities

14. Any person who destroys, removes, injures, alters, defaces or imperils a protected monument or antiquity, and any owner or occupier who contravenes an order made under subsection (1) of section 7 shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred pounds or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

offences

EXCAVATIONS

15. (1) If the Governor in Council is of opinion that excavation within the limits of any area ought to be restricted or regulated for the purpose of protecting or preserving any monument or antiquity, the Governor in Council may make rules

Power of Governor to control excavations

- 40 (a) fixing the boundaries of the area to which the rules are to apply; and
- (b) prescribing the Authority by which, and the terms upon which, licences to excavate may be granted.

GENERAL

16. The market value of any property which the Governor is empowered to purchase at such value under this Ordinance shall, where any dispute arises touching the amount of such market value, be ascertained in the manner provided by the Indian Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 50, 47, 51 and 52, so far as they can be made applicable.

Assessment of market value

17. Any instrument executed under section 4 or section 5 of this Ordinance shall be exempt from stamp duty.

Exemption from stamp duty

18. No suit for compensation and no criminal proceedings shall lie against any public servant or Authority in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Ordinance.

19. The Governor in Council may make rules for carrying out any of the purposes of this Ordinance. 5

Memorandum upon the Ancient Monuments Preservation Bill, 1927.

1. In 1924 it was suggested that the question of the preservation of ancient monuments should be taken up and a circular was issued to Administrative Officers by Government. This invited suggestions for the due preservation and identification of such memorials as the graves of early explorers, officials and pioneers, old Government stations and evidences of earlier civilisations.

In 1925 the Acting Governor called attention to the state in which he found the graveyards during his tours and required a return of graves.

2. The aims of Government in introducing this Bill may be summarised as follows:

(a) Ancient Ruins

Ruins, ancient in the strict sense of the word, are only to be found on the Coast. There are, however, relics of stone-age dwellings in various parts of the country and these are probably more important in this Colony, one of the chief migration areas of Africa, than any other type of relic of the past. It is therefore in the interests of archaeology and of science that care should be taken of such memorials.

(b) Modern Ruins

These are mainly old Government stations and the like and present no difficulty; a tablet is sufficient to commemorate them when desirable.

(c) Memorials

Under this head come such memorials as the Wavell Memorial and Sir William Mackinnon's statue in Mombasa, the War Memorials in Nairobi and Muthaiga, memorial churches as the Brighton Knights at Kisumu, memorial buildings as the Colonial War Memorial in Nairobi and the like. Here the State, apart from any trustee, has an interest in preservation and special provision must be made for preservation by the State in certain circumstances. It must also be recognised that in the latter years it may be considered essential, as in the case of certain churches in the City of London to-day, for the land or structure or both to be used for other purposes and so provision should be made for the State to be consulted before this is done.

(d) Graves and Graveyards

This is a more complex matter. There are the graves of private persons and of officials, some on private land, some on Crown land and the others in Native Reserves. There are graveyards in Government stations, graveyards on private holdings and graveyards in municipal and town areas. There are graves unmarked which should be marked. There are graves

marked and unmarked, which should be tended. There are Christian graves, Mohamedan graves, idolatrous graves, and heathen graves. The State is scarcely concerned with the graves of other than celebrated individuals. It is, however, concerned with the establishment of graveyards as a measure of health. It is, therefore, of itself, or through its municipalities and other agents, concerned in the preservation of graveyards and the memory of noted men. The Government apart from the State, is, of its charity, concerned with the preservation of the graves of its servants when their relatives fail or are not.

(e) Antiquities.

By this is meant such objects as the written Chronicles of Pate, the Horn of Shella, preserved now by the District Commissioner, Lamu; the old china plates set into various monuments on the Coast. In many cases relics as these have been pillaged or lost.

3. In accepting the foregoing, Government, in the Ancient Monuments Preservation Bill, 1927, has followed the scheme of the Indian Act No. VII of 1904. This Act was the late Marquess Curzon's especial care and it has already abundantly justified its enactment in India.



THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE OF KENYA.

Published under the Authority of His Excellency the Governor of the
Colony and Protectorate of Kenya.

Vol XXIX - No 1144

NAIROBI, June 7, 1927

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Published every Tuesday.

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GOVERNMENT NOTICE No. 308

ARRIVALS

Name	Rank	From leave or Appointment	Date of leaving England	Date of Embarkation	Date of arrival at K.M.S.M.
L. Myers	Chief Agricultural Dept.	Leave	26th April, 1927	do	do
F. T. O'Mahony	Stock Inspector, Veterinary	do	do	do	do
G. W. Chaddy	Ass. Master, Education	1st appn.	do	do	do
L. J. P. Hoyle	Subaltern, 3rd K. A. R.	Leave	2nd May, 1927	5th May, 1927	do
Lt. R. D. Neville	Subaltern, 3rd K. A. R.	do	26th April, 1927	do	do
W. A. Pickering	Chief, Agricultural Dept.	do	do	do	do
H. J. Vernon	Stock Inspector, Veterinary	do	do	do	do
Capt. M. O. C. Thom	Supdt. of Police	do	do	do	do
H. J. Gray	Asst. Secy. Veterinary	do	do	do	do
E. P. Platts	Cadet, Administrative Service	1st appn.	do	do	do
F. Plendenleah	Driver, K. & U. Coy.	Leave	26th April, 1927	26th April, 1927	do
T. A. Robinson	Attache, British K. & U. Coy.	do	6th May, 1927	6th May, 1927	do
P. G. Turbutt	do	do	26th April, 1927	26th April, 1927	do
W. Lee	do	do	26th April, 1927	26th April, 1927	do
R. A. Lawson	Asst. Supdt. K. & U. Coy.	do	26th April, 1927	26th April, 1927	do

Date of leaving Marseilles

DEPARTURES

Name	Rank	On leave or termination of appointment	Date of Departure
Capt. R. F. Reinhard	Supdt. of Police	Leave	26th May, 1927
Miss I. Hoin	Secy. Treasury	do	do
Miss E. Matthews	Secy. Land Dept.	do	do
Miss M. A. P. H.	Director of Agriculture	do	do
Miss M. C. W. G.	Secy. of Native Affairs Dept.	do	do
Lt. Col. J. H. G.	Subaltern, 3rd K. A. R.	do	do
J. Deberry	Government Land Agent	do	do
H. F. W. Turner	Government Agent, K. & U. Coy.	do	do

APPOINTMENTS

Ernest Harrison M.B.E., B.Sc., B.A., to be Acting Director of Agriculture with effect from the 24th May 1927.

John Fyfe MacLellan, to be Acting Superintendent of Customs and Excise with effect from the 1st April, 1927.

Alexander Mackenzie Hunter, to be Statistical Officer (Department of Agriculture) with effect from 17th December, 1926.

MAGISTRATES' WARRANTS

John Henry MacLellan, to be a Magistrate of the Second Class with power to hold a Subordinate Court of the Second Class within the Trans-Nzoia District, whilst holding the present appointment as Assistant Resident Commissioner Trans-Nzoia, with effect from 26th May 1927.

CORRIGENDUM

Government Notice No. 267, Official Gazette of 28th May, 1927, in respect of appointments, is hereby corrected as follows:—
P. L. Boyles, to be 14th May, 1927, read 14th Mar

J. E. S. MERRICK,
for Acting Colonial Secretary

Colony and Protectorate of Kenya.

GOVERNMENT NOTICE No. 309

HIS EXCELLENCY the Acting Governor has approved of the following Bill being introduced into Legislative Council—

G. E. SANDFORD,
Clerk to the Legislative Council.

A Bill to Provide for the Preservation of Ancient Monuments and Objects of Archaeological, Historical or Artistic Interest.

WHEREAS it is expedient to provide for the preservation of ancient monuments and antiquities, for the exercise of control over excavations in certain places, and for the protection and acquisition of ancient monuments and antiquities and of objects of archaeological, historical or artistic interest.

BE IT THEREFORE ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "The Ancient Monuments Preservation Ordinance, 1927."

2. In this Ordinance, unless the context otherwise requires—

5 "Monument" means any structure, erection or memorial, or any tumulus or place of interment, or any cave, rock sculpture, inscription or monolith, which is of archaeological, historical or artistic interest, or any remains thereof, and

10 (a) the site of monument,

(b) such portion of land adjoining the site of monument as may be required for fencing or covering in or otherwise preserving such monument; and

(c) the means of access to and convenient inspection of monument;

15 "Antiquity" includes any movable object which the Governor, by reason of its archaeological or historical associations, may think it necessary to protect against injury, removal or dispersion;

20 "Authority" includes all Senior Commissioners and any person or body of persons authorised by the Governor to perform the duties of an Authority under this Ordinance;

"Maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument or antiquity, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or antiquity or of securing convenient access thereto;

25 "Owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any agent or trustee exercising powers of management over a monument or antiquity, and the successor in title of any such owner and the successor in office of any such agent or trustee;

30 Provided that nothing in this Ordinance shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

(d) The facilities of access to be permitted to the public or any portion of the public and to persons admitted by the owner or the Authority to inspect or maintain the monument or antiquity;

(e) The power to be given to the Authority in case the land on which the monument or antiquity is situated is offered for sale by the owner, and the right to be reserved to the Authority to purchase such land or any specified portion of such land at its market value;

(f) The payment of any expenses incurred by the owner or by the Authority in connection with the protection or preservation of the monument or antiquity;

(g) The procedure relating to the settlement of any dispute arising out of the agreement; and

(h) Any matter connected with the preservation of the monument or antiquity which is a proper subject of agreement between the owner and the Authority.

(3) The terms of an agreement under this section may be altered from time to time with the sanction of the Governor and with the consent of the owner.

(4) Subject to the sanction of the Governor, an Authority may terminate an agreement under this section on giving six months' notice in writing to the owner.

(5) The owner may terminate an agreement under this section on giving six months' notice to the Authority.

(6) An agreement under this section shall be binding on any person claiming to be owner of the monument or antiquity to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(7) Any rights acquired by the Authority in respect of expenses incurred in protecting or preserving a monument or antiquity shall not be affected by the termination of an agreement under this section.

8. If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by the last preceding section.

Owners under disability

9. (1) If an Authority apprehends that the owner or occupier of a monument or antiquity intends to build on or near the site of any protected monument or antiquity in contravention of the terms of an agreement for its protection or preservation under section 5 of this Ordinance, the Authority may make an order prohibiting any such contravention of the agreement.

Enforcement of agreement

(2) If an owner or other person who is bound by an agreement for the protection, preservation or maintenance of a monument or antiquity under section 5 refuses to do any act which is in the opinion of the Authority necessary to such protection, preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Authority, the Authority may authorise any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner.

(3) A person aggrieved by an order made under this section may appeal to the Governor, who may cancel or modify it and whose decision shall be final.

religious worship or otherwise by any community, the Authority shall make due provision for the protection of such monument or such part thereof from pollution or desecration—

- 5 (a) by establishing the entry therein, except in accordance with conditions prescribed with the concurrence of the Government, a fence, or other means for the protection of such monument or any person not entitled as to enter by the religious usages of the community by which the monument or part thereof is used; or
- 10 (b) by taking such other action as the Authority may think necessary in this behalf.

12. Subject to the sanction of the Governor, any Authority may—

Relinquishment of rights in a monument or antiquity.

- 15 (a) where rights have been acquired by such Authority in respect of any monument or antiquity under this Ordinance by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument or antiquity if such rights had not been acquired; or
- 20 (b) relinquish any guardianship which such Authority has accepted under this Ordinance.

13. Subject to such rules as may be made by the Governor in Council under section 19, the public shall have a right of access to any monument or antiquity maintained by an Authority under this Ordinance.

Right of access by public to protected monuments and antiquities.

14. Any person who destroys, removes, injures, alters, defaces or imperils a protected monument or antiquity, and any owner or occupier who contravenes an order made under subsection (1) of section 7, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred pounds or to imprisonment of either description for any term not exceeding six months or to both such fine and imprisonment.

Offences.

EXCAVATIONS.

15. (1) If the Governor in Council is of opinion that excavation within the limits of any area ought to be restricted or regulated for the purpose of protecting or preserving any monument or antiquity, the Governor in Council may make rules—

Power of Governor to control excavations.

- 40 (a) fixing the boundaries of the area to which the rules are to apply; and
- (b) prescribing the Authority by which, and the terms upon which, licences to excavate may be granted.

GENERAL.

16. The market value of any property which the Governor is empowered to purchase at such value under this Ordinance shall, where any dispute arises touching the amount of such market value, be ascertained in the manner provided by the Indian Land Acquisition Act, 1894, sections 3, 4 to 24, 43 to 47, 51 and 52, so far as they can be made applicable.

Assessment of market value.

17. Any instrument executed under section 4 or section 5 of this Ordinance shall be exempt from stamp duty.

Exemption from stamp duty.

and unmarked, which should be tended. There are Christian graves, Mohamedan graves, idolatrous graves, and heathen graves. The State is especially concerned with the graves of other than celebrated individuals; it is, however, concerned with the establishment of graveyards as a measure of health. It is, therefore, of itself, or through its municipalities and other agents, concerned in the preservation of graveyards and the memory of noted men. The Government apart from the State, is, of its charity, concerned with the preservation of the graves of its servants when their relatives fail or are not.

(c) *Antiquities.*

By this is meant such objects as the written Chronicles of Pate, the Horn of Shella, preserved now by the District Commissioner, Lamu, the old china plates set into various monuments on the Coast. In many cases relics as these have been pillaged or lost.

3. In accepting the foregoing, Government, in the Ancient Monuments Preservation Bill, 1927, has followed the scheme of the Indian Act No. VII of 1904. This Act was the late Marquess Curzon's especial care and it has already abundantly justified its enactment in India.

4. The following is a brief account of some of the monuments, etc., which may come within the terms of the Ordinance, there are other instances and when necessary they will, no doubt, be brought to the attention of Government.

KIKUYU PROVINCE

(a) Fort Hall Old Station.

b. Dick's grave in the Kedong Valley

The story of Dick is that he was a hunter and met a party of Masai taking their vengeance in 1896 on a caravan of Government porters proceeding to Mombasa. The caravan had molested Masai girls. Dick and some 600 porters were killed by the Masai and their Laiton, as a result of the manner in which the massacre was dealt with by Mr. (afterwards Sir) Frederick Jackson, swore an unbroken loyalty to the British Government. A cross has been set up over his grave by the League of Mercy.

(c) Graveyard at Fort Smith.

Fort Smith was a famous station in the caravan days. There is a small graveyard there, containing the remains of Captain A. J. Haslam, Army Veterinary Department, killed by Akikuyu in 1898; W. A. Harrison, died of lion wounds in 1898; Captain Nelson, Collector at Fort Smith in 1898; Captain Ibrahim Effendi; a Goan, killed on the Uganda Railway during construction; a child of a Mr. and Mrs. Brinker and an unknown grave.

(d) Graveyard at Fort Hall.

This contains fourteen graves; most of these are of Government servants, one is of Captain F. G. Hall who founded this station.

(b) Grave of Mr. D. C. Crofts near Kitale.
Mr. Crofts (Government Surveyor, died in 1912; the
grave is permanently marked.

ELDORET DISTRICT.

Graveyard at Eldoret.
There are forty-four graves.

NYANZA PROVINCE.

- (a) Graveyard at Mumias.
It contains the remains of E. W. Hemmant, O.B.E.,
District Commissioner; Captain M. H. Fraser,
Assistant District Commissioner; O. P. Abreu,
P. de la Cherois, District Commissioner; N. de L.
Davis, Assistant District Commissioner.
- (b) Grave of Company-Sergeant-Major H. Cox, Royal
Engineers.
This surveyor died of Kapsimo in Nandi in 1905; the
grave is permanently marked.
- (c) Grave of Dr. Sherlock, near Lumbwa.
Dr. Sherlock was killed by Lumbwa during the first
Nandi Expedition. He is thought to have been
buried near Chemutan Sati Lick.
- (d) Graveyard at Kisii.
This contains five graves and amongst them those of
Dr. Baker, in charge of the sleeping sickness area,
and Captain Thornycroft, 4th King's African Rifles,
killed in action.
- (e) Graveyard at Old Kisumu.
There appear to be one hundred and fifteen graves of
which fifty-three are known.
- (f) Graveyard at Londiani.
There are seven unknown graves.
- (g) Graves at Kibigori.
There are two graves dating from 1901.

COAST PROVINCE.

- (a) Wasin Ruins.
This was the old headquarters of the Vunba Sultans
from about 1700; there are relics of a still earlier
settlement.
- (b) Tombs at Shiraz.
This settlement was built by Persians under Ngao
Mkun (evidently a nickname) in 1804. It was
sacked in 1814.
- (c) Ruins at Msambweni.
This settlement is said to have been built by Persians
under Msambwa (perhaps a nickname) about
1800. It was sacked in 1818.
- (d) Ruins of Guba.
This settlement is said to have been built by Arabs
at an early date.
- (e) Fort on Manda Island.
This is an Arab-Portuguese ruin.

(a.1) Graveyard at Old Jilore Mission.

This contains four graves of missionaries between 1897 and 1898.

(a.2) Graveyard at Malindi.

This contains two graves, one of J. Bell Smith who is said to have been murdered by an Arab when in charge of the station.

(a.3) Graveyard at Kilimani.

This contains the bodies of Captain F. E. Lawrence killed in action 1895, and of E. J. H. Russell, District Officer, 1900.

(d.1) Graveyard at Makongani.

This contains the graves of Captain A. J. B. Weyland, and of Lieutenant J. L. Mackintosh, of the Arab Rifles, both killed in action in 1916.

(e.1) Graveyard at Takaungu.

This contains two graves.

(f.1) Graveyard at Ribe.

This contains the memorials of Charles New, 1875; E. Butterworth, 1864; T. Carthew, 1895; J. H. Martin, 1879; Rebecca Wakefield, 1873; C. Chowne, Royal Marine Light Infantry, 1895. Charles New was a famous missionary and his book is still the most reliable on the Tana River area; T. Carthew was Chaplain to the Forces in Mbaruki's Rebellion; C. Chowne's body is said to be buried near Chengoni, he was an officer on H.M.S. "Phoebe" and was killed.

(g.1) Graveyard at Mwarabaya Nyundu.

This contains the bodies of two missionaries.

(h.1) Graveyard at Rabai.

This contains the graves of Caroline Fitch, 1891; D. B. Remington, 1875; H. M. Sparshott, a child, 1868.

(i.1) Graveyard at Cha Ngombe.

This contains the graves of Elizabeth Burness, 1896, and Elizabeth Coxon, 1898.

(j.1) Graves of Lieutenant Reitz and Interpreter Phillips at Mombasa.

H.M.S. "Barracouta" arrived at Mombasa on the 4th December, 1823, and Captain Vidal was requested by the people of Mombasa to declare a Protectorate. He referred the matter to his senior officer, Captain Owen of H.M.S. "Leven" who appointed Lieutenant J. J. Reitz Commandant at Mombasa pending further orders. Lieutenant Reitz died on the 20th May, 1824, aged 25 years and was buried on the altar site of the old Portuguese Cathedral of Nossa Senhora das Mercês. There is now a house on the spot and hardly any trace of the Cathedral. Interpreter Phillips also died about the same time at Mombasa. The provisional Protectorate was not upheld, but Lieutenant Reitz was the first British representative in Eastern Africa.

GOVERNMENT NOTICE No. 313

THE REGISTRATION OF TRADE MARKS
ACT, 1906.

TRADE MARKS RENEWED.

Trade Mark Number.	Advertised in the Official Gazette.	Name of Applicant.	Class.
14/13	1-6-13	1st. Schmidt & Company also, trading as Schmidt & Haier.	39

Nairobi,
1st June, 1927.

W. M. KEATINGE,
Registrar of Trade Marks.

GENERAL NOTICE No. 322

THE DISEASES OF ANIMALS ORDINANCE.

The provisions of the powers conferred upon me by Rules Nos. 43 and 55 of the Diseases of Animals Rules, 1905, I hereby appoint the persons named hereunder to be Honorary District Inspectors for the purposes of the said rules:—

P. G. Thorne, Esq., P. O. Rongai.
T. B. Aggel, Esq., Gilgit Hotel, Gilgit.
H. McIntyre, Esq., Forest Dept., Londiani.

Nairobi,
31st day of May, 1927.

H. H. BRASSEY EDWARDS,
for Chief Veterinary Officer.

GENERAL NOTICE No. 405

NOTICE.

SESSIONS of His Majesty's Supreme Court of Kenya will be held at the places and on the dates hereinafter set out:—

CAUSE LIST.

NYERI, 23RD JUNE, 1927.

Objections to the list of Jurors and Assessors.
Criminal Case No. 62/27. Rex vs. Aden Kamul.

MERU, 27TH JUNE, 1927.

Criminal Case No. 47/27. Rex vs. M'Karechia s/o Kitunga.

FORT HALL, 20TH JUNE, 1927.

Criminal Case No. 68/27. N.Y. 718661. Wanjau wa Kiguu.
" " 67/27. Rex vs. Njenge wa Njuguna.
" " 75/27. Rex vs. (1) Gatumbi wa Wanganga, (2) Wanganga wa Gatumbi.
" " 76/27. Rex vs. F.H. 0680364 Mulundi wa Nzoko.

Nairobi,
2nd May, 1927.

D. EDWARDS,
Registrar,
H. M. Supreme Court of Kenya.

GENERAL NOTICE No. 463.

RASTLEIGH TOWNSHIP.

SALE OF PLOTS.

