

KENYA NATIONAL ARCHIVES

PHOTOGRAPHIC SERVICE

Description of Document LEGISLATIVE COUNCIL DEBATES VOL. II.

Covering Dates 14th August, to 21st Dec., 1928.

Reference No. From Legislative Council Library.

The following reproduction(s) of document(s), the property of THE KENYA GOVERNMENT have been made by the Photographic Service of the Kenya National Archives solely for the purposes of research, and must not be quoted or otherwise reproduced by any means, either in whole or in part, without the express permission of the Chief Archivist, Office of the Vice-President, P.O. Box 30520, Nairobi, Kenya, to whom all communications respecting this film should be addressed.

Date of Reproduction 23rd December, 1965

COLONY AND PROTECTORATE OF KENYA



LEGISLATIVE COUNCIL
DEBATES, 1928

VOLUME II.

NAIROBI:
PRINTED BY THE GOVERNMENT PRINTER.
1929.

CHRONOLOGICAL INDEX.

	PAGES.
14th August, 1928	467—474
15th " "	475—501
16th " "	503—533
17th " "	535—567
20th " "	569—573
22nd " "	575—603
24th " "	605—614
27th " "	615—625
28th " "	627—642
29th " "	643—650
30th " "	651—685
9th November, 1928	687—700
15th " "	701—770
3rd December, 1928	771—774
7th " "	775—830
20th " "	831—868
21st " "	869—926

INDEX

	PAGE		PAGE
Abdul Kader, Mr., Compa- sionate gratuity to—		Brothels	601, 602, 607-670, 690, 750, 705
Motion	517	Cattle Cleansing Bill	469
Abdul Wahid, Mr.	537	1st reading	773
Aerial Navigation Repeal Bill—		Central Roads Board	510, 722
1st reading	587	Civil Servants, Land for, on retirement—Question	930
2nd reading	613	Clifford, Sir Hugh	536
Committee stage	624	Closer Settlement, Kitale— Question	874
3rd reading	642	Coast Fishing Enquiry— Question	780
Agricultural Commission of Inquiry—Motion	609	Coast Fishing Survey— Question	651
Agricultural Department— Estimates 710, 720, 724, 731, 737, 745, 754, 758		Coffee, storage of—Question	619
Agricultural production	693	Congo Basin Treaties— Question	142
Alienation of land in Settled Areas—Motion	503	Convention of Associations, Attendance of Officials at meetings of—Question	939
Arms, licences to bear— Question	938	Cost of Living, reduction in 705, 721, 733, 769, 876, 881, 880	
Asiatic Widows' and Orphans' Pensions (Amendment) Bill—		Cumming, Mr. J.—Oath of Allegiance	467
1st reading	772	Question—Coast Fishing Survey	651
2nd reading	790	Dangerous Petroleum (Amend- ment) Bill—	
Committee stage	829	Suspension of—Standing Order	864
3rd reading	808	1st reading	804
Atkinson, Mr. G. G.—		2nd reading	804
Questions—		Committee stage	807
Land for native occupation, Mombasa	935	3rd reading	807
Mombasa Building Rules	934	Debt redemption	743
X-Ray apparatus for Mom- basa	934	Defence Force	470, 769
Auditor's Report	880, 887	Questions	701, 874
Questions	782, 934	Defence Force Ordinance— Question	608
Bad cheques, Legislation re- garding—Question	942	Delamere, Lord—Motion— Commission of Inquiry on Agriculture	909
Barth, Sir Jacob	699	Denham, Sir Edward	468, 535
President 771, 775, 831, 869			
Board of Health	552, 562		
British and Colonial Probates (Amendment) Bill—			
1st reading	778		
2nd reading	798		
Committee stage	829		
3rd reading	868		

	PAGE		PAGE
Departmental Offences Bill—		Feeder Roads: Loan Funds—	
1st reading	773	Question	929
2nd reading	921	Feetham, Mr. Justice	690
Committee stage	924	Feetham Commission	470, 637, 646, 640
3rd reading	929	Felling, Sir Christian	697, 840, 845, 846, 853, 859
De Souza, Mr., Compassionate gratuity to widow of—		Death of, Motion of Adjournment	663
Motion	832	Fencing Bill	409
Detention Camps Ordinance	563	Fencing Bill—1st reading	773
Dickson, Mr. T. A.	476	Film Censorship—Question	779
Dobbs, Mr. G. M.—Oath of Allegiance	697	Film Censorship Rules—	
Domestic Servants Registration Bill—Question	779	Notice of Motion	635
Donyo Sabuk Branch Railway Drought	692	Motion	578
Durham, Lt.-Col. C. G.—		Select Committee	602, 781
Questions—		Forest Department Estimates	717, 737, 741, 769
Auditor's Report	780, 834	Game (Amendment) Bill—	
Domestic Servants Registration Bill	779	Report of Select Committee—Motion of Adoption	635
Feeder Roads, Loan Funds	929	3rd reading	640
Route A, Limoru	618	Gratuities—Question	929
Education	690	Grigg, Sir E. W. M.—President	487, 475, 503, 535, 569, 575, 605, 615, 627, 643, 651, 687, 701
Education Department Estimates	714, 728, 737, 754	Addresses by	467, 535, 688
Education Taxes	751	Harbour Regulations Bill	469
Question	932	1st reading	473
Eldoret Native Hospital—		2nd reading	687
Question	570	Select Committee	602
Eldoret, Railway Sanitation—		Report of Select Committee	
Question	600	—Motion of adoption	919
Eldoret School Buildings—		3rd reading	921
Question	576	Harvey, Mr. Conway	537
Eldoret Water Supply—		Questions—	
Question	575	Defence Force	701, 874
Enclosed land, definition of—		Definition of Enclosed Land	577
Question	577	Entomological Services	776
Entomological Services—		Film Censorship	779
Question	776	Lumbwa Post Office	930
Estate Duty	742	Tea Production	931
Estimates	468, 695	Voters' Roll	776
Motion	702, 897	Water Boring	777, 942
Select Committee	728, 770	Highlands and Lowlands, Definition of—Question	943
Report of Select Committee		Hilton Young Commission	843,
—Motion	876	858-861, 877	
European Prisoners—Question	617		
Executive Council, Indian			
Member on—Question	926		

	PAGE		PAGE
His Majesty's health	831, 892	Likoni Ferry Revenue—	
"Honourable Council"	624	Question	610
Horne, Mr. E. B.—Oath of Allegiance	687	Limoru Road, Route A—	
Hussey, Mr.	697	Question	618
Immigration Restriction (Amendment) Bill—		Local Government	736, 760
1st reading	473	Local Government (District Councils) Bill—	
2nd reading	608	1st reading	469, 688
Select Committee	623	2nd reading	620
Report of Select Committee		Select Committee	530
—Motion of adoption	645	Report of Select Committee	
3rd reading	686	—Motion of adoption	671
Jinja-Kampala Line	830	3rd reading	684
Kaplan, Mr.	498	Local Government (Municipalities) Bill	469, 689
Kathi of Takaunga—Question	927	1st reading	472
Kenealy, Capt. E. M. V.—		2nd reading	475
Notice of Motion—Railway rates on salt	615	Select Committee	501
Question—R.Q.M.S. Rabie, Gratuity to	928	Report of Select Committee	
Kenya and Uganda Railway (See under Railway.)		—Notice of motion	603
Kirkwood, Lt.-Col. J. G.—		—Notice of adoption	654
Questions—		3rd reading	684
Anti-malarial Campaign	869	Local Government (Rating) Bill	464, 688
Appointment of Veterinary Officer, Plateau North	831	1st reading	473
Closer Settlement near Kitale	874	2nd reading	494
Kitale, Residential and Business Plots	875	Select Committee	501
Kitale Water Supply	578, 872	Report of Select Committee	
T. Boma, Plateau North	869	—Motion of adoption	643
Trans-Nzoia, European Occupation	871	3rd reading	684
Kisumu-Yala Branch Railway	836	Locusts	470, 692, 720, 731, 739, 701, 891, 893
Kitale, Closer Settlement near		Logan, Mr. W. M.—Oath of Allegiance	467
Question	874	Lumbwa Post Office—Question	930
Kitale, Residential and Business Plots—Question	875	Malaria	470, 697, 720, 738, 739, 747, 844, 852, 877, 885, 891
Kitale Water Supply—		Question	869
Question	578, 872	In Usain Gishu—Question	932
Land Bank	469, 688, 699	Malik, Mr. A. H.—Questions	
Land Bank Bill—Question	920	Attendance of Officials at Convention of Associations	839
Land Board	881, 895	Gratuities	929
Land Policy	881	Highlands and Lowlands	943
Lewis, Mr.	504	Indian Member on Executive Council	926
Licences to bear arms—		Land Bank Bill	929
Question	938	Licences to bear arms	938
		Native laws	630

	PAGE
Malik, Mr. A. H.—	
Questions—Contd.	
Police protection, Mombasa	930
Randall case	938
Thefts in Mombasa Town-	
ship	937
Trial by jury for Indians	930
Mass Reserve, grazing in—	
Question	940
Medical Buildings—Motion	917
Medical Department Esti-	
mates	714, 728, 745, 755, 758, 765
Memorial Hall, Select Com-	
mittee on	875
Merrick, Mr. J. E. S.—Oath	
of Allegiance	771
Military Estimates	716, 730, 740
Minutes, Confirmation of	472, 475, 603, 635, 669, 575, 905, 615, 627, 643, 651, 699, 701, 771, 775, 831, 869
Mitchell, Mr. W. C.—	
Questions—	
Visit of H.R.H. the Prince	
of Wales—Railway ar-	
rangements	930
Weighing Machines, Kenya	
and Uganda Railway	943
Mombasa	471
District Committee	689
Land for native occupation	
in—Question	935
Municipality	478
Police Protection in—	
Question	930
Session of Council in	468
Mombasa Building Rules—	
Question	934
Mombasa Town Planning	
Scheme	476
Mombasa Township, Thefts	
in—Question	937
Moore, Mr. H. M. M.	535
Motor Cars, freight on, on	
transfer of officers—	
Question	931
Municipal Councils, qualifica-	
tions for election—	
Question	942
Muthaga Township—Petition	480
Nairobi Municipal Report	486
Nairobi Municipality	475, 478, 480, 689
Nairobi Telephone Exchange	898
Narro Moru-Nanyuki Railway	
Extension	837
Native Authority (Amend-	
ment) Bill—	
1st reading	520
2nd reading	563
Committee stage	601
3rd reading	614
Native Land Trust Bill	470, 688, 699
Native Lands—Question	930
Native Liquor (Amendment)	
Bill—	
Suspension of Standing	
Orders	607
1st reading	614
2nd reading	622
Committee stage	641
3rd reading	646
Northern Frontier Province	691, 736, 745, 768
O'Shea, Mr. T. J.—Motions—	
Alienation of Land in	
Settled Areas	603
Tariffs Board	620
Questions—	
Eldoret Native Hospital	570
Eldoret, Railway Sanitation	
at	606
Eldoret School Buildings	576
Eldoret Water Supply	575
Malaria in Usaidi Gishu	932
Terms of Service	927
Pandya, Mr. J. B.	476
Papers laid on the table—	
Agricultural Department	
Annual Report	535
Civil Procedures (Amend-	
ment) Rules	771
Cattle Cleansing Bill—Re-	
port of Select Committee	605
Coffee, Conditions governing	
treatment and storage	615
East African Dependencies,	
Report on Trade Exhibits	472, 831

	PAGE
Papers laid on the table	
(Contd.)—	
Education Department An-	
nual Report	771
Electric Power Ordinance,	
Statement under	472
Estimates for 1929	690, 800
Memorandum on	699
Report of Select Commit-	
tee on	860
Excesses on Sub-heads met	
out of savings	615, 701
Felling, Lady, Letter from	701
Film Censorship Rules,	
Proposed amendments to	535
Forest Department Annual	
Report	472
Game (Amendment) Bill—	
Report of Select Com-	
mittee	472
Game Department Annual	
Report	775
Harbours Regulation Bill—	
Report of Select Com-	
mittee	771
Immigration Restriction	
(Amendment) Bill—Re-	
port of Select Committee	627
Judicial Department Annual	
Report	701
Land Alienation, Statement	
of	771
Loans Statements	472, 701
Local Government (District	
Councils) Bill—Report of	
Select Committee	651
Local Government (Municipal-	
ities) Bill—Report of	
Select Committee	643
Local Government (Rating)	
Bill—Report of Select	
Committee	637
Medical Department Annual	
Report	701
Meteorological Records for	
1927	535
Meteorological Services, Re-	
port on	472
Nairobi Anti-malarial	
Works, Progress Report	615
Papers laid on the table	
(Contd.)—	
Native Affairs Department	
Annual Report	771
Police Annual Report	472
Prisons Annual Report	701
Public Health (Amendment)	
Bill—Report of Select	
Committee	651
Public Health (Division of	
Lands) Bill—Report of	
Select Committee	771
Railway Estimates	701
1st Supplementary Railway	
Estimates	771
Registrar General's Annual	
Report	701
Sea Fisheries, Preliminary	
Survey	831
Subordinate Courts (Separa-	
tion and Maintenance)	
Bill—Report of Select	
Committee	831
2nd Supplementary Esti-	
mates, 1928	472
Select Committee's Report	651
3rd Supplementary Esti-	
mates, 1928	869
Traffic Bill—Report of Select	
Committee	775
Trout Protection Bill—Re-	
port of Select Committee	472
Water—Legislative—Com-	
mittee Report	475
Pensions	690, 723, 728, 740, 750, 768
Pensions Committee, Interim	
Report	690
Phadke, Mr. V. V.	475
Port	836
Postal Rates	716, 763
Prince of Wales, H.R.H. the	
—Visit of	471, 688, 720, 833
Railway arrangements—	
Question	830
Prisons, Appointment of	
Assistant Commissioner—	
Question	834

	PAGE		PAGE
Malik, Mr. A. H.—		Nairobi Municipal Report ...	498
Questions—Contd.		Nairobi Municipality 475, 478, 480,	689
Police protection, Mombasa	930		
Handall case ...	930	Nairobi Telephone Exchange	898
Theft in Mombasa Town-		Narro Moru-Nanyuki Railway	
ship ...	937	Extension ...	837
Trial by jury for Indians ...	936	Native Authority (Amend-	
Masal Reserve, grazing in—		ment) Bill—	
Question ...	940	1st reading ...	620
Medical Buildings—Motion ...	917	2nd reading ...	663
Medical Department Esti-		Committee stage ...	601
mates 714, 728, 745, 755,		3rd reading ...	614
758, 765		Native Land Trust Bill	470, 688,
Memorial Hall, Select Com-			609
mittee on ...	875	Native Lands—Question ...	930
Merrick, Mr. J. E. S.—Oath		Native Liquor (Amendment)	
of Allegiance ...	771	Bill—	
Military Estimates 715, 730, 740		Suspension of Standing	
Minutes, Confirmation of 472, 475,		Orders ...	607
603, 535, 569, 575, 605, 615,		1st reading ...	614
627, 643, 651, 699, 701, 771,		2nd reading ...	622
775, 831, 860		Committee stage ...	641
Mitchell, Mr. W. C.—		3rd reading ...	646
Questions—		Northern Frontier Province	691,
Visit of H.R.H. the Prince			736, 745, 708
of Wales—Railway ar-		O'Shea, Mr. T. J.—Motions—	
rangements ...	930	Alienation of Land in	
Weighing Machines, Kenya		Settled Areas ...	503
and Uganda Railway ...	943	Tariffs Board ...	620
Mombasa ...	471	Questions—	
District Committee ...	689	Eldoret Native Hospital ...	576
Land for native occupation		Eldoret, Railway Sanitation	
in—Question ...	935	at ...	606
Municipality ...	478	Eldoret School Buildings ...	576
Police Protection in—		Eldoret Water Supply ...	575
Question ...	936	Malaria in Usain Gishu ...	932
Session of Council in ...	468	Terms of Service ...	927
Mombasa Building Rules—		Pandya, Mr. J. B. ...	476
Question ...	934	Papers laid on the table—	
Mombasa Town Planning		Agricultural Department	
Scheme ...	476	Annual Report ...	535
Mombasa Township, Thefts		Civil Procedure (Amend-	
in—Question ...	937	ment) Rules ...	771
Moore, Mr. H. M.—		Cattle Cleansing Bill—Re-	
Motor Cars, freight on, on		port of Select Committee	605
transfer of officers—		Coffee, Conditions governing	
Question ...	931	treatment and storage ...	615
Municipal Councils, qualifi-		East African Dependencies,	
cations for election—		Report on Trade Exhibits	472,
Question ...	942		831
Muthaiga Township—Petition	480		

	PAGE		PAGE
Papers laid on the table		Papers laid on the table	
(Contd.)—		(Contd.)—	
Education Department An-		Native Affairs Department	
nual Report ...	771	Annual Report ...	771
Electric Power Ordinance,		Police Annual Report ...	472
Statement under ...	472	Prisons Annual Report ...	701
Estimates for 1929 ...	699, 800	Public Health (Amendment)	
Memorandum on ...	609	Bill—Report of Select	
Report of Select Commit-		Committee ...	651
tee on ...	860	Public Health (Division of	
Excesses on Sub-heads met		Lands) Bill—Report of	
out of savings ...	615, 701	Select Committee ...	771
Felling, Lady, Letter from	701	Railway Estimates ...	701
Film Censorship Rules,		1st Supplementary Railway	
Proposed amendments to	535	Estimates ...	771
Forest Department Annual		Registrar General's Annual	
Report ...	472	Report ...	701
Game (Amendment) Bill—		Sea Fisheries, Preliminary	
Report of Select Com-		Survey ...	831
mittee ...	472	Subordinate Courts (Separa-	
Game Department Annual		tion and Maintenance)	
Report ...	775	Bill—Report of . Select	
Harbours Regulation Bill—		Committee ...	831
Report of Select Com-		2nd Supplementary Esti-	
mittee ...	771	mates, 1928 ...	472
Immigration Restriction		Select Committee's Report	651
(Amendment) Bill—Re-		3rd Supplementary Esti-	
port of Select Committee	627	mates, 1928 ...	860
Judicial Department Annual		Traffic Bill—Report of Select	
Report ...	701	Committee ...	775
Land Alienation, Statement		Trout Protection Bill—Re-	
of ...	771	port of Select Committee	472
Loans Statements ...	472, 701	Water Legislative Com-	
Local Government (District		mittees Report ...	475
Councils) Bill—Report of		Pensions 696, 723, 728, 740,	
Select Committee ...	651	750, 768	
Local Government (Municip-		Pensions Committee, Interim	
alities) Bill—Report of		Report ...	606
Select Committee ...	643	Phadke, Mr. V. V. ...	476
Local Government (Rating)		Port ...	836
Bill—Report of Select		Postal Rates ...	716, 753
Committee ...	627	Prince of Wales, H.R.H. the	
Medical Department Annual		—Visit of 471, 688, 720, 833	
Report ...	701	Railway arrangements—	
Meteorological Records for		Question ...	830
1927 ...	535	Prisons, Appointment of	
Meteorological Services, Re-		Assistant Commissioner—	
port on ...	472	Question ...	834
Nairobi Anti-malarial			
Works, Progress Report	615		