THE undermentioned plots situated in Eastleigh Township have been attached on account of the non-payment of township rates levied under the Eastleigh Township Assessment and Rating Rules, 1923, and will be offered for sale by public auction by the Court Clerk, Mr. C. Donovan, at his office in Standard Street, Nairobi, on Monday, June 18th at 10 a.m.

Plot No.	Section.	Registered Owner.	Land Registry Reference.
416	I	Abubakar s/o Sugahili	Vol. No. N.17, folio 28.
417	I	do	Vol. No. N.17, folio 28.

Nairobi,
14th May, 1927.

W. W. RIDOUT,
Superintendent, Suburban Areas.

GENERAL NOTICE No. 329

HIS MAJESTY'S COURT OF APPEAL FOR EASTERN AFRICA.

The next Sessions of His Majesty's Court of Appeal for Eastern Africa, have been fixed to be held at Mombasa, and to commence, on Monday, the 13th day of June, 1927, at 10 a.m. or as soon thereafter as cases can be heard.

To ensure cases being set down for hearing at these sessions the records should be received by the Registrar, His Majesty's Court of Appeal for Eastern Africa, at Nairobi, on or before the 28th day of May, 1927.

Nairobi,
31st March, 1927.

D. EDWARDS,
Registrar.

H. M. Court of Appeal for Eastern Africa

CAUSE LIST

FOR HEARING ON THE 13TH DAY OF JUNE, 1927, AT M. MBSA.

Appeal No.	Civil or Criminal	Appellant	Respondent	Original No. of Case	Appeal from
1 of 1927	Criminal	Karibe wa Kando	Rex	Cr. Case No. 135/26	H. M. Supreme Court of Kenya sittings held at Malindi
2 of 1927	Civil	Peter A. Ochieng	Rex	Cr. Case No. 2/27	H. M. High Court of Tanganyika at Lushoto.
3 of 1927	Civil	Lawrence Ochieng	Rex	Cr. Case No. 127/26	H. M. Supreme Court of Kenya, sittings held at Kakamega.
4 of 1927	Civil	James M. Ochieng	Rex	Cr. Appeal No. 20/27	H. M. High Court of Uganda at Kampala
5 of 1927	Civil	James M. Ochieng	Rex	Cr. Case No. 45/27	H. M. Supreme Court of Kenya, sittings held at Malindi
6 of 1927	Civil	James M. Ochieng	Rex	Cr. Case No. 47/27	H. M. High Court of Uganda sessions held at Kampala (Application for leave to appeal out of time)
7 of 1927	Civil	Thompson & Sons	Sheriff & Sons	Civil Case No. 39/26	H. M. Supreme Court of Kenya at Mombasa (Application for leave to appeal to Privy Council against the judgment of the Court of Appeal by Respondent)
8 of 1927	Civil	Thompson & Sons	Sheriff & Sons	Civil Case No. 28/26	H. M. High Court of Uganda at Kampala (Application for leave to appeal to Privy Council against the judgment of the Court of Appeal by Respondent)
9 of 1927	Civil	James M. Ochieng	H. E. Harter	Civil Case No. 43/26	H. M. Supreme Court of Kenya, Nairobi
10 of 1927	Civil	Societa Coloniale Italiana	Societa Coloniale Italiana	Civil Case No. 182/26	H. B. M. Court of Zanzibar.
11 of 1927	Civil	Chaturbhai Kushal-bhai, Joint Receiver in the Insolvent Estate of E. A. Produce Company	The National Bank of India Limited	Civil Case No. 236/26	H. M. Supreme Court of Kenya, Nairobi.
12 of 1927	Civil	T. P. de Brito	A. F. Bartlett	Civil Case No. 173/26	do.
13 of 1927	Civil	J. S. Standish as Receiver of Anibhai and Rehmatulla, Insolvents	The African Mercantile Company Ltd	Civil Case No. 173/26	do.
14 of 1927	Civil	Hari Behar and another	William Segar Bastard	Civil Appeal No. 47/26	H. M. Supreme Court of Kenya at Nairobi
15 of 1927	Civil	Jenabai binti Bandate	Abdulla Hasham Ganga	P & A Cause No. 47/26	H. M. High Court of Tanganyika at Dar-es-Salaam.
16 of 1927	Civil	Frank Ernest Bowman	Abdul Roman	Civil Case No. 39/26	do.

CAUSE LIST—(Contd.)

Appeal No.	Civil or Criminal	Appellant	Respondent	Original No. of Case	Appeal from
7 of 1927	Civil	Societa Coloniale Italiana	Colomanno Gregory D'arbela	Civil Case No. 133/26	H. M. High Court of Uganda at Kampala.
8 of 1927	"	Chaturbhai Kushal-bhai, Joint Receiver in the Insolvent Estate of E. A. Produce Company	The National Bank of India Limited	Ins. Cause No. 7/24	H. M. Supreme Court of Kenya at Nairobi
9 of 1927	"	T. P. de Brito	A. F. Bartlett	Civil Case No. 228/26	do.
10 of 1927	"	J. S. Standish as Receiver of Anibhai and Rehmatulla, Insolvents	The African Mercantile Company Ltd	Civil Case No. 25/27	H. M. Supreme Court of Kenya at Mombasa
11 of 1927	"	Hari Behar and another	William Segar Bastard	Civil Case No. 124/26	H. M. Supreme Court of Kenya at Nairobi
12 of 1927	"	Jenabai binti Bandate	Abdulla Hasham Ganga	Civil Case No. 52/25	H. B. M. High Court at Zanzibar
13 of 1927	"	Frank Ernest Bowman	Abdul Roman	Civil Case No. 1/27	H. M. Supreme Court of Kenya in the D. R. at Eldoret.

GENERAL NOTICE No. 520

IN HIS MAJESTY'S SUPREME COURT OF KENYA AT NAIROBI.

INSOLVENCY JURISDICTION.

(Case No. 80 of 1919)

IN THE MATTER OF GILIAN NABI AND MOHAMED D. DIBLOO AS COLONIAL TRUSTEES IN COMPANY INSOLVENTS.

To all whom it may concern.

TAKE NOTICE that Gilian Nabi and Mohamed D. Dibloo carrying on business under the name of Colonial Carriage Construction Company at Nairobi in the Colony and Protectorate of Kenya, the above named persons, have applied to this Court for the discharge and that this Court has fixed the 17th day of June, 1927, at 10.30 a.m. for hearing of the petition.

Dated this 2nd day of June, 1927.

R. A. SHAW

Acting Deputy Registrar,
H. M. Supreme Court of Kenya.

GENERAL NOTICE No. 521

IN HIS MAJESTY'S SUPREME COURT OF KENYA AT NAIROBI.

PROBATE AND ADMINISTRATION.

(Case No. 37 of 1927)

NOTICE OF APPLICATION FOR ADMINISTRATION OF ESTATE OF VALABAI KERNANI, LATE OF NAIROBI, DECEASED.

TAKE NOTICE that application having been made to this Court by Sankubai, widow of the deceased, of Nairobi, for the administration of the estate of Valabai KERNANI, who died at Nairobi on the 17th day of May, 1927, this Court will proceed to make a decree in the same unless cause be shown to the contrary and appearance in this regard entered on or before the 23rd day of June, 1927.

Nairobi,
2nd May, 1927.

JOSEPH SHERIDAN
Judge.

GENERAL NOTICE No. 525.

PROBATE AND ADMINISTRATION.

JEREMIAH THOMAS' CASE No. 58 of 1927.

IN THE MATTER OF F. DE SILVA DECEASED.

To all whom it may concern.

TAKE NOTICE that all persons having any claims against the estate of the above named F. DE SILVA who died at Mombasa on the 4th day of May, 1927, are required to file a copy of their claims in form of a schedule filed on or before the 7th day of August, 1927, after which date no claims allowed will be paid and the estate distributed according to law.

Dated this 2nd day of June, 1927.

W. M. KEATINGE

W. M. KEATINGE
Public Trustee.

GENERAL NOTICE No. 526.

PROBATE AND ADMINISTRATION.

JEREMIAH THOMAS' CASE No. 58 of 1927.

IN THE MATTER OF MARY PEARCE, LATE KWAME DECEASED.

To all whom it may concern.

TAKE NOTICE that on or after the 21st day of June, 1927, I intend to apply to the Supreme Court of Kenya at Nairobi for authority to administer the estate of the above named MARY PEARCE, late KWAME, who died at Mombasa on the 25th day of May, 1927.

Nairobi,

2nd June, 1927.

W. M. KEATINGE
Public Trustee.

GENERAL NOTICE No. 423

ISSUES OF LICENCES ISSUED AT EMBU UNDER THE TRADERS LICENSING
ORDINANCE (No. 25 of 1919).

For the Quarter ended 31st March, 1927.

LICENSEE	Nature of Licence.	Licence Fee Shillings	Date of Issue
Hassein Ibrahim	Trading	30	8-1-27
Aud bin Abdalla	"	30	8-1-27
Osmann Yakub & Co.	"	300	8-1-27
Osmann Yakub & Co.	"	30	8-1-27
G. J. Patel	"	30	8-1-27
G. J. Patel	"	300	8-1-27
Wilinjuno Mugo	"	30	4-1-27
Samsou wa Kirura	"	30	6-1-27
Moolraj Amoram	"	30	14-1-27
Amrao Singh	"	30	14-1-27
Amrao Singh	"	30	14-1-27
Jeichand Masodi	"	30	14-1-27
Laxman Singh	"	30	17-1-27
Laxman Singh	"	30	17-1-27
Dhanji Ramji	"	30	17-1-27
Alla Din Gotra	"	30	18-1-27
Jivraj Aulechand, Dhanji Ramji	"	30	24-1-27
Dhanji Ramji	"	30	24-1-27
Shah Karsandass & Dhanji	"	30	24-1-27
Dheri wa Kituru, EBU 775393	Hawker's	10	25-1-27
Kabunya wa Keriru	"	10	27-1-27
Kilamutra wa Kirugu	"	10	28-1-27
Aud bin Abdalla	Trading	300	7-2-27
Kirera wa Ruere	Hawker's	10	10-2-27
Mutuamega wa Kurenya	"	10	11-2-27
Enosh s/o Kakendia	Trading	10	28-2-27
Kirera wa Ruere	Hawker's	10	11-3-27
Mutuamega wa Kurenya	"	10	12-3-27
Marigi wa Njero	Trading	10	24-3-27
Abdulla bin Keragusa	Hawker's	10	25-3-27
G J Patel	Trading	30	29-3-27

RETURNS OF LICENCES ISSUED AT KIGOMA UNDER THE TRADERS LICENSING
ORDINANCE (No. 25 of 1919).

For the Quarter ended 31st March, 1927.

LICENSEE	Nature of Licence	Licence Fee Shillings	Date of Issue
Hainis Juma	Trading	10	3-1-27
Mohomed Abed	"	10	3-1-27
Awad bin Ahmed	"	10	3-1-27
Issa Haddid	"	10	3-1-27
Jama Abdelh	"	10	3-1-27
Abdulaj Ahmed	"	10	3-4-27
Mwanzi Simba bin Juma	"	10	3-1-27
Ibrahim bin Hassan	"	10	8-1-27

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COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL
DEBATES

SEPTEMBER, 15 and 16, 1927.

UNCORRECTED PROOFS

Hon. Members are asked to notify the Clerk within seven days of any corrections they may desire to have inserted in their own speeches.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI.

TUESDAY, 13th SEPTEMBER, 1927.

The Council assembled at 10 a.m., on the 13th September, 1927, at the Supreme Court, Mombasa, His Excellency the Governor (SIR EDWARD W. M. GRIGG, K.C.V.O., C.M.G., D.S.O., M.C.) presiding

HIS EXCELLENCY opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

RAM SINGH NEHRA, Nominated Indian Member

MINUTES.

The Minutes of the Meeting of 31st August, 1927, were confirmed.

PAPER LAID ON THE TABLE.

BY THE HON. THE COLONIAL SECRETARY (SIR EDWARD BUSHAM)

The Second Supplementary Estimates, 1927

NOTICE OF MOTIONS

CAPTAIN THE HON. E. M. V. KENBLY. I beg to give notice of the following motions:

1. That Government quarterly lay on the table of the House a statement showing:—

(1) Crown Land transactions pending;

(2) Crown Land transactions completed.

2. That Government give instructions for an immediate economic survey of the country north of Nanyuki River with a view to the immediate extension of the Nyero Railway to Nanyuki—a distance of 15 miles.

3. That Government appoint a Committee of this House to make recommendations concerning water legislation and control.

LORD C. THE HON. J. G. KIRKWOOD. I beg to give notice of the following motions:

1. That this Council recommends a Committee be appointed to revise and amend the present Land Laws and favourably consider that

(a) Payment should be extended over a period of 25 years.

monuments of recognized interest, and to enable all such monuments and antiquities to be protected and, if necessary, acquired. The definition of a "monument" covers all objects of archaeological, historic or artistic interest, including structures, memorials, tomb stones, caves, remains of ruins, etc. Any of these objects may be declared by the Governor, by notice in the Gazette, to be a protected monument. Provision is made to enable any objections to such protection being lodged within two months of the notice.

The effect of the Gazette notice will be to bring the monument within the provisions of the Ordinance and the effect of the Ordinance will be to prevent any such monument being destroyed, tampered with, or in any way damaged, and places it under the guardianship of the State. Power is given to the Government if necessary to purchase compulsorily any such monument or antiquity if it is found necessary to take such action.

It also provides regulations for Government control and supervision of excavations which are being made in respect of monuments which come within the provisions of this Ordinance.

The Ordinance is based on legislation which was introduced in India by the late Lord Curzon. It is a form of legislation which most countries have now adopted and which many must have regretted they had not introduced earlier.

It gives me special pleasure to move the second reading of this Ordinance here in Mombasa. Mombasa, as Burton described it "That indomitable village, whose history is that of the whole East African coast. Burnt three times to the ground, and twice she succeeded in massacring an enemy whom she had failed to expel." Under the shadow of one of the most ancient forts in this part of the great continent and at the headquarters of a coast province whose historical records go back many hundreds of years, it is particularly appropriate that this Ordinance should pass through its stages amidst these surroundings.

Many of you here, no doubt, have studied the history of the Coast and the numerous vicissitudes of the land of Zinj. The record is one of much bloodshed and many invasions. Persians, Arabs, Europeans, have all played their part in its history and it is somewhat surprising that any monument should be left when one reads a story in which wholesale slaughter, conflagrations, pillages, sacking and razing of towns form the principal features. Yet there are within an easy distance of the place where we are now sitting many most interesting remains of ancient days. We are inclined to talk so much of Kenya as the youngest Colony in the British Empire, to lay stress on our youth and virility, that we are perhaps apt to be forgetful of the fact that other civilizations

this Bill be referred to a select committee. If the hon. Member wishes to raise the question of the principle of government of holidays or to propose a change, I would suggest he put forward a motion to this effect which can be considered later. This Bill stands by itself and it is a day which I think all will agree should be a statutory holiday.

The question was put and carried.

THE REGISTRATION OF DOMESTIC SERVANTS BILL.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I have to move the second reading of an Ordinance intitled a Bill to provide for the Registration of Domestic Servants. This Bill makes provision for the registration of domestic servants in such townships, districts or areas as the Governor may by Proclamation appoint. The term "native" covers all natives of Africa, including Somalis, Swahilis, Arabs, Comoran Islanders and Madagascans. The registration involves the attendance of any person who desires to enter or is employed in domestic service before the Registrar, who will enter all particulars regarding him or her in a pocket register which will be supplied to the servant. Every employer is required, on engaging a servant, to make the necessary entries in the pocket register, including the date on which the servant is employed and the capacity in which he is engaged. On the cessation of the employment, employers are required to enter up particulars in the register, the character of the servant, to state the cause of dismissal, if any, or the reason why the servant has left employment.

Once this Ordinance is applied to any area, no persons may engage or employ in that area any servant unless such servant is registered under the Ordinance and produces the necessary pocket register. This Ordinance provides for penalties on both employers and employed for breach of regulations, such as failure to see that the servant has got a pocket register, making false entries in the register, or damaging it in any particular. There is also provision for the employer being fined a sum not exceeding Shs. 100 for entering in the pocket register of the registered servant any gross accusation which he is unable to substantiate. Power is given to the registrar to cancel any register of a servant convicted of theft or infamous crime, or who is known to the police to be leading a disorderly or disreputable life.

I wish to make it quite clear to Council that there is nothing revolutionary or new in this proposed measure. A similar measure was introduced in this Council in 1910 and was passed. It was apparently only owing to lack of organisation and lack of funds that the Ordinance was never introduced and it was repealed in 1924 by the Ordinance which removed from the Statute Book Ordinances which had never been brought into force.

Similar legislation, which differs in few particulars from this Bill, is in force in Uganda. I may say that where it does differ this Bill puts rather more onus on the employer. A like measure is in force in the East Indian Colonies and I am acquainted with its working in one of these, where I may say that it has proved extremely satisfactory and its provisions have been adopted in several other Colonies as a result of its successful working.

It should also be clearly realized that this Bill is introduced in the interests of both employers and employed. From the point of view of the employer it ensures the formation of a responsible body of domestic servants. It affords the further protection and assistance of a Registrar who will be in touch with such servants and who will be in a position to prevent persons who have committed crimes and offences from being employed as house servants. It will also afford some guarantee that the domestic servant has previously been employed as such and that he is not merely adopting this profession, because he has failed to make good in any other work, which will enable the employer to check references and to inquire previous characters. It really ensures his being put in possession of a document which is some guarantee at least for good behaviour on the part of the servant.

As regards the employer, it gives a native what he always values if he is worth anything at all—good chits, properly found and preserved and certified by a responsible person. From my own experience I can say that the native attaches great value to his pocket money, and that they are passed on from father to son as heirlooms, but not, I need perhaps scarcely say, to be used by the latter!

The servant, under recognition that he belongs to a definite class, is brought under government protection and control, and he is no longer a free-stanza lad wandering about in search of employment and depending upon the case he can make out to an employer, who probably does not understand a word of what he is saying. It is as a good servant he produces with pride a register which confirms his statement. If he is a bad servant it is probably to the advantage of all that he should not find employment easy to obtain.

With regard to the necessity for this Ordinance I do not think that there can be any doubt. The need has been stressed from all sides, by the convention of Associations, by District Associations, and by the East African Women's League. The position with regard to servants at the present time in this Colony is most unsatisfactory. It was estimated by the Labour Commission that there are 25,000 natives employed in domestic service. It would be interesting to obtain figures as to the number of these who are in regular employment, but from a return which I received from the Registration Department it is estimated that there are about 6,000 men, women

and children in employment as domestic servants in Nairobi, and of these about three-fourths leave their employment monthly and seek work elsewhere. These figures, I think, clearly show what a waste of material there is at present and how very unsatisfactory conditions now are.

The addition of the native appears to be not to obtain regular employment in a good household but to move from house to house, taking advantage of the necessities of the employer with the hope of getting an extra shilling put on to the statement of wages in his kipandi. He cares nothing about characters or references and if they are asked for he borrows some chits from a friend and is quite surprised if any questions are then asked. It is, I believe, by no means uncommon for servants to produce bundles of letters going back to days when they were small children and again to several persons bearing quite different names.

This condition of affairs is no doubt accentuated by the slackness of employers who do not trouble to check references or to apply to the last employer. Postal delays in this country naturally make such references difficult. A servant today, frankly does not care whether he is dismissed or not. There are excellent servants in this country, as good as are to be found anywhere—I am referring to the largely increasing number of natives seeking domestic employment.

It has, I believe, been argued that there can be no need for a domestic servants' registration Ordinance in view of the fact that there is a registration system in force. But I would point out that the two are entirely distinct. The kipandi is an identification ticket passed between districts. It was never intended to be connected with the character of the bearer and no female is registered. In the future we may expect that a large number of domestic servants will be women. Any alteration in the kipandi or in the native registration system will, I am sure, be most dangerous. Action was taken, I believe, by a certain number of employers who put marks on the kipandis to show that the holder had misbehaved himself while in their employment, and at one time secret signs were, I believe, in common use. I need scarcely say how unfair any such proceeding is and it merely strengthens the necessity for a properly organized registration system.

This leads me to deal with another possible objection that employers guilty of tampering with a kipandi might also make unjust statements in a pocket register. There are, of course, such employers in all countries, but I think it reflects very badly on the state of public opinion in Kenya if we are to refrain from introducing a much needed measure for fear that employers in this country should deal unfairly with their employees. The Ordinance provides a further check against unfair or false statements being made and if necessary the

penalties may be even further increased. It has also been suggested that the cost of this measure is likely to be very high. I have a statement here showing the details and I will point out that on the very low fees it is suggested should be charged for registration there should not be a loss of more than £100 during the first year and after that the scheme should more than pay for itself. I need not, perhaps, deal with the suggestion made that the system might be a voluntary one. Such a course would not only defeat the whole object of the Ordinance. There would be two classes of employers and two classes of employees, to the detriment of all. If the system is introduced it must necessarily be compulsory, but the Ordinance provides for its being confined to a certain district or area which could be extended by Proclamation.

I desire further to emphasize the great importance of this measure and to stress that it is likely to have on the natives of this country a very large proportion of natives in Kenya may serve as an employer and those who learn anything about his home life and get into closer touch with him and his domestic servants employed in his house. Native opinions I believe more enlightened or unenlightened with regard to the standards of European conduct by the domestic servant than those of any other natives in the country. It therefore behooves us to do our utmost to raise the standard of such servants and to ensure that the good ones are protected and encouraged and that the bad ones are weeded out.

At 10.15 a.m. I propose to move the second reading of this Bill.

THE HON. THE ATTORNEY GENERAL (MR. HUGGARD):
Your Excellency, I beg to move the motion.

THE HON. THE SPEAKER: Your Excellency, the Noble Lord your request has asked me to express his very deep regret to Your Excellency and other Members of this Council for his inability owing to unforeseen circumstances, to be present at this session. I should like to congratulate the hon. mover of this motion, Your Excellency, on the very clear and complete statement he has made to-day. It leaves very little to be said by those in favour of the measure. There is no doubt that it has only been introduced in response to a very genuine public demand, but opinion on the side of the House is undoubtedly divided. I think, Sir, we are all agreed on one point and that is that certain modifications are absolutely essential in matters of detail if the Bill is to be made workable and a permanent success, otherwise its object will undoubtedly be defeated. I allude particularly, Sir, to the most onerous nature of the obligations on the employer in regard to returns and so on and so forth, and we have to remember in this connection, Your Excellency, that an enormous number of employers of domestic servants in Kenya are not very highly

cultured people, and any legislation of this nature in order to be effective, must be made as simple and easily understandable as possible. Chiefly for these reasons, Your Excellency, and in order, if possible, to achieve unanimity, I trust, Sir, the Colonial Secretary will agree to putting this Bill to a select committee.

THE HON. J. B. PANDYA: Your Excellency, I am sorry I cannot support the principle of this Bill which seems to me revolutionary in its contents and in its effect. I am sorry I cannot agree with the views expressed by the hon. the Colonial Secretary in regard to this Bill when he mentioned that it was not revolutionary. The principle of the Bill, Sir, is this. That Government undertakes to provide the employers with the characters of their servants. I object to this principle from this point of view that if it is accepted in the case of these domestic servants I do not know where it is going to end. Tomorrow it may be argued that this principle can be further applied to certain other industries, to certain other trades and to certain other avocations, and I am sorry that the principle is such and so dangerous that I cannot support it. The Bill, I understand, was first introduced in 1910 and could not be put into effect. That itself, Sir, shows that there is something wrong in regard to this Bill which makes it impossible to put it into practice and I must say that after seventeen years the world has advanced, that is all communities have advanced, and the Bill which seems to be bringing into practice the principle advocated in 1910 can hardly be supported.

Apart from the actual effect of this Bill it is going to have an effect on the cost of living. The result of this Bill so far as I can make out would be this, that we shall have fewer servants available, or fewer servants than we have at present available, for domestic service, and on account of restrictions there will ultimately be a shortage in the number of domestic servants available. It would put up the wages of the good servants available, and the cost of living, which is now so high, would go up as the cause of this Bill.

Further, it is evident from the particulars which have been submitted that the Bill is to cost £2,415 to start with, and that although the revenue will be derived from the operation of this Bill, it will entail a loss in the initial stages, but it is expected that there will be some profits in succeeding years and therefore this Bill it seems to be used as a means of further taxation on the community. It generally happens that the natives do not work for a very long period, that you may have to change your servants in ten or twenty days on account of his unsatisfactory work and the community will have to pay very much more than the benefit they would get from the operation of this Bill.

employer, but I do think it is most important that the domestic servants concerned—I am speaking especially about the African—so many of whom are becoming able to read themselves, should have every opportunity of getting to know what the Bill is about and how it concerns them, and when I say the Bill should be printed I mean that any changes afterwards should also be printed at a later date. At the same time I would ask Your Excellency if a reprint of just that part of Habari be printed so that everyone can read it or get someone to read it to him, to know exactly what the Bill is about. I do very much hope that that will be done.

THE HON. T. J. O'SHEA: Your Excellency, the hon. Mr. Pandya opened his address by using the word "revolutionary" in this hon. Council, which gives me a boyish thrill. (Laughter.)

I live in the hope of some day seeing this Council indulging in the passing of some revolutionary Acts. As he developed his theme, however, I came to the conclusion that there was nothing really very revolutionary in this measure and that he merely resented the domestic servant in this country being given a semi-official status. Your Excellency, the Government in this and many other countries has already adopted for a very long time the principle of giving a definite status to people in different walks of life. The legal profession is registered by Government, and the community is protected against the depredations of that profession by Government. The medical profession, the surveyors and others are also Government registered, and I see no reason why the domestic servant should not have the benefit of similar protection.

The Hon. Canon Leakey in his speech has asked that this Bill, if passed, should be published in Kiswahili.

Your Excellency, I would be very sorry to see anything done in this country to encourage bi-lingual legislation, more especially with such a language as Kiswahili, one of the two languages used, and I should take it as only plain common-sense that if the Bill is passed it will be explained in the fullest details in the vernacular to the natives whose interests it so intimately concerns, and that it will be given the fullest publicity throughout the length and breadth of the land. Kiswahili has only become a written language in modern times, thanks to the efforts of Canon Leakey and people of his type.

THE HON. A. C. TANNABILL: I feel very strongly at the present moment that this Bill ought if possible be referred to a select committee. There are several points in it which I am sure can be cleared up by consultation with people who are going to be interested in it, but at present I am very much opposed to the whole principle of the Bill. It is going to be of quite considerable expense. The Hon. the Colonial Secretary mentions that it will pay for itself—probably in the

the 1919. I argued, as has already been stated, to raise the expenses of the first year and also for the next years, should be waived. I understand that the second year there will be a surplus, and I submit that if there is going to be a surplus these fees, from the very beginning, should be made so reasonable, if at all, to enable things to be made easier and should go towards the expenses of the natives, and this Bill should not be a revenue-producing Bill at all. If this Bill goes through to create revenue or whatever it is, it is very undesirable, because the communities are already over-taxed at the moment and to bring this legislation—which is estimated to bring in £2,000 extra—is highly undesirable, and on these grounds, Your Excellency, I too oppose this Bill.

THE HON. C. G. DURHAM: After the very fine exposition of this Bill by the Hon. the Colonial Secretary, I am very much surprised indeed that anybody at all can oppose it. I can hardly add anything to what has been said, but I would like to ask the hon. Members in this House to look at it from the point of view of the women of this country, and I do submit that this registration will prove a very great help to the women in Kenya.

THE HON. J. O'BY WILSON: Your Excellency, I am afraid I must add to the hon. Member for Kikuyu's bewilderment by saying that I also am going to oppose this Bill. I hope that the Government will see their way clear to sending it to a select committee and that it will there die a natural death—laughter.

It seems to me that we are here when any Bill is brought up first of all to put it to two tests—one is to consider every law or if possible to pass as few laws as possible, and secondly to avoid taxation of the new taxes initiated or formed, wherever possible. This Bill does not satisfy either of those two arguments. It creates a new law and a new tax—two most undesirable things. Sometimes that has got to be faced, but only, I believe, where a real necessity can be shown and more than that, where it can be shown that the Bill is going to carry out that necessity. I have grave doubts as to whether there is a real necessity, and this is fortified by the fact that a similar Bill on these lines was on the Statute Book and had been on the Statute Book for fourteen years and was never put into force. You must consider that if it was put into force would it carry out the objects of this Ordinance which is now before us? very good objects, I believe. I do not think, however, it will react harshly on employees, as there is so little which can be written down in the pocket register that it can hardly give anyone anything like a clear idea of the behaviour and character of a prospective servant. After all, an employer can get satisfaction very much better by writing to the last employer and getting

a character, as is done in most parts of the world. You do find also that where in one case a native may make a perfectly good servant to one employer, the next employer will find just the opposite. It is nothing to do with other party. One servant may suit one person and not suit another, and it would be so unfair were a servant to get a bad character just because he did not happen to suit one employer, to condemn him for life. On the other hand, a man may in all good faith recommend a servant only to find that he has unwittingly pushed the latter's future employer.

Those are some of the risks which will be taken and I feel I must oppose this Bill. I do hope that Government will in any case send it to a select committee, where it will be dealt with thoroughly.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: I am entirely in favour of the principles of the Bill, and I agree that it should go to a select committee. There are certain points which do require consideration, and I am going to mention one—a very, very important one, if it can possibly be done—that is, that boys when being registered should also have a medical certificate as to their fitness.

REV. CANON THE HON. HARRY LEAKE: Your Excellency, may I make a point of personal explanation? I do not intend to raise a "special fund" to provide counsel for the African domestics. Money is much too tight in this country. I would trust the fairness of the British Magistrates whether Counsel was engaged or not.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: I have listened with much interest to the very valuable discussions on this Bill, which I personally think might have been very much shorter.

I intend to vote for the Bill, but I think it could with advantage go before a select committee; but whether it does or not, I shall support it.

I think the principles of the Bill will be to the advantage of the employer and employee and it is one of those measures which has been very definitely asked for by the women of this Colony. It is also very gratifying to me to find that our women folk are taking an intellectual interest in the legislation of this Colony, especially the legislation that affects the home, and for that reason I support the Bill.

THE HON. G. G. ATKINSON: In stating that it is my intention to vote against the Bill I wish to make it clear that as regards the principles of the Bill in the abstract I am absolutely for it. My chief objection is to the substitution of a new legislative system on the existing one. I regret that I join issue with the statement made by the hon. hon.

Colonial Secretary that the existing system could not be used with advantage for the purposes for which this Bill is designed. The existing kipandi which every male native has to take out is not, I submit with all due respect, a mere identification certificate—it is a very important certificate and anybody who reads the columns of the kipandi will see that there is a column for wages paid on engagement, wages paid on termination, whether posho is given free or not, and so on, and I think myself that it is a very important certificate and not merely an identification certificate.

As regards the demand for this Bill which is alleged to have been a very strong demand, I am not by any means convinced that there is any great demand for it at all. The Hon. the Colonial Secretary mentioned resolutions passed by the Convention of Associations and by the East African Women's League, but all those who know anything at all of public life will realise that a good deal can be done with log-rolling and can procure the passing of resolutions which do not in fact represent the wishes or opinions of the majority of the people. Everybody who takes an interest in the subject knows how prohibition was carried out in America, and there is no evidence that there is any such demand in the country which can justify this Bill as it stands and my assumption or my inference to that effect is strengthened by the fact that this Bill or almost an identical Bill was passed in the year 1910 and was never put into operation—the people of this country seem to have lost in the intervening years—seventeen years—without feeling any evil effects from the failure to put this Bill into force. In spite of the theoretical objection which I have to the Bill being superimposed over the existing registration I would be inclined to vote for it if I thought it would be able to carry out the objects for which it is designed. Those objects are two: first of all, the Government is attempting to provide a body of servants whose characters will be guaranteed apparently by the State itself, and secondly a further intention seems to be to provide that on the termination of each engagement of a registered servant the employer should give a character to that boy. But if you look at the provisions of the Bill as to what has to be done on first registration you will see the very great or the very prolonged and protected enquiry which will be necessary if in fact the provisions of this Bill are to be carried out and brought into force, and I submit that the Registrar would not be able to carry out the provisions of the Bill without an awful lot of post.

With regard to the figures given by the Hon. the Colonial Secretary I think that most of the hon. Members in this House are under the impression that they are the figures for the whole country, but I understand they are only for Nairobi town. I think that is so.

As regards the character to be given by the employer, first of all the Bill does not provide that it is compulsory for the employer to enter on the pocket register the character. If the employer does not choose to give the character on the pocket register he can avoid doing so by sending his reasons to the Registrar. But even assuming he has to give a character in one column, what is the character that is likely to be given in nine cases out of ten? The word "satisfactory" convey nothing and it could not possibly be of any help to anybody in attempting to find out the character of a servant he is trying to engage.

For these reasons I intend to vote against the Bill, although I will say this, that if the existing system of registration be varied to the extent that domestic servants if registered would not be subject to the kipandi system I will be prepared to vote for it, but I am not prepared to vote for a Bill which provides for the two registration systems.

THE HON. A. H. MALIK. A lot has been said, and I believe a lot has been said for and against the measure. I do not propose to take much time. Your Excellency, but I would like to urge that this Bill be referred, as suggested by various hon. Members, to a representative select committee. This Bill no doubt has its advantages and disadvantages. At the present moment it appears to me that it has more disadvantages than advantages. I feel very nervous about the character part which is to be given by the employer on the pocket register. I think nobody disagrees and it is accepted on all hands that the housewife in this country has to be protected—equally there is no doubt that the domestic servant has also to be protected.

There is quite a lot of inconvenience which is experienced by the housewife in this country at the hands of the native servants and I do think that the measure to meet this trouble is absolutely essential and necessary, but as I said, in its present form this Bill has more disadvantages than advantages and should further be referred to a select committee, and the details of the Bill could then be investigated and workable clauses might be inserted in the Bill. To my mind one great important thing—it may seem minor, but I think it is important—is that whenever the natives want to leave the service they want to go at once at a moment's notice, with the result that service suffers a lot, and it has happened in a considerable number of cases that if a household has, say, two or three servants, not one wants to go right away, but they all want to leave at once sometimes; they all want to follow suit. Some protection is needed on that score and perhaps a certain clause limiting the time say to two weeks or a month when a native could not leave the service without proper notice, could be decided upon by the select committee.

wife without going near a court, competent or otherwise, and finally what does the Attorney General say would be the case if a man has four wives when he dies? Do they each become a widow and is each able to claim £50 per annum? These are all points which require consideration. I do not think it will delay the House, and I think this should go to a select committee. So far as the principle of the Bill goes I support it.

THE HON. R. S. NEHRA: Your Excellency, I wholeheartedly support the principle of this Bill and I think there might be a few details which might usefully be adjusted in select committee. The ages of pensionable males and females if they need adjustment they should rather be on the upward side, which could be mentioned in select committee and there are a few other minor alterations and amendments which can be gone through in select committee and I congratulate the Government for doing everything it has for the consolidation of its services. So far as the Pension Fund is concerned it is a very useful measure and I am sure there will be very few people who will not benefit by this measure when it goes through. I support the Bill and ask that it go to a select committee.

THE HON. THE COLONIAL SECRETARY: I am prepared to say that this Bill will be referred to a select committee of this House.

The question was put and carried.

THE NAVIGABLE WATERS (CONSTRUCTION OF WORKS) BILL

THE HON. THE ATTORNEY GENERAL (MR. HUGHARD): I beg leave to move that a Bill to provide for the Construction of Works in or over Navigable or Tidal Waters be read a second time.

The object of this Bill is to enable the construction of works in navigable and tidal waters to be properly regulated. Hon. Members are probably aware that there exists by virtue of common law the public right of navigation in tidal waters and that right may not be interfered with except under the authority of the legislature. Now what is proposed by this Bill is that the legislature should confer on the Governor in Council general powers to authorise the construction of certain works in these waters. The acceptance of these will render it unnecessary to come to the legislature for special legislation whenever such works are required. Under clause 2, after the commencement of this Ordinance no person may construct any wharf, bridge, tunnel, pier or other structure of work or works in any navigable or tidal waters, or upon the beach, bed or lands covered by such waters, without first obtaining the consent and order of the Governor in Council. The Bill then goes on to indicate the procedure which is to be adopted

by any person who is desirous of constructing such works. Such person is required before the commencement of any such works to submit to the Director of Public Works, for the approval of the Governor in Council, a plan and description of the proposed site for such work, and a general plan of the work to be constructed, and such other plans, drawings and specifications, as the Governor in Council may require. These plans and specifications are then submitted to the Governor in Council and the Governor is empowered to make an order authorising the works to be proceeded with. The Governor in Council is also empowered to make alterations in the plans, drawings and specifications, to give directions respecting the supervision of any such works, structures or equipment, and require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used and operated, and measures taken, as under the circumstances of each case may appear to be best adapted, for securing the protection, safety and convenience of the public.

Then, Sir, clauses 7 and 8 may be described as the penalty clauses. Under clause 7, if any person commences work of this character without the consent or order of the Governor in Council, the Director of Public Works is empowered to order and remove the work and to restore the site to its former condition at the cost of the person responsible for constructing it.

Clause 8 provides for the protection of the work which is being constructed in accordance with the provisions of this Ordinance and imposes penalties for damage to such works.

I may add that legislation of this kind is, I submit, necessary in this Colony. Similar legislation exists in England and in the Dominions and this Bill which is now before the House is based on a similar enactment in force in the Dominion of Canada.

I beg to move the second reading of the Bill.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES): Your Excellency, I beg to second.

THE HON. CONWAY HARVEY: Your Excellency, while favouring the principle of this measure, to my mind, Your Excellency, there is one serious omission. I am very sorry that no arrangement has been made by which interested parties, or local authorities such as individuals whose interests might be prejudicially affected by the constructions of these proposed works, or the district committees, or whatever local authority may exist, should have the fullest opportunity of going into this matter with the great advantage of their knowledge of local conditions before either the Director of Public Works or the Governor in Council makes a decision.

I am not going to vote against the second reading but I should like an assurance from Government that interested parties and local authorities will be given every opportunity of expressing their opinion before definite action is taken.

THE HON. G. G. ATKINSON: Your Excellency, I wish to associate myself with the remarks of the last speaker.

The Bill itself provides that the Governor in Council is to safeguard, to secure the protection and convenience of the public, and I think it would be as well if a clause were added to the Bill providing that before the final order is issued the local authority, whose interests are to be safeguarded, should have an opportunity of expressing its view on the proposed works.

THE HON. K. S. NEMO: Your Excellency, I support the remarks made by the two previous hon. Members and I hope some provision will be made or some understanding will be given by Government to that effect.

THE HON. THE ATTORNEY GENERAL: Your Excellency, as far as an assurance in connection with the Bill, I can give the assurance that has been asked for, that in any case where a local authority is concerned in the construction of any such works the Government will endeavour to obtain the views of such authority. If on the other hand the hon. Members consider it desirable that it should be specifically provided in the Bill that the Governor in Council should take into consideration the views of the local authority concerned, then I personally would not oppose it for a moment, and perhaps an amendment might be moved in Committee.

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

The question was put and carried.

THE NATIVE LIQUOR (AMENDMENT) BILL

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): Your Excellency, in pursuance of notice given I beg to move the second reading of a bill to amend the Native Liquor Ordinance.

This Bill, Sir, amends the present law relating to native liquor in two respects. It deals in the first place with the manufacture, consumption and sale of native liquor in towns, trading centres or municipalities and secondly it makes provision for safeguarding the position with regard to native liquor on farms. So far as it relates to townships and municipalities the present amendments are the result of representations made by the Nairobi Municipal Council. The position is at present that the only control which the law

provides for native liquor in townships is the restriction which it imposes upon its manufacture for the purposes of sale. Now at present a great deal of native intoxicating liquor is manufactured in towns and there are reasons to believe that a very great proportion of this is illicitly sold, but while native liquor can be made privately in native houses it is impossible for any police force or any such organisation to detect the cases of illicit sales which may go on from time to time, and which undoubtedly do go on. Attached to the Bill is a very extensive statement of Objects and Reasons from which hon. Members will be able to obtain the intentions of this amending Ordinance. It is proposed that no native liquor shall be made in a township, trading centre or a municipality without a permit from the proper authority and the possession of liquor which is not covered by any permit will constitute an offence.

I am sure that hon. Members will realise that very grave conditions sometimes arise, particularly in the slum parts of the towns, where natives congregate in numbers and where large quantities of highly intoxicating liquor can be made and consumed. Naturally all the worst characters will resort to such a place and a high degree of criminality and much crime arise from such congregations.

The other part relates to farms. So far as native reserves are concerned there is a considerable amount of control exercised under the Native Authority Ordinance, but as soon as a native passes out of the control of his tribal authorities and comes into a non-native area the only authority he is and should be under on a farm is the occupier of that farm. We have now a system whereby in a great many cases the farm labour consists of squatters who are unemployed for a number of days in a year, in some cases they work 180 days in the year, and in some cases a great deal more. Unless the native who works for only 180 days engages in other employment, he is free to do as he pleases for about 185 days in the year. It is necessary that the occupier of that farm should have the greatest possible measure of control put in his hands by the State against allowing these natives to indulge in unlimited liquor, and however much at present the farmer may wish to control the manufacture of liquor on his farm there is no legislative sanction to such control.

The purpose of this measure is to provide that no native liquor may be made on any farm except by direct permit, special or general, issued by the occupier, but in order that these permits may not be lightly given, or issued by farmers who do not recognise their full responsibility—though I am glad to say most do realise it—it is provided that such permits should only be given under a general authority by the magistrate.

His EXCELLENCY: The hon. and gallant Member can hardly develop his points on a point of explanation. I would suggest that he should consult the hon. the Attorney General in the interval, who will no doubt be able to elucidate the points put.

The Council adjourned until 10 o'clock on Wednesday, the 14th September, 1927.

WEDNESDAY, 14th SEPTEMBER, 1927.

The Council assembled at 10 a.m., His Excellency the Governor (SIR EDWARD W. M. GURGO, 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 the 13th May, 1927, were confirmed.

ORAL ANSWERS TO QUESTIONS.

EASTERN TELEGRAPH COMPANY DIRECT DEALING WITH PUBLIC.

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

In view of the representations made by the Chambers of Commerce in direct dealing with the public by the Eastern Telegraph Company, will Government announce their decision on this matter?

THE HON. T. FITZGERALD (POSTMASTER GENERAL): The Association of East African Chambers of Commerce recently passed a resolution favouring direct relations between the Eastern Telegraph Company and the public at Mombasa. Government is prepared to permit direct dealings at Mombasa provided a satisfactory arrangement can be arrived at in regard to the loss which would be involved, this loss being the difference between what it would cost the Cable Company to set up its own collection and delivery services and what the Post Office would save through being relieved of the work.

Government has offered to share this loss with the Company, but the latter has declined the offer. Government is not prepared to improve upon the offer it has made.

THE HON. A. C. TANNAHILL: Your Excellency, will the hon. the Postmaster General tell us what the loss is or what the amount is that should be shared?