	PAGE	PAGE
Private Streets Ordinance ...	481	Robertson-Eustace, Major
Protective Tariffs—Question	941	R. W. B.—Questions ...
Provincial Reorganisation ...	691	Coast Fishing Enquiry ...
Public Health (Amendment) Bill—		European Prisoners ...
1st reading ...	473	Kathi of Takaungu ...
2nd reading ...	562	Qualifications for Election to Municipal Councils ...
Select Committee ...	607	Revenue from Likoni Ferry
Report of Select Committee—Motion of adoption ...	684	Schwartz, Capt. H. E.—Questions—
3rd reading ...	684	Appointment of Assistant Commissioner of Prisons
Public Health (Building) Ordinance ...	552	Education Poll Tax ...
Public Health (Division of Lands) Bill—		Freight on motor-cars on transfers ...
1st reading ...	472	Land for Officials on retirement ...
2nd reading ...	552	Treasury Building ...
Select Committee ...	567	Schuster, Sir G. ...
Report of Select Committee—Motion of adoption ...	781	Scientific Research ...
3rd reading ...	808	Scott, Lt.-Col.—Lord Francis—Question—
Public Travel and Access Roads Ordinance ...	510	Grazing in Masai Reserve
Rabie, R.Q.M.S., Gratuity to—Question ...	928	Soroti Branch Railway
Railway—Estimates—Motion	832	Standing Rules and Orders ...
Relations with Municipal Authorities ...	478	Suspension of 607, 652, 783, 864
Supplementary Estimates—Motion ...	803	Stephanoderes 720, 762, 878
Railway Rates 837, 839, 848, 853, 855, 858, 861, 862		Subordinate Courts (Separation and Maintenance) Bill—
Railway Rates on Salt—Notice of Motion ...	015, 854	1st reading ...
Railway Weighing Machines—Question ...	043	2nd reading ...
Railways, Road competition with 526, 531, 844, 851, 859		Select Committee ...
Halston and Kaplan, Messrs.	498	Report of Select Committee—Motion of adoption ...
Randall Case—Question ...	930	3rd reading ...
Reports, Procedure in regard to ...	647, 058	Supplementary Estimates
Rhodes, Brig.-Gen. G. D.—Oath of Allegiance ...	575	2nd Supplementary Estimates—Motion ...
Road Area Committees	542	Select Committee ...
Roads 707, 722, 723, 789, 740, 761, 768		Report of Select Committee—Motion of adoption ...
		3rd Supplementary Estimates—Motion ...
		Committee stage ...
		Surplus Balances 469, 705, 706, 710, 743, 768
		Expenditure against—Motion ...
		T. Boma, Plateau North—Question ...

	PAGE	PAGE
Tannahill, Mr. A. C. Oath of Allegiance ...	467	Treasury Bills—Motion
Questions—		Treasury Building—Question
Coffee, Storage of ...	610	Trial by Jury for Indians—Question ...
Congo Basin Treaties ...	941	Trout Protection Bill—Report of Select Committee—Motion of adoption ...
Defence Force Ordinance ...	600	3rd reading ...
Legislation regarding Bad Cheques ...	942	Trading with the Enemy (Repeal) Bill—
Protective Tariffs ...	941	1st reading ...
Reduction in Postal Rates	007	2nd reading ...
Telegraph Rates ...	940	Committee stage ...
Telephone Communications	006	3rd reading ...
Tariff Committee ...	877, 888	Tymms, Mr. ...
Tariffs Board—Notice of Motion ...	005	Veterinary Officer, Plateau North—Question ...
Motion ...	020	Von Blonde, Dr., Visit of—Question ...
Tea Production—Question ...	931	Voters' Roll—Question ...
Telegraph Rates—Question ...	040	Water Bill—
Telephone Communications—Question ...	005	1st reading ...
Terms of Service 607, 728, 707		2nd reading ...
Question ...	927	Select Committee 003, 774, 775
Thomson's Falls Branch Railway ...	835	Water Boring—Question ...
Traffic Bill—		Weighing Machines on Railway—Question ...
1st reading ...	473	Widows' and Orphans' Pensions (Amendment) Bill—
2nd reading ...	521	1st reading ...
Select Committee ...	533	2nd reading ...
Suspension of Standing Orders ...	773	Committee stage ...
Report of Select Committee—Motion of adoption ...	789	3rd reading ...
Committee stage ...	738	Wood, Mr. T. A. ...
3rd reading ...	823	Oath of Allegiance ...
Motion of rejection ...	824	Motion—Film Censorship Rules ...
Motion for recommittal ...	825	X-Ray Apparatus for Mombasa—Question ...
Division ...	828	
Traffic Ordinance ...	864, 865	
Trans Nzoia, European Occupation—Question ...	871	

List of Members as at 9th November, 1928.

President:

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

Ex-Officio Members:

ACTING COLONIAL SECRETARY (THE HON. H. T. MARTIN, C.B.E.).
ACTING ATTORNEY GENERAL (THE HON. T. D. H. BRUCE).
TREASURER (THE HON. R. C. GRANNUM, C.M.G.).
ACTING CHIEF NATIVE COMMISSIONER (THE HON. C. M. DOBBS, O.B.E.).
ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT
(THE HON. W. M. LOGAN).
DIRECTOR OF MEDICAL AND SANITARY SERVICES (THE HON. DR. J. I.
GILKS).
DIRECTOR OF AGRICULTURE (THE HON. A. HOLM, C.B.E.).
ACTING DIRECTOR OF EDUCATION (THE HON. F. E. BISS).
ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HAR-
BOURS (BRIG.-GEN. THE HON. G. D. RHODES, C.B.E., D.S.O.).
DIRECTOR OF PUBLIC WORKS (THE HON. H. I. SIKES).
COMMISSIONER OF CUSTOMS (THE HON. G. WALSH).

Nominated Official Members:

THE HON. T. FITZGERALD, O.B.E. (Postmaster General).
THE HON. ALI BIN SALIM, C.M.G., C.B.E. (Liwali for the Coast).
THE HON. A. G. BAKER (Surveyor General).
COL. THE HON. A. G. DOHERTY, M.C. (Chief Veterinary Officer).
THE HON. R. W. HEMSTED, O.B.E. (Senior Commissioner, Northern
Frontier Province).
THE HON. H. R. MONTGOMERY (Acting Senior Commissioner, Coast).
LT.-COL. THE HON. R. WILKINSON, D.S.O. (Officer Commanding Troops).
THE HON. A. J. MCCARTHY, M.B.E. (Acting Solicitor General).
THE HON. E. B. HORNE, O.B.E. (Senior Commissioner, Kikuyu).

European Elected Members:

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

Indian Elected Member:

THE HON. A. H. MALIK.

Arab Elected Member:

THE HON. HAMED MOHAMED BIN ISSA.

*Nominated Unofficial Member representing the interests of the
African Community:*

THE REV. CANON THE HON. H. LEAKEY.



COLONY AND PROTECTORATE OF KENYA.

LEGISLATIVE COUNCIL DEBATES,
1928.

SECOND SESSION.

TUESDAY, 14th AUGUST, 1928.

The Council assembled at 10 a.m., at Government House, Mombasa, on the 14th August, 1928, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

HIS EXCELLENCY opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

EX-OFFICIO MEMBER.

WILLIAM MARSTON LOGAN (Acting Commissioner for Local Government, Lands and Settlement).

EUROPEAN ELECTED MEMBERS.

ARTHUR CLAUDE TANNAHILL (Nairobi South).

THOMAS ALFRED WOOD, C.M.G., M.B.E. (Nairobi North).

JAMES CUMMING (Mombasa).

COMMUNICATION FROM THE CHAIR.

HIS EXCELLENCY: Honourable Members of Council.—
I have no statement of importance to make to you to-day,
but I think it may be, for the general convenience of Council

if I refer briefly to one or two matters of general interest to the Colony and briefly also to the business of this Session.

As you will have realised the August Session under the new Standing Rules and Orders is no longer the opening Session in the Legislative year. Under the old Standing Rules and Orders the Session in August was compulsory and it was always regarded as the opening of the new year because in the old days the Estimates were then introduced. The Estimates are now taken in October, and I think it is generally agreed by Members that the Session in which the Estimates are taken, the October Session, should now be regarded as the opening Session of the Legislative year, but although this is not the opening Session, Council has some most important business before it.

I hope that this will be found a convenient meeting place for the transaction of its business. I have been most anxious on one or two points—in the first place, regarding the acoustic qualities of this room. It is open entirely on the side of the sea and I think it may present some difficulties to the reporting staff. I hope that hon. Members will bear that in mind. I have also been a little anxious regarding the adequacy of the accommodation for the general public, but I hope that that also will prove sufficient. I shall be very glad if any member who has any suggestion to make for increasing the convenience of Council here with mention it to the Clerk.

Since Council last met we have lost the Colonial Secretary, Sir Edward Denham, who was the leader of this House. I am sure that all members will wish to send him their warmest congratulations and that their best wishes will follow him on taking up his new and distinguished post.

May I say too, as one of the youngest members of this Council, that I welcome back to it so old a member as the hon. Acting Member for Nairobi North?

The business before Council is, as I said, important. There is in the first place the Harbours Regulations Bill. I have nothing to say about that except to express the hope—the confident hope—that the members of this Council will take a broad view of the Port and its necessities.

It is my duty as High Commissioner to see that a proper, true and just balance is held between the interests and convenience of all users of the Port and the interests and convenience of the town. It was, in fact, an essential condition of the agreement to which I came in England with the great shipping companies that the High Commissioner and General Manager of Railways should have adequate control of the

Port, and I hope that will be borne in mind, for I think everybody is agreed that the agreement in regard to the Port has been of benefit to all.

I regret to say that the General Manager of Railways is at present indisposed, but the first reading of the Bill can be taken and the second reading will be moved as soon as he is well enough to attend.

There are also two most important Municipal Bills—in the first place the Bill relating in particular to Nairobi and Mombasa. I should like again to express my acknowledgements and my gratitude to the members of the Round Table Conference which arrived at an agreement regarding the municipal organization of Nairobi and Mombasa. I may say that their suggestions were immediately forwarded to the Secretary of State, that they were fully approved by the Secretary of State, and that the amendments now laid before you exactly carry out the agreement then attained.

With regard to the other Bill—the Bill for Local Government in the Settled Areas—I should like to express my great satisfaction at the general readiness which has been shown throughout the Colony to take up the duties of local government. I think it may be worth while, as an example of the anxiety and desire for settlement which has been shown throughout the Colony, to point out that in that Bill provision is made for the representation of Indians on District Councils, which they do not at present enjoy upon District Committees.

There are also the Cattle Cleansing and the Fencing Bills. I hope that the reports of the Select Committees on those two Bills will be tabled without delay, and that action will follow soon. I am not clear how far the amendments proposed by the Select Committees affect the principles of the Bills, but as I have said I hope action will not be long delayed.

I understand, with regard to the Land Bank, that the Select Committee has almost completed its work and that we shall be in a position to forward their report to the Secretary of State before the end of the Session. I gave an undertaking to this Council at the last Session that a Committee should be appointed to consider the disposition and investment, if thought advisable, of the surplus balances of the Colony. That Committee has met during the recess and has, I think, practically completed its report. The report will be laid before Council at this Session.

There is, I think, only one other important Bill which might have been brought forward now and that is the Native Lands Trust Bill. The Government is as anxious now as ever it was to pass that Bill into law, but it is not in a position to bring it up for third reading in this Session, since the Bill is still awaiting the final consideration of the Secretary of State in connection with the recommendations of the Hilton Young Commission.

With regard to the Defence Force, which has been the subject of a certain amount of discussion I should like to say that a Committee has been dealing with the subject of exemptions and the possibility of establishing other forms of public service for those who have a conscientious objection to carrying arms. I hope the report of that Committee will be available before long.

I should like to repeat what I have often said before, that there is nothing in this Bill providing for the conscription of and compulsory re-training of already trained men. The main object of the Bill is enrolment and organization. It is not intended in any way to press arduous and unnecessary duties upon soldiers who have already rendered service to the King and are already trained, nor to compel conscientious objectors to be armed for service of any kind.

The subject of malaria has been causing some anxiety in different parts of the Colony. It seems to have come upon us rather suddenly as part of the legacy of the long drought. A report on that subject will be laid on the table of Council as far as Nairobi is concerned. Government, however, recognises that in other parts of the Colony, and particularly in certain Native Reserves, expert entomological investigation is also very desirable. We are therefore considering the establishment of a Central Anti-Malaria Staff, which will advise upon research and organization in this matter. We hope to have proposals to lay before Council in that regard with the Estimates.

Locusts have been another legacy of the drought, and have caused a very widespread and a very natural anxiety. I hope, however, that we may get through the year without suffering any really serious depredations from the swarms. I should like to express the thanks of the Government to the Governor-General of Portuguese East Africa, who immediately put the services of Dr. Fuller at our disposal when I telegraphed to him, and also to Dr. Fuller for the work which he did. Government agrees with him that some permanent organization is desirable for studying the origin and movements of swarms, and the suggestions which he made in this respect will be followed up in next year's Estimates.

One word, as Council is meeting here, in regard to Mombasa and the Coast. I am glad to think that not only Mombasa is showing signs of awakened progress, but that the Coast generally is showing signs of awakened progress. We hope to establish before long a new outlet to Lamu for the products of the Northern Frontier Province, and I trust that it will be possible in next year's Estimates to continue the development of coastal communications both north and south.

We are also considering the further study and encouragement of tropical agriculture at the Coast, but that point is to some extent bound up with the organization of Amani, and Government has arrived at no conclusion regarding it at the present moment.

I am glad to say that the hookworm campaign is still being steadily pressed and showing remarkable results.

Finally, in regard to Mombasa itself. As this town and port will shortly be entering upon a new era, I should like most sincerely to congratulate the present District Committee and the District Committees of the past on the admirable work which they have done. I remember very well what Mombasa was when I first arrived here three years ago. It has made the most remarkable progress not only in trade but in organization during that time. That is largely due to the excellent work done by the District Committee and I think the whole Colony, which comes down here in greater numbers every year, should be grateful to it.

I am glad to report that trade and production throughout the Colony are very good in the present year. The financial results, both as regards the Government and the Railway and Port are likely to be very satisfactory.

One word more before I sit down, with regard to the topic which is in everybody's mind—the forthcoming visit of the Prince of Wales. The arrangements for his reception in Mombasa and Nairobi are well advanced, thanks to the good work done by the Committees established.

I should like to acknowledge the excellent work which they have done, and also to express my thanks to the whole Colony for the general regard which has been shown for His Royal Highness's wishes in regard to his programme. Everybody has been anxious not to press engagements upon him and not to make his stay here too arduous. The whole Colony is eagerly awaiting his arrival and I hope, as I am sure everybody without distinction in the Colony hopes, that his visit will give him some share of the universal pleasure which it will certainly give us. (Hear, hear.)

MINUTES.

The Minutes of the meeting of June 21st, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. ACTING COLONIAL SECRETARY (MR. MARTIN):—

Report of the Select Committee on the Game Amendment Bill.

Report of the Select Committee on the Trout Protection Bill.

Report on a proposed Joint Meteorological Service for Eastern Africa.

Forest Department Annual Report.

Report on H.M. Eastern African Trade Dependencies Exhibit at the Grocers' and Allied Trades' Exhibition.

Report on H.M. Eastern African Trade Dependencies Exhibit at Ye Olds Englysshe Fayre and Empire Exhibition at Alexandra Palace, 5th to 12th May, 1928.

Police Annual Report.

Second Supplementary Estimates, 1928.

Statement of Colonial Loans.

By THE HON. DIRECTOR OF PUBLIC WORKS (MR. SIKES):—

A statement under section 150 of the Electric Power Ordinance for the year ending 31st December, 1927.

BILLS.

FIRST READINGS.

LOCAL GOVERNMENT (MUNICIPALITIES) BILL.

On motion of the Hon. the Acting Commissioner for Local Government, Lands and Settlement (MR. LOGAN), the Local Government (Municipalities) Bill was read a first time.

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

PUBLIC HEALTH (DIVISION OF LANDS) BILL.

On motion of the Hon. the Acting Commissioner for Local Government, Lands and Settlement, the Public Health (Division of Lands) Bill was read a first time.

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

PUBLIC HEALTH (AMENDMENT) BILL.

On motion of the Hon. the Acting Commissioner for Local Government, Lands and Settlement, the Public Health (Amendment) Bill was read a first time.

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

LOCAL GOVERNMENT (RATING) BILL.

On motion of the Hon. the Acting Commissioner for Local Government, Lands and Settlement, the Local Government (Rating) Bill was read a first time.

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

IMMIGRATION RESTRICTION (AMENDMENT) BILL.

On motion of the Hon. the Acting Attorney General (MR. BRUCE) the Immigration Restriction (Amendment) Bill was read a first time.

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

TRAFFIC BILL.

On motion of the Hon. the Director of Public Works the Traffic Bill was read a first time.

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

HARBOURS REGULATIONS BILL.

On motion of the Hon. the Acting Attorney General the Harbours Regulations Bill was read a first time.

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

WATER BILL.

On motion of the Hon. the Director of Public Works the Water Bill was read a first time.

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

HIS EXCELLENCY: I understand there is no more business before Council this morning, but it is important that Executive Council should sit this morning in order to enable a Committee of this Council to sit this afternoon. Council will resume at 9 a.m. tomorrow morning. I think that hon. Members are generally agreed that that hour will be convenient.