THE HON. T. FITZGERALD (POSTMASTER GENERAL): The loss referred to is £1,350.

RAILWAY RATES.

THE HON. J. O'B. WILSON asked:

What is the estimated loss to Railway revenue that would be incurred by the abolition of classes 8 and 9 of the Tariff Rates and transferring articles now in those classes to class 7.

What further loss would accrue by the abolition of class 7 and by transferring all articles in that and higher classes to class 6.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY: The estimated loss to Railway revenue by the abolition of classes 8 and 9 and transferring the goods in those classes to class 7 would be £139,000 per annum.

The estimated loss to Railway revenue by the abolition of classes 7, 8 and 9 and transferring the goods in those classes to class 6, would be £262,000 per annum.

KITALÉ-ELGON PROPOSED RAILWAY.

THE HON. LIEUTENANT COLONEL J. G. KIRKWOOD asked:

Will Government please lay on the table the Report of Economic Survey, Kitalé-Elgon proposed railway?

THE HON. THE COLONIAL SECRETARY: The report will be placed at the disposal of the Railway Branch Lanes Committee of which the hon. Member is a member.

BILLS.

THE HON. THE COLONIAL SECRETARY: I beg to move that Council goes into Committee to consider the following Bills on the Order of the Day:—

- The Supplementary Appropriation Bill,
- The Ancient Monuments Preservation Bill,
- The Public Holidays (Amendment) Bill,
- The Crown Grants Execution Bill
- The Native Liquor (Amendment) Bill.

It is proposed that the Navigable Waters (Construction of Works) Bill should not be taken in Committee to-day.

HIS EXCELLENCY: The question is that Council resolve itself into a Committee of the whole Council to consider the Bills on the Order Paper, with the exception of the Navigable Waters (Construction of Works) Bill.

The question was put and carried.

In Committee.

THE SUPPLEMENTARY APPROPRIATION BILL.

The Bill was considered clause by clause.

THE ANCIENT MONUMENTS PRESERVATION BILL.

Clause 11.

THE HON. SHEIKH ALI BIN SALIM: Your Excellency, I am not fond of making speeches, but I think the present occasion of the passage of this Bill an exception. I congratulate Government on taking the matter in hand and stopping people who are trying to destroy these ancient monuments.

ancient monuments, used to be seen all along the coast in considerable numbers, but I am very sorry to say that there are very few now owing to their destruction by those who sought to use the same for other purposes. This was due to the absence of legalised control. I am not going to mention the whole of them because there are so many. I am not going to waste the time of the hon. Members of the Council, but would like to mention some ancient monuments at Takuanga. These monuments as existing at Takuanga are several forts at the end of the cliff, which proved that the people who built them had strong forces attacking them from the sea. Anyone who has commonsense will see that. The forts as they existed were loopholed and had forts and loopholes faced the sea, from which the menaces came. Then again at Kilifi there are ancient monuments, also, and a tower, which I believe were built by the Persians, because the Persian writing is there. Many years ago I took the trouble to make a tracing of that inscription, which I gave to Mr. Ripley to send to London for translation. That was twelve years ago and I have not yet had an answer.

THE HON. K. S. NUNDA: On a point of order, Your Excellency, is the hon. Member making a general speech on this Bill or is he making an amendment to any clause?

HIS EXCELLENCY: I understand he is dealing with the contents of clause 11, which he is entitled to do in the Committee stage. I will call him to order if he is to be called to order.

THE HON. SHEIKH ALI BIN SALIM: Again, at Mida Creek there is something worthy to be taken care of. There exists the ruins of a very large city, the city of Gedo, which stands at the head and end of the creek and ran down to the ocean, probably a distance of five miles, which showed the extent of the ancient city. These people well backed the channel of the creek so that no ship or show, or even a canoe, could get in even to-day. Indications also show that these people who inhabited that city feared a force from the sea. This wall which blocks the channel is very, very strongly built, and it shows also these people must have had a sense of defensive preparation to do what they have done.

Your Excellency, I received a letter a year ago from the Assistant District Commissioner at Malindi, asking me for particulars of an old building there. He wanted to know what it was. He said that some people at Malindi say that this is a Portuguese tomb, and some say it is a Portuguese house. I wrote to him to say that it is a church built by the Portuguese. How I came to know of this is that people believed it was an old mosque and all Mahomedans used to go there and pray there and ask God to give them rain during the dry season. That is what they did until Admiral Fremantle happened to visit Malindi and he asked me one day to go with him. On going out to the mosque he asked me what it was and I told him it was a mosque, and he said: "I would like to have a look," he went and had a look and after searching he said: "No, it is a church." I said I did not think it was a church, but a mosque, he said: "You come and have a look, there is the church, it is a church built by the Portuguese." From that day to this and a Christian who died there is buried there.

Now at Mambura there is a tower which is very strong indeed. On the top of this tower is a china bowl embedded in the stone. I am not sure whether it will be believed, but I trust that every hon. Member of the House will not take it as a matter of suspicion of what I am going to say, because it is true. During the time Sir Arthur Hardings was Consul General in Zanzibar he heard the story of the tragedy and went to see it himself immediately. The story is that an Arab took a gun and went on top of this tower. He got on the top of the tower and took his gun and fired at the bowl. The bowl broke into two pieces. One piece remained on the tower, the other piece fell down. After that he came down and dropped down dead. This is very strange and hard to believe, but it is a fact. Sir Arthur Hardings was there himself and gave orders that no one was to touch this ancient monument, and neither child nor old man or anything would touch this thing. Since then he has left the country and no more steps were taken by the Government and there is no law to stop people from doing what they want to do there. They are destroying all these ancient monuments and they use the stone for their own houses.

HIS EXCELLENCY: I think before I put his amendment—I will do so if he wishes it—I would say to the hon. Member that it seems to me perhaps unfortunate to discuss matters of this kind at such very short notice. It is a very important matter which affects the lives of many people and also affects their arrangements.

Perhaps if I give the hon. Member an assurance that Government will take his point into consideration immediately after the Bill has gone through that may satisfy him.

THE HON. J. J. O'SHEA: Thank you, Sir.

HIS EXCELLENCY: The amendment is withdrawn.

CROWN GRANTS (EXECUTION) BILL

Title and Preamble.

THE HON. A. C. LANSBURY: In view of the notice of motion which I think was given yesterday, I would like to ask if the Hon. the Attorney General has considered whether it might not be advisable to insert in the Bill provisions for a quarterly statement of pending transactions and past transactions.

HIS EXCELLENCY: I think the hon. Member will be in order if this goes back into the third reading. It can hardly be taken on the Title and Preamble of the Bill.

THE NATIVE LIQUOR (AMENDMENT) BILL

Clause 1.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I desire to move a small amendment to this Bill in order to correct a printer's error in line 3 of clause 1 the figures "143" should be deleted and "133" substituted therefor.

HIS EXCELLENCY: The question is that in line 3 of this clause the figures "143" be deleted and that "133" be substituted therefor.

THE HON. HAMED MOHAMED BIN ISSA: I want to speak, Your Excellency, on the subject of this tembo tamu.

HIS EXCELLENCY: We have not yet reached clause 2. We are dealing with clause 1.

The question is that in line 3 the words "143" be deleted and "133" substituted therefor.

Question was put and carried.

Clause 2.

THE HON. HAMED MOHAMED BIN ISSA: Your Excellency, I would like the words "tembo tamu" excluded from this clause because this is used for household purposes and not altogether as an intoxicating liquor. It is generally used for making vinegar and other things, and I think it is very unfair to prevent people using it in that way. I would like to move the deletion of the words "tembo tamu."

HIS EXCELLENCY: I understand the hon. Member wishes to move the deletion of the words "tembo tamu." The question is that the words "tembo tamu" in clause 2 be deleted.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, this will raise considerable difficulty. It is a point that has been considered quite often. The difficulty is that this liquor being actually tapped from the tree is not harmful or intoxicating; the trouble starts when fermentation; it then becomes intoxicating almost immediately and within a few hours it can become highly intoxicating.

HIS EXCELLENCY: The question is that the words "tembo tamu" in clause 2 be deleted.

HIS EXCELLENCY: Does the hon. Member wish a division?

THE HON. HAMED MOHAMED BIN ISSA: Yes, Sir.

The question was put and lost by 54 votes to 3.

Aye. Mr. Hamed Mohamed put this.

Names: Mr. Atkinson, Major Brassey Edwards, Messrs. Bruce, Campbell, Sir Edward Denham, Mr. Dobbs, Lieut.-Col. Durham, Messrs. Felling, Fitzgerald, Dr. Gilks, Messrs. Grannum, Harrison, Conway Harvey, Hemsted, Huggard, Capt. Kenedy, Major Kent-Lemon, Lieut. Col. Kirkwood, Canon Lenkey, Messrs. Malik, Martin, Maxwell, Montgomery, Nehra, O'Shea, Orr, Pandya, Major Robertson-Eustace, Capt. Schwarzer, Sheikh Ali bin Salim, Messrs. Stacey, Tammsill, Walsh and Wilson.

HIS EXCELLENCY: I must apologise to the Committee for a verbal error on my part which made the division necessary.

Clause 2 stands as part of the Bill.

Clause 8.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in accordance with notice given I beg leave to move an amendment to this clause in order to give effect to a suggestion which was made yesterday by the Hon. Member for Kikuyu on the second reading of this Bill.

The amendment is that section 20 of the Principal Ordinance, as set out in clause 8 of the Bill, be amended as follows—

- (a) By inserting the words "or justice of the peace" after the words "police officer" in the sixth line.
- (b) By the addition of the following proviso—¹ Provided that where any person is arrested under this section by a justice of the peace he shall with all practicable speed be either handed over to the police or brought before a magistrate to be dealt with according to law.

The amendment, if accepted, will enable a person who is found drunk and incapable or drunk and disorderly in any of the places mentioned in the clause to be arrested either by a police officer or a justice of the peace.

HIS EXCELLENCY: The question is that the section quoted in clause 8 of this Bill be amended as follows.

That section 20 of the Principal Ordinance as set out in clause 8 of the Bill be amended as follows—

- (a) By inserting the words "or justice of the peace" after the words "police officer" in the sixth line.
- (b) By the addition of the following proviso—¹ Provided that where any person is arrested under this section by a justice of the peace he shall with all practicable speed be either handed over to the police or brought before a magistrate to be dealt with according to law.

The question was put and carried.

THE HON. THE COLONIAL SECRETARY: I beg to move that Council now resume its sitting.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Supplementary Appropriation Bill, the Ancient Monuments Bill, the Public Holidays (Amendment) Bill and the Crown Grants (Execution) Bill have been considered in Committee of the whole Council and have been reported back to Council without amendment, and that the Native Liquor (Amendment) Bill has been considered in Committee of the whole Council and has been reported back to Council with amendments.

THE HON. THE COLONIAL SECRETARY: I beg to give notice that I shall move at a later stage of the Session the third readings of the following Bills:—

- The Supplementary Appropriation Bill.
- The Ancient Monuments Preservation Bill
- The Public Holidays (Amendment) Bill

THE HON. THE ATTORNEY GENERAL: I beg to give notice that at a later stage of the Session I shall move the third reading of the Crown Grants (Execution) Bill.

THE HON. A. C. TASSHILL: I would like to ask the Hon. the Attorney General whether he would consider it appropriate to include in the Bill a provision whereby a return is made to the Council quarterly of Crown Grants of land pending and of Crown Grants of land which have been settled.

THE HON. THE ATTORNEY GENERAL: Subject to what may be found the Commissioner of Lands may have to say about it, I think that a provision of that kind would be inappropriate in the present Bill. This Bill has been introduced for one purpose only, namely, to enable Crown Grants and other Instruments to be executed by the Commissioner of Lands instead of by the Governor, and the insertion of a provision on the lines suggested by the hon. Member would appear to be out of place.

THE HON. THE CHIEF NATIVE COMMISSIONER: I beg to give notice that I shall move the third reading of the Native Liquor (Amendment) Bill at a later stage of the Session.

CAPT. THE HON. H. E. SCHWARTZ: I want to give notice of a motion, Your Excellency, to the effect that I would like this Bill re-committed as regards clause 9.

Consequential on the amendments that have been passed this morning to clause 8 I wish to move that clause 9 be amended by adding after the words "officer in charge of police station" "or justice of the peace." An officer in charge of a police station or a justice of the peace may give written authority to a police officer to effect an arrest.

THE HON. THE ATTORNEY GENERAL: I think the hon. Member's appropriate procedure is to move to re-commit the Bill on third reading.

HIS EXCELLENCY: Will that meet the hon. Member?

CAPT. THE HON. H. E. SCHWARTZ: I was only giving notice, Your Excellency.

HIS EXCELLENCY: I have to inform Council that I understand by agreement on the part of all hon. Members of Council the following Select Committee will be appointed to deal with Registration of Domestic Servants' Bill:—

- Colonial Secretary (*Chairman*).
- Attorney General.
- Chief Native Commissioner
- Lieut.-Colonel C. G. Durham.
- Mr. F. O'B. Wilson
- Mr. A. C. Tannabill
- Mr. J. B. Pandya
- The Rev. Canon H. Leakey.

And the following Select Committee will be appointed to deal with the Asiatic Widows' and Orphans' Pensions Bill:—

- The Treasurer (*Chairman*).
- The Attorney General.
- Captain H. E. Schwartz
- Mr. A. H. Malik.
- Mr. R. S. Nehra

THE HON. THE COLONIAL SECRETARY: I would now inform Council that it is proposed to take a photograph of the Council at five minutes to ten to-morrow morning.

Council adjourned to 10 a.m. on Thursday, September 15th, 1927.

THURSDAY, 15th SEPTEMBER, 1927.

The Council assembled at 10 a.m., on the 15th September, 1927, at the Supreme Court Buildings, Mombasa. His Excellency the Governor (Sir Edward V. M. Gurney, 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 September 14th, 1927, were confirmed.

ORAL ANSWER TO QUESTION.

RESIDENTIAL PLOTS, MOMBASA.

THE HON. J. L. PANDYA asked :

With reference to Notice No. 738 appearing in the Official Gazette of 23rd instant, regarding tender for certain residential plots in Mombasa Township, will Government state—

1. If these plots are reserved for Europeans only?
2. If the reply be in affirmative will the Government remove these restrictions according to 1924 White Paper Policy laying down the principle of no segregation in township areas?
3. If the reply be in the negative will the Government state reasons therefor?
4. Will the Government state reasons of asking for tender in this case instead of the usual procedure of sale by public auction?

THE HON. THE COLONIAL SECRETARY (SIR EDWARD DENHAM) :

The reply to the first part of the question is in the affirmative.

2. and 3.—As regards the second and third parts of the question, the hon. Member is no doubt aware that the declaration of the White Paper of 1923 against residential segregation as between Europeans and Indians cannot in practice be applied without qualification to areas governed by agreements made before 1923 when segregation was, under Imperial sanction, part of the settled policy of the Colony. In such areas the policy of the declaration of 1923 is limited in application by the facts of the situation, since Government

can neither unmake covenants entered into before 1928 nor accept the liability involved in ignoring them. The question whether or not a particular area comes under this limitation must depend upon legal opinion as to whether sales without restriction would adversely affect existing interests or render Government liable to claims from holders of existing titles in the area. Government has been advised that in the Mombasa area to which the hon. Member's question refers unrestricted sale would affect existing interests and could expose Government to claims from existing holders. The course taken by the Government is therefore the only course possible, if the plots in question are not to be withheld indefinitely from residential occupation.

4. With regard to the fourth part of the question, tenders were called for at the urgent request of the District Committee and Town Planning Authority. The urgency is due to the lack of houses in Mombasa which is still very serious.

MOTIONS

LATE MR. SHADI RAM

THE HON. THE TREASURER (MR. GRANNUM): Your Excellency, I beg to move the first resolution standing in my name on the order paper.

In consideration of the destitution of the widow of the late Mr. Shadi Ram, who after rendering 12 years, 2 months and 2 days' satisfactory service in the Post and Telegraphs Department of this Colony, died at Nairobi on the 5th of March, 1927, this Council is pleased to award her a compassionate gratuity of Sh. 2,160 which amount is equivalent to six months' salary of her deceased husband at the rate drawn by him at the time of his death.

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

The question was put and carried.

LATE MR. A. A. E. ROZARIO

THE HON. THE TREASURER (Your Excellency, I beg to move the second motion standing in my name on the order paper.

In consideration of the destitution of the widow of the late Mr. A. A. E. Rozario, who, after rendering 19 years, 10 months and 15 days' satisfactory service in the Provincial Administration of this Colony, died at Mombasa on the 22nd January, 1927, this Council is pleased to award her a compassionate gratuity of Sh. 2,420 which amount is equivalent to six months' salary of her deceased husband at the rate drawn by him at the time of his death.

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

The question was put and carried.

KENYA AND UGANDA RAILWAYS AND HARBOURS ESTIMATES.

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

"That this Council approve the draft Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours (including main and branch lines, lake marine services, motor services, and Mombasa Port Administration) for the year 1928, as laid on the table."

The Estimates for 1928, as now submitted to the Council for discussion, are comprehensive estimates of the revenue and expenditure of the Kenya and Uganda Railways and Harbours Administration including the main and branch lines of the railway, the marine services on the three large inland lakes (Victoria, Kioga and Albert), the motor services, and the Mombasa Port Administration.

The form adopted shows the revenue and expenditure accounts and proposed expenditure from reserve funds for the Railway, Lake and Motor Services, and for the Port Services, separately, with a combined net revenue account for all services.

So far as the Railway, Lake, Marine and Motor Services are concerned, Sir, we are estimating for an increase of £128,660 in earnings as compared with the estimate passed for 1927. This increase should be realised, unless the Uganda traffic fails to come up to expectations. On the expenditure side we are providing for working an additional 116 miles of open line, and increased traffic throughout, but the estimated expenditure shows a decrease under most heads.

Members will remember, Sir, that the estimates for 1927 were separated as between Port and Railway at the very last moment in great haste, and it is probable that in the division between Port and Railway insufficient deduction was made from both railway revenue and railway expenditure figures as certain items of expenditure and revenue were left in under both heads. This has now been adjusted. On the expenditure side I have made considerable reductions on the figures submitted to me by my departments, but I think I should say there is ample margin for eventualities. In other words, I think I shall be able to secure for the year 1928 expenditure returns below what we have allowed on these Estimates.

We anticipate that, after providing for depreciation on the scale which has been in operation since the commencement of

of charges. I see no reason why charges in operation at other ports should be taken exception to at Mombasa. I think I can say I have reason to believe that the thinking section of the community now realise the wisdom of making the Port more self-supporting.

In the combined Railway and Port Net Revenue Account it will be observed that the general balance for 1928 is reduced to £154,590. This, Your Excellency, is without taking into consideration the possibility of a change in connection with the £3,500,000 loan granted to us free of interest for five years for Uganda extensions, etc. I take it; however, that if there is any change in connection with that loan it will affect the interest accumulated in London rather than our current balances, so that that has not been taken into account.

I propose now to give this Honourable Council some information as to the probable actual results for 1927 as compared with the estimates passed last year; then, if the Council will bear with me, I wish to make some remarks on our position now as compared with five years ago, and the probabilities for the next few years, and then deal with some questions of general interest.

Taking first the probable results for this year—I refer to the year 1927—this Council will remember that when I introduced the estimates last year I mentioned that railway expenditure had increased very considerably in the first half of 1926. I attributed this increase to three causes—

- (1) additional facilities, speeding up cotton traffic, and greatly increased cost of work generally on the lake piers;
- (2) the working of new non-paying branch lines in Kenya; and
- (3) the high expenditure necessarily incurred by the railway on fuel for locomotives and for lake steamers, so much of our fuel being necessarily imported.

During the latter half of 1926 every possible action, Sir, was taken to reduce working costs and this process has continued ever since. In our estimates for 1927 submitted to this Council, we anticipated a credit balance on the Railway and Marine Services of £189,000 after providing for contributions to renewals fund. After the estimates were prepared it was decided that the Railway was to bear the loss on the working of the Port. This reduced our estimated balance to approximately £68,500. Thereafter we reduced the rates on building material and we temporarily reduced the rate on cotton for export. These reductions were estimated to cost us £90,500 per annum, with the result that our estimates as framed show the balance on the wrong side. On the other hand, as I have already pointed out, some small items of expenditure were probably left in both the Railway and Port Estimates.

I think at the same time we can claim that the reduction in relative expenditure has not resulted in less efficiency, but that, on the contrary, the record of the last five years has been one of steady improvement in working, even although much I admit candidly as the responsible officer, still remains to be done—that much is still undone which I should like to see done by now—but nevertheless I think there is a decided improvement.

During the last five years the open mileage of railway will have been increased from 685 to 1,275 or by 86 per cent., while lake marine mileage has been considerably extended by new services, and we have taken over and extended motor services. The additional open mileage which we shall be working by the end of the year, as compared with five years ago, will include the line from Thika to Naro Moru, the Solai line, the Kitale line, the Uasin Gishu Railway, and the extension of the Uasin Gishu Railway from Turbo to Mbulamuti, a total of 510 miles. In addition, we have also taken over the Magadi Railway in our working accounts.

The cost of the Uasin Gishu Railway now stands in our books at the unfortunate figure of £16,731 per mile. The other lines to which I have referred have all been built under departmental control, and on present estimates, taking them together, they should stand in our books at £5,815 per mile. The three branch lines were built with second-hand material at an average cost of £5,040 per mile. The line from Turbo to Mbulamuti, which is being built with new material, is estimated to cost £6,527 per mile.

The cost of the Uasin Gishu Railway it must be admitted was inflated, but, apart from that, it was high. I do not suggest that it could have been built under departmental control at the same cost as the line into Uganda, because there was some very heavy work on the Plateau line which does not exist on the Uganda extension; but if our costs are compared with the estimates prepared before departmental control of construction was authorised, then it must be admitted, Sir, by all concerned that departmental construction has been more than fully justified and has saved the country large sums of money. I mention this, Sir, because of the opposition and even unpleasantness—probably my own fault—I encountered when I contended for the policy of departmental control in railway construction. We have, Sir, no doubt made many mistakes—I admit frankly that the excess on the estimated cost of the Kitale line, the high cost of works in Uganda, stores losses and other difficulties have at times upset me considerably—but I claim that whatever mistakes we may have made under new and complex conditions, our engineers on the whole have done very good work for East Africa, and some of them have secured excellent results under the system of control.

While, Sir, this new construction has been going on, we have proceeded steadily with the relaying of the main line, strengthening of bridges, building of new stations, additional housing for the staff, hygienic housing for natives, re-organisation of the workshops and general improvements all along the line, all round the lakes and in the craft on the lakes. Apart, Sir, from several millions of capital expenditure on new lines and on improvements, and I would like hon. Members to take note of those figures because they cannot really discuss the Estimates without being in possession of these figures, to existing transport facilities, I estimate that from 1923 until the end of this year we shall have spent also from funds created from revenue for renewals and betterments approximately £1,500,000; our expenditure in the same period from revenue contributions alone towards the cost of which can legitimately be capitalised will amount to £900,000. This, of course, Sir, means payment of £15,000 per annum on the capital expenditure to the extent of £15,000 per annum on the top of that Members will be aware that we are steadily making heavy sinking fund contributions towards loans.

This brings me to the general financial position. This requires constant attention. Increase of the debt is not a need whatever, and I do not like to hear about our financial position, on the contrary, Sir, I think there is every justification for satisfaction, if it some of the inferences drawn from a statement made by the Acting General Manager in May last were not warranted. Our financial position is sound in every respect.

Our loan charges for the Railway and Port in 1922 amounted to only £77,000. In 1928 they will amount to £50,000. In 1929, on the basis of present commitments only, they will amount to £733,000, and in 1930 to £814,000.

This, I repeat, is based on present commitments only. We have not allowed for interest charges on the suggested extension of the railway line to Kampala, on any further branch lines contemplated in Kenya, or on additional rolling stock and equipment.

Now, Sir, can the Railway face these additional interest charges? I am quite satisfied, Sir, that we can (hear, hear), and I am quite satisfied that we must, and can, also face what is involved in the extension to Kampala. I feel, Sir, we must connect the commercial capital of Uganda with the main railway system. Certain branch line development in Kenya is also necessary and should be undertaken, subject to Government guarantees, but further commitments must receive the most careful consideration until the interest burdens to which we are committed and in which these new lines will involve us are fully digested.

On current accounts our position to and at the end of this year will be this—I hope that the Hon. Member for Plateau South will like these figures: for five years we shall have contributed to the renewals and betterment funds approximately £2,557,000, of which approximately £1,500,000 will have been spent, leaving at the end of the year a balance on renewals and betterment funds of £1,057,000. In addition, we shall have a balance of approximately £136,000 on a Marine Insurance fund invested in England, and we shall have a Reserve Fund against Stores of approximately £242,000. This latter reserve, Sir, may have to be increased, because the value of our necessary stores balances now amounts to £485,000. We have no working capital, so we must carry stores against our reserve funds.

For next year we are submitting in these estimates a betterment and renewals programme amounting to approximately £650,000; but all my proposals, Sir, are based on the principle that we must always have a large balance on reserve funds to tide us over a bad season in view of our increasing interest charges.

I think I have made it plain, Your Excellency, that we have large reserves and that there have been very large relative reductions in railway expenditure, but it must be understood that on the expenditure side there is a point beyond which we cannot go. Additional facilities are constantly being asked for, and a proportion of the demand must be met, as the country develops. It is, therefore, rather to increased traffic and traffic earnings, concurrent with a tight grip on expenditure, that our future soundness lies.

About Kenya I must say I am optimistic. In Kenya there has been, and will continue to be, substantial agricultural development. I think the European settler could be relied upon for that, and the example of the European settler unquestionably is an inspiration to the native who works for him and to the native reserves; but in Uganda, Sir, traffic has not been satisfactory this year and the Uganda proportion of railway earnings has unfortunately shown a considerable decrease at the very time when we are expending large sums in Uganda. This is regrettable, but I think I can say now I hope and believe that the Uganda Government will be able to shape its policy in such a way as to inspire substantially increased production in Uganda in the near future.

I would now like to make a few remarks in regard to the financing of future through main lines and connecting lines between the existing separate Railway Administrations in East Africa.

We all know, Sir, that a Commission is shortly coming to East Africa to inquire into the problems connected with the suggested closer union of Kenya, Uganda and Tanganyika, and

no doubt, Sir, the future control of railways and lake service will be an important matter into which that Commission will enquire.

I would like to say, Sir, that, to my mind, speaking as General Manager of the Kenya and Uganda Railway, unless some central authority for railway matters in East Africa is established fairly soon, we shall find it most difficult, if not impossible, to avoid competition between the railways. Apart, however, from the question of competition for traffic at given points, there is an urgent need for a well-considered policy in connection with development; an urgent need also for a central authority to face and reconcile administrative and executive differences, to inaugurate and press forward action towards standardisation in legislation and working regulations and working conditions and railway appliances, uniformity of principles of railway finance, railway rates, and other matters of importance to the three East African territories, in connection with which it will be fatal for us to develop on separate lines.

In my opinion, the problems facing us can only be dealt with the institution as soon as possible of a central authority located in East Africa, with a properly constituted Advisory Board of Government and public representatives of Kenya, Uganda and Tanganyika, who must be brought together to face each other's problems.

I have not hitherto, Sir, suggested at any time that there should be an amalgamation of managements as between the Kenya and Uganda Railway and the Tanganyika Railway, but circumstances may arise to make me advocate one management. One management will come in due course, but there is no urgent need for an amalgamation of managements, and in any case such an amalgamation would be very difficult to arrange until there is a definite railway link connecting the two territories. Far more important than the question of the amalgamation of managements is the question of central control of policy in consultation with a fully representative Council.

Now, Sir, to my mind also it is clear that it is necessary for the general development of this part of the Empire that there should be rail communication between Kenya and the Central Tanganyika line, also a steady programme of railway construction to connect the Tanganyika Railway with Northern Rhodesia and Nyasaland. In addition, everything points to the desirability of proceeding steadily with the building of a railway line, or perhaps two railway lines to the Congo.

The problem, Sir, is how is the expenditure involved to be financed? We can hardly expect the comparatively small number of European settlers already in East Africa, and the natives in their present stage of development in Colonies and Protectorates which are almost entirely agricultural, to produce

immediately sufficient to pay interest charges not only on their own development lines but on those through lines through the different territories.

Then, Sir, is private enterprise in railway development in East Africa obtainable except with onerous subsidies or guarantees? I doubt it, and I doubt also whether, even if obtainable on reasonable conditions, construction and working of railways by private enterprise would be a wise policy for East Africa. There has been a lot of talk of private railway company development, and also of railway development and management by a form of public private company, but so far no definite proposals have been made which could be regarded as in any way practicable or acceptable to East Africa.

The disadvantages of Government ownership and management, Sir, are numerous; but there are also great advantages, and in my opinion, in young, developing territories they more than counterbalance any possible disadvantages.

So far as private enterprise is concerned, the inducement of substantial mineral development does not as yet exist; while land grants to private companies would be impracticable with our existing land alienation and native reserve principles.

No doubt, Sir, discussion will proceed, I suggest; but I think, Sir, it will be found that further extensive railway construction in East Africa will not be undertaken by the Governments concerned.

Through trunk lines, Your Excellency, should be built by the State, but how are the East African Governments to finance them? Through trunk line development, I fear, be very slow if we rely on local efforts unless we can be assisted, and I venture again to suggest that the Imperial Government should seriously consider ways and means of providing for the capital cost of these through trunk lines to be free of interest for a long period—say ten years—but subject, of course, to a revision of the terms if it is found that any particular line can pay its way within a shorter period.

If such lines were built, all material required would be purchased in Great Britain, and markets would be created for Great Britain.

I think, Sir, that such railway development in East Africa should not be looked upon so much as an East African investment as a sound Imperial investment, as in the interests of the people of Great Britain even more than in the interests of the Europeans already here, and as decidedly in the interests of the native inhabitants of the territories concerned. I sincerely trust, Sir, that the time will come when the Imperial Government will find itself able to look at the matter from this point of view.

RATES

I would now, Your Excellency, like to refer to the question of railway rates. I have already remarked that rates reductions are generally received in silence, to which I may add that demands for further reductions in rates in this country seem to be endless, and there appears to be an impression that I spend most of my time obstinately turning down or dodging such demands.

I have heard arguments to the effect that charges paid for the conveyance of goods by rail form portion of the taxation of the country. That, of course, is quite ridiculous, because the Governments of Kenya and Uganda do not receive a penny out of railway rates, and railway charges are no more taxation here than the same in England.

I have also heard it suggested over and over again that our railway rates as a whole are high. I need hardly say, Your Excellency, that I deny it.

As General Manager of Railways, I must judge the position from the point of view of average receipts, hauls, etc., but perhaps the figure that will appeal to hon. Members most is average income received per ton of traffic per mile, and I say emphatically that, taking into consideration the local working conditions, rates I pay an average income of 11.61 cents per ton per mile of total traffic carried, and 13.33 cents per ton per mile of revenue earning traffic carried, cannot in East Africa be regarded as other than low. Now, Sir, it may interest this honourable Council to know that the average earnings per ton-mile on revenue earning traffic carried on the Nigerian Railway, as set out in the latest report to hand here, is 18.50 cents as against our 13.33 cents, and the Nigerian Railway includes in its traffic a large tonnage of coal, which is usually a very low rate railway traffic. We have no mineral traffic. We actually carried valuable cotton this year, including handling costs at the ports en route, at a through rate one cent per ton per mile lower than the rate on coal in Nigeria. Compare the value and the bulk of a ton of cotton with a ton of coal! Normally, also, we carry even our most valuable exports at extremely low rates. If it were possible for us to obtain the Nigerian average, our income would be increased by £574,727 per annum for goods traffic alone, our ratio of expenditure would be just about a low record in the railway world, and our ability to carry increased interest charges would give me no concern. Please do not construe these words into a criticism of Nigerian practice. Their conditions are totally different from ours, and I neither wish to judge the Nigerian position nor do I pretend to have the necessary knowledge to enable me to do so. Railway rates must fit in with railway revenue and expenditure requirements and other conditions, and I again wish to point out that rates

are not high, and it is interesting to know that in the month of April last the average ton mile receipts in Great Britain for traffic other than coal and minerals was 19.65 cents, and including coal, 12.68 cents; so that in the country where railways have been established longest, with much competition, the average is much higher than ours. My point is not that the Nigerian rates are high in view of their conditions and requirements, but that ours on the average are not high, bearing in mind our working conditions, and that on the great bulk of our traffic our rates are extremely low.

Our average receipts are really low, and a good many of our rates are very low, in comparison with other railways. During the six months ended June last no less than 18.85 per cent. of our public traffic consisted of export maize, that traffic is carried from any point on our main line, and from some branch lines to the coast at Sh. 1 per bag, and for this shilling we give services in addition to carriage. I am fully aware that on the South African Railways maize for export was also carried at Sh. 1 per bag, but, according to the last annual report, export maize in South Africa represented only a small proportion of the total South African Railways public tonnage. Then take our cotton seed traffic, a most unsatisfactory class of traffic if I may say so. In that traffic we carry a very large tonnage at a very low rate. I do not wish Members to gain the impression that the rate on maize for export should be increased at the present time, the fees must look after itself, but I do suggest that the public in this country should, in fairness, concentrate attention on our low rates as well as on some of our individual rates which are admittedly high.

From time to time, Your Excellency, we are asked to reduce rates on petrol, kerosene and crude oils. It is a fact that since I have been in the country we have reduced (on an average) the rates on petrol by 29.93 per cent., kerosene by 35.85 per cent. and crude oils by 36.36 per cent., and throughout this period the Governments concerned have made no reduction in Customs duty or, in the case of petrol, in the consumption tax. The whole burden has been thrown on the Railway, and yet the Railway is asked again and again to do more.

Now, Your Excellency, I want to be quite clear, I am here only as a servant and a trustee of the public, and I say in all seriousness that I am only too anxious to reduce rates. There is nothing that pleases me so much as to be able to reduce rates, but I must face the responsibility of not reducing railway rates in such a way that the Railway, and consequently the country, will suffer financially. I know, Sir, that the subject of railway rates is one which many people think they can handle better than those who have studied the subject throughout their working lives, but my advice to the Railway Council must be based on my own experience and judgment. I personally

which the Kenya and Uganda Railway, and East Africa as a whole, could take at this stage. I believe that the line will attract fresh capital to Uganda, will produce additional traffic; will encourage the growing of mixed crops instead of cotton only; will promote Inter-Colonial trade and improve Inter-Colonial feeling and trust as between Kenya and Uganda, and will stimulate general development in the whole of Uganda itself.

That Your Excellency is all I have to say at present, but I shall, of course, be prepared to give any further explanation Members may desire on any points they care to raise.

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

THE HON. CHIEF HARVEY: Your Excellency, at the risk of wearying myself and the General Manager, who must be getting rather tired of the monotonous storm of applause which greets the introduction of his estimates year after year, I feel I must again say that it is a precedent which can hardly fail to be gratifying to all of those concerned in the preparation of what I may accurately describe as a very clever statement of revenue and expenditure. At the same time, Sir, I should like to express my own very deep thanks and the very deep gratification which will be felt by the whole of the country for the magnificent exposition that the General Manager has given us this morning in regard to the numerous services under his control. To those who used the Uganda Railway two years ago the transformation that has taken place, especially during the last five years' savours of magic.

No doubt, Your Excellency, some of my colleagues with greater experience of commercial concerns and industrial concerns will find weak links in the chain, but so far as I am concerned at the moment, Your Excellency, I wish to express my admiration for the wonderful achievement of the General Manager in having greatly reduced the costs of this essential service, in having greatly increased traffic at the same time, and in having very generally improved to a marked degree all the services under his control. Thus, Sir, I venture to suggest as an example which might well be followed by other Government departments. (Laughter.)

There is, however, one part of this comprehensive financial statement that I am not quite satisfied about. I refer, particularly, Sir, to the enormous sums of money which are being devoted to the essential work of maintenance. In addition to that, Sir, we see fairly colossal sums at the same time going to what is known as Repairs and Betterments. In addition to this, Sir, we have a very substantial item for depreciation and it appears to me, and to many others, Your Excellency, that the present generation is being bled almost to

the point of death for the benefit of coming generations. In this matter, Your Excellency, I regret that the General Manager does not exhibit the same callous disregard as to the future as he indicated in his remarks regarding the flat rate on maize when he said that the future would look after itself. (Laughter.)

THE HON. T. J. O'SHEA: Your Excellency, I have much pleasure in associating myself with the congratulations that have been showered upon the Hon. the General Manager by the previous speaker though not perhaps in the same unmeasured terms. I should like to add that in my opinion the greatest benefit he has conferred upon the country is the spirit he has introduced into the whole of the service of which he is the head. (Hear, hear.) It must be obvious to anybody studying the working of the railway that the co-operation of the people working under him, imbued with the spirit which emanates from him, is responsible for the achievement set forth in the statement he has given us to-day. Having had some experience of the railway for eighteen years I take great pleasure in expressing my deep regard for those who are now running it and my appreciation of the improvement made in the service, which manifests itself from top to bottom. It is to some extent a pleasure to-day to travel on the Uganda Railway. It is not a very great pleasure, perhaps, except for the tourist but the staff of to-day has certainly modified its discomforts to a remarkable extent. Your Excellency, last year I ventured some little criticism of the accounts which were placed before us by the hon. the General Manager. In doing so I felt very much like a small schoolboy criticising the expositions of the august headmaster. I felt very small indeed, but I venture to suggest, Your Excellency, that the very lucid statement made by the hon. the General Manager himself to-day is the very best justification I could have for my temerity on that occasion. He has proved himself to the hilt that I was right.

First of all I contended that there were large hidden profits in his accounts—hidden away in a manner which is very plain to him but not so plain to his critics. I should also like to point out that he has proved to-day my second contention that during the past four years the country has been called upon to contribute to an unfair extent out of revenue for the capital expenditure of the Uganda Railway. Your Excellency, nobody has greater admiration than I have for the ability with which the hon. the General Manager is running the railway from a business point of view. The policy he is pursuing is undoubtedly sound. But the more I study his accounts from year to year the more I think that he is following that conservative policy to an extreme extent. He is pursuing it to an extent that places an undue burden on the community. The shareholders of this concern, the people of

With regard to the policy of freights, I do not think that I can agree with the principles which have been laid down by the hon. the General Manager that the rates at present are not following the policy of taxation. To my mind he is purely and simply following the rules and principles of taxation in every way and therefore they can be treated as part and parcel of the taxation policy of the country.

Your Excellency, the freights are based not on the business policy of any industrial concern that they should be charged what it costs, but on a policy of ability to pay, and so far it has been argued from all points of view that the export industry to a certain extent is subsidised at the expense of imported articles.

What I do agree that to a certain extent an important industry in any country has got a first claim on the reduction of tariff rates to a certain extent in this instance the railway has got a little better. It is impossible that any industrial concern could transport a bag of maize from any railway centre some miles away to the coast. I was demanded by a driver of a vehicle from Kitui to Mombasa Station and therefore it is quite clear that this rate is absolutely low, much lower than could be insisted on in other countries.

The hon. the General Manager has stated that during the last two years a very large reduction has been made in regard to 1967 commodities. I find that only during the last year, however, the rates have been actually increased on crushed salt. Up to the present the Revenue Authorities have been treating this salt as coarse salt and have been charged a lower rate accordingly, but in view of circumstances of which I am not aware it has been found necessary to increase these rates on crushed salt, which is used mainly by natives in Uganda and not for any industrial purposes.

Your Excellency, the hon. the General Manager has expressed very great satisfaction at the way in which the staff has worked for him and I do feel that he also includes in his speech the Asian staff. May I appeal to him again this year to see that the leave rules and conditions applicable to this staff are improved; they are not considered satisfactory. The Asian staff to a certain extent is not satisfied with the present leave rules.

There is also to a certain extent differentiation between the different grades as regards the getting of certain summe pay for the running staff and these small things I hope the hon. the General Manager will see and look into and remedied at the first opportunity.

This matter has every year been put before the hon. the General Manager. Another thing is in regard to the accommodation of second class passengers on the railway. It has been

argued for many years that the second class coaches which are now running on the railway are nothing but a disgrace to the country. Your Excellency, these coaches are only fit for horses. They were imported into this country I suppose at the time the railway was built and very often the hon. the General Manager has said that these coaches will be replaced at the first opportunity. I have seen these coaches running only a month ago when I came to Nairobi.

Your Excellency, I think that I do feel that to a certain extent no doubt the railways are being improved and new coaches are being imported, but not sufficient have been ordered to replace the coaches which are now being used for second class traffic. I do appeal to the hon. the General Manager and hope that he will try to replace these coaches at the first opportunity. He claims to run this concern as a business concern; therefore he will no doubt feel that anyone who travels on the railway ought to get value for what he pays. It amounts to this that a man paying the same fare gets different treatment; that if a man is fortunate enough to come early he gets better accommodation in the same train than the man who is late. I therefore trust that the first opportunity will be taken to replace these coaches, which are very unsatisfactory.

In regard to the Port, I think I ought to say that I feel there has been very little time since the hon. the General Manager took over the control to just whether it has been a success or not, but there is a certain dissatisfaction on the part of certain sections of the mercantile community with regard to this Port working. Perhaps when they have had better experience these troubles will be removed. No doubt the present methods at the Port are considered to be necessary because of handling by the merchants, but it does seem to me sometimes that the present methods could be improved in order to expedite the traffic, especially the transit traffic particularly, and so reduce the high rates which are being used as a means to add to revenue. In certain cases where it is proved that delivery could not be taken earlier—it is a contingency that can always arise—consideration should be given towards the reduction of these rates. I believe the Port Manager cannot reduce these rates because he has not got the authority to do so. In these matters I feel that the hon. the General Manager ought to see his way clear to giving the Port Manager certain powers to reduce rates where he finds it absolutely necessary or essential.

CANON THE HON. M. LEAHY: Your Excellency, I would like to take this opportunity of congratulating and thanking, on behalf of the African community in this country, the hon. the General Manager of Railways. We appreciate very much the great improvements he has recently made in the coaches

once right on this matter." I thought his speech an extremely reasonable one, and, if I may do so, I must congratulate you very much on that speech. I hope we all agree with the remarks of the Member for West Kenya when he said that we are reasonable men, although Members on either side of the House may not be well balanced, but I cannot help feeling, Your Excellency, that it is a very big thing to turn an estimated deficit into a surplus of £250,000 and that the General Manager might reconsider the question of reducing to some extent inward rates. It is true that he says it is not only his view but it is the view of the Inter-Colonial Railway Council, but, Your Excellency, I cannot help thinking that the advice given by that Advisory body to the General Manager, or Your Excellency through the General Manager, must to a great extent be tempered by the persuasive tongue of the General Manager who speaks best.