THE HON. CONWAY HARVEY : Your Excellency, the question of the hour has never been referred to members on this side of the House. I am afraid the hour of 9 o'clock will not be convenient inasmuch as I understand that it was agreed to meet at 10 a.m. and hon. Members have made their arrangements accordingly. Then again some members are living on the mainland and it will not be possible to get here in the mornings at 9 o'clock.

HIS EXCELLENCY : This suggestion was only put forward as it was thought it would meet the convenience of hon. Members. Government will agree to make the hour 10 a.m.

Council adjourned to 10 a.m. on Wednesday, the 15th August, 1928.

WEDNESDAY, 15th AUGUST, 1928.

The Council assembled at 10 a.m. on the 15th August, 1928, at Government House, Mombasa, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 14th August, 1928, were confirmed.

PAPER LAID ON THE TABLE.

By THE HON. THE DIRECTOR OF PUBLIC WORKS :—
Report of the Water Legislative Committee.

BILLS.

SECOND READINGS.

THE LOCAL GOVERNMENT (MUNICIPALITIES) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. LOGAN) : Your Excellency, I beg to move the second reading of a Bill to amend the Law relating to Municipal Government and to Provide for Matters incidental thereto.

Kenya to-day presents the anomaly that the most far-reaching mode of Local Government as yet evolved has been created amongst its least developed community—the African.

Outside Nairobi, which is a declared municipality, there is no single legally constituted Municipal Authority, urban or rural, in the non-native areas of the Colony—but in the Native Reserves since 1924 there have been properly established Native Councils empowered to make local rules, levy rates and incur expenditure.

The Nairobi Municipality was created in 1919, and I should like to pay a tribute to the work done during the last nine years by the various Councils which have shouldered the responsibilities of municipal administration and borne them in spite of considerable difficulties through a period of large expansion and development in a manner with which they have every reason to be satisfied. Government fully appreciates the nature and extent of those difficulties, and is

alive to the necessity of equipping municipalities with the resources they can properly expect to receive from the Central Government.

If a look back to the early part of the year 1926 be taken it will be recalled that the development of private building estates situated on the outskirts of the present Municipality of Nairobi, but uncontrolled by any municipal or township authority, was proceeding apace; and the existence of two small residential townships, co-terminous with parts of the municipal boundaries, suggested that it was necessary to decide whether the growth of a ring of small townships partly encircling Nairobi was to be viewed with equanimity or whether the general interest required that outside settlement of this suburban character should be brought within the fold of one municipal control.

In Mombasa the approval accorded in 1926 to the Town Planning Scheme involving very heavy loan commitments recoverable from local sources and the general success of the work of the advisory District Committee seemed to indicate that the time had come when proposals for the establishment of Municipal Government made in 1919 should be put into force.

Similarly in certain other townships in the Colony the need was felt for joining the resident population more intimately in the executive responsibilities of urban administration.

Your Excellency, therefore, in July, 1926, appointed a Commission to enquire into these and cognate matters and appointed as its chairman a man of long experience in municipal affairs, of great power of intellect and of wide breadth of vision—the Hon. Mr. Justice Feetham.

The official members of the Commission were the Attorney General and Commissioner of Lands. For the purpose of the enquiry regarding Nairobi and its environs, Mr. T. A. Wood and Mr. V. V. Phadke were appointed as additional members; and for Mombasa, Mr. J. B. Pandya and the Resident Commissioner, Mr. T. Ainsworth Dickson. The Commission was fortunate in having the assistance of so old a resident and so experienced an adviser as Mr. T. A. Wood, and from Mr. Phadke and Mr. Pandya—though there were certain points on which they preserved separate opinions—the Commission obtained much solid and valuable advice.

This Bill presents, with certain modifications to which I will refer later, the recommendations of the Commission's report on Nairobi and Mombasa and their environs, and provides for the possible institution of municipal government on similar lines in other urban areas.

The system of urban administration proposed by the Commission can be briefly described. Four classes of urban areas are recognised. Firstly, the minor townships administered directly by Government. Secondly, a township in a higher stage of development in which it is possible and reasonable to establish an advisory committee of residents to assist the District Administrative Officer in matters of routine administration. Thirdly, a township in which a modified form of municipal government can be established; and fourthly, a municipality which can justify its claim to full municipal status. This Bill deals with the third and fourth stages, and I should explain the differences in the form of municipal government proposed for them.

The differences are in constitution, powers as regards public health, and financial supervision. In constitution, because in the fourth stage the municipal body will consist mainly of members chosen by the community itself and will elect its own mayor, whereas in the third stage the majority of the members will be nominated by the Governor and there will be an official chairman. In public health powers, because one will be automatically a local public health authority but the other will not; and in financial supervision because full municipal status will remove municipal estimates from the control of the central government, whereas until full status is achieved estimates will require to receive the approval of the Governor in Council.

That is the graded scheme which the Commission proposed—but in order to ease the journey towards that ideal some intermediate halting grounds have been provided, and into the character and reasons for these I propose to go at some length.

In the circumstances in which we are situated in Kenya one of the most important issues in a question of this kind is that of the racial proportions of the constitution.

At the last session of this honourable Council, Your Excellency announced the appointment of a Conference of four European and four Indian political leaders under the chairmanship of the Commissioner for Local Government. That Conference met on three occasions and reached substantial agreement—a happy result which was significant of the goodwill manifested by both sides.

In order to give effect to the agreement so reached, Government has published, and members have before them, the detailed amendments which are proposed for incorporation in the Bill in Select Committee.

As regards Nairobi, the changes are as follows: seven Indians instead of five, the excision of Goan and Railway representation as such, and the inclusion of the District Commissioner, Nairobi, and one or two representatives of Government. In the event of the establishment of a Nairobi District Council, the addition of a liaison member from that body will be considered on its merits.

For Mombasa an equal number of European and Indian unofficial members, seven each, was agreed upon, one Arab member, and up to four nominated members, to be selected irrespective of race and not necessarily officials, to safeguard the interests of the natives and of the Government; and one nominated member to represent Port interests.

The necessity for the special representation of the Central Government on municipal authorities in the Colony is three-fold.

There is firstly the importance of Government's financial commitments—these involve in the case of Nairobi and Mombasa, without taking into consideration special expenditure for special purposes, such as Anti-Malaria Works, and excluding grants for Roads, Public Health, Staff, etc., on the basis proposed in the Bill, payments of approximately £13,000 and £18,000 per annum in respect of rates on site values on Crown land at 1 per cent. In other municipalities it will probably be found impossible to work on the same basis as we have proposed for Nairobi and Mombasa for some time, and in the meantime, subject to the imposition of rates to a reasonable percentage, Government will assist the establishment and maintenance of essential services.

Secondly, it is necessary to provide special safeguards for native interests. In Nairobi there are some 23,000 Africans and in Mombasa approximately a similar number. The question of native administration in urban areas is one of considerable complexity and it is most necessary that, in addition to the control which can be exercised by Government through the Native Affairs Department, there should be on the Councils an officer who can from day to day assist the Council in framing its native policy and in the routine administration of native affairs. The importance of native administration in urban areas is, I am sure, fully appreciated and as regards Nairobi I am glad to be able to state that arrangements have recently been made with the present Municipal Council for the secondment of an Administrative Officer to its staff as Municipal Native Affairs Officer.

Thirdly, the relationships in this Colony between Municipal Authorities and the Kenya and Uganda Railway Administration are of peculiar significance. The Railway as

such is a large customer for municipal services. In Town Planning the closest co-operation is of the first importance; the contribution which will be payable in respect of rateable property occupied by the Railway is of considerable magnitude, and finally in respect of building programmes it is most desirable that close liaison should exist.

It will be observed that, in the re-drafts of clauses 5 and 9, no definite number of Government representatives is fixed. Government will not insist on any official representation not absolutely necessary to defend its own, the natives', and the Railway's interests.

As regards the method of choice of unofficial councillors or members, the feeling of the Conference was that this should be left to the various communities to decide for themselves.

It is not an easy matter to obtain an expression of public opinion upon a point of this nature—a public meeting at Mombasa, however, purported to express the European feeling, which was endorsed by the then Elected Member of this hon. Council for Mombasa, and a committee of the Nairobi Municipal Council has been consulted, while the Indian leaders have also given the views of their community. In Mombasa no one wants formal elections at present, in Nairobi the Indians prefer the present system of nomination, but the Europeans desire formal election.

This legislation must not, however, look to the present only and it has therefore been provided as regards Nairobi and Mombasa that, at the request of the Council or Board, election may be substituted for nomination.

This arrangement renders ineffective the detailed ward descriptions contained in clauses 6, 7 and 10, and in the second schedule of the Bill, but power to establish a ward system still exists under clause 11 (4). It is proposed, therefore, to excise ward descriptions from this Bill.

Again, in view of the known preferences against elections at present, it is clear that Part II will require considerable adjustment and on the whole it appears to be simpler to delete the whole of this Part as it stands at present in the Bill and substitute for it one clause giving the Governor in Council power to make all the necessary election rules. The Committee of the Nairobi Municipal Council, which I consulted on this point, agreed that provision of election machinery in rules was preferable.

Further, in order to preserve uniformity as between elected and nominated members in regard to the tenure of office of all unofficial members, it is proposed that one-third, or as near

as may be, of the nominated unofficial members will retire each year, and this will mean in effect an unofficial election each year.

All these proposals will be put to the Select Committee for consideration.

Arising out of the constitution of these municipal authorities, additional safeguards for the protection of minorities have been considered.

The Bill reflects, in the proviso to sub-clause 3 of clause 120, a step taken in this direction by Government wherein the freedom of a municipal council from the necessity of obtaining Government's approval to its estimates is postponed, in the case of Nairobi, for five years. The Bill also makes, in clause 98, special provisions as regards the submission of by-laws to which objections have been raised and not withdrawn.

A further safeguard was proposed at the Conference that it should be provided that a majority of some definite proportion of the Councillors should be required for the passing of municipal estimates; the Conference agreed that this proposal should be referred for discussion to the Select Committee of this Council which will be appointed to consider this Bill. This reference will be duly made. The Conference agreed that no further safeguards for the protection of minorities were necessary.

Before dealing with those parts of the Bill which are of general application, I may now perhaps turn to the proposal, which the Bill adopts in clause 4 and in the first schedule, for the extension of the present boundaries of the Nairobi Municipality to include the areas known as Muthaiga and Eastleigh townships, Upper Parklands and Westlands, Thompson's Estate, Kilimani and Upper Nairobi Township, and various other adjacent areas.

Recorded opposition to this plan has come from Muthaiga Township in the form of a petition signed by 57 plot-holders. The petition briefly intimates that the signatories object to inclusion in the Nairobi municipal area but discloses no grounds for this objection. This petition will be examined by the Select Committee which will also be prepared to hear any representations which interested persons in other of the suburban areas concerned may wish to make.

On this question of area the Conference of leaders, to which I have already alluded, agreed that the enlarged area proposed in the Bill for the Nairobi municipality should be accepted, subject to the provisos that, for the purpose of the internal development of the suburbs, the provisions of the

Private Streets Ordinance should be applied and that the inception of new suburban road construction schemes, formally part of a Town Planning Scheme, should be accompanied by the enforcement, where possible, of the levy upon property increased in value provided for in the Town Planning Ordinance.

The Private Streets Ordinance, which has already been applied to the Nairobi Municipality and was enacted on the Council's representations, provides that, while no new private street may be formed or laid out without the Council's approval, the Council has power, if a private street is not constructed or maintained to its satisfaction, to step in, do the work itself and recover the cost proportionately from the owners of the premises fronting on or served by such street. On the other hand, where a private street has been constructed to the Council's satisfaction, the Council is obliged to take over the cost of its maintenance if the owners of the greater part of the frontage call upon it to do so.

In so far as the development of the town in accordance with an approved Town Plan is concerned, by means of additional public thoroughfares, the administration of a Town Plan will be in the hands of the Council and the actual construction of such public roads must be taken in hand as, and when, the municipal revenues permit. In submitting its scheme a Town Planning Authority is required to submit financial proposals for carrying it out and to take into consideration, in assessing compensation, not only the damage done but also the increased value brought to private property by the operation of its scheme.

I may perhaps take the opportunity at this point of giving an assurance that, as regards not only Nairobi but also Mombasa and the upcountry towns where we hope to establish Municipal Boards, Government accepts the recommendations of the Commission and will do its part, within the compass of its financial ability, in the development of these urban areas. It has no wish or intention of evading its legitimate duties towards expanding communities and will launch municipal bodies on a fitting financial basis.

At Mombasa, Nakuru, Eldoret and Kitale the principle and the most important details of Municipal Government have been discussed with the local Advisory Committees, and each of these Committees have signified their acceptance of the place suggested for them in the scheme of Municipal Government.

As regards the machinery of urban Municipal Government, this Bill goes into considerably more detail than does the existing Municipal Corporations Ordinance, and there is

one point involving a definite principle to which objection has been raised in the report of a sub-committee of the Nairobi Municipal Council. I refer to the audit provisions.

Their objections are two, viz. :—that audit should not be limited to a Government audit but that, in addition, a Council may appoint its own auditor. There is no objection to the grant of this power and Government will not oppose it if it is proposed in Select Committee. And secondly, that the responsibilities laid on the Finance Committee in clause 60 (2) viz. : " No expenditure shall be incurred unless provision has been made therefor on a detailed estimate submitted by the Finance Committee and approved by the Council, and every payment from the revenues of the Council shall be made by the Finance Committee, which shall submit for information at each ordinary meeting of the Council a schedule of all payments made," are incompatible with the principle of voluntary service, if accompanied by the liability to surcharge for illegal payments imposed in clause 122. I venture to suggest that the fears on which this objection is based are exaggerated.

Provision of this nature is common form in municipal law both at Home and in South Africa and throughout the Empire where voluntary service on Councils is universal. It must be conceded that the power to surcharge is necessary where a Council, in defiance of the law, makes or persists in making payments which it is not empowered to make. The cases of Poplar and Chester-le-Street occur at once to the mind as an illustration of this necessity. It is not cases of genuine mistakes or slips which are contemplated and, where a surcharge is imposed, there is the right of appeal either to the Supreme Court or to the Governor in Council, and it may not unreasonably be assumed first of all that no inspector will exercise this power without grave reason, and secondly that, where it is not proposed to question the legality of an inspector's decision before the Supreme Court, the Governor in Council will require to be fully satisfied that no extenuating circumstances exist before rejecting an appeal.

As regards procedure, powers and duties the Transvaal model has been followed. Special attention should be given to clauses 59 and 60 which set up the committee system and require the Finance Committee to regulate and control the Council's finances. The powers and duties of a Council have been elaborated in much greater detail than is the case in the present municipal law. A municipal authority can only undertake works and exercise powers which it is specifically empowered in the law, by which it is constituted, to undertake and exercise. It is necessary, therefore, to make the list as complete as possible even though it includes powers and duties of which there is little immediate likelihood of use.

It will be seen from the drafting of clauses 60 and 11 (1) (b) that the reservation of some of the powers and duties prescribed was contemplated as regards municipalities other than Nairobi and Mombasa. This provision relates to public health powers but, as in discussions with Township Boards at Kitale, Eldoret, and Nakuru, the local view has favoured the acceptance of responsibilities as public health authorities from the start, it will be unnecessary to have recourse to this reservation provided that suitable staff arrangements can be made with the boards in these towns when they are established.

I come now to the question of Government's contributions towards municipal revenues.

It was an ancient and fixed principle of English law and administration that the costs of local government and local justice should be defrayed not out of national funds, but out of taxes specifically local and called rates. Nor was it until after the enactment of the great Reform Act of 1832, when the era of reconstruction began, that serious enquiry was undertaken to disclose to what extent the burdens on local ratepayers could be lightened; and not until 1888, when a formal system of local government was devised in the Local Government Act of that year, was the basis of contributions from central to local revenues thought out.

In new countries we can profit by the mistakes made by our forefathers and avoid from the outset any feeling of antagonism between central and local government as regards financial requirements and make our dispositions on the basis of equipping local authorities with adequate means to perform those duties which are handed over to them by the central government.

This policy has been followed in Australia, New Zealand and South Africa, though the varying nature of conditions in those Dominions has precluded the enunciation of any defined set of principles capable of application elsewhere without alteration.

Greek mythology has it that Athene sprang a complete woman, fully armed, out of Zeus' head—but no complete system of local government has yet come out of any one head. Every system progresses through various stages, shapes and reshapes itself in accordance with local circumstances and finally achieves a form, which, though generally related to other systems, has individual characteristics of its own. Young as it is, Kenya has already a definite mould of its own and in modelling our local government institutions we must not attempt to break that mould but must rather so design them that they fall into a natural harmony with other of the Colony's institutions.

In considering the question of municipal finance here, one of the most important features which has to be recognised is the local land law. Generally speaking the Crown is the freeholder of alienated lands and the owner of all unalienated lands, and it may not, at once be practicable to endow municipalities with Crown lands—it is a question whether, in view of what endowment would imply, they could afford to accept complete endowment at present.

Things being as they are, Crown lands receive the same benefits as privately-owned land from municipal administration. If they do not contribute towards municipal revenues on the same basis as other lands then the owners of these other lands will, on the basis of a site-values tax, have to pay Government's share, and the existence of a municipality of Crown lands, which require the same provision of roads and other improvements as private lands but are exempted from rates, will disturb the relations which should exist between the cost of roads and other improvements and the value of the land affected by them and available to contribute towards meeting such cost. These considerations point to the conclusion that Crown land should be rated on the same basis as private land.

As regards payment for municipal services rendered to Government premises, there seems also no question but that Government should pay the relative tariffs on the same basis as any other recipient. Different considerations apply, however, to rates based on improvement values. The principle of rating improvements will be discussed later in this Session when the Local Government (Rating) Bill is considered but, as the power to rate improvements is proposed, the position of Government in this respect must be clarified.

On the one hand, the erection of handsome public buildings enhances the dignity and land values of a town, and it is clearly undesirable that Government's contribution to rates should be automatically increased in proportion to the cost of its buildings; and on the other hand, if other buildings are rated, Government should pay some contribution in respect of its buildings which alike necessitate the construction of roads and other municipal services. And then again, in some urban areas the value of improvements held by the Crown in proportion to the value of those held by the public is substantially less than the value of Crown land in proportion to that of private land. Consequently, if an improvement rate is introduced, towards which Government and private persons would contribute on the same basis, the total contribution made by Government will represent a smaller proportion of the total rate and contribution combined than would be the case if the whole rate was imposed on land. This fact would

form a strong temptation to Councils to avoid imposing an improvement rate, no matter how desirable such a course might be for the purpose of obtaining an equitable distribution of the rate between private ratepayers.