I am not certain that a reduction in the rate on fuel oils is most necessary and there I disagree with the Member for West Kenya. I am not at all certain that the present rate of freight of a tonne is in fact having any effect on the increased use of tractors in this country. (Hear, hear.) I do not know but I say I am not at all satisfied. There is no question whatever that the increase in the number of tractors has been very marked during the last twelve months. It could, of course, be argued that the rates had been lower the number of tractors would be greater. That may or may not be. But I would ask the hon. General Manager to consider before he replies to this hon. Member if he cannot put aside say £50,000 for the reduction of rates in 1928, and then get down to the question of what are the more important rates to be reduced. It is not a matter to be discussed here, but it is a matter for consideration. Before leaving rates I wish to dissociate myself, and I believe every member of this side of the House must dissociate himself, from the remarks of Mr. Pandya when he said there was no justification for the Sh. 1 export rate on maize. Your Excellency, there has been nothing in the last fourteen years since I have been in the country which has had so marked an effect on the production and wealth of this country as the result of the recommendation to the Government by the Economic and Finance Committee some eight years ago for the reduction of the export rate on maize to Sh. 1 a bag. The marked increase in production of maize is due practically entirely to that wise executive action.

There are three quite small matters I would ask the hon. the General Manager in reply to tell me.

The first one is I understand when the new carriages on the railway will be running it is to be a daily service. I understand that as a result of there being restaurant cars there will be a decrease in running time. I understand it is proposed at present to leave Nairobi at 1.30 instead of at 1.55

and to arrive at Mombasa at 8.30 instead of 7.34. I would ask his advisors to consider when considering the time table to further decrease the time from Nairobi to Mombasa by bringing the train in at the same time as now. It seems a small matter but it is not. If you have a daily service leaving Nairobi at 4 p.m. it means people can do their day's work in Nairobi, leave after office hours and if they get down here the same time as at present they will be able to do their work here and leave at 4.15 and get back next morning. It is the difference between 7.34 and 8.30. Offices start at 8.30. I would urge upon him and I think my colleague the Member for Nairobi North will agree with me that that is the view of the commercial community in Nairobi.

Two small points before I sit down. I would like to ask the General Manager when it is anticipated that the new railway offices will be completed and whether it has yet been decided whether the building will be two storeys as originally anticipated or three.

Finally is it his intention to continue and complete the ballasting of the line from Makindu to Nairobi so that those who come down from Nakopi to this salubrious spot can remain here without having tonsillitis.

THE HON. A. C. TANNAHILL: Your Excellency, I think I am going to confine most of my remarks to Appendix I on page 102. The hon. the General Manager said in his most admirable speech that there was no fear for alarm in regard to the finances of the Uganda Railway. I do not think there is any need for fear. What I am so frightened of is that the Kenya and Uganda Railway as exemplified by Appendix I will accumulate the whole of the life money in the whole of the world. According to this statement, in 1928 the railway anticipates an excess of receipts over expenditure of some £462,000 as against the extremely cautious figure of £154,000 shown on page 4. To that the hon. General Manager adds that he anticipates another £100,000 making the excess of receipts over expenditure over £562,000. This figure is made up of depreciation allowance for depreciations, the net profit and a sum which I cannot trace elsewhere in the estimates of £6,000 for insurance. Now I ask myself, in view of the increase which appears in the estimates whether there is any need for this figure for depreciation. Going through the abstracts one by one we find on very nearly every page allowances for maintenance and renewals which I have totalled and they are in the neighbourhood of £178,000. Maintenance of way, works, rolling-stock and steamers and exclusive of salaries and wages in connection therewith and exclusive of Mombasa Port and on top of that during 1928 it is proposed to spend on renewals a further £186,000 according to Abstract M on page 100. In other words a quarter of a million pounds is being spent on

once right on this matter. I thought his speech an extremely reasonable one, and, if I may do so, I must congratulate him very much on that speech. I hope we all agree with the remarks of the Member for West Kenya when he said that we are reasonable men, although Members on either side of the House may not be well balanced; but I cannot help feeling, Your Excellency, that it is a very big thing to turn an estimated deficit into a surplus of £250,000 and that the General Manager might reconsider this question of reducing to some extent inward rates. It is true that he says it is not only his view but it is the view of the Inter-Colonial Railway Council, but, Your Excellency, I cannot help thinking that the advice given by that Advisory Body to the General Manager, or Your Excellency through the General Manager, must to a great extent be tempered by the persuasive tongue of the General Manager who speaks first.

I am not certain that a reduction in the rate on beet is most necessary and there I disagree with the Member for West Kenya. I am not at all certain that the present rate of freight on beet is in fact having any effect on the increased use of tractors in this country. (Hear, hear.) I do not know, but I say I am not at all satisfied. There is no question whatever that the increase in the number of tractors has been very marked during the last twelve months. It could, of course, be argued that if the rates had been lower the number of tractors would be greater. That may or may not be. But I would ask the hon. General Manager to consider before he replies to the hon. Council if he cannot put aside say £50,000 for the maintenance of rates in 1928, and then get down to the question of what are the more important rates to be reduced. It is not a matter to be discussed here, but it is a matter for consideration. Before paying rates I wish to dissociate myself, and I believe every member of this side of the House must dissociate himself, from the remarks of Mr. Pandya when he said there was no justification for the Sh. 1 export rate on maize. Your Excellency, there has been nothing in the last fourteen years since I have been in the country which has had so marked an effect on the production and wealth of this country as the result of the recommendation to the Government by the Economic and Finance Committee some eight years ago for the reduction of the export rate on maize to Sh. 1 a bag. The marked increase in production of maize is due practically entirely to that wise executive action.

There are three quite small matters I would ask the hon. the General Manager in reply to tell me.

The first one is I understand when the new carriages on the railway will be running it is to be a daily service. I understand that as a result of there being restaurant cars there will be a decrease in running time. I understand it is proposed at present to leave Nairobi at 11 o'clock instead of at 1.55

and to arrive at Mombasa at 8.30 instead of 7.31. I would ask his advisors to consider when considering the matter, to further decrease the time from Nairobi to Mombasa by bringing the train in at the same time as now. It seems a small matter but it is not. If you have a daily service leaving Nairobi at 4 p.m. it means people can do their day's work in Nairobi, leave after office hours and if they get down here the same time as at present they will be able to do their work here and leave at 4.15 and get back next morning. It is the difference between 7.34 and 8.30. Offices start at 8.30. I would urge upon him and I think my colleague the Member for Nairobi North will agree with me that that is the view of the commercial community in Nairobi.

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and clear exposition of the railway case. I do associate myself with most of the remarks that have fallen from the lips of hon. Members on this side of the House but again I would express my personal pleasure in the extremely clear statement which the General Manager made. But in his reply, on behalf of the people of Mombasa, I would like him to deal with one point in connection with the Port management.

He said that the figures that appeared in the estimates for 1928 in connection with the Port management were based on the working of the Port under the present arrangement, and he stated that changes that would take place in the near future would possibly lead to the necessity for revising these figures very considerably. If in his reply he would give some detail of the changes which he foreshadows it would be appreciated.

The other point on which I wish information, in which Mombasa and not only the up-country community is interested, is the date of the opening of the Thomson's Falls line.

THE HON. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to associate myself with the views that have been expressed by the elected Members, that is, generally, and I appreciate the statement which has been put forward by the General Manager which shows very clearly the financial position of the railway. From a financial point of view I quite agree with the hon. General Manager's optimism as regards the future, but I also wish to stress the point from this side of the House that the present generation is paying for the future politically and economically which is unsound. I would much prefer to see these estimates withdrawn and reconstructed with a view to reducing rates and finding money out of loan funds for capital expenditure.

The General Manager mentioned with reference to the freight rate on maize that it was a matter which might be left to the future. I rather gather myself that that might lead to some misunderstanding. Whether it is intended to discuss a revision of these rates in the future I do not know, but I would like to ask for a definite assurance from this House that there is no intention of revising the freight rate on maize. It is not only the question of maize but it is going to effect the future very closely. Shortly we will have to discuss the question of closer settlement which also associates itself with new people coming into the Colony, and if they are going to come to the Colony, a maize producing country and the maize producing districts especially, if there is any question of the freight rate being revised it will have a very serious effect on any closer settlement scheme that may be put up by this House.

There is another point which has been mentioned casually and that is the question of competition of motor transport against the railway. It is no fault of the railway, but there

is one that can be remedied, and which is the fault of the management and that is the time-table from Kitale and the time-table from Eldoret. Down line the one train leaves Eldoret at 11 o'clock to go down, and one train leaves the same day from Kitale at 1 o'clock and I do not see why these trains cannot be synchronised and turned into one train. The result at the moment is that the majority of first and second class passengers travel by car from Eldoret to Kitale making it a 90-mile return journey to catch the train at Eldoret. The Kitale line will be affected later on because people travel by road instead of by train because there is no suitable train.

I also realise, and many members on this side of the House do realise that I am probably a voice crying in the wilderness when we look at the opposite side of the House.

I am not going to ask for a free vote, but I do ask that full consideration be given to the views which have been put forward by the Elected Members.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY: Your Excellency, I can give an assurance on behalf of the Railway Council that the views put forward by the Elected Members will be given full consideration. I do not know, Your Excellency, whether I am praised or blamed, whether I have put up a good show or not. I am like the curate's egg, good in parts. I think members are under a misapprehension in regard to railway rates. It is not for this hon. Council to move a reduction of rates. Under the Order in Council there is a Railway Council, an Inter-Colonial Railway Council to which body all rates questions must go and we can only express an opinion to that Council and it is considered on an Inter-Colonial basis. On that Council we have no railway officials, we have four Government representatives, two from Kenya and two from Uganda, and two public representatives from Kenya and two from Uganda. So it cannot be suggested that the General Manager is in a position to use undue influence on that Council. I can give hon. Members a prospective assurance that the public representatives are very wide awake. They have not gone to sleep on this question of railway rates. There is not a single meeting of the Council at which railway rates are not discussed. There has certainly not been a single meeting at which rates have not been discussed and at not a single meeting are rates not reduced.

An hon. Member suggested that the railway should set aside £50,000 next year. I cannot recollect a single year, Your Excellency, when we have not spent more than that in rate reductions. When I spoke this morning about reductions I was speaking in a general way on reductions of rates. What will happen now is that as the import traffic comes in we shall know gradually how we are likely to stand next year and then

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the Railway Advisory Council will of course again consider rates reductions. Furthermore the Railway Council will know better next year what is going to happen in connection with this Port of Mombasa. I made it very clear this morning that whatever improvement is effected by the Port Advisory Board will be reflected similarly in railway rate reductions. I can only suggest that this hon. Council leave it there.

While I am on the subject. The question was asked by the hon. Member for Mombasa what precisely I meant by saying that the harbour estimates were subject to adjustment as a result of changes that might take place. What I meant was this: that the Port Advisory Board has only just come into existence; that Board is studying the general question of harbour charges and if that board enters into a different scale of charges all our figures will have to be reversed. That is what I mean, but if that scale results in the Port being more self-supporting as it should and as every one hopes it will then you will get a reduction in railway rates. Whether the rate on kerosene will be reduced I cannot say. The fact has not been played to the Railway Council. It has certainly not been presented to the General Manager of Railways that a reduction in the rate on kerosene is going to increase the use of kerosene in tractors. I have seen a memorandum circulated showing how to improve the use of kerosene in tractors.

It has been stated that a reduction in rates would lower the farmer's working cost by Sh. 1 per acre. Perhaps that memorandum is the result of a misunderstanding of the general conditions of using tractors. But the fact is that the difference would not be Sh. 100 per acre. That has not been disproved and I am not capable of saying that I shall be glad. I do not think that the rate on kerosene affects the use of tractors. I think that the rate on kerosene taken with other things may affect the use of tractors but there is far more likelihood that farmers are not using tractors properly.

THE HON. J. J. OSHIA. On a point of order, Your Excellency, is the hon. Member entitled to introduce a fresh point in his reply?

HIS EXCELLENCY. I understand he is dealing with a point which the hon. Member raised—the question of the rate on kerosene which the hon. Member raised.

THE HON. T. J. O. SHINA. Has he the right to introduce fresh arguments in his reply?

HIS EXCELLENCY. He is certainly entitled to introduce fresh arguments.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY. My information was that from experience in other countries what is wanted in connection with the use of tractors is not so much a reduction of the rate on kerosene but the better looking after of the tractors.

The point I wish to make it is this. No reduction will improve the position and furthermore as I said this morning it is a little unfair after the reductions which have been made to keep piling on this question of rate reduction. There has been a statement made on a previous occasion that the railway has never been pressed to do it.

Now, Sir, it is rather difficult for me to deal very briefly with some of the general remarks regarding financial matters made this morning. Personally I am extremely pleased that Members of this hon. Council are at last commencing to realise the real position in connection with the finances of the Railway. It is the first time so much interest has been taken and I think that in itself is an excellent sign, and if I may be excused for saying so, I was quietly chuckling to myself during the speeches. When I first came to this country in 1922 and took over, there was no question of the Government living on the Railway, because the Railway in fact was showing a loss. The Railway was actually showing a loss in 1921, and for 1922 there was a nominal profit which was due to the high rates charged. Now, Sir, what has made the change? The adoption of the very policy criticised this morning. Now, of course, hon. Members say: "But you have gone too far—you are too much money and you should give it away as soon as you can." Your Excellency, if I adopt the policy put forward by the hon. Members the country is going back to the very position in which it was in 1922. I suggest that we ought to be very careful—extraordinarily careful—before we walk into the same trouble again.

I tried to explain the position. In 1922 our loan charges were £77,964. For 1925 they will be £563,516. In 1929 £743,000, and in 1930 £814,000. How could these heavy loan charges have been met if money were not being put aside for your renewals and betterment funds instead of being given in reduction of rates in the low interest period? You could not possibly reduce rates permanently against a temporary freedom of interest. The Railway must secure its ability to pay its interest charges. Statements are in existence which prove that the time is very near when the possible provision for betterment will not exceed £100,000 a year. It is also the case that we may have to reduce our provisions for depreciation. That is well known to the members of the Railway Council and I suggest to the hon. Members of this Council that they put a little trust in a matter of this sort in their representative on the Railway Council, because it is quite impossible to drag some of these matters into public

discussion. It is unwise to do so. But I can assure hon. Members that the Railway Council is fully alive to the position and that provision for betterment will come down while the rate for depreciation will probably have to be reduced.

May, I explain, Sir, that our contributions to renewals fund are based on the life of the assets. We do not in this country indulge in special scales; we have no such thing. We adopt a simple percentage of three per cent. Now, Sir, I admit that is high, but it had to be so because the line was in such a shocking state and no provision had been made for betterment and renewals for many years. Therefore we had to start off on a fairly reasonable basis. I know we cannot have that basis indefinitely, but I want to see it maintained as long as possible, so that if we do again strike financial trouble we shall be ready for it.

Reference has been made to the fact that provision is also made in Estimates for maintenance, and that maintenance of course includes large renewals. That is not so. I would point out, however, that the principles with regard to allocation from the Funds—Betterment Funds, Insurance Funds, Renewals Funds, Railway and Marine—were drawn up here in 1927 and approved in England. They are in accord with principles laid down by provincial authorities. If any hon. Member wishes to see the regulations and will call at my office I shall be only too pleased to let him see them; they are well defined principles. In fact, the renewals fund actually exists for the purpose of replacing or renewing wasting assets. In spite of all that can be done to maintain an asset it does wear out and the time comes when the asset must be replaced. A line is drawn between minor works charges against maintenance and renewals charges against the Renewals Fund in the cost of the work.

It has been suggested that we are doing too much for posterity and that we are doing a lot of extension out of Revenue. Of course we are doing a lot of extension, but that is all coming out of loan funds. I do admit, however, that we are doing a rather a lot for posterity in providing for redemption of loans on top of all the provision for renewals and betterment. But it must be borne in mind that Colonies cannot obtain loans very easily to-day unless there are redemption conditions. The East African Colonies are not yet sufficiently far ahead for me to say that redemption can be put on the Government and not upon the Railway.

With regard to hidden profits, I would just like to say there are no hidden profits at all. The Acting General Manager published a most comprehensive balance sheet in the General Manager's report, giving full information. Every figure is shown there in the balance sheet. We cannot do more than that. Everything we possess is there.

The Insurance Fund contribution for 1928, which our hon. Member was rather stuck in understanding, is simply interest expected on the balance invested.

In regard to provision for rolling stock, the biggest expenditure is on capital account. We have just ordered another £531,000 worth of rolling stock this year against capital account. More than that we cannot do. I do not think we have ever really suffered from truck shortage in this country, but that is a point on which the general public and the Railway never could see eye to eye. I have never known any country where the public has admitted that the railway has a full supply of trucks. In this country we have a very full supply of trucks in comparison with other railways, and as I say, we have ordered still more. We can do no more in that respect. In this country, owing to the seasonal conditions there may be times of strain but we have a very full supply of trucks compared with other countries. We cannot do more because there are limits as to what it is possible to carry in dead capital for the bulk of the year.

The Hon. Member for Plateau South referred to a certain railway in America. I would invite the attention of the hon. Members to the reply of the American railroad authorities to the points he made. My recollection is that the American railroad authorities got the gentleman who owns the railway had the best of the argument.

I was asked a question about the Police Force. It is well known, I think, that I myself am not at all satisfied with the position with regard to the Railway Police. I am not blaming the Police Department, but I regard the present system as simply a case of off-loading Government expenditure on to the Railway—it is a case of Government police doing work they would have to do in any case for a private company and for which no private railway company would pay. A real railway police force still remains to be established in this country and nothing can be done until we get an officer with considerable experience of railway police work to organise the force. The matter is still under consideration, but I must say I do not consider the Government Police as such have done their work badly. They have certainly improved very considerably in the last few years. My point is not so much that they are inefficient as that they are not really railway police. They are Government Police watching the Railway.

As regards the question of "graft," I would be the last to suggest that with a mixed staff there is no graft, but I think the position is very much better than it has been in the past, and as far as I personally am concerned I have prosecuted every case where I have found sufficient evidence for the Railway to prosecute. I admit it is very unfortunate that irregularities do occur in this country from time to time, and one can only hammer away at it and eliminate it as rapidly

as possible. If hon. Members and their friends would only help the Railway by bringing every case of which they know to the notice of the Railway, the Railway officials' task in stopping dishonesty would be very much easier.

With regard to the remarks regarding the running staff, I know from experience that you do not always get polished, a practical railway man and what appears to be discourteous to an outsider does not always appear in the same light to the railwayman. I will, however, make enquiries.

If leave conditions are concerned, the Hon. Mr. Paddy appears to want the conditions of leave for the Asiatic staff improved, while the Hon. Member for Plateau South suggested that the General Manager should reduce the leave conditions further. Well, Sir, we already have leave conditions which are not the same as those in the Government Service. It must be admitted that both our rates of pay and our leave conditions for Asiatics are lower, i.e., less liberal than they are in the Government Service, but they are extraordinarily liberal compared with other railways. Having regard to supply and demand, we pay our men perhaps more than they would be paid, but they are not as highly paid as in the Government Service. I cannot say more than that I am not prepared to recommend any further reduction in our leave conditions while Government conditions remain as they are, and I am also not prepared to recommend any further reductions in the Asiatic pay conditions under present circumstances. On the other hand I do not see, on the merits of the case, any justification for recommending any increase in the pay or leave.

It was suggested on the question of the Railway rates that we seemed to be basing the rates on what the traffic can bear. Most railways change what the traffic can bear and I am quite satisfied that in this country our charges, on the average, are very reasonable.

Regarding crushed salt, there has been no increase whatever. The simple fact is that advantage had been taken of an abbreviation in the Railway tariff book and the Railway staff did not spot it for some time, but when they found it out a change was made and adherence to the tariff book insisted upon. Since then a general reduction has been made by the Inter-Colonial Railway Council. The fact is that our classification was misused for a time.

Speaking of second-class carriages, the position is that we are putting more and more coaches on the line. Regarding the local coast services, this is a matter I will go into with the Superintendent of the line as soon as I get back to Nairobi, but I know he has always studied the running conditions.

With regard to the new time tables, I cannot recall whether the Chamber of Commerce suggested any change to be put forward, but a new time table came before the Commission for a time, and we are quite prepared to consider any other recommendations. We must, however, consider the whole country and it is extraordinarily difficult to suit everybody—Nairobi, Mombasa, Nakuru and Eldoret; all these places must be considered. It is very difficult to find timings acceptable to all centres throughout the country from Mombasa back to Jirra, but the Traffic Department will always be willing to discuss any recommendations that are made.

The new offices will take about eighteen months to two years to complete. The intention now is to have a third storey, but I have not yet heard definitely from the Government whether or not they are going to pay for this third storey. (Laughter.)

As regards the ballast, we will soon have contracts all along the line for this work. It is proposed next year on the Makindu-Nairobi section that ballasting should take place simultaneously with relaying. I hope that the line will be relaid with the heavy rails and properly ballasted as far as Nairobi by the end of 1930.

I think if the necessary authority is given by this Legislative Council we ought to commence the Thomson's Falls line in January, and it should not take more than eighteen months to complete.

The motor transport question may become a very serious one in this country at any time. My own view is that there should be more control over the use of roads. I think the Hon. the Director of Public Works knows something about the subject and I certainly do hope that officer will look into the matter. It is hardly fair to tell the Railway that they must reduce their rates on petrol while the Government collects the revenue from the consumption tax on petrol to pay for the roads which are being used in competition with the Railway.

I would like to thank some of the hon. Members of Council for their remarks and praise of the work which has been done by the Railway during the last year. I want to make it clear, Your Excellency, that as General Manager of Railways I am only the co-ordinating force, and I consider that my heads of departments and their staff have done really good work and it is a great pleasure to hear this recognised. (Hear, hear.)