It is therefore proposed that, if an improvement rate is introduced, Government shall pay, as a contribution in lieu of such rate, a sum which bears the same proportion to improvement rates collected from the public as its contribution in lieu of a site-value rate bears to the site-value rates collected from the public.

This then is the proposal as regards the relation which should exist in respect of rateable property between Government and the public. Other additional subventions are proposed in clause 113 (6). As to sub-clause (b) I need perhaps only say that, in view of the increased tariffs on motor vehicles which are proposed in the Traffic Bill which is to be introduced at this Session, Government is satisfied that it will not be practicable as yet to require the imposition of a municipal motor tax in addition to a state tax, and a suitable emendation of that sub-clause will be discussed in Select Committee.

The payment of half the cost of trunk roads is already made by Government. The acceptance of half the cost of Public Health Staff by the State is the English practice and it has been thought reasonable to accept the same proportionate liability in respect of expenditure on the treatment of infectious diseases.

The proposed share to be met by Government for the salaries of the chief municipal officers is an innovation. The efficiency of municipal administration must depend very largely on its four chief officials—its Town Clerk, Town Treasurer, Town Engineer, and Medical Officer of Health. Government will be a large contributor to municipal funds and must, on this ground and apart from other considerations, be recognised as having a very direct interest in the three appointments of Town Clerk, Town Treasurer and Town Engineer, as well as in that of the Medical Officer of Health. In order that men with municipal experience may be attracted, it is desirable that some security of tenure should be offered and the provision elsewhere in the Bill that Government's approval should be required for the appointment and dismissal of either of these officers makes it desirable that Government should contribute directly towards their salaries.

Lastly, the diminishing grant requires some explanation. It is proposed that the Council and Board of Nairobi and Mombasa should assume full financial liability for public health services but it is unlikely that this cost could be met at once without recourse to increased taxation. As rating is to be

introduced for the first time in Mombasa and in parts of the new Municipality of Nairobi, it is thought that the authorities should be granted a special subvention for the first few years of the new regime so as to allow them to adjust their finances gradually to the new conditions.

The theory of local government broadly is that the State entrusts to the citizens through their representatives the administration of local, urban and rural affairs. The State sets out exactly and in detail, in the law which constitutes these local bodies, the powers which are delegated to them and the procedure they must follow in the exercise of their duties. The State, however, does not and cannot absolve itself from all further responsibilities in their regard and consequently it makes provision for ensuring that municipal authorities effectively perform their duties and do not exceed their powers. The form which control takes differs in different parts of the British Empire and in different parts of the world. In this Bill we have reproduced generally the British machinery of local government and I do not propose to dwell at all upon the Continental or American systems. In those parts of the Empire, however, where local government institutions have been established, there are different stages of constitutional development which reflect different forms of State control over local authorities. The principle, however, is constant, and that is that control by inspection should be exercised by the central Government which should satisfy itself as to the degree of inspection commensurate with its particular circumstances. Inspection is a stimulus to efficiency and should on this account alone be welcomed. The function of inspection is closely allied with that of information. An inspector is a collector and distributor of information and a channel of communication between the Central and Local Authorities. He acts *en liaison* between these authorities to purvey advice and ensure harmonious co-operation. In Kenya the natural authority to exercise control over local authorities is the Governor and the Governor in Council and this is illustrated throughout this Bill. It is, however, manifestly necessary to relieve the Governor in Council of the routine of local government control, both because that body is not constituted for purposes of this technical character and also because to overload it with these duties must unavoidably lead to delays in the conduct of routine business. We have therefore endeavoured to divide into two categories the work of control on the basis of what is municipal routine and what is of direct concern to the State. The latter class of subject is left subject to the approval of the Governor in Council, that is to say, municipal estimates, towards which important contributions are payable by the Central Government, municipal loans which may involve the pledging of Government credit and which

always involve the interests of the next generation, and the levying of rates beyond the prescribed limits or of special rates which entail the consideration of exceptional circumstances.

As regards, however, municipal routine—the passing of by-laws, the exercise by local authorities of powers which require Government's sanction such as important municipal undertakings for the supply of water, electricity, drainage and sewerage facilities and the like, the making of appointments in which Government is interested, and the fixing of tariffs of charges wherein Government is concerned to see that the interests of all sections of the community are safeguarded—the supervision of these activities it is proposed to leave to the Governor and to establish as his advisers a Standing Departmental Committee under the chairmanship of the Colonial Secretary—who is primarily responsible, under the Governor, for the supervision of local government activities—and composed of the responsible representatives of those departments which are mostly concerned with the questions of local government work, and whose officers should therefore be specially qualified to advise as to the general lines to be followed in supervising the development of local government administration.

In order to maintain cohesion and to ensure that financial proposals which require the sanction of the Governor in Council, and which will involve expenditure on municipal works, have been prepared to carry through approved technical schemes, it is proposed that the Standing Committee shall advise both the Governor and the Governor in Council.

The general administrative work in connection with local government will be carried out by the Local Government Branch of the Secretariat. The staffing of that Branch has already received legislative approval in the passing of the Colony's Estimates for the current year.

The usual powers are reserved to enable the Central Government to take any necessary action where a local authority either fails to exercise its functions or is guilty of maladministration.

That, Sir, is an outline of the system of local government contained in the various clauses of this Bill which is proposed for urban areas in this Colony, and I beg to move the second reading of this Bill. (Hear, hear.)

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE): I beg to second the motion.

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

THE HON. CONWAY HARVEY: Your Excellency, I should like firstly to congratulate the hon. Gentleman the Mover of this motion on a very able and comprehensive speech. (Hear, hear.) This encourages us to hope that similar valuable contributions will be made to the proceedings of this Council in the future. I am sure we all welcome legislation which brings municipal control into line with modern practice and we think the time is almost overdue when the Nairobi municipal area should be greatly extended, the Municipal Council given much wider powers. It is equally appropriate, to my mind, that in the case of Mombasa those responsible for the control of its local affairs should be endowed with real executive functions instead of being, as at present, merely advisory.

I do sincerely trust, Your Excellency, that this hon. Council will ratify the recommendations of the Round Table Conference, the unanimous result of which is largely attributable to the tact and perseverance of the hon. Gentleman the Acting Colonial Secretary, who presided over the deliberations of that Conference.

It is a real honest effort to endeavour to introduce Local Municipal Government in a form which is acceptable to various communities, as it must be obvious to everyone that such Government cannot worthily fulfil its destination unless it is introduced with the good-will of all the communities concerned.

There is, Sir, one departure from the recommendations of the Feetham Commission in this Bill now under discussion, and that is the elimination of specific Goan representation from the municipal bodies. I have no doubt that that will be gone into more fully when the Council goes into this Bill in detail, clause by clause, though I have never been able to see why any particular community is entitled to special communal representation.

When I first saw the Bill I wondered whether it was not, in the case of Mombasa, somewhat premature, and I must candidly admit that I do not like the hybrid provisions contained in the first draft, which seemed to me to be quite unworkable. Those provisions provide for some members to be nominated and some elected. It seems to me that the harmonious working of a municipality must inevitably be very seriously prejudiced by the knowledge that at a critical juncture Government would have power by their nominations to completely over-ride the desires of the elected members.

It is doubtful whether in Mombasa sufficient men are available to undertake this work as elected members and it is equally uncertain at the moment whether the population is sufficiently permanent to justify that full extent of authority.

It is, further, probably better at the present juncture to have a completely nominated council instead of the hybrid power indicated in the Bill as at first appeared, on the understanding, Sir, that when the time is ripe full control will be vested in a properly elected municipality. Although I represent an up-country constituency, I should like to assure our municipal colleagues that up-country members do take a real, honest, lasting interest in their Capital and their Port. (Hear, hear.) I have invariably followed the proceedings of the Mombasa District Committee with very great interest and it is obvious that Mombasa residents have exhibited no desire whatever to shirk their civic responsibilities, and when the time arrives I am quite sure they will assume the burden of financial responsibility with equal cheerfulness. (Hear, hear.)

THE HON. T. A. WOOD: I should also like to join in congratulating the hon. Mover on his very careful exposition of this proposed measure. It is undoubtedly the fact that we have reached the stage when some power should be given for decentralisation in regard to local government, and I was pleased to notice that Government was satisfied with the steps that have been taken in the past with regard to Nairobi. The hon. Mover's speech is removed from the point of view of controversy save to the points which I shall refer to. He is in agreement that the establishment of the ward system is premature, and is leaving powers for its introduction at a later stage. He has explained the apparent departure from a principle—the use of the term Governor instead of Governor in Council. I follow now that it is the intention that where the term Governor is used action will take place on the advice of the Standing Committees and on the advice of them only. There still remains in my mind one or two controversial points. The first one is this suggestion to eliminate the representation of the Goanese community and I notice with regret that the Hon. Mr. Conway Harvey appears to be satisfied with the position. Well, I am personally not, so it may be that my experience is somewhat peculiar. I became member of the organisation which controlled municipal affairs in Nairobi in the year 1901 and in those days we had four members apart from the Government chairman. One of these members was specifically a Goanese because of the undoubted fact in those days they represented a very important section of the local community—a very important section. I suppose practically all the subordinate staff, small as they were, in those days were Goanese and it was felt that in those days the only possible method was to give them full representation in local government, and my view at the moment is that having established it over a quarter of a century ago, however wrong in principle it was to give a foreign section representation, I do not think we should withdraw it to-day. As a matter of

fact the last people to see me on the platform as I came down to Mombasa was a deputation from this community who hoped that I would stick to my word particularly with regard to my views on representation on the local body at any rate.

The other point where I should join issue with my hon. Friend the Mover is on this question of onus of financial obligation which is placed on individual members. I am quite in agreement with him that we must not have in this country a repetition of Poplar. I think it is not a reasonable suggestion having regard to the calibre of our local population, and in the light of the progress of this country. You are also dealing with a lot of voluntary workers. They are willing to do all they can. Experience shows it—at any rate in my case—but they cannot sit in the offices all day and every day. There is definite provision that no payment shall be made except by the financial committee. The financial committee must make every payment, and therefore they have got to satisfy themselves and it means sitting in the offices and taking part in the work. Now there is no question of emolument, and I do suggest that in the Select Committee that the sting should be taken out of this particular section.

I am pleased to see that the Government proposes that we should be able to appoint our own auditors. That provision has, as a matter of fact, become an international question. Both societies are hot and strong on these two provisions.

There is another point which I quite think, Sir, can be fairly said to be one of principle. That is, although there is an admission that while the State are owners of property in a municipality they must pay their share, there is a proviso which seems to limit the State's obligations, where it states in no case shall their proportion exceed 2 per cent. Well, I am afraid that is likely to work adversely in practice. Of course it will obviously mean that the municipal body in future will refuse to rate on any higher scale and it may be the case that there will be insufficient financial provision to fulfil what was ripe for action.

There are one or two peculiarities in it which I think, Sir, we shall leave until we come to the Select Committee. One clause is peculiarly worded which moves the onus from the municipality, but does not undertake the obligation to see who is responsible. It would fall on the municipal authority in the first instance to tell whether they should give a reimbursement, in regard to the particular unfortunates who are excluded from their onus.

Other than that I have much pleasure in supporting this new departure for the extension of local government.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: I have before me no copy of the Feetham Report, but relying on my recollection the recommendation was that Goans should be represented by somebody who was a British subject, but when a Goan becomes a British subject he ceases to be a Goan and so we considered that the Goan member should be omitted and the extra place given to the Indians. Another recommendation was there should be in Mombasa two elected Arab members, but under the new proposals only one Arab member will be nominated. The Government nominations in Mombasa will be arranged so as to have people who will look after the Arab interests and the native interests in Mombasa.

THE HON. T. J. O'SHEA: You have decided to eliminate the special representation of the Goanese community, and you have found it possible while making very liberal provision indeed for the representation of the Indians. While doing that you have found it possible to eliminate the representation of natives. The Government considers the natives will be fully safeguarded by giving them the representation of the European to look after their interests. I suggest the same principle might very well have been applied in the case of Indians, and from consideration of the matter I cannot pledge myself in advance to support the findings of the recent Round Table Conference. It seems to me, Sir, that although a conscientious effort has been made to adapt this new form of local government to local conditions that we have adhered too closely to other countries. I do not think that in the drafting of the Bill it has been sufficiently recognised that, in the changes that are taking place in the centres of population, some of the things very necessary in the past are not so necessary now and consideration has been given to what was vital in the past and is not now vital. I think it must be admitted that conditions to-day necessitate a much greater amount of efficiency on the part of those responsible for managing our towns than was necessary 20 or 30 years ago, and that should be the primary consideration in moulding this legislation. I am afraid that the efficiency which is necessary for the managing of these towns will not be found under the provisions of this Bill, and I therefore trust it will be found possible to amend this Bill in committee. I must also say that I am surprised that Government have decided to embark on their policy and to carry the principle far enough to leave out the numerous references to the Governor in Council. The Governor in Council is the most hard-worked man in this country. He has a lot of responsibility to carry which is certainly in excess of what it should be. Possibly it is contemplated that it is making the position safe enough. I should have thought it would have been better to have had a central board, and if that board had on it a small measure of

non-official interests, just sufficient to give the municipal bodies an assurance that their particular point of view was being safeguarded in the deliberations of that body. I am sure it would work more efficiently than the present proposals. I have not the slightest doubt that, as suggested by the hon. Member, this Bill will be remodelled from time to time, and I would look forward to a central board being developed along such lines.

As regards public health control I was not quite certain what was said by the hon. Member. Whether it was intended to leave this entirely in the hands of local bodies—the control of public health in the various areas. In a country such as this I think it is very necessary indeed that the public health policy of the country should be the responsibility of the central authorities, and you might very well relieve the local authority for making it their responsibility in that respect. To leave the responsibility with the local bodies might very well lead to grave danger.

THE HON. HAMED MOHAMED BIN ISSA: As regards the representation between Mombasa and Nairobi there is no difference at all except that in Mombasa there is an Arab member. It has been said that people in Mombasa are not yet competent to have an election. But the difference is only that Mombasa has an Arab member. The Arab does not pretend to have reached the standard of Europeans, but the Arabs can understand things and can be very useful in helping their people in matters concerning their interest.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I think the most specific points brought forward by hon. Members who have spoken since the motion was moved will be dealt with sufficiently by the hon. Member. I should, however, like to make clear one or two points which have come up. The first is the suggestion by the hon. Member for Plateau South that this Bill does not go as far as it might in respect of decentralization. He mentioned, I think, that in his opinion there were possibly too many references to the Governor in Council. He suggested rather more references to the Local Government Board, which would relieve the Governor from certain duties. I hope, and I am sure that he will be convinced in committee that the references to the Governor in Council are reduced to a minimum and the control of a Standing Departmental Committee will act as a time-saver and will in itself comprise a considerable measure of decentralization.

Now, Sir, the status of direct representation of the Goan community has also been mentioned. I think we all have probably in this Council considerable sentimental sympathy with the demand for Goan representation. I do not wish to

say more on the subject than this—that this particular departure I think represents—as regards representation—a distinct step constitutionally. We are embarking now on a definite system of responsible local government and I think that as we are crossing a line the question of the particular status of British subjects has naturally to be taken into account.

I have only one more point to make and that is as regards the conducting of the remaining business in connection with this Bill. Since the last Session of Council—during a recess—we have been carrying on the business of Council in committee almost continuously, although Council has not been sitting. It is the hope of Government that so far as possible we should get committee work running level with the work in Council itself and if therefore the business which may be on the paper on any morning does not during this Session fill the whole of the time for that morning it is hoped that the remaining time will be taken up by Select Committees. I think, probably, that all of us realise by now—what with other Bills coming forward and so on—that there will be ample work for those Select Committees, and I do ask hon. Members who are chosen for these Select Committees to realise the importance of getting on with the work while Council is actually sitting so as to avoid the great inconvenience of having to wait possibly several weeks before Committee Members can be brought together again when matters which have been discussed in full Council have escaped the memory of hon. Members serving.

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

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, there are two points to which I should reply in particular. The hon. Member for Nairobi North expressed doubts as to the reasons for limiting Government's contributions in lieu of the site value rate to 2 per cent., but the reason for this limitation will be clearer when the Rating Bill comes under discussion as in that Bill the maximum allowed to a municipal council to impose as a rate on site values is 2 per cent., and by limiting government's contribution we have thus preserved uniformity between it and the general public.

The hon. Member for Plateau South expressed fears as to the extent of the public health powers which are proposed for exercise by municipal bodies. It is not, of course, intended to give them entire control of public health without supervision from any central authority. Under the Public Health Ordinance local public health authorities are established and at present no municipal authority has properly fulfilled the

functions of a local public health authority. What is proposed is that municipal authorities in future should assume powers as local public health authorities together with the financial obligation involved, and for purposes of central control they will be subject to the central board of health which, in so far as local government bodies are concerned, will be the proposed Standing Committee.

These points and the other points of detail which have been raised in the discussion will, I am sure, receive ample consideration in Select Committee.

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

The question was put and carried.

THE LOCAL GOVERNMENT (RATING) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the second reading of a Bill to Enable Local Government Authorities to Impose and Collect Rates.

There is at present on the statute book a Rating Law comprised in the Nairobi (Rating of Unimproved Site Values) Ordinance, Chapter 86; as amended by the amending Ordinance No. 13 of 1924. The enactment of that Ordinance in 1921 marked the local acceptance of the principle of taxing capital rather than annual values. This Bill takes a further stage in that, as regards site values, it aims at valuing and taxing every interest in land; and further it gives to Councils the opportunity of imposing rates also on improvements. Apart, however, from the possible tax on improvements it is necessary to overhaul the present Site Values Tax Ordinance both to draw distinctly this principle of rating interests and to repair some of the defects of the existing law.

The person liable under the present Nairobi Ordinance for site value taxation is the actual owner, who is defined as the freeholder—other than the Crown—and the person holding on lease directly from the Crown; that is to say it recognizes two forms of tenure granted by the Crown—freehold and leasehold—and in either case it pays no attention to whatever further transactions save outright disposal, in such freehold or leasehold land, may occur. This Bill on the other hand tracks down every such transaction of more than ten years' validity—puts a value on it and requires each interest to pay its quota toward the municipal budget. That is a much more scientific principle.