His Excellency: The question is:—

That this Council approve the draft Estimates of Revenue and Expenditure of the Kenya and Uganda Railways and Harbours (including main and branch lines, lake marine services, motor services, and Mombasa Port Administration) for the year 1928, as laid on the table."

The question was put and carried.

Council adjourned to 10 a.m. on Friday, September 16th, 1927.

FRIDAY, 16th SEPTEMBER, 1927.

The Council assembled at 10 a.m. His Excellency the Governor (SIR EDWARD W. M. CRIGG, K.C.V.O., C.M.G., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to—
HUMPHRY TRICK MARTIN, Commissioner of Lands.

MINUTES.

The Minutes of the meeting of the 15th September, 1927, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. THE TREASURER:

Report of the Select Committee on the Asiatic Widows' and Orphans' Pensions Fund.

THE HON. THE TREASURER: Your Excellency, this report has been signed by five members, but Mr. Nehra has communicated to me the fact that he is ill and his signature has not been obtained to the report.

ORAL ANSWERS TO QUESTIONS.

JUDGES' TRAVELLING EXPENSES.

THE HON. CONWAY HARVY asked:

What is the total mileage covered by judges of the Supreme Court and Court of Appeal work for the eighteen months ending the 30th June, 1927?

2. What was the total sum expended on:—

- (a) Transport allowance;
- (b) Travelling allowance?

3. On how many occasions in the said period were sessions held at Meru and how many cases were tried at such Sessions?

THE HON. THE COLONIAL SECRETARY (SIR EDWARD DENHAM):

1. (a) The mileage travelled by Kenya judges on Supreme Court work during the eighteen months ending the 30th June, 1927, was—

- (1) 5,777 miles by road;
- (2) 4,726 miles by rail.

(b) Mileage travelled by all the members of Court of Appeal in attending sessions during the same period was

- (1) 2,781 miles by road;
- (2) 7,365 miles by rail;
- (3) 650 miles by sea.

2. (a) Total amount expended during the eighteen months ending 30th June, 1927, on transport for:—

- (1) Travelling of Kenya judges on Supreme Court work, £168
- (2) Travelling of members of Court of Appeal, £106
- (3) Travelling allowance paid to:—
 - (a) Kenya judges on Supreme Court work, £332
 - (b) All members of Court of Appeal, £274

(b) During the said eighteen months three sessions of the Supreme Court were held at Meru and six cases were tried, involving nine accused persons. There was no separate, common journey to Meru, Meru being visited in conjunction with the en route to Fort Hall, Nyeri, Embu, etc.

THE HON. COLONEL HARVEY: Your Excellency, arising out of that answer, can Government give us any idea as to the cost of members of the Attorney General's staff in addition to the judicial charge?

HIS EXCELLENCY: The hon. Member should give notice of that question, which is a separate question.

THE HON. COLONEL HARVEY: Can this be taken as notice and may I have a written reply in due course?

SUGAR MILLS, KIKUYU RESERVE.

THE HON. F. O'B. WILSON asked:

Is it a fact that the Government is closing down sugar mills in the Kikuyu Reserve. If so, what compensation is being paid to the owners of the mills and out of what funds is the compensation being provided?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL):

A marked increase in drunkenness among natives in the Fort Hall Native Reserve, which was attributed to the existence of a number of small native-owned hand-power sugar mills in the area, led to a request by the local Native Council for the closing of these mills.

The Sugar Ordinance has accordingly been applied to the Fort Hall Native Reserve and the sugar mills have had to cease operations.

No compensation to owners from public funds is contemplated, but the question of an *ex gratia* partial compensation from the Local Native Fund is under consideration by the Local Native Council.

THE HON. F. O'B. WILSON: Your Excellency, arising out of that answer, is it not a fact that these natives in many cases were encouraged by the district officials to erect such sugar mills?

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, so far as my information goes the answer is in the negative. Records in my office show that some time ago the natives who proposed to establish these small mills asked the permission of the District Commissioner. The then District Commissioner informed them that as the Ordinance was not in force he could not refuse them permission, but he warned them that if as a result of the establishment of these mills there was an apparent increase in drunkenness, Government would undoubtedly have to take steps to enforce the Ordinance.

DISEASE AMONGST COAST PEOPLES

CANON THE HON. H. LEARLY asked:

Can the Government give any information as to the incidence of disease among the Coast people and the steps, if any, which are being taken to combat same?

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS): During the past year it has been possible to maintain a medical officer in the Digo District.

A survey of the population has been undertaken and is being continued. The facts ascertained indicate that a high percentage of the population is infected with hookworm and that the physical condition of the people is seriously affected from this cause. The incidence of yaws is considerable and the amount of tuberculosis is disquieting. Coincident with the carrying out of the survey, dispensaries have been instituted where treatment for yaws is being given. Arrangements are

being concluded by which a campaign involving the treatment for hookworm of every individual will be carried out. Combined with the provision of treatment to individuals an educational campaign directed towards an amelioration of sanitary conditions is being conducted and will be continued. Pit latrines are being constructed throughout the Reserve.

It has been possible, as a temporary measure, to post a second medical officer to the Digo Reserve to assist in the heavy work of the campaign.

One medical officer is posted to the Malindi and Kilifi districts. Data as regards the condition of the people are being collected. The figures indicate that much the same state of affairs obtains North as well as South of Mombasa. Appropriate measures are being and will be taken.

Necessary financial provision is being considered in connection with the estimates for 1928.

GILGIL-THOMSON'S FALLS RAILWAY.

CAPT. THE HON. E. M. V. KENZALY asked:

Will Government state the approximate date of the commencement of the construction of the Gilgil-Thomson's Falls branch line?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY (MR. C. N. L. FELLING): Arrangements are being made for the commencement of the construction work of the Gilgil-Thomson's Falls branch line in January, 1928.

STANDING RULES AND ORDERS.

CAPT. THE HON. E. M. V. KENZALY asked:

Will Government state when the report of the Committee appointed to consider standing rules and orders of this hon. Council will be submitted to Council?

THE HON. THE COLONIAL SECRETARY: A revised draft of the Standing Rules and Orders approved by the Committee will be laid on the table at the meeting of Council in October.

MANUFACTURE OF BRICKS BY THE KENYA AND UGANDA RAILWAY.

THE HON. G. G. ATKINSON asked:

1. Does the Kenya and Uganda Railway manufacture bricks for sale to the public?

2. Is there in the Mombasa district on the mainland another brick factory which also offers bricks for sale to the public?

3. If the answer to the above two questions is in the affirmative is it not contrary to the declared principle of the Kenya and Uganda Railway that the Railway does not compete with or against private enterprise?

4. Does the Port Authority of Mombasa charge Shs. 2/- per 1,000 bricks manufactured in the Mombasa district on the mainland and landed on Mombasa Island by boat, or make any other charge therefor, and if so, by what authority?

5. Does the Port Authority make any charge for any other article coming from the mainland and landed on Mombasa Island by boat?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY:

1. Bricks are manufactured by the Kenya and Uganda Railway for Railway and Port purposes. The Railway does not lay itself out to sell bricks to the public but does not decline offers to purchase bricks not required by the Railway.

2. The answer is in the affirmative.

3. The answer is in the negative.

4. The Port Authority has the right to control the use of the Port and Port lands, wharves, etc. A temporary charge of Shs. 2/- per 1,000 bricks is being made for landing after certain high-handed action by a company which had to be stopped. Any complaint on the subject should be addressed to the Port Manager, who can be asked to refer the matter to the Port Advisory Board.

5. It is the case that during the long period of uncertainty about Port Control some uses of the Port have escaped charges but the Port Authority should charge. It is understood to be the intention now to charge all who use the Port, including Government Departments, the Railway, the public, steamship companies, etc., etc.

MOTIONS.

NATURAL HISTORY MUSEUM.

THE HON. THE COLONIAL SECRETARY (SIR EDWARD DENHAM): Your Excellency, I beg to move:—

That this Council approve the expenditure of £6,500 out of revenue under head Public Works Extraordinary for the acquisition of and in payment of compensation to the Lady Northey Home in order that the present site and buildings of the Home may be utilized to provide a natural history museum in Nairobi in connection with the Coryndon Memorial Fund, the present natural history museum being taken over by Government.

Some hon. members of this Council and the Agency who were present on the occasion when the first motion for an Hon. on behalf of the Natural History Society was made in the Estimates may remember the speech made on that occasion by Sir Robert Coryndon, in which he stressed the importance of there being a proper museum, a fully equipped museum in Nairobi. He said that such a museum would not merely be a collection of trophies or a collection of different kinds of specimens. It should go further than that. It should be in the nature of a research museum. A museum which should contain specimens of the flora and fauna of the country and should give opportunities for the study of agricultural, medical and other branches of research in this country. He spoke of the importance that this country plays in the study of natural history throughout the world. He reminded hon. members of the fact that we draw every year large numbers of distinguished visitors to this country who always make it a point to visit the museum and see for themselves objects which can be seen there illustrating the natural history and flora and fauna of the country.

Now, Your Excellency when considering the form the memorial to Sir Robert Coryndon should take, it was unanimously agreed that his name could not be better associated with anything than such a museum as he had suggested that this Colony should provide for present and future generations. It was felt that a sum might be collected in subscriptions for such a memorial which might well take the form of a hall which should be called the "Coryndon Hall" and which should be joined up with the natural history museum building. Well, our first difficulty was to decide where such a hall was to be erected and how it could be worked in with any existing building.

Now, I do not wish in any way to criticise the present museum building. I know that that building was only made possible by the enthusiasm and ability of Dr. Van Someren and individual subscribers who helped to get that building put up, but I think that we can all agree that it is not, as it stands at present, a worthy natural history museum for such a country as this. If we are going to use the sum which has been subscribed for a memorial to Sir Robert Coryndon, a sum which amounts to £5,250 and altogether to £8,000 with payments and promises if we are going to utilise that in connection with the museum it is essential that we should have such a museum, a real museum, a research museum, at a spot which will be suitable for such a building. Now the Committee made several visits all round Nairobi, they searched the town itself, they searched the immediate neighbourhood for a suitable site and it was agreed that the best site was on that hill where the Lady Northey Home now stands, and that they could not do better than purchase that site and its buildings which could be adapted and used for the purpose required.

Now the advantages of having such a building there are that it is well situated, overlooks the town, you do not get that sun which we have far too much of in Nairobi to the extent that you would have it if you had such a museum placed in Government Road or in the heart of the town of Nairobi. A museum is not merely a collection round which curious strangers wander. It is not intended merely for the person who wants to go in and see a head. It is intended for those who are really going to study a subject and who want to see what they can really learn from the specimens on view there. Such museums have rooms connected with them in which studies can be followed up. It needs a library too. It needs a lecture room and it needs to be a real centre of natural history and research generally.

Now the site of the Lady Northey Home at present has the further advantage that it is quite close to the present European school and our new school which is being put up there. It will be quite easy for children to go down there and see the collection. A museum is of great importance not merely to the present generation but to those generations who come later and who will make this country in the future. The Lady Northey Home Committee was approached in regard to this matter and we asked if they were willing to agree to the suggestion that they should take land in another part of Nairobi. The land suggested is five acres in place of the four acres which they now have at the present Lady Northey Home. This site is close to Nairobi Club, near the polo ground, off Hurlingham Road. It is a very good site indeed. It is a good site and also has land round which will be protected from buildings; and the Lady Northey Home unanimously agreed that such a site was preferable to the site which they occupy at present and they were willing to agree to such an exchange. They stipulated, of course, that if they were moved from their present premises they should be given a sum which would enable them to build a similar home on the new site, they also asked for compensation in respect of removal and they also asked that they should not be removed from their present building until they were able to erect a new building on the new site.

After considerable negotiations, which was one of the reasons why this matter was not put before Council earlier, a decision was reached that £8,050 should be paid to the Lady Northey Home which will enable them to erect a building of the same type and size on the site at Hurlingham Road, plus a sum of £450 which was awarded them as compensation in respect of removal, the total being a sum of £8,500. They get five acres in place of four. The value of the land is perhaps not so great in Hurlingham Road as it is on the present site, but the fact of having an additional acre when you are dealing with small children and dealing

with the type of people who use the Lady Northey Home, I think is a very great advantage indeed. It is recognised as such by the Committee of the Lady Northey Home.

What we propose therefore is to give the Lady Northey Home £6,500 with which they will erect a building on the Hurlingham Road site and take over the present site and the buildings thereon, which can well be adapted for the purpose for which they are required and to which it is proposed to add a central hall in memory of Sir Robert Corydon from the funds subscribed by subscribers to this memorial.

Now Council may ask why this matter cannot wait over until the estimates for 1928 and why it should be brought forward to Council at this time. Well the matter is really very urgent indeed. You have here a charitable institution which is giving up its land according to the terms offered them by Government and willing to make the exchange at this time. That Home makes an appeal to the public for funds and, as we all know, if appeals are qualified in the minds of the public by any uncertainty as to the future of the institution for which funds are asked it must prejudice the appeal. The longer this stands over, the longer the public is in doubt as to what is to happen and the less they will be inclined to support this institution in the way they should support it. Further, the Lady Northey Home Committee has made a considerable sacrifice in dealing with this matter, as they have at present a sum of £500 subscribed for a new wing to the building. They cannot spend this good while this question is in doubt. The Lady Northey Home will be a better institution, better equipped and better situated for the purpose than it is at present, but we do not want to delay them in the matter. The more delay we have in this matter the more is the institution prejudiced and the more seriously the home must suffer. Government is asked to provide out of funds which are available and to put this proposal through, not only because it is a very sound proposal—I believe we are getting an excellent site and excellent buildings at a reasonable cost, not only because we have a site worthy of this colony, but also because it will enable us to give effect to the wishes of one whom we wish to commemorate in connection with this natural history museum, and it is a memorial which we can no longer delay.

I trust Council will approve the motion which I have to make to-day.

THE HON. H. E. SCHWARZ: Your Excellency, I beg to second this motion.

MR. COL. THE HON. C. G. DURHAM: Your Excellency, I admit that the Hon. Colonial Secretary has done his best with his atomic little patent, but I hope with the help of my colleagues on this side of the House to stamper it before it is many hours older.

I look on this as a gross waste of public funds. I maintain that at the Lady Northey Home you put up to one on you would not get £6,000 for the I do not think you would get £3,000 for it. With regard to the position, Sir, and the museum, I will disagree with the Hon. Colonial Secretary and submit that the proper place for the museum is in the town. With regard to the additions to this Lady Northey Home I do not think that the present building is at all suitable and I am afraid that in the near future we will be asked to vote a further sum of money to erect a suitable building.

With regard to what has been said about the position of the Lady Northey Home on the new site, I suggest that the present site of the home is more suitable for mothers who are working in the town to go and see their children at the end of the day. Further, I would like to ask, as it has been stated that the Committee has agreed to this transfer or exchange whether the donors of the Lady Northey Home have ever been approached on the matter. Finally I would also like to know what the Government's intention is in regard to the present museum. What is going to happen to it?

CAPT. THE HON. H. E. SCHWARZ: Your Excellency, I regret that I cannot agree with the Hon. Member for Kikuyu. Of the two points he made one was the payment of £6,000 which he said was a gross waste of public money, presumably because it was 100 per cent more than it should be as he places the value of the building at £3,000; and a further point is that the new site for the Lady Northey Home is not an appropriate or suitable site. Now, Your Excellency, with regard to these two points, taking the last one first, the position is that the Committee of the Lady Northey Home, as the Hon. the Colonial Secretary has said, unanimously approved the new site. Those who were present at the meeting unanimously approved it. As a result of a certain outcry and certain criticism which appeared in the Press, a further meeting of the Committee was held, at which the trustees were present and again they unanimously approved of this site.

It seems to me that if the people responsible for the Home are unanimous as to the new site that this hon. Council has a duty to follow that opinion. If the opinion were equally divided, if there had been a cleavage on the matter, it would have been turned down.

In regard to the second point, namely, how much payment should be made to the Lady Northey Home provided the move is decided on, this figure was reached, if I am right in saying so—the Hon. Colonial Secretary will correct me if I am wrong—this figure was reached by a Committee consisting of representatives of the Home and representatives of the

Government, to which was attached an impartial valuator, and I believe I am right in saying that this figure was the means figure reached. It is very much less than what the Lady Northey Home asked for in the first instance and not very much greater than the Government valuator was prepared to offer. For these reasons I trust that the opposition to the payment of compensation for the moving of the Lady Northey Home will not be a strong one.

Your Excellency, there is one point I cannot but think is wrong in putting this in Supplementary Estimates. The Hon. Colonial Secretary has told us that there is a certain amount of urgency, but I would remind this Council that the Estimates are coming on in little more than a month now, and if approval is given in the Estimates for 1928 the expenditure of this amount the delay in fact only means a matter of six weeks or two months. I realise the money cannot be spent before the end of the year but the Lady Northey Home will know it at the end of October or the beginning of November that it has been approved of, and I would ask Government to consider the view of the line taken by Government and to consider the amount of Supplementary Estimates that even though in the main urgent, they should consider the matter in the context of the 1928 Estimates in the ordinary way and not push it through as Supplementary Estimates. I think the Hon. Member here he would agree that it should be included in Supplementary

ESTIMATES. THE HON. MEMBER FOR N. V. KENYA: Your Excellency, I do not think the wording of this motion that this sum of money should be taken out of revenue and that nothing should be taken out of a certain out of revenue. It is not the case, however, that this is not the case and that the Government should be asked to consider the expenditure of the Public Works Department Extraordinary Vote is to be sacrificed for this. I think it is entirely improper that it should be suggested that this money should be diverted from the other purpose until the Hon. House has been told what the alternative is. I think if money was to have been spent on some other way this House should properly be told what the other purpose was.

I agree with the Hon. Member for Nairobi South that this is the wrong time to introduce this measure. With the Estimates coming up next year, the value of his suggestion should be compared with other suggestions for the expenditure of Kenya funds. I agree that Government should at least postpone this issue until the Budget is considered. I am inclined to agree with the suggestion that the compensation for the Lady Northey Home is a most unsuitable one, and I suggest that the women of the town who are in such circumstances that they cannot afford to employ nurses to look after their families and so have to send them to the

Lady Northey Home will find it is too far and too costly to pay for transport to the Home in order that their children may be looked after by someone else.

We have been told that the trustees of the body responsible for dealing with the Lady Northey Home unanimously approved of the new site. If they unanimously approved of the new site did they offer to buy that new site and at what figure? I submit that this motion should be postponed for discussion when the Estimates are being considered. I shall vote against it.

CAPT. THE HON. P. O. B. WILSON: Your Excellency, I should like to support the point of view put forward by the Hon. Member for Nairobi South. I do believe all these things involving the voting of money should be weighed and carefully considered with other requirements for money. The funds may be available, as is stated in the motion on the Order Paper, but there are funds wanted for other important things in this country—for roads, for buildings in out-stations, and we have not got the money for these various things available and something has got to come out every time. The bringing forward of a motion such as this one is liable to obscure the interests of these other things which are urgently wanting money to help them. I do hope the Government will be able to see its way to putting consideration of this question off until the Estimates come up, when it can be judged on its merits in relation to other proposals.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES): This point has been raised by the Hon. Member for Kikuyu in connection with the value of the present building on the site. It is the case when the Chief Colonial Surveyor in my Department valued the present building on the site he put it at £3,406 but this value considered the value of the building if placed in the market for sale in its present situation. It was certainly estimated by the Executive Engineer that the cost of erecting a new building covering approximately the accommodation of the present building would be £6,050. This was subsequently confirmed by a local architect.

THE HON. CONWAY HARVEY: Your Excellency, I would urge Government to postpone taking a vote in connection with this matter. I submit that it would be a thousand pities if a vote of this nature was forced on us by the sweating steam-roller of the Government in face of the unanimous opposition of all elected Members, and I would urge Your Excellency seriously to consider whether or not it would be a tactful thing and a wise thing to postpone taking a vote on this issue at the present time.

THE HON. THE COLONIAL SECRETARY: Your Excellency, Government does appreciate the view that has been put forward by the unofficial Members with regard to the question of

urgency in respect of this matter of the question of supplementary supply. Government does realise that supplementary supply should only be asked for on very urgent and very good reasons, but the reason why Council has been asked to approve this sum is in the interests of this charitable institution. There must be occasions arising when you must come to Council on Supplementary Supply and when it comes under Public Works Extraordinary I think it is a Head to which this Council should give additional weight. When the Estimates were framed last year the Public Works Extraordinary Vote was but very low indeed. The provision made for buildings is extraordinary low. Similarly as is done in other Colonies—Uganda, Tanganyika and Nyasaland—where a case of this kind comes up you have to consider it on its own merits and I would appeal to members of this Council to deal with this matter not from the point of view of Government asking for supplementary provision in order that the Government may get a building for a specific purpose, but in order that money may be voted in instead of four months later when the Home may know what the position is, and they want to make an appeal at the end of the year—a year has elapsed, and they must know how they stand. No money will be spent at all until January next year and it will be some time before this matter is up and get the thing fixed up. I am asking Council to vote this money in the interests of the institution.

Head XXV.—The question is—

That the Council approve the expenditure of £10,000 on revenue under Head Public Works Extraordinary for the acquisition of and in payment of compensation to the Lady Northey Home in order that the present school buildings of the Home may be utilised as a provincial history museum in Nairobi in connection with the Gordon Memorial Fund, the present national history museum being taken over by the Government.

The motion was put and carried by 21 votes to 15.