The definition of "interest in land" is given in clause 2 and reads as follows—

"Interest in land" means and includes—

- (a) any freehold interest in land;
- (b) any lease of or right to or concession over land for a period of not less than ten years or for the natural life of any person or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period thereof amount in all to not less than ten years;
- (c) any easement over land;
- (d) any lease of land for less than ten years where any buildings or other improvements in, on or under such land are owned by the lessee.

The last sub-clause has been designed to cover the case which is of frequent occurrence in Mombasa where a man builds a house—usually a makuti hut—on land which is not his and of which he has no security of tenure beyond a month to month tenancy.

The existing law has, further, some defects which in any event required rectification and some of which I may very briefly exemplify. It contains no provision for the periodic making of valuation rolls. In 1926 the Nairobi Council were obliged, by force of circumstances, to undertake a fairly considerable overhauling of valuations in one of the most important localities of the town. It did this by means of a Committee whose awards appear to have been generally accepted—such revision which is obviously necessary is not, however, covered by any provision in the present law.

Again, the grounds on which appeals against a valuer's valuation are permitted are too strictly limited in that no appeal is possible against a neighbour's valuation. As valuation is so largely a matter of relativity, it is of high importance for a property owner to study relative values placed on neighbouring property and to be given reasonable opportunity of ensuring, so far as he can, that his neighbour's land is valued in the same ratio, having regard to all the circumstances of the cases, as his own.

Certain provisions which are part of the present law are amplified or amended in this Bill. The present procedure in regard to special rates has been amplified to provide that objections to such rates may be made by interested persons.

The form of Valuation Court has been changed so that it is composed of such persons as the Council may appoint subject to appeal to a magistrate. This form of Court has proved satisfactory elsewhere and has the advantage of being both expeditious and inexpensive.

The present special provisions in regard to the confirmation of valuations of the property of absentee owners have been omitted; these provisions delay by six months the completion of the roll and there seems no reason why absentee owners should leave themselves without local representatives to protect their interests.

Some new matters of detail have been included in this Bill. As a corollary to the principle of rating interests it follows that transfer by agreement of the liability for rates from lessor to lessee should be prohibited. This provision, which will not of course have retrospective effect, is intended to prevent the shifting of the burden of rates from the persons who actually enjoy the benefits of ownership which, if unchecked, would partly defeat the object of rating interests.

Again there are at present in some of the municipalities which it is hoped to establish in Kenya, large areas of land used at present for agricultural purposes. This use does not create the same need for municipal services as is occasioned by the use of much smaller areas cut up into small building plots; and therefore their owners do not receive the same benefits, in proportion to the relative values of their holdings, as do the owners of building plots. It is proposed therefore that land, used exclusively for agricultural purposes and not being less than ten acres in extent, shall be rated upon half its agricultural value; subject, however, to the proviso that where such land continues to be used for agricultural purposes when, owing to its situation and suitability for other purposes, added values accrue, it should be rated on the full amount of such additional values, so as to prevent the holding up of land which is legitimately required for building development.

In addition to revising the principles and some of the details of the present Unimproved Site Values Tax Ordinance, this Bill gives to councils the opportunity, if they wish to avail themselves of it, of rating improvements. I should draw particular attention to this fact that the imposition of an improvement rate is optional to each council or board.

In imposing rates consideration has to be given both to benefits conferred and to ability to pay; and, as the costs of municipal administration increase, or even to defray their present expenses, councils may conclude that they can enlarge their revenues and cause a more equitable distribution of the burden of rates by taxing improvements as well as land. Apart from the argument of ability to pay it may be suggested that there are several reasons why improvements should not continue to be entirely exempted from rates. Entire exemption may well involve excessive rates on land values or may drive councils to further taxation through profits on com-

mercial services which is in principle unsound. Heavy rates on land values tend to cause crowding of buildings on areas in the central parts of a town and, as taxation on land values cannot in the view of economists be shifted, it will in the long run be borne by a minority of the municipal voters.

If these reasons do not command acceptance, the rating of improvements can be justified on the ground that, if a council cannot get sufficient revenues from an unimproved site value tax, a tax on improvements is the best supplementary source of revenue for three reasons. Firstly, because expenditure on municipal improvements and services helps to maintain, though it does not create, the value of buildings. Secondly, part of an improvements rate is paid by the tenant in the form of rent; and it is not unreasonable that residents, who do not own property, should make some direct contribution towards the cost of supplying amenities which they enjoy and of which as voters they share the control. And thirdly, on the basis of ability to pay, a rate on buildings is as fair a means of raising revenue as any that are open to a council to impose.

These arguments will, however, be a matter for each council's consideration in due course and each will have to decide for itself whether it will adopt this additional method. I say "additional" advisedly, for it is not an alternative method. A site value tax is basic but it may be supplemented by a tax on improvements.

The Bill provides precise percentages which may be imposed and divides the rate into two divisions—an original and an additional rate. The maxima prescribed have been so adjusted as not to disturb the present maximum of 2 per cent. prescribed in the Nairobi Rating Ordinance and they may not be exceeded by councils without the sanction of the Governor in Council.

I may perhaps say, Sir, that this Bill has been criticised on behalf of the Nairobi Corporation by a firm of lawyers employed by them to examine and advise them on the Bill. This firm was largely responsible for the drafting of the 1924 Amending Ordinance, which included certain provisions for the recovery of rates which are supplanted in this Bill by the ordinary methods of civil procedure. No other criticisms have been received and I anticipate that these comments will be put to the Select Committee which I trust will be appointed and can be argued out before it. They do not affect the main principles of the Bill, which are the rating of interests in land and the rating of improvements.

In conclusion, Your Excellency, there is the question of the rating of the Crown interests in land and Crown buildings. Under the definition in clause 2 of rateable property, any

interest in land held by the Crown is exempted. The Crown however agrees that it will make a contribution in lieu of rates on the same basis as other owners of rateable property, but in view of the fact that its chief interest in land is as the owner of unalienated land, Government requires that, while valuation shall be in accordance with the principles laid down in the Ordinance, it shall have the right to make exceptions and prescribe the manner of valuation.

I beg to move the second reading of the Bill intituled the Local Government (Rating) Ordinance, 1928.

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

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

THE HON. T. A. WOOD: Your Excellency and hon. Members, I again should like to congratulate the hon. Mover on his very able explanation of this measure. I must say a practice of this kind tends to meet criticism at least half-way, and it is very useful. On a question of legal opinion I should like to raise one or two points. The mover agrees that the Bill alters the method of collection and there arises a controversial issue right away. We had a Rating Ordinance, and it proved a dismal failure. We had to get busy and amend it, and we got the assistance of the firm of Ralston and Kaplan, and it has apparently moved smoothly ever since. We should be very strongly against such a reversion. I would be against it from my own experience of it. We are going to have the old trouble over again, under which we had eventually to come to these people *ad misericordiam* and say: "What are you prepared to undertake in the payment of these rates?" Now imagine any local authority being put in this position. I am sure it is wrong. I think we should leave it to the Select Committee to go fully into the legal aspect of the matter. The Crown is well represented from that point of view and I hope we shall be able to settle that point.

The hon. Mover referred to section 29. Now as a matter of fact if you refer to the Nairobi Municipal Report you will find that Mr. Kaplan said:—

"I am most strongly opposed to section 27 of the Bill. It is entirely inapplicable here and would interfere with existing contracts as so long as local authority has power to recover its rates from the property rated there is no necessity to interfere with the rights and obligations to individuals by contract constituted."

Now my point is not the legal point at all, Sir. I have been hoping for a great many years to encourage a class of landowners who are apart from the ordinary class—known

as the rapacious landlord. We cannot possibly succeed in a provision of this kind, because every owner of property will have to think what he has got to let his property for. If, for instance, he wants to let his premises for ten years, he will say: "Well, I don't know how much this local authority is going to put on in the next ten years and I must cover myself fully"—and he will arrange it on a *pro rata* basis which will mulct the unfortunate tenant. I would like to impress upon members of this Council the necessity for this provision. Someone has got to pay the rate for the individual owner, that is to say the prospective tenant. The owner argues all I want is so much on my capital. You will have to reimburse him on what the local authority charges. I want the public saved in regard to what the local authority might demand. You should not have a clause in this Bill so that if the owner attempts to do such a thing it is going to be null and void.

In regard to section 31, I am afraid the comment I have to make here is not exactly one of principle. It seems to me that it will be absolutely necessary to amend that section in view of the fact, that the rates apply to a calendar year. And in regard to the proposed powers here, to rate improvements, well, I am in entire agreement that such a provision should be put into the Bill, but I should like to point out to the municipal bodies of the future, and others, that it seems a very retrograde step. In my opinion it is an old-established British custom. I see the Chancellor of the Exchequer in the Old Country is pressing to relieve people from this system of rating people on improvements. I think if you have a rate on improvements you must have a provision under which if the improvements are not occupied there must be a rebate granted. I do not think you can impose the rate on improvements when the improvements stand empty. I do not think there is such a provision in the Bill.

I think, Sir, generally they are all the improvements I have to offer. I think, Sir, they are rather important. I say so with respect. I hope they will be amended in due course when it comes to the Select Committee.

THE HON. A. C. TANNAHILL: Your Excellency, I am very strongly in favour of this Bill being instituted in order to establish a basis of rating which will be useful for every municipality as it comes into effect, but I sincerely hope that the Bill will be very closely scrutinised in a Select Committee. I do not think that the basis on which valuations are to be made as set out in section 6 is at all clear. I think it wants amplifying to a very large extent. I am not sure that an obligatory quinquennial re-valuation is in every case advisable. I am not sure also, without hearing further evidence on the

point, that it should be made obligatory to employ a valuer for every alteration or valuation, as I understand it is laid down in the Bill, and I am most emphatically of opinion that it is absolutely wrong to insist that the owner of a property may not make an arrangement with his tenant whereby the rates can be paid by the tenant. I sincerely hope that the Select Committee when appointed will consider the various points very carefully indeed.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I suggest that a special case has been made out, and not an entirely just case, in regard to the rating of improved and unimproved values. Government has suggested that it has committed a municipality to at least a second form of rating when the first has been exhausted, but that is not the case because Government in making this provision makes it obligatory and permissive to raise-money in some other way, because in giving this permission it limits the obligation to a very small percentage, in other words, it says you may raise money on unimproved values only to a certain percentage, thereafter you may raise money in another way. Actually it imposes an obligation which must be met and it means that the money other than the percentage agreed to by Government is proper to the limitation in unimproved values; thereafter the rate must be on improved values, but as a form of rating it is a wrong one. I suggest that it will mean, if so small a limit is imposed on the unimproved value of rating, that there will be a far greater degree of speculation in land values and it will mean the scattering of the town over a far larger area, which will throw a disproportionate responsibility on those persons who have developed if this system of rating improved land is utilised.

There is one other paragraph dealing with special rating which I hope will merit further consideration in Committee in regard to the rating of agricultural land. It is suggested that agricultural land should be rated at only half its agricultural value. I think that agricultural land, if it is not being utilised for agricultural purposes at the expense of ordinary routine purposes, should be entirely free. That has been suggested at Home and elsewhere, I am also distressed to see that Government encourages the usurious attitude of the authority in charging 12 per cent. per annum on overdue accounts. I think it is most distressing that that should be so. Otherwise I support the Bill.

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

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, the points that have been raised in the debate are, I think, all matters which should be fully discussed in Select Committee.

I should like to mention the point raised by the Hon. Member for Kenya. The basis of the rate proposed is that you should start with an unimproved site value tax of $\frac{1}{2}$ per cent. You may then proceed either to limit your additional rate to a further percentage up to $\frac{1}{2}$ per cent., making a maximum of 2 per cent. on site values, or impose an additional rate based partly on site values and partly on improvements.

The original rate on site values is obligatory.

I think the other objections will all be capable of being dealt with in Select Committee.

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

The question was put and carried.

SELECT COMMITTEES.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move, Your Excellency, that the Local Government (Municipalities) Bill and the Local Government (Rating) Bill be referred to Select Committees consisting of the following members; that is to say the same Select Committee for both Bills:

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

The Acting Attorney General.

The Director of Medical and Sanitary Services.

The Member for Nairobi North.

The Member for Nairobi South.

The Member for Plateau South.

The Member for Plateau North.

The Member for Mombasa, and

The Arab Member.

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

The question was put and carried.

HOUR OF MEETING.

HIS EXCELLENCY: I understand it will meet the convenience of hon. Members if Council in future meets at 9.30 and carries on until 12.30 every morning, and that if an adjournment is possible earlier it will be in order to enable the Committees and Select Committees to do their work. Is that so?

THE HON. CONWAY HARVEY: That is so, Sir.

HIS EXCELLENCY: I think that in accordance with the new Standing Rules and Orders the motion standing in the name of the Hon. Member for Plateau South will be the first business on the order paper to-morrow.

Council adjourned to 9.30 a.m. on Thursday, the 16th August, 1928.

THURSDAY, 16th AUGUST, 1928.

The Council assembled at 9.30 a.m., on the 16th August, 1928, at Government House, Mombasa, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The Minutes of the 15th August, 1928, were confirmed.

MOTIONS.

ALIENATION OF LAND IN SETTLED AREAS.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move the motion standing in my name:—

"That this Council is in favour of Government immediately proceeding with the alienation of such areas of land in the settled areas as can be made available and such further areas as do not involve any question of native rights."

It will be observed, Your Excellency, that the motion rigorously suppresses any of the predatory instincts with which Members on this side of the House are so generously credited. I would also observe that there are no latent reservations arising out of those predatory instincts. The intentions behind the motion are just those set forth in it. We do not wish to raise any question of land about which there may be dispute. The motion confines itself entirely to those areas which can be made available without involving any question of native rights.

The aspect of it to be dealt with is while there is the same policy as at the present time to alienate such further areas, I suggest, Sir, that it is without any effect. It would be an unwise policy to hold up any longer such areas of land as can be made available for further settlement. I think it is necessary to the fulfilment of the ambitions that underlie the policy of Government in this country to open for production such areas of land as can be put under production. The number of agriculturists in the country at the present time operating on any considerable scale is so small that I think it is necessary to safeguard the future that that number established shall be increased considerably. It is also necessary from another point of view; during recent years we have been

adding largely to our annual expenditure, we have been incurring very heavy liabilities in the way of loans; and it is advisable from every point of view to endeavour not to overburden the basis on which we depend for the repayment of these loans. I would like to mention that this motion is in no way antagonistic to those schemes of land settlement that we have been dealing with in recent months. We were assured that those schemes were not intended to be a comprehensive experience. They were not to be regarded as excluding the ordinary progress of land alienation in this country as we have been familiar with it in the past. The working out of those schemes has, however, in actual effect held up land settlement in Kenya for a period of about three years and, having done that, the schemes only make arrangements for the alienation of comparatively small areas. The "A" scheme will I hope result in increasing the population of this country by a small number of men who will be useful to us in the present state of development. I do not think it can be seriously contended that the agricultural production of these people will be considerable. Even if they develop, the increase will be very small indeed. The "B" scheme, on the other hand, is more upon the lines that we are accustomed to in Kenya, but that also is on a restricted scale. Speaking from memory, the number of farms available is under 100. There is a different objection altogether to the "C" scheme. It is likely to, I hope, and I am inclined to believe that it will, increase our accumulating stocks of sagacity and wisdom, but it is hardly likely to increase our agricultural output, and taken as a whole, these schemes are not likely to appreciably increase the basis on which the wealth of this country is based—agricultural production. It seems to me essential that we should, assuming the land to be available, put under production much larger areas. Critics may suggest that pursuing a progressive land policy may be in some ways antagonistic to native interests. That is a question that has been dealt with on many occasions, and I think all reasonable men must be satisfied that a policy of land settlement is far from being antagonistic to native interests, and taking all in all is to the benefit of the native interests. Anyone who has lived any time here must know that native development, native uplift, and native development are largely due to the influence of European development in the settled areas and, in fact, that the native is benefiting more, from the point of view of material progress at any rate, by contact with that effort of ourselves to establish white settlement in this country. It has also been urged against an aggressive land settlement policy that it will result in a labour crisis. I do not think that likely. Sir, it is significant that when the dual policy was inaugurated here, some time after its inauguration there was a difficult

situation in regard to labour, but I suggest that that was very largely the result of a misunderstanding between Government servants and the natives themselves as to what was intended and implied by that policy, and that, now it is more fully understood, by all of us, it has tended to remove, rather than increase, our difficulties, and the flow of labour into settled areas has been, I think, more satisfactory than at any previous period in our history. I certainly have heard less complaints than at any previous period that I can remember. It is not without significance that nineteen years ago, at one of the very early meetings of the landholders' association, the main topic of discussion should have been labour shortage, and at that time I do not suppose there were more than 50 to 100 people here actively engaged on agricultural pursuits. To-day the shortage of labour is less than then. This is due to the greater efficiency on the part of the European settler in utilising native labour, and also we should not leave out of account the employment of power machinery. I believe, Sir, Government need not hesitate to pursue a progressive land policy because of any fears of shortage of labour.

One of the strong reasons why I urge upon the Government the acceptance of this motion is that I know it to be a fact, and many others know it to be a fact, that there are numbers of people in this country waiting for Government to make land available, and there are many people overseas waiting to come to the country if land is available. The schemes already afoot are not likely to be nearly sufficient to satisfy that demand, and I suggest it is a common practice on the part of Government to alienate areas of land in a way that seems unfair to the majority of people. In the old days people thought that certain objectionable features of the Government land policy might be overcome best by necessitating all land being put up for auction. Since then conditions have changed. I think I am not far wrong in saying that if the country were asked for a decision on that point it would reverse its previous decision. The alienation of land by public auction is by no means the fairest way of making land available for development, and it is by no means the most effective. I suggest therefore for consideration that the Land Department might well consider the fulfilment of a long-deferred promise to set up a Board which would at stated periods of the year make available land for alienation to people who could justify the giving out of that land to them.

Lastly, Sir, there is the question as to what areas of land are available if Government should accept this motion. I understand that there are dotted over the settled areas numbers of farms that could be included. In addition thereto there are larger blocks of land not involving any question of native

rights, one of them to the north of Laikipia, known as, I understand, Lolgoria country, and the other, the Yatta Plateau. These two areas are adjacent to rapidly developing centres of agricultural activity, and the opening up of these areas would result in very rapid development. I think, Sir, from every point of view it must be agreed that it is desirable to broaden the basis upon which we are endeavouring to meet our present commitments, and on which we hope to pay the money for essential services that this hon. Council has agreed to involve the country in, and I sincerely hope, Sir, that with the assistance of my hon. colleagues on this side of the House, this motion will prove acceptable to Government.

HIS EXCELLENCY: Does any hon. Member rise to second?

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I second this motion, with which I agree, and I hope, Sir, that Government will also agree that it is a very easy motion for them to accept. There is nothing startling about it. It merely introduces a policy which Government has so delightfully and so frequently mentioned as being its policy, but which has been entirely hindered by various factors. This will, however, encourage Government to adopt bolder methods in the future and to drop the old methods of delay which have been so disastrous to the country in the past. The delay is rather a lamentable commentary on Government's opinion of all settlers in this country. Government has so frequently stated that the settler is a desirable asset to have, and yet Government has done very little to increase that asset, and it is so easy for Government to increase that asset, because there are hundreds of people in this country and overseas who are exceedingly anxious to become managers of estates in this country on behalf of Government, because that is all that a settler is actually. He may incidentally make a little money for himself, but after all a settler is part of the Government in so far as he contributes to the running of the country.

Now, the major divergence in policy which is proposed in this country to-day is the initiation of a policy of local government. The commencement of that policy will enable central government to face the financial position with much more equanimity than it can at the moment, because it will mean that rural services will be provided in such districts as adopt local government in the areas which will finance themselves in their activities.

Now, if Government is as sincerely anxious, as it apparently is, that local government should be initiated and adopted in these rural districts then the most effective way of promoting the point of view amongst the community which will coincide with Government's desires in these matters is to increase the

number of settlers in that area, because the overhead expenses on certain public services such as telephones, roads, bridges, educational and medical services, and what not, are static to a large extent, but if there are twenty people to pay for the maintenance of those services it will mean that they will pay half as much as they would if there were only ten of them.

It can be suggested, of course, Sir, that there is not very much land available under the terms of this proposal, but actually, if one examines the number of small isolated areas that exist, one would collect a very respectable bunch. Now in the neighbourhood of that very important terminus, Narra Moru, for instance—(laughter)—there are 20,000 acres of land available within twelve or fifteen miles, and those 20,000 acres of land are capable of producing between fifty and one hundred thousand bags of wheat every year. I hope nobody will have the audacity to contradict that very modest claim which I have put forward with regard to the wheat-producing propensities of this land, because I am afraid such a contradiction cannot be sustained. That, Sir, represents one area in the country with which I am intimately familiar, and presumably, since that one exists, I am sure other hon. Members know of others.

The hon. Mover of this motion has already shown that the reasons for urging settlement are larger than those other superficial ones of which we have heard—that in this motion are given reasons which will appeal to the average statesman-like intelligence of this hon. House. That being so, I do not think it will be necessary for me to amplify what has been said. It is rather difficult for Members on this side of the House to know whether Government makes up its mind on the tabling of such a motion as this to accept it, or whether it is not going to accept it, but when one sees dawning intelligence—perhaps that is not the best way of putting it—(laughter)—but when one sees on the collective physiognomies of Government a degree of recognition of the rightfulness of one's claim, it is very comforting to us, and this morning I have noticed it on many isolated faces among the collective countenances of Government; so I hope this motion will be accepted.

HIS EXCELLENCY: The question is:—

"That this Council is in favour of Government immediately proceeding with the alienation of such areas of land in the settled areas as can be made available and such further areas as do not involve any question of native rights."

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM): Your Excellency, there is one aspect of this matter to which it would appear not inappropriate that I should refer,

and I do so with Your Excellency's permission. For some time past statements have appeared in books dealing with this Colony and in public speeches and in the Press indicating that certain actions by Government and the people of this Colony have in past years not been carried out in the interests of the native peoples. I desire to speak not without regard to the interests of the native peoples of this country. Statements have been made to the effect that the best land of this Colony has been occupied by the non-native, and that the natives have been left with the less fertile land of the Colony. I would like to express the opinion with all the authority that I am able to exercise, and with all the knowledge I may possess, that the best land and the most fertile land of this Colony has not been occupied by the non-native peoples. (Hear, hear.) The natives have been left in possession of the most fertile land of this Colony—they are in possession to-day of the most fertile and extensive areas, which will compare favourably with those of any other country. They occupy in this country not only the best pastoral land, but the best agricultural land. I hope I will not be misunderstood in this matter, but I think it is time that the statements that have been so publicly made should with some authority be denied.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: I have very much pleasure in supporting the motion for the Hon. Member for Plateau South, more especially when I go back to the meeting in Nairobi some twelve months ago, when I moved a motion somewhat to the effect of the present motion before the House. I think the great asset we have got here—the greatest in the country—for inducing settlement, is Crown land. There can be no question that we do require a considerable increase of the population of this country. I believe that by alienating Crown land that we will get a considerable increase of desirable population. I would like to suggest that assuming Government accept this motion they will proceed to implement the conditions under the land laws whereby the system of ballot will be introduced into the land laws of this Colony. I do not think it is desirable to dispose of Crown lands by public auction. In many ways it is advantageous, but I think the disadvantages considerably outweigh the advantages. The ballot system does give capital an opportunity of getting land at the upset price fixed by the Crown without having to compete against the would-be purchaser without adequate capital. I think we should introduce the ballot system. I appreciate what has been said by the Hon. Director of Agriculture in regard to natives being in possession of the best land in this Colony, and we all know a Bill has been

framed, and is now having consideration, to make those lands for all time native lands; that the principle has been agreed upon, and supported by this side of the House, and that all that is now asked for is that such land outside native reserves that is suitable for European settlement should be opened up without any unnecessary delay.

It might interest Members if I mention some little time back a movement was started to try and obtain land for soldier settlers who were unsuccessful in the soldier settlement scheme. I am not supporting that principle, but I simply mention that there was a list compiled in connection with that scheme which showed that there were 758 such persons in various parts of the Empire who were prepared to take up land, if the opportunity was given, in Kenya. The figures were as follows:—

155 coffee.
80 maize.
80 mixed farming.
100 stock.
25 dairy.
10 sisal.
2 sugar.
12 plots.
289 various.

I mention these figures to centralise attention on the fact that there are a considerable number of people, men and women, British subjects, who are still anxious to go on the land in Kenya, and I believe if the list was open again we would find 60 or 75 per cent. still prepared, notwithstanding the delay that has occurred, to take up land in this Colony. We hear a good deal—justly so, I think—about precautions that should be taken to prevent a landless floating population in this Colony. We are giving full weight to those expressions of opinion, and are doing everything possible that can be done to prevent a landless population amongst the natives, and I suggest that the time has arrived when we should give some consideration to the European landless people of this Colony. For these reasons I have very much pleasure in supporting the motion before the House.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: Your Excellency, I rise to support the resolution, and almost my chief reason for doing so I may say, Sir, with all due respect to you, is because of a statement made by Your Excellency in one of your speeches recently; that the only danger of settlement was weak settlement, and the stronger the settle-

ment the better it would be for the Colony, and as this resolution is to strengthen settlement, I am very strongly in favour of it.

The hon. Mover and the Hon. and Gallant Member for Plateau North both put the case in favour of this motion very clearly and very concisely, and I do not wish to add to that in detail. The only point I should like to emphasise a little is that I am in support of the hon. Mover when he points out that he is no longer in favour of the auction system. I do personally hope that Government may find it possible in any alienation of land to be able to combine the system of selection with possibly—if necessary—a ballot, but the reasons why I think selection is preferable to auction are twofold. Firstly, I believe that no prospective settler who has chosen a bit of land which he would like—say he is coming from overseas—would care to run the risk of being possibly outbid. This would certainly act as a deterrent; and, secondly, it is absolutely in the country's interests that the least possible amount of capital should be put into the purchase of land so as to leave as much as possible for development, as the result of that development brings much more in revenue to the country than the actual price of the land in its initial stages.

I wish, Sir, to support the motion.

THE HON. CONWAY HARVEY: Your Excellency, in my opinion, Kenya is suffering badly to-day by the previous Government's policy of the lavish distribution of Crown land to all and sundry, which has, Sir, undoubtedly resulted in tying up hundreds of thousands of acres of land which should be utilised economically, and, in my humble opinion, the right land policy for the Kenya Government or for any Government would be one calculated to ensure the maximum economic utilisation of such Crown land as may be available. I am in favour of its alienation at an early date, but I think Government should proceed carefully and cautiously, and an essential preliminary feature of any increase of strong settlement must inevitably be a careful agricultural survey of the areas still remaining in the hands of Government, and when these areas have been surveyed into proper economic units, the next step, in my opinion, would be such as the Noble Lord has put forward—the very careful selection of those who participate in the acquisition of this land. It is of very vital importance, to my mind, Your Excellency, that the character of the individual who is likely to acquire this land should be very carefully investigated. I think that is far more important than merely increasing your population irrespective of the type of settler you are getting, and I consider, moreover, that character is of far greater importance in connection with land settlement than the mere possession of a few paltry thousand pounds.

LIEUT.-COL. THE HON. O. F. WATKINS: Your Excellency, listening to the hon. Members who spoke in support of this motion; I cannot but help feeling that they were rather taking the attitude that land was being withheld from agricultural production by the Government. Now, I put it to you, Sir, that this disguises the real object of the motion, which stresses the word "immediately".

The question is that the Government should immediately proceed with the alienation of land; I presume it is implicit in the second part of it that all available land should be given out. I am not at all sure that it should be all immediately made available; the supply should be controlled by the demand. We have been assured by a number of hon. Members on the other side of the House that there is a demand. There may be; but in my experience, there are a very large number of people in this Colony who are ready to sell land, and who have not been able to sell that land. In fact, one of the most striking features to anyone who tours round the Colony is the enormous areas of uncultivated land, and this brings me to another point, which is that Government should carefully consider whether steps should not be taken to compel people to make the land already given out economically productive. (Hear, hear.)

I was very glad to hear the remarks of the hon. Member for the Lake, particularly with regard to the character of the individual, because we are different from other Colonies on which we are rather apt to base our actions. We hear about Canada and Australia advertising for white settlers, and we are rather apt to want to take the same action. That sort of thing is all right in a Colony where your land can be developed by white labour, but it is entirely different in a Colony like Kenya where the settler is entirely dependent on native labour, and you must have people who know how to handle native labour and who understand the native.

I am also in agreement with the hon. Member for the Lake that you want smaller grants than have been given in the past, but each of those small grants means an employer of labour, and the sudden creation of a number of employers of labour is the very thing that is apt to lead to an outcry about the labour shortage. The native is very cautious; he will not, in many instances, go to a stranger; if he does not like the work he will go away. The newcomer then sits on his land for a year or two until his money is exhausted, and then he goes out of the Colony again. It seems to me of great importance that you should go very slowly when giving out the land. It is not right that Government should advertise for men to come here and then not help them in matters of labour. But Government cannot help them to get labour;

and must therefore be very careful to create no understanding, implicit or explicit, that it will do so.

I think these are the only points I wish to make, but I would like to emphasise that we have got to set our pace in accordance with the evolution of our Colony and of our native.

If we give out more land than our labour is ready to cultivate we shall only upset established industries and are running for disaster.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, in rising to support this motion most heartily, I only get up to reply to the last speaker, when he says that natives will not work for strangers. So far as I find, Sir, natives deliberately go straight to strangers. They go to see just how far they can do down the stranger. The other members have so clarified the position that I do not think there is any need for me to say anything further.

REV. CANON THE HON. H. LEAKEY: Your Excellency, I should like to voice my appreciation of the way in which the hon. Mover has carefully safeguarded the native interests. I wish to say how certain I am that he is absolutely sincere in that matter. I am one of those who believe the settler community is more and more beginning to see the absolute importance of ensuring that the natives have their rights. On the other hand, when we speak of native rights, it seems to me that the great right of the native of Africa and the African-born is to live and have room to cultivate in Africa. It seems that the native reserves are large enough for the natives who are there at the present time, but, Your Excellency, we cannot say what, with the wonderful work of medical service, fifty, or even twenty years will reveal. We cannot tell in the future what the check on infant mortality, disease and the ceasing of tribal battles and killing—how this will affect the native reserves. It may be essential later to find other lands. It would be disastrous if all land was alienated and no land was left for the African to increase his cultivation. I desire, therefore, to endorse what has been said by the Hon. Member for the Lake, that we should not do anything in a hurry. I fear the possibility that if all the available land is handed over to Europeans there may come a time when we may need land for the African. I therefore shall have to vote against the motion on principle.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I think the general terms of the motion put forward have been so agreed to, both in principle and detail, that there is very little need for me to embark on such long disquisitions of the land policy of the country as we have had to do sometimes in the past.

But, Sir, there are certain points which have cropped up in support of the motion which I should like just briefly and lightly to touch on, on behalf of Government.

The first point undoubtedly is the assurance given by the hon. Mover that the continuance of our present land policy with regard to non-native settlement is dependent on the fact that justice has already been given to the native in respect of native lands. I take it that we have all agreed—we have discussed this matter many times in the past—and I take it that we agree now, as we have agreed many times before, that the continuance of a white settlement policy is dependent on this previous fact of justice having been meted out to the native of this country. Sir, on that assurance, and I welcome that assurance being given again, I think we are justified in discussing this motion generally. (Hear, hear.)

Before I leave this subject, I should like to refer briefly first to a point which I think was raised by the last speaker, and that is the possible future needs of the African. I take it that African or non-African in this country—both are learning to make economic use of land, and I believe the future needs of each community will be satisfied on a basis of smaller land-units as time goes on. In other words, closer settlement should be the common policy of both native and non-native.

There is a further point which I think was a point brought out by the hon. Mover himself, and that is the question of labour and the demand for labour by settlers. As settlement in this Colony progresses and as the number of settlers increases so have labour troubles in this Colony decreased. (Hear, hear.) About that I think there is no shadow of doubt. I think it is a most remarkable thing, which can be explained in all sorts of ways, but which I think need not be dealt with now. I think it is a broad fact, which no one can dispute. It therefore is, I think, rightly the policy of Government in its future land alienation from time to time to assist this obvious process so far as possible by encouraging those forms of production which need a minimum of labour.

Sir, I need hardly touch on the reasons for encouraging white settlement in this country. We have our duty to the investors of British capital at home. We have at the same time to speed up production in this country by the most modern methods—and at the moment it must be largely by closer white settlement—to create the production which will justify our increasing commitments—loan commitments—of Port and Railway, and also of Government itself.

There are a few other minor points, some of which I should like to touch on very briefly.

The question of the method of disposal of Crown land in the Colony—that question has I suppose been as much debated in Legislative Council as any question that has ever engaged the interest of the inhabitants of this country. I believe that there is no golden rule as to how land should be alienated. I believe it can be alienated by one process only; that an authority which is trusted in the Colony should have the power of investigating individual needs as they arise—individual applications as they arise—and of deciding as to whether land should be handed over to this man or that man; whether it should be auctioned or whether it should be disposed of in some other manner. It has long been held that some provision should be made for Government obtaining the best outside advice—advice, that is, outside Government—on land matters. Recently such advice has regularly been obtained from the Kenya Advisory Committee on all land applications. But that Committee has many other duties and it does not of course, function under any Ordinance. Proposals for closer settlement recently accepted by Council provide for a more definite Central Land Board which it is proposed should be connected with a Statutory Land Bank Board. I believe that the establishment of such a Board would assist greatly to ensure the proper and economical disposal of land.

I should like, before I sit down, to make some reference to a particular area of land which has been under review before now in Council—that is, the land beyond the Laikipia settled area. Some of that land is available for settlement immediately; some of it is partially inhabited by nomads.

Now, Sir, the final settlement—I use the word "settlement" in the broadest sense—the final settlement of that land must depend on an efficient scheme for organising the tribes of the Northern Frontier Province. Such a scheme has already had the consideration of Government, but has not yet been submitted to the Secretary of State. We do not yet know, in fact, as to how far such settlement—native or non-native—can extend, but that such settlement must be made at the earliest possible date is fully realised by Government.

In conclusion I would say that Government welcomes and is prepared to accept this motion, and I should like to add that the terms in which it has been supported, if I may say so, outside the House fully justify, I think, the confidence that Government is prepared to give effect to the terms of the motion as time goes on.

16th August, 1928

THE HON. A. C. TANNAHILL: Your Excellency, I shall refer only to two points that have arisen during the debate. The first is the precautionary measures, which very nearly every supporter to the motion has mentioned. The cumulative effect of the innumerable precautionary measures, which everyone apparently supports, will be such that I am sure the hon. Member's motion will never be given effect to. I do ask, Sir, that when Government comes to implement the motion, if it is passed, they will not adopt such restrictive precautionary measures that the person who ultimately has to give effect to it, will possibly not be able to use it.

The second point is that I thoroughly agree with the Hon. Acting Colonial Secretary that the three methods that have been mentioned, namely, auction, by Land Board, and by ballot, can be at the proper time appropriately applied. It is not right, I think, for any Member to say that any one of these is the best method. I believe every one of them can be used at a proper time. I wish to support the motion, but I do hope it will not be overlaid with precautionary measures as to make it practically useless.

THE HON. T. A. WOOD: There are just one or two points, Sir, that I would like to deal with. The first one is the point raised by the Hon. Director of Agriculture. I do agree with him, if it was at the back of his mind that it is the duty of this legislative body in this country to put up views on every opportunity in opposition to those people—particularly those people who claim that their knowledge is based on long residence in this country—who constantly decry this Colony. It is extremely unfair, and I think we ought to take every opportunity to voice our views, and I personally do it with the greatest of pleasure because looking round I do not see anybody who has been in the country longer than I have.

The other point was that expressed by the Hon. Canon Leakey—I am afraid I do not know his official title. He suggests that it is going to be sound policy to hold up land for the future because of a section of the community needing it in the future. I think that would be a bad policy for anyone to follow, whether an individual or a Government. Try and get it occupied. If it is necessary for the future, have safeguards in the length of tenure which you give. If you develop it now in the first instance, that is the main need. You can safeguard the rights of the native inhabitants, and I should not like to think that he was voting against the measure merely on those grounds. It is much better to make use of the land. We hope he will be able to reconsider his position so far as voting is concerned. Because it is a very sound principle that is outlined in this resolution, to put on the market such land as is ready for development. Get it occupied.