Ayes.—Major Brassey-Edwards, Messrs Bruce, Campbell, Sir Edward Denham, Messrs Felling, Fitzgerald, Dr Gicks, Messrs Grannum, Harrison, Hemsted, Huggard, Major Kent-Letton, Canon Leaker, Messrs Martin, Maxwell, Montgomery, Orr, Sheikh Ah bin Salim, Messrs Sikes and Walsh.

Noes.—Mr. Atkinson, Lieut.-Col. Durham, Messrs Harvey, Hamed Mohamed bin Issa, Captain Kenealy, Lieut.-Col. Kirkwood, Messrs Malik, O'Shea, Pandya, Major Robertson-Fustace, Capt. Schwartz, Messrs. Tannahill and Wilson.

SECOND SUPPLEMENTARY ESTIMATES.

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

That this Council do approve the Second Supplementary Estimates, 1927, as laid on the table.

THE HON. THE TREASURER seconded.

On Motion of the Hon. the Colonial Secretary, Council resolved itself into a Committee of the whole Council to consider the Second Supplementary Estimates, 1927.

In Committee.

Head IV. His Excellency the Governor: Good.

THE HON. CONWAY HARVEY: This is a source of every deep regret to myself and my colleagues that we are again confronted with an epidemic of Supplementary Estimates, more especially as, so far as we are able to judge at the moment, the very large number of the same before us now are not such as come within the terms of the Colonial Office Regulation, which specifically lays down that Supplementary Estimates should only be provided for cases of exigency and cases which could not be reasonably foreseen.

HIS EXCELLENCY: Order, order. I must ask the hon. Member to deal with the Head which is now before Council.

THE HON. CONWAY HARVEY: Your Excellency, I am dealing with the Head under discussion. My objection is that it does not conform with the Colonial Office Regulation, which clearly lays down that Supplementary Estimates should only be confined to such cases as are inevitable and could not be foreseen. I suggest, with all due respect, Your Excellency, that the matter of an acting allowance for a head gardener could quite easily have been foreseen when the Estimates for the year were under discussion, and pending further information I fail to see the immediate urgency in the matter involving the expenditure of public funds.

THE HON. THE COLONIAL SECRETARY: Your Excellency, it was not possible to foresee that this would be required because it was not anticipated at the time that the head gardener would be going on leave. This particular temporary man was seconded from another department and it was necessary to make some provision whilst the permanent gardener was on leave.

Head XXVI.—Miscellaneous Services, £12,792.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in the item £20,000 of land for inclusion in Masai Reserve, may we have a statement from Government in regard to the land at North Laikipia which was ceded by the Masai to European settlement, because it is pertinent to this.

HIS EXCELLENCY: Order, order. I am afraid I cannot allow discussion of such a matter in Committee. It has no bearing on the question before Committee.

THE HON. T. J. O'SHEA: Under this Head, may I ask when some public is likely to have the benefit of reading the Census taken some eighteen months ago?

CAPT. THE HON. H. E. SCHWARTZ: In regard to the item "Contribution to the Survey of Air Route, Khartoum to Kisumu, £2,524," I understand that £2,000 of this is merely money repaid, and that £524 is an addition which I understand is a further contribution from Kenya. Are the Governments are doing the same? May I ask for information as to whether some definite arrangement has been made, whereby the Company will carry out their side of the agreement and make the trial flights? So far a lot of money has been already spent.

seeing that Lord Delmore is absent and unable to propound old Chestnuts about Wednesday, and Italy, but when I returned to Nairobi I would be in a position to know that I had met with success after efforts lasting over eight years.

HIS EXCELLENCY: I should like to express on behalf of Government the sense of its very great obligation to the hon. Member who, at great personal sacrifice, has agreed to this matter being postponed, in order that enquiries might be made which I believe are necessary to enable daylight saving to be earned out.

WATER LEGISLATION AND CONTROL

CAPI THE HON. E. M. V. KENEALY: Your Excellency, I beg to move that:

Government appoint a Committee of this House to make recommendations concerning water legislation and control.

In this country we have not even the elementary principles of water legislation laid down. I will summarise the advantages of having water legislation and the disabilities Kenya suffers from their lack. There is in existence a draft Ordinance dealing with water legislation and it is admirable, but it represents to a certain extent the limitations from the speaker's point of view which I commented on yesterday. The greatest disability from which Kenya suffers from the lack of water legislation is because it is wasteful. Where there is legislation there can be no development. There are certain regulations governing the control of water, but they are not water regulations, but based on two Land Ordinances which are inadequate. The present system is one under which one gets an annual licence, I believe, from the Public Works Department, and that is based on the advice of the local authority. But it is an uncertain method and there is not sufficient data for the Public Works Department to deal with adequately. It is essential that funds should be provided to enable exploration of the water resources of this country to be undertaken. We see the results of the lack of water legislation in Railway expenditure on water supplies, whereas if there had been water legislation and the Railway had been assured of a supply which could be maintained they would have been able to use a far cheaper source of supply than the one they actually adopted.

I think the principles of the value of water for certain purposes should be decided, whether for the purpose of irrigation, or the purpose of power, and which should receive priority. I believe that this motion is acceptable to Government possibly with some modification. I will not elaborate the subject further because I think I have given sufficient reasons to enable this motion to be passed.

MAJOR THE HON. R. W. B. ROBINSON-EUSTICE: I beg to second.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES): Your Excellency, I am glad to be able to find myself in agreement with the principle of this motion, namely, that the question of water legislation should be referred to a Committee, and also equally to be able to agree with almost everything which the hon. and gallant Member has stated. The water resources of a country are comparable to its resources in land, in forests and in minerals. The administration of water resources and the control of their alienation to individuals is just as complex, in fact in many ways it is more complex, than the control of the alienation of land and forests concessions to individuals. It is to be remembered that to acquire full knowledge of flowing water, which varies from season to season and from year to year, long investigation comprised in the term hydrometric survey has to be carried out for a series of years, whereas to acquire a sufficient knowledge on which to base the alienation of a forest concession or a land grant only one actual survey is necessary. From the nature of water it varies in quantity, whereas land is more or less unmovable and unchanged. On that account it is necessary to incur considerable expenditure in acquiring sufficient knowledge of the water resources of the country before we proceed to alienate rights in water with any high degree of security of tenure. That costs a considerable amount of money.

A draft Water Bill was drafted in 1922—the one referred to by the hon. and gallant Member, and this Bill was held up because Government was not in a position to provide funds for the staff which would be required for its administration. The rock on which that Bill was wrecked still remains and it requires reference to a Committee, i.e., the question of acquiring management of the water resources of a country by which alone any individual or any body such as a water board or other department can control water rights.

Mr. Lewis in his report on the irrigation resources of this country emphasised that any stated determination of water rights would be successful with proper staff to administer it. That is one of the most important things which has to be referred to a Committee. Associated with it is the other question as to whether Government should adopt the same procedure as it does with its other natural resources, viz., land and forests, that is to charge for the documents granting rights to individuals to use that particular resource and to charge rental for its use by which a certain percentage of the expenditure on the administration of the law can be recovered.

For these two reasons I am in favour of the reference of the matter to a Committee, but it seems to me that there should be technical representatives on this Committee. It is

a highly technical matter and I would ask the hon. and gallant Mover if he would accept the proposal that it should be referred to a Committee not composed entirely of Members of this House, i.e. that we leave out the words "of this House" from his motion.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, with the permission of my second I agree to that amendment.

THE HON. THE DIRECTOR OF PUBLIC WORKS: The amendment is that the words "of this House" should be omitted. The motion will then read—

That Government appoint a Committee to make recommendations concerning water legislation and control.

HIS EXCELLENCY: The question is that the motion be agreed to by the omission of the words "of this House" in the first line.

The question was put and carried.

HIS EXCELLENCY: The question is—

That Government appoint a Committee to make recommendations concerning water legislation and control.

The question was put and carried.

RAILWAY EXTENSION TO NANYUKI

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

That Government give instructions for an immediate economic survey of the country north of Nanyuki River with a view to the immediate extension of the Nyeri Railway to Nanyuki a distance of 15 miles.

This is a matter which has been given consideration to before and it was decided by the Branch Lines Committee that because the Nanyuki section of the land was prejudiced by the lack of a survey it should not be considered with other lines until such survey was provided. It is now possible to demonstrate that there may be a great saving of money by having the survey done immediately and by constructing the railway immediately. It is agreed by Government, I believe, that a new administrative centre should be established at Nanyuki or in the neighbourhood. The Civil Administration of the Northern Frontier District, which is now in being, requires the movement of personnel and stores on a fairly large scale. The presence of the K.A.R. has the same requirement. A great saving could be effected if, instead of the K.A.R. Supply and Transport Depot being in Nairobi it

could be moved to Nanyuki and I think that the saving in the K.A.R. vote would in a year pay the cost of the Railway extension. The position at the moment is this, that if Narro Moru, the present terminus of the Railway is maintained, it would mean that Nanyuki, a township which Government started, would suffer and that ultimately an opposition township would be established 15 miles away, which, from every point of view other than the point of view of myself, would be extremely disadvantageous. It would mean that development in that area would be seriously affected and seriously prejudiced and injured by the opening up of a new township at Narro Moru, which is the natural corollary to having a terminus at Narro Moru. A small saving has already been effected and if the material necessary for building an extension is not moved back to Nairobi a very material saving in the total cost, amounting—I submit with a certain amount of diffidence—I think to possibly a fifth and probably a third of the total cost may be effected. I hope, therefore, that Government will agree to make this economic survey.

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

THE HON. THE COLONIAL SECRETARY (MR. EDWARD DENHAM): This question was discussed at the meeting of the Railway Branch Lines Committee of this Council at their meeting the day before yesterday and it was agreed to recommend to Council that this economic survey should be made. Government is therefore prepared to accept the motion without necessarily making a promise that the work will be carried on.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY (MR. FELLING): I would like to draw attention to the wording of this motion. It is certainly a very cleverly worded motion. It says: "That Government give instructions for an immediate economic survey." To that survey no exception could be taken but it goes on "with a view to the immediate extension of the Nyeri Railway to Nanyuki—a distance of 15 miles." I would suggest that the word "immediate" be taken out and the word "future" inserted.

HIS EXCELLENCY: Is the hon. Member prepared to accept that?

CAPT. THE HON. E. M. V. KENEALY: I trust that the amendment will not be pressed because if a case can be established it is the immediate necessity of extending the Railway that we are trying to demonstrate.

HIS EXCELLENCY: I cannot allow the hon. Member to speak on the amendment until it is put. He can speak on it when it is put.

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

HIS EXCELLENCY: The question is that the motion before Council be amended by the deletion of the word "immediate" in the third line and the substitution therefor of the word "future".

THE HON. T. J. O'SHEA: Speaking against the amendment, the whole point of the original motion is that the economic survey should be carried out now with a view to reporting as to whether the results of the survey justify the immediate extension. I do not see that the result of that enquiry is required in the least either way by leaving in the original wording of the resolution. I believe that the conditions up there justify an enquiry as to whether the extension is immediately desirable.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, the point has already been met that this does not commit us to anything. I myself should vote against the immediate extension if that economic survey did not demonstrate that an immediate extension is imperative. If we can effect a very great saving by immediately extending this Railway I suggest that we should do so. If we cannot do so the existence of the word "immediate" in this motion would have no effect upon it at all.

I suggest that the original motion should not be further mutilated.

CAPT. THE HON. H. F. S. HANLIZE: It seems to me that people are rather biting too much at the windmill. I think the motion should be amended as follows: that the words after "with a view to" be deleted and the following words substituted therefor: "ascertaining whether an immediate extension of the Nyeri Railway to Nanyuki—a distance of fifteen miles—is desirable."

THE HON. J. S. W. H. HEALY: I beg to second.

HIS EXCELLENCY: I would like to look at this amendment. It is a new motion. I cannot put it to the Council before the previous hon. Member has withdrawn his amendment.

CAPT. THE HON. E. M. V. KENEALY: Will it be amended to "or" future amendment?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAY: Your Excellency, I am quite prepared to withdraw my amendment in favour of this new amendment of the Hon. Member for Nairobi South.

HIS EXCELLENCY: The amendment of the Hon. the General Manager is therefore withdrawn.

HIS EXCELLENCY: The question is that the motion before Council be amended by deleting the words from "the immediate" to the end and substituting the words "ascertaining whether an immediate extension of the Nyeri Railway to Nanyuki—a distance of fifteen miles—is desirable."

LAND LAWS.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I would like to say, with reference to the motion standing in my name:—

1. That this Council recommends a Committee be appointed to revive and amend the present Land Laws and favourably consider that:

- Payment should be extended over a period of 25 years.
- Fifty per cent. advances by Government on all permanent improvements to Crown tenants.
- Implement conditions to allow selectors to acquire land from private owners.
- Disposal of Crown lands by ballot.
- Priority to be given to applicants who were unsuccessful in the Soldier Settlement Scheme and who still reside in the Colony.
- Raise a Loan to finance approved applicants.

It is my intention to withdraw that motion and move it at a later date, but I would like to say something in justification of having put it before Council.

When the Hon. the Colonial Secretary introduced the Bill for the Preservation of Ancient Monuments he made no reference to the Land Laws in this Colony. I take it that there was no intention to preserve this ancient monument as well. I have had great experience of laws in six different Colonies but it does not always follow that if one law is applicable and works well in one Colony it does so in another Colony.

Your Excellency, I was reading in the papers the other day that the Overseas Immigration Committee had agreed to put Kenya on their list. Later on settlers will arrive in this Colony with a certain amount of capital after having been advised by the Overseas Immigration Committee to get land out here, but I fail to see any provision in the present laws that can be implemented to absorb those people within a reasonable time when they do arrive. It has been admitted

by the elected Members that my motion would be acceptable to them and it is simply a question of detail how far agreement can be obtained to the proposals that payments should be spread over a period of twenty-five years instead of ten years, or whether you would even make it thirty years, and the same applies to some of the other clauses of the motion. I also believe that Government is seriously considering altering these laws to make them applicable to our present conditions and in view of that I think at this stage, if Your Excellency will allow me to do so, in order to enable hon. Members to clarify their minds on this most important question. I should like to have it put back and stand over until the next session.

HIS EXCELLENCY: The motion is postponed.

MEETINGS OF LEGISLATIVE COUNCIL

LIEUT. COL. THE HON. J. G. KIRKWOOD: With reference to the second motion standing in my name:—

That this Council recommends that Council should assemble not oftener than once a quarter.

I understand that this question, in order to ventilate what may be considered a grievance by some hon. Members, will be dealt with by Government in the very near future. I therefore wish, with Your Excellency's permission, to withdraw this motion also.

HIS EXCELLENCY: The motion is withdrawn.

MEDICAL FARMS

LIEUT. COL. THE HON. J. G. KIRKWOOD: With regard to the third motion standing in my name:—

That this Council considers the granting of Medical Farms is no longer desirable, that owing to the great improvement of communications and transport facilities the system has outgrown its usefulness.

may I ask whether the Government have decided whether Medical Farms are to be given out in future or whether there will be no more Medical Farms granted before I take up the time of the Council?

HIS EXCELLENCY: Government has decided that the granting of Medical Farms in the future will be discontinued.

LIEUT. COL. THE HON. J. G. KIRKWOOD: It will not be necessary for me to proceed then.

HIS EXCELLENCY: The motion is withdrawn.

GRANTS TO NON-GOVERNMENT PUBLIC HOSPITALS.

LIEUT. COL. THE HON. J. G. KIRKWOOD: I beg to move—

That this Council approves the appointment of a Committee to investigate and report on Grants to Non-Government Public Hospitals in the Colony, with a view to finding a formula applicable to all.

It may be or it may not be that the last few words of this Motion will be accepted by Government. There is a very serious situation at the moment with regard to hospitals in the Colony. We have in Nairobi a Government Hospital supported by Government funds. We have a hospital at Nakuru—a Memorial Hospital built out of subscriptions and partly assisted by Government. The new Hospital at Eldoret was originally run as a Government Hospital out of Government funds, but the buildings have been handed over to Trustees in the district, who have made themselves responsible for the upkeep. The position is now arising that there is a great need in many parts of the Colony for a hospital or nursing home, and I suggest that the whole question ought to be gone into to find ways and means for building new hospitals or nursing homes where they are so urgently required, and that people ought to know to what extent they can expect assistance from the Government. It has been suggested and very strongly supported in my own constituency, but I do not think it has been suggested by the Hon. the Director of Medical and Sanitary Services, that instead of granting farms that it would have been very much better in the past, and will be worth considering in the future, to endow hospitals by grants of Crown lands. Another suggestion is that money should be advanced out of loans to build a hospital in cases where the district concerned makes itself responsible for interest and sinking fund, with the proviso that Government contribute a sum approximately, say, in the region of £100 per year for each patient.

With reference to the Kitale Hospital, I understand the Government has offered £10 towards the payment of the rent of the nursing home. I would much prefer to leave this in abeyance and see if there is no better and more substantial way of getting the hospital on a more permanent basis, and it is with that view that I move this motion and I hope it will receive favourable consideration in this Council.

THE HON. T. J. O'SHEA: I beg to second. The situation at the moment is certainly very unsatisfactory and I think it is most desirable that it should be enquired into. I think the enquiry should be carried out thoroughly so that the requirements of the different districts in the Colony may be collected.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. KIRKS): Your Excellency, one of the subjects which was considered very closely by the recent Commission on Local Government was this very question of the provision of hospitals. I think it would be a pity in any way to prejudice what may happen by the recommendations of that Commission which have already been sent in, by trying to get on with one small section of the subjects that they have dealt with. I think all local hospitals—whether hospitals or nursing homes or something else—will have to be dealt with in the same way—they will have to be dealt with in their order.

On a point of personal explanation, I do not think that I turned down in any way the suggestion that a hospital should be endowed by a grant of Government land. I merely reported that a suggestion had been put forward. Personally I am in favour of their having Government help and support in these projects, but I do think that the whole position with regard to local government has to be considered as one thing and not piecemeal.

HIS EXCELLENCY: In view of the fact that the question of Government Hospitals must be considered in connection with other institutions of the same kind under the proposals of the Local Government Commission submitted to this Council, does the hon. Member wish to press his motion?

MR. COL. THE HON. J. G. KIRKWOOD: Can Government give an assurance, Your Excellency, that the report of the Local Government Commission is going to be put into effect because otherwise if this is going to be on the table for the next two or three years?

HIS EXCELLENCY: I can give the hon. and gallant Member an assurance that the report of the Local Government Commission will not be on the table for the next two or three years.

I understand that the motion is withdrawn.

MR. COL. THE HON. J. G. KIRKWOOD: Yes, Your Excellency.

HIS EXCELLENCY: The motion is withdrawn.

BILLS.

THIRD READINGS.

THE SUPPLEMENTARY APPROPRIATION BILL.

On Motion of the Hon. the Colonial Secretary the Supplementary Appropriation Bill was read a third time and passed.

THE ANCIENT MONUMENTS PRESERVATION BILL.

On motion of the Hon. the Colonial Secretary a Bill to provide for the Preservation of Ancient Monuments and Objects of Archaeological, Historical or Artistic Interest, was read a third time and passed.

THE CROWN GRANTS (EXECUTION) BILL.

On Motion of the Hon. the Attorney General a Bill relating to the Execution of Crown Grants and other Disposition of Lands was read a third time and passed.

THE NATIVE LIQUOR (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): I beg to move that the Native Liquor (Amendment) Bill be read a third time and passed.

THE HON. THE ATTORNEY GENERAL (MR. HUGGARD): I beg to second.

CAPT. THE HON. H. E. SCHWARTZ: I beg to move that this Bill be re-committed for the purpose of moving an amendment to clause 9.

THE HON. THE COLONIAL SECRETARY (SIR EDWARD DENHAM): I beg to second.

The question was put and carried.

In Committee.

Clause 9.

CAPT. THE HON. H. E. SCHWARTZ: I beg to move:

"That the first four lines be deleted and the following substituted therefor—"

"23. Any magistrate, justice of the peace or police officer of or above the rank of European police constable or assistant sub-inspector and any other police officer having special written authority from a magistrate, a justice of the peace or an officer in charge of a police station."

The wording is not exactly the same as appears on the Order Paper, but this has been altered at the suggestion and with the concurrence of the Hon. the Attorney General. The only reason for this is to bring clause 9 into line with clause 8.

THE HON. THE ATTORNEY GENERAL: I entirely agree with the amendment moved by the hon. Member.

The question was put and carried.

THE HON. THE COLONIAL SECRETARY: I beg to move that this Bill be now re-committed to Council.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Native Liquor (Amendment) Bill has been re-committed to a Committee of the whole Council with a view to moving an amendment to clause 9 and it is now reported to Council with that amendment.

HIS EXCELLENCY: In view of the fact that under Standing Order 72 no Certificate of Emergency is required in cases where no amendments are proposed, I suggest for the convenience of Council that the Standing Orders should be suspended in this case. I understand that is done by general agreement.

The question is that Standing Orders be suspended in order to enable a Bill to make provision for the payment of pensions to widows and orphans of deceased Asian officials to be read a third time.

The question was put and carried.

On Motion of the Hon. the Treasurer the Asiatic Widows and Orphans Pensions Bill was read a third time and passed.

THE HON. CONWAY HARVEY: Before Council adjourns, Your Excellency, may I ask if Government will be good enough to give the Secretary of the Elected Members Organisation at least three days' notice of business coming forward, especially motions, in order that Government may be made aware of the probable attitude of elected Members. I think it would tend to improve the harmony of our relations.

HIS EXCELLENCY: Government will be very glad to give that undertaking.

Council adjourned sine die.