THE HON. T. J. O'SHEA: I think the debate on this motion has certainly been most instructive, and I think it must have made plain to all sections of our friends and critics the motives underlying this motion, and I am glad Government has given it a favourable reception. I appreciate the urging of caution which has been put forward by several speakers, and I think, Sir, there is no question whatever that our experience of the past has justified the policy of caution. The danger is that this policy will be carried to the extreme. I suggest, Sir, that Government has now available a fund of experience and information that would not justify the holding up of land from alienation on the ground that experience and information were lacking. The areas of land that we have in mind should be the subject of a most conscientious and most selective policy at an early date. It is not my intention that the motion should involve the immediate alienation of all areas of land. I am merely asking that Government immediately proceed with alienation. My idea is that, starting with January or February next, the first allotment should be made, and then two or three allotments per annum. I appreciate the criticism of the Hon. Commissioner for the Coast very much. What he said is entirely consistent with the attitude he has adopted in such matters. He is very anxious to hold the scales evenly between the native and the European interests. I lament with him that so much of the land already privately held should not be employed more productively than it is. I am afraid we can only regret that is the outcome of the errors of the Government in the past. Perhaps the unofficial element is responsible in that it did urge the Government to give out the land, but I would urge that the one thing we could think of was to get the land out of the Government at any cost. As long as it remained in their hands nothing good could come of it. And I think it is only fair to the people who did get the land in the past to say that they can show to their credit a very considerable expansion of agricultural development in Kenya. Many of us are conscious of having privately owned land held up in the way it is. I think the one chance we have of dealing with that problem is first of all getting out from Government the land which is available for further alienation, and we shall then be in a position to show to the country that for further development it is necessary to tackle this problem. I am sure that the Government will not be lacking in courage to tackle that problem.

I think it is also necessary to emphasise that we are not to-day so entirely dependent on black labour as we were in the past, and that in the process of development we are not likely to be dependent on them to the same extent in the future. Conditions are changing in this country which give some justification for the belief that the employment of white

16th August, 1928

517

labour on the farms in the future will be on a much greater scale than at the present moment. The output of labour is very much greater now for the number of black units employed on the farms than it was a number of years ago.

The hon. Member representing native interests expressed fears for the future. I can only attribute that to a lack of faith in the movement in which he is a unit, and which I certainly do not possess. It seems to me that all too many think of the future development of the native as one in which he will become ostensibly a civilised Christian person and at the same time will be living under similar conditions to which he is living to-day. It is only under that belief that one can have any fears that the native land will not be sufficient for the native population of the future. If one considers the native areas—they are large, and they very largely consist of very fertile areas—and in contrast considers the number of the population, and then calculates in what period of time the population is likely to double, and at the same time allows for the bulk of the native community grown up to a more economic utilisation of the land, one cannot, I contend, have any reasonable fears for the future. I understand, Sir, that this motion meets with the approval of Government, and that in accepting it the all-important words "immediately proceeding with" will get due consideration.

HIS EXCELLENCY: The question is:—

"That this Council is in favour of Government immediately proceeding with the alienation of such areas of land in the settled areas as can be made available and such further areas as do not involve any question of native rights."

The question was put and carried.

COMPASSIONATE PENSION TO SHEIKH ABDUL KADIR.

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

"In consideration of Sheikh Abdul Kadir's twenty-one years' satisfactory service as the Kathi of Kismayu, and in consideration also of his present straitened circumstances, this Council is pleased to award him a compassionate pension of Sh. 1,197 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony) with effect from the date of his retirement, viz., the first of July, 1925; the pension to be subject to his refunding to Government the gratuity of Sh. 1,041/54 already drawn."

Your Excellency, this resolution is self-explanatory and shows that Sheikh Abdul Kader, for whom Government seeks to obtain an annual pension of Sh. 1,197, gave to the Colony twenty years' faithful service in Kismayu in a post which was retrenched when Jubaland was ceded to the Italian Government. The proposed pension is at the rate of 75 per cent. of the pension which would have been payable if the post at Kismayu had been on the pensionable establishment.

I may mention that this Sheikh is over 70 years of age and is, as the resolution explains, in straitened circumstances.

I beg to move the resolution standing in my name.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCH) : I beg to second the motion.

HIS EXCELLENCY : The question is :—

"In consideration of Sheikh Abdul Kader's twenty-one years' satisfactory service as the Kathi of Kismayu and in consideration also of his present straitened circumstances, this Council is pleased to award him a compassionate pension of Sh. 1,197 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony), with effect from the date of his retirement, viz., the first of July, 1925; the pension to be subject to his refunding to Government the gratuity of Sh. 1,841/54 already drawn."

THE HON. A. C. TANNAHILL : Your Excellency, the motion reads rather in a contradictory sense if it appears to me. It starts off by saying that a gentleman who is in straitened circumstances should be given a pension, and concludes by compelling him to refund a very considerable sum of money! I do suggest that the Hon. the Treasurer should explain how he is proposing to do this.

HIS EXCELLENCY : If no other hon. Member wishes to speak on the motion, I will call on the Treasurer to reply.

LIEUT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I would like to point out to this hon. House that similar motions are continually coming before Council, and it seems to me that there is something wrong somewhere—that Government servants are not provided for. Probably there should be a Pension scheme brought into existence which is conspicuous by its absence. I cannot see why Council should be called upon to make votes of this sort practically every time it meets. There is something wrong somewhere in our methods of dealing with these matters. Just at the moment I am not prepared to suggest what should be done, but it does seem to me that it is not a correct form of paying money.

THE HON. T. A. WOOD : I am going to say something on behalf of Government in reply to the Hon. Member for Plateau South. My impression is that these motions which have come before Council are due in the main to the fact that there used to be no Widows' and Orphans' Pensions Fund in existence in the country. In offering two reasons why the situation is wrong he omitted a third and equally important point. I think he said either they are underpaid or they ought to be on the Pension List. It may also be because they may be over-extravagant in their expenditure. The Hon. Member for Nairobi South put up a mathematical problem, but I think he omitted to note that the result of this motion would be that the pensioner will be credited with about Sh. 3,500 right away and debited with Sh. 1,841, so that he will have something to begin with with which to make the refund.

LIEUT.-COL. THE HON. O. F. WATKINS : Your Excellency, I venture to address Council on this point simply because I think that this question of Arab officials and their pensions, which has been referred to by the Hon. Member for Plateau North, is one which does require dealing with. Their names were originally on the first draft of the scheme for pensions for Arab and African civil servants. When that scheme ultimately came to the other side of the mill in Select Committee of this Council these men were omitted and the scheme was entirely confined to members of the clerical service. I do not know whether that committee is still in existence or whether another one will have to be appointed, but the work was by no means completely done.

There are a number of points with regard to the non-European servants of Government which still require attention and until they are attended to we shall get continual cases like this of real hardship to officials who did very good work for Government in the days when Government could not have carried on without their services.

THE HON. SHEIKH ALI BIN SALIM : Your Excellency, I entirely agree with the Hon. the Senior Commissioner for the Coast. It is a matter which wants more attention, and should be gone into, and these questions are very important.

THE HON. THE TREASURER : The point raised by the Hon. Member for Nairobi South was quite satisfactorily dealt with, from his point of view, by the Hon. Member for Nairobi North. There will not be any debit against this man but there will be very considerable credit. There will be three years' pension due to him, which will considerably exceed the amount of the gratuity paid to him.

With regard to the statement of the Hon. Member for Plateau North, that cases of this sort are constantly coming before Council. I do not think that is quite correct, Sir. He is mixing this up with the question of Widows' and Orphans' Pensions. I have, I think, known very few instances in which resolutions of this sort have been put to the Council, and in every service there must be a certain number of officers who are on the non-pensionable establishment, and occasionally instances arise in which it is found just to an old officer who is on the non-pensionable establishment to grant him a pension, that pension being at the rate of three-fourths of the amount which he would have claimed had he been on the pensionable staff.

I do not think, Sir, there are any other points with which I can deal.

His EXCELLENCY: The question is:—

"In consideration of Sheikh Abdul Kader's twenty-one years' satisfactory service as the Kathi of Kismayu, and in consideration also of his present straitened circumstances, this Council is pleased to award him a compassionate pension of Sh. 1,197 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on the pensionable establishment of the Colony), with effect from the date of his retirement, viz., the first of July, 1925; the pension to be subject to his refunding to Government the gratuity of Sh. 1,841/54 already drawn."

The question was put and carried.

BILLS.

FIRST READINGS.

THE LOCAL GOVERNMENT (DISTRICT COUNCILS) BILL.

On motion of the Hon. the Acting Commissioner for Local Government, Lands and Settlement, the Local Government (District Councils) Bill was read a first time.

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

THE NATIVE AUTHORITY (AMENDMENT) BILL.

On motion of the Hon. the Chief Native Commissioner (Mr. Maxwell), the Native Authority (Amendment) Bill was read a first time.

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

SECOND READING.

THE TRAFFIC BILL.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the second reading of a Bill to Provide for the Control of Traffic on Roads and for the Licensing and Taxation of Vehicles.

The question of the enactment of legislation to provide for the control of traffic on roads and for the taxation of road vehicles has been under consideration for some years. The Motor Traffic Ordinance, 1915, which was slightly amended in 1921, deals with motor vehicles only. Moreover, that Ordinance was based on the Motor Car Act of 1903 of England and many of its provisions require revision in the light of the rapid development of motor vehicles both in volume and type in recent years. There is no Ordinance in force in this Colony which provides for the control or taxation of vehicles other than motor vehicles except the East Africa Townships Ordinance and the Municipal Corporations Ordinance (Chapter 84), which affect townships and municipalities only. District Committees and District Road Boards have frequently made recommendations regarding the control of vehicles other than motor vehicles, chiefly those drawn by animals, but it has been impossible to put their recommendations into effect owing to there being no enabling power. The necessity for such powers of control over road traffic of all types cannot, I think, be disputed. This Colony is perhaps unique in not having suitable legislation in this connection. Uganda, for instance, enacted its Highways Ordinance providing for the control and taxation of all vehicles in 1921, and the older Colonies and Dominions have had enactments in force for many years.

The problem was investigated by the Roads and Traffic Committee in 1924, and their report was laid on the table of Council in 1925. Action on that report was held in abeyance pending the recommendations of the Local Government Commission, as the report of the Committee dealt with road policy as well as with road law and road traffic law, and the Commission was investigating the first of these matters. Last year the matter was again referred to the Roads and Traffic Committee, and their third report, which was laid on the table at last session, recommended the enactment of this Bill.

The question of the licensing and taxation of vehicles, which had been reported on by the Roads and Traffic Committee in 1925 in their Second Interim Report, was also reviewed in 1927 by a Select Committee of this hon. Council, and the report of that Committee was laid on the table in April last year. It will be seen that these two associated subjects, namely, the control of traffic and the licensing and

taxation of vehicles, have received a measure of consideration during the last few years which befits their importance, and this consideration has extended to much examination of the legislation and projected legislation on these matters in a number of other countries.

I will only refer briefly to a few of the main principles of this Bill.

It will be observed on perusal of the Bill that it is divided into four parts, dealing respectively with licences, motor vehicles specially, public service vehicles specially, and general provisions. There is also a schedule which sets forth the new proposals with regard to the taxation of vehicles.

Many of the clauses of this Bill are almost the same as those in the Motor Traffic Ordinance (Chapter 68), which it is proposed to repeal, but where it is deemed desirable that their provisions should apply to vehicles other than motor vehicles as well as to motor vehicles the necessary alterations have been made on the lines proposed in the Second Interim Report of the Roads and Traffic Committee. Some provisions for the control of traffic necessarily relate to motor vehicles only and others again to vehicles other than motor vehicles. Great care has been taken to see that all the provisions of the Motor Traffic Ordinance have been suitably covered either in the Bill or under rule-making power.

A few important new principles with regard to the control of traffic have been introduced in this Bill as a result of recent legislation and contemplated legislation in other countries. One of these is to make a distinction between driving to the public danger and careless driving. The former is rightly regarded as a serious offence carrying a high maximum penalty, but many of the offences which come before the courts are actually of the latter less serious character. A committee which has been sitting for some years in England regarding amendments to English road traffic law recommended this separation of the two offences, and this recommendation has been embodied in the draft Road Traffic Bill.

Another proposal which is embodied in clause 17 of the Bill is that the offence of driving a motor vehicle while drunk should be extended to include the case of a person whose efficiency as a driver is impaired by drink. This is embodied in Gold Coast law and exists in a similar form in Transvaal traffic law. I have to express regret for an error in para. 13 of the report of the Roads and Traffic Committee which was laid on the table of Council. It was stated therein that the extension of this offence had been recommended by the English Committee on Road Traffic and embodied in the English Road

Traffic Bill of 1927. The references should have been to the Committee on Traffic in Nigeria, and the Bill which was being introduced to the Legislature of Nigeria. The reason for the proposal of course is that, in a case of accident, it is extremely difficult to prove drunkenness to the satisfaction of a court, although there may be no doubt in the mind of the court that the accident was entirely due to over indulgence in intoxicating liquor by the driver.

It has been thought desirable to make special provision for the control of vehicles plying for hire, both as taxicabs and omnibuses, in view of the great increase in the use of vehicles of this class on the public roads of this Colony. The public and visitors from other countries have a right to expect that reasonable measures are being taken by the local authority to safeguard the security and convenience of passengers travelling by privately-owned public service vehicles. Part III of the Bill is devoted to the provisions which are proposed in this connection. The proposals for the compulsory insurance of such vehicles in clause 30 follow the lines of the Road Traffic Bill of England.

I come now to what is perhaps the chief change of existing law which is proposed, namely, the proposals for the taxation of vehicles which are embodied in the schedule to the Bill. The basis of taxation for motor vehicles is tare weight, instead of rated horsepower, and the general effect would be that the fees payable on the heavier vehicles would be considerably increased, while those for the medium and lighter ones are slightly increased. Licence fees for vehicles other than motor vehicles are also proposed as set forth in the schedule.

The fundamental principle that the rates of taxation of vehicles should bear proportional relationship to the expenditure on roads which is rendered necessary by their use is well established in most countries, but ideas vary greatly regarding the best means for giving expression to it in the best way. The soundness of the principle itself scarcely admits of dispute; for the development of the modern road surface and the construction of strong bridges has been rendered necessary by the development of the road vehicle. If it were not for the existence of vehicles, merely footpaths and bridle paths would be necessary for pedestrians and persons on horseback. Acceptance of the principle does not mean that such taxation should be the sole or principal means for deriving revenue for roads, nor rule out the principle that general revenue, whether state, municipal or rural, should contribute. All it states is, in effect, that if vehicles are taxed at all the incidence of the taxation should be such that each vehicle bears its proper proportion of the cost of roads roughly in ratio to its wearing effect on roads in comparison with other vehicles.

This principle has not been generally agreed to in the past. It is not the basis of our present schedule of taxation of motor vehicles as embodied in the Motor Traffic Ordinance. The schedule to that Ordinance may be regarded as an echo of the feeling in England in the early years of this century, when the Motor Car Act of 1903 was passed, when a motor vehicle with rubber tyres was regarded as a luxury vehicle. Consequently we find in the schedule to the present Motor Traffic Ordinance that an ordinary motor car pays a fee of one hundred shillings, while a high power tractor with metal tyres weighing perhaps five tons or more, and causing much road wear and necessitating powerful bridges, bears a tax of only ten shillings. Road traffic has changed so greatly during the last quarter of a century that no such distinction can now be made, for practically all vehicles are used primarily for business purposes.

The existing basis of taxation in this Colony is the rated engine horse-power, motor cars with rubber tyres being divided into two classes according to whether they are above or below 12 horse power. Engine horse-power, according to Royal Automobile Club rating, is still the basis of taxation in England and some other countries, but many others have regarded it as artificial and adopted other bases, of which the commonest and most modern is either gross or tare weight. One of the chief objections to rated horse-power as the basis is that the output of power does not bear any constant relationship to the rated horse-power, nor can it be determined with precision without taking a number of factors into consideration in each case.

There are such a large number of variables in the design of vehicles which bear on the wearing effect of vehicles on roads that it is impossible to devise a formula which would take them all into account. Moreover, the destructive effect of vehicles on road surfaces varies with the nature of the surface, some being more destructive on earth roads and others on macadam or bituminous roads. There are, however, three factors, namely, gross weight, speed and kind of tyre, which are pre-eminently of material consequence. We obviously cannot tax on speed, although we can regulate the speed of the heavier types, and so reduce destruction from impact. Gross weight is difficult to determine with precision, but varies roughly as the tare weight, and this is, in consequence, regarded as the most suitable basis of taxation when taken in conjunction with the type of tyre. The scale of fees given in the schedule is therefore based on these factors. It is practically the same as that in force in Natal and differs only slightly from those of the Cape Province and Nigeria. Taxation by tare weight was recommended by this Council by the Select Committee which reported in 1927, with which report

the Roads and Traffic Committee is in agreement in this respect. The proposed taxation, as embodied in the Bill, of vehicles other than motor vehicles, also conforms with the recommendations of those two committees.

In order to avoid the heavy administrative expense which would have to be incurred if the tare weights of vehicles were to be exactly determined, it is proposed, as set forth in clause 9, to use the average weight of each type or model of vehicle for the purpose of calculating the fee. In this country especially, the types of bodies of motor vehicles vary so greatly that it would be necessary to weigh each vehicle separately of precision were to be secured. It is proposed that the average weight of each kind, type or model of vehicle should be established by publication of a list, and the weights shown thereon would be the legal tare weights of the vehicles listed therein for the purposes of this Ordinance. Uniformity would thus be achieved amongst licensing officers without incurring the heavy cost of weighing bridges at different centres and the difficulty and expense of ascertaining weights with precision. The list would be added to or altered at fairly frequent intervals, as new types appeared on the market and old types became obsolete.

Provision is made in the schedule for higher rates for vehicles with solid rubber tyres, and higher still for vehicles with metal tyres. It has been found from a series of experiments in America that vehicles with metal tyres, and to a lesser degree with solid rubber tyres, are far more destructive on road surfaces than those with pneumatic tyres.

Since the Bill was published for public criticism, some written recommendations for alteration have been received, but none of these recommendations affect the principles of the Bill. They are all in respect of details and amendments of phraseology to make the meaning clearer. It is proposed that the Select Committee on the Bill should consider these proposed amendments.

One obvious amendment is necessary in three clauses so as to make the Bill conform with the Alteration of Time Ordinance, which was enacted subsequent to this Bill being approved for publication.

Certain minor amendments to bring the Bill into line with the Local Government Bills will also be required as a result of discussions with my friend the Hon. Acting Commissioner for Local Government.

THE HON. CONWAY HARVEY: Your Excellency, in seconding this motion, I should like first of all to say that the necessity of a measure of this nature is so obvious that perhaps Government may be excused for not adding to it the usual

objects and reasons which have now been so succinctly expressed by the hon. Mover. It is rather remarkable that hitherto there has been no traffic legislation in Kenya. I think Kenya in this respect is almost unique except in a very minor degree in certain municipalities. I consider, Sir, that Government has been very wise throughout the years in resisting constant and repeated applications from various bodies to introduce traffic legislation. It was better, I think, to make a note of various recommendations made from time to time, and to incorporate them in one really up-to-date and comprehensive measure such as is before us now. It was thought a few years ago that the simplest form of motor taxation was through taxing petrol, but conditions have changed, and it is now proposed to adopt the generally accepted principles that large cars should carry a more expensive licence than small cars and that vehicle taxation should be relative to road destruction. In the case of animal-drawn vehicles, hitherto exempt from any form of taxation except in municipalities and some townships, a small licence is imposed, which, after four years, will increase 50 cents per 100 lbs. tare weight.

I do not think that owners of such vehicles will raise any objection whatever to this provision, inasmuch as good roads are equally important to the owners of animal-drawn vehicles as to owners of motor transport. I would, Sir, urge Government to devote a portion of the revenue derived from vehicle taxation to road maintenance, a principle which is generally applied in the majority of civilised countries. The amount spent on roads in Kenya does not bear, and never has borne, the slightest relationship to the enormous amount of revenue derived by Government from the proceeds of petrol and motor taxation.

It will be most gratifying to farmers to know that it is intended to exempt from taxation mechanical appliances used in connection with agriculture.

It is generally admitted as a principle to be quite unsound to tax primary production and raw material, except perhaps in the case of bachelors.

If I am in order, Your Excellency, I should like to offer a few comments on the somewhat important question of road competition with railways. I am not quite sure whether that important matter should be embraced in the Bill now under discussion, or whether it should more properly take the form of separate legislation in the near future, but I do suggest that this is a problem of very great importance and one which, in the interests of everybody concerned, has to be faced with some promptitude.

10th August, 1928

527

"In many countries, Your Excellency, instead of looking upon road transport as a harmful competitor with railways, it is regarded as an essential corollary as a feeder to the railways system, more particularly as it relieves the railways of responsibility for a considerable amount of non-reunenerative short-haul business. In Kenya the problem has now assumed very definite shape in the case of the Mombasa-Nairobi Road and the Fort Hall-Nairobi Road, and it is very important indeed to my mind that we should take steps to see that the butter-fat is not extracted from the milk of Railway revenue by piratical individuals who are under no obligation to the public and who are in the position to pick the eyes out of the traffic by only carrying such goods as suit them best, while the Railway must convey all classes of traffic. In that case, Your Excellency, it is obviously inevitable that the Railway, unless something is done, will lose the revenue derived from its more highly-priced articles, which will necessitate greatly increased charges on the lower-priced agricultural products and articles used in connection with their production.

There is no doubt whatever, Your Excellency, that if the higher-priced luxury classes are removed, up must go the rate on the lower-priced necessities. I think that is a very important thing that should be given the most serious possible consideration by Government.

HIS EXCELLENCY: The hon. Member raised a point of order at the beginning of his remarks as to the omission of the Statement of the Objects and Reasons from the printed copy of this Bill. It is laid down in the new Standing Rules and Orders, clause 64, that those Objects and Reasons are to be sent out to each member of the Council with each copy of the Bill, and it is desirable that the Objects and Reasons should be published with the Bill. I hope that omission will not occur in future.

THE HON. THE ATTORNEY GENERAL: I apologise to the Council, Sir, for an oversight in this matter, and I can promise that it will not occur again. I can only say that the oversight was caused partly by my not having drafted the Bill alone, and partly because the Bill had been to and fro in the hands of several people for a long time. I believe that the Objects and Reasons were lost sight of in that way. I must again apologise to Government for the omission.

HIS EXCELLENCY: I would call the hon. Member's attention to the fact that the same omission has occurred in regard to the Aerial Navigation Repeal Bill.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, on a point of order, are we going to have an adjournment each day in Mombasa, as is the case in Nairobi?

HIS EXCELLENCY: I am in the hands of hon. Members.

THE HON. CONWAY HARVEY: I think, Your Excellency, that was the intention. It is usual for the Council to adjourn for a short while during the morning.

HIS EXCELLENCY: Council will adjourn for fifteen minutes.

Council adjourned for fifteen minutes.

On Resuming:

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I welcome the introduction of this measure, but I think there are a few points of principle which have not been sufficiently elaborated. One is section 17, sub-sections (1) and (2), in which I think the fine or penalty should be considerably raised. Also it is suggested that the penalty should remain the same in regard to the qualifications for a licence. There are persons of defective eyesight and defective hearing who at present have a licence. In this Bill there is no provision for such persons, and I trust this will not be made retrospective.

In regard to the insurance policy which is required for vehicles plying for hire, there is a penalty for a man using a vehicle whose licence is invalid for failing to obtain the insurance policy, but there is no provision made for the sufferers who would have been compensated if there had not been failure to renew the insurance policy. There is only the penalty for the driver in such an event.

Then the responsibilities of foot passengers are partially recognised, but I feel it is time that in this country there should be recognised in the same way as in the United States of America, and that foot passengers should be made to use a reasonable amount of care when using the road. I think that should be definitely incorporated in the Bill.

One other point. The Road Authority refuses to admit any liability for the collapse of a road or bridge, and the paragraph following that refusal deals with the responsibility of other persons, who it is stated are liable. So that if B's car collapses and injures C's car, C may then claim damages from B, and B will be in an anomalous position if the Road Authority is immune from any damages. I think that is wrong.

There are one or two minor restrictions, and verbal matters, but those five points of principle I feel require further elaboration and consideration.

THE HON. T. A. WOOD: It is undoubtedly the case, as the hon. Mover says, that it is about time that we got our road regulations and law more up-to-date. With few excep-

tions, I am very much in favour with the principles of this Bill. There are one or two things which I notice, to which I will call the attention of the Select Committee which is going to deal with it. One is this old grievance of road taxation. As I believe the Mover said, in the past road taxation has been allowed in towns, but this is now going to be removed by reason of the fact that it is going to be State taxation. But I do think that the local authority should have some relief on the grounds suggested by the Hon. Member for the Lake. Road taxation should be definitely used for road purposes and should be allocated proportionately to other contributions wherever possible. I think it is extremely unfair if people are going to have to pay twice over because they happen to live inside a certain boundary line.

There is another point of principle; I think some of these proposed regulations should appear in public health enactment. I do not understand why they are put into this Bill. I see that local authorities can give relief, and I am pleased to notice that, because otherwise there will be quite a number of people in more settled parts rather in a difficulty. Either the local authority will be forced to go to the enormous expense of sewerage or people will not be able to build houses. I trust this will be looked into.

There is also another source of expenditure that I see outlined. I quite agree with the policy of dealing with motor vehicles and all other vehicles in relation to their weight, because that is the factor that causes the destruction, but who is going to provide the weighbridges. It is all right with motor cars where you have a standard weight, but it is the animal-drawn vehicle which tears up the roads in Nairobi. I do not suppose that Government would care to pay the cost of a weighbridge, and I see some difficulty because of the small number of vehicles concerned. But no doubt the proposers of the Bill have that point in mind.

I also hope that this legislation will not be referred to as class legislation. I also trust that the Bill will be able to deal fully with the road hog and his type. There are far too many people, I am sorry to have to say, in a very small place like Kenya who imagine that the road has been specially constructed for their use, and that the other people who happen to be on it at the moment are trespassing. I trust legislation will be able to remove that impression.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, there is only one point I wish to refer to. The hon. Secorder of the motion said that this new form of taxation of vehicles was more in accordance with modern ideas than

the previous one, which was based on petrol consumption. I trust that when this new form of taxation comes into force the 2/- tax on petrol will be removed. Petrol is very expensive in this country. It is rather a commentary on the point that in the Iringa District in the Tanganyika Territory—which is 160 miles from a railway—petrol is only sixty cents a case more than in Nairobi. I trust, Your Excellency, that this point will not be lost sight of by Government.

THE HON. T. J. O'SHRA : Your Excellency, in supporting the adoption of this Bill, I should like to express my appreciation, as one of the members of the Committee responsible for its drafting, to the Hon. the Director of Public Works for the assistance given by him to the Committee in its deliberations—(hear, hear)—and also to the Hon. the Acting Attorney General for the excellent service that he rendered to the Committee. Whatever defects there may be in the Bill, they are certainly not due to lack of information placed at their disposal. We were provided with modern legislation from a large number of countries, some of them highly civilised countries; others from countries with conditions somewhat similar to our own, and any shortcomings of the Bill are entirely due to lack of ability on our part to get the best from that service. It is, however, on the whole, and it has been admitted so to be by previous speakers, a fairly well drafted Bill, and it appears to be receiving general acceptance.

The previous speaker has I think fallen into an error in referring to our present source of taxation as petrol tax. Motor vehicles are at present, I understand, taxed at a flat rate which is so inequitable that in addition we have the excise tax on petrol. As to the new basis of tax suggested—tare weight—this will be only really a portion of the taxation on motor vehicles, if one wants to maintain equality. It is necessary in addition to that to retain the tax upon petrol. Otherwise you are in the invidious position of levying the same taxation upon a man who possibly uses his car for one day in the year as on a man who uses his car for twelve hours a day for three hundred and sixty-five days in the year. I think it essential, Sir, that to provide the money that is necessary to an increasing extent for a road policy we should not alone alter the taxation, but that we should also retain the petrol tax. I say that in the full knowledge of its unpopularity.

It gives me great pleasure, Sir, to find that the conclusions of the Committee in regard to the attitude of the law towards drunkenness while a man is in charge of a motor car are so widely accepted. It was feared at one time that to include a clause regarding a man's efficiency being impaired whilst in charge of a car might be met with considerable criticism. I am very pleased indeed to find that that provision is so widely accepted.

As regards the road and railway competition, I was under the impression at one time during our deliberations that we would be asked to delay this Bill on account of this question, but apparently it was found impossible to decide a policy in that connection without holding up the Bill, which is very urgently required, and presumably it is the intention of Government at an early date to bring further legislation dealing with this very important problem.

As regards dual taxation, I understand the position to be that the taxation laid down in this Bill will be for the benefit of the central coffers of State, but it will still be open to municipalities to impose taxation on motor vehicles either privately owned or plying for hire for the purposes of benefiting the municipal revenues. This is, however, Sir, another aspect of the all-important problem of a fair division of revenue between central and local authorities. It is a problem with which Government will, I believe, be compelled to deal on the passing of measures which we have been discussing during the past two or three days. It is becoming more and more urgent and a clear solution is I think necessary to the future development of the road and transport system of the country.

LIEUT.-COL. THE HON. R. WILKINSON : Your Excellency, as the Bill now stands there is no mention of Government vehicles, so that in the ordinary way the Departments controlling Government vehicles would have to pay tax. The time for this Bill passing through the Council is rather an awkward one. Who will have to pay the tax, because the assessments are now being made out, and it will need an extra heading in one's assessment. I have to ask whether Government vehicles should pay this tax, and if they are to pay the tax, I think it is essential that Departments should know at the earliest date.

HIS EXCELLENCY : Does any other hon. Member wish to speak? If not, I will call upon the Hon. the Director of Public Works to reply.

THE HON. THE DIRECTOR OF PUBLIC WORKS : Your Excellency, I would like to say that I think the reason why the Statement of Objects and Reasons was omitted was because the Report of the Committee was attached to this Bill and was laid on the table of Council. That report itself gives the Objects and Reasons of this Bill.

With regard to the question of competition between roads and railways, which was raised by two hon. Members, that matter has been under discussion with the Hon. the General Manager, and in accordance with his wish we are not hurrying action unduly.

It is a very difficult matter, and we have now got the laws of several other countries which have dealt with this particular issue, and we are carefully studying them. I think in view of the importance of the matter it will probably have to be dealt with in a separate Bill.

Most of the other points which were brought forward by hon. Members have been matters of detail.

The question raised regarding liability in case of collapse of a bridge by the Hon. Member for West Kenya, is a difficult point in view of the proposal that the Road Authority should not be liable. That is a matter which should receive consideration in Select Committee.

With regard to the point which has been raised in connection with local authorities imposing separate taxation on motor vehicles, or alternatively that a portion of the revenue from taxation under this Ordinance should be handed over to local authorities, hon. Members will recollect that yesterday the Hon. the Acting Commissioner for Local Government said that the question would be brought before the Select Committee on the Local Government (Municipalities) Bill, regarding handing over a portion of the taxation under this Ordinance to municipalities for expenditure on roads.

The question raised by the Hon. Member for West Kenya that there should be separate penalties for driving while drunk and driving while efficiency is impaired by drink is a matter which should I think also be considered in Select Committee.

With regard to the point raised by the Hon. Member for Nairobi North, I do not anticipate that there will be any difficulty in establishing standard weights for these vehicles. I do not see any reason why the average weight of each kind of vehicle should not be set forth in the Schedule. There will be separate weights for such vehicles as Scotch carts, Indian carts, 16ft., 14ft., and 12ft. wagons.

With regard to the question raised by the Hon. the Officer Commanding Troops, the Roads and Traffic Committee definitely recommended that Government-owned vehicles should not be exempt from taxation, but I am not sure that that matter has yet received the full consideration of Government. I think that it should be considered by the Select Committee and also when the Estimates for 1929 are brought before Council.

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

The question was put and carried.

10th August, 1928

533

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN): Your Excellency, I beg to move that this Bill be referred to a Select Committee consisting of:—

The Director of Public Works (Chairman).

The Acting Attorney General.

The Member for the Lake.

The Member for Plateau South.

The Member for West Kenya.

The Member for Nairobi North.

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

The question was put and carried.

HIS EXCELLENCY: I understand that it will be to the convenience of hon. Members that the first business to-morrow should be the second reading of a Bill to provide for Local District Councils in Rural Areas, and that after that some lesser Municipal Bills be taken.

*Council adjourned to 9.30 a.m. on Friday,
the 17th August, 1928.*

FRIDAY, 17th AUGUST, 1928.

The Council assembled at 10 a.m., on the 17th August, 1928, at Government House, Mombasa, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with Prayer.

MINUTES.

The Minutes of the meeting of the 16th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM) :

Annual Report of the Department of Agriculture for 1927.

Meteorological Records for the year 1927.

By THE HON. THE ACTING ATTORNEY GENERAL :

Proposed Amendments to the Proposed Film Censorship Rules.

NOTICE OF MOTION.

FILM CENSORSHIP.

THE HON. T. A. WOOD: Your Excellency, I beg to give notice of the following motion:—

“ That this Council resolves that the proposed rules regarding Censorship of Films be referred back to the Select Committee for reconsideration.”

COMMUNICATION FROM THE CHAIR.

HIS EXCELLENCY: Before we come to the business of the day, there is an important piece of information which I should like to give hon. Members of Council before it reaches them in the ordinary way.

The Secretary of State has appointed a successor to Sir Edward Denham in the post of Colonial Secretary for this Colony. He has appointed Mr. J. M. Moore, a distinguished officer with a very unusual record of service. Mr. Moore joined the Ceylon Civil Service in 1910 and between 1910 and the war he held there both Administrative and Secretariat posts. He was absent for three years—from 1916 onwards—on Military

Service. He went home and joined a regiment there and I think he served all the time in France. He returned to Ceylon in 1919, and then in the beginning of 1923 he was appointed Colonial Secretary of Bermuda. Bermuda, as hon. Members are probably aware, has an unusual constitution. It is one of the Colonies which has longest enjoyed representative Government in the Empire. It resembles this Colony in the fact that there are three unofficial members in the Executive Council. In other ways it has a more representative system of Government. There is an unofficial majority of two to one in the Legislative Council and there is in addition to that an Assembly consisting entirely of elected members.

Mr. Moore served with distinction there, and then, in 1924, was appointed to Nigeria as Principal Assistant Secretary. He is now Deputy Chief Secretary in Nigeria. He has acted for considerable periods as Chief Secretary and for a short time last year he acted as Governor's Deputy.

Honourable Members will realise that Mr. Moore has risen very rapidly during his comparatively short service of eighteen years, for three of which he was absent on military duty. There are two points in his record which are I think of especial importance to this Colony. In the first place, he has had political as well as administrative experience; and in the second place, he is very well trained in the organisation and despatch of the complex work of a large modern Secretariat. The Nigerian Secretariat since the days of Sir Hugh Clifford has had a very high reputation for promptness, thoroughness and general efficiency.

I think he may also be assured of a welcome here, in a Soldier Colony, on account of the fact that he left the Civil Service and served with the troops for a considerable period during the war. I believe him to be an officer of tact, judgment and ability, who in administration, in the legislature, and in the general affairs of the Colony will commend himself to all communities.

He cannot leave Nigeria for some little time and I think it is desirable that he should have his leave before taking up his arduous duties here. He is, therefore, not likely to be able to leave England for this Colony before next March.

BILLS.

SECOND READINGS.

THE LOCAL GOVERNMENT (DISTRICT COUNCILS) BILL.

THE HON. ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the second reading of a Bill intitled "The Local Government (District Councils) Ordinance, 1928."

17th August, 1928.

637

This Bill has been drafted to give effect to the recommendations in respect of rural areas made by the Local Government Commission, 1927, in their Report on the Settled Areas.

For the purposes of this part of their Report that Commission was composed, under the Chairmanship of the Hon. Mr. Justice Feetham, of the hon. the Attorney General, the Commissioner of Lands, Mr. Conway Harvey and Mr. Abdul Wahid, with myself as Secretary.

All members attached their signatures to the Report without any reservations.

I may perhaps be permitted to say that it is a happy circumstance that the recognised leader of the Elected Members at this Session should be the hon. Member for the Lake, who both before and after his membership of the Local Government Commission has taken so keen an interest in and has done so much towards the development of the principles of local government both in his own constituency and in the Colony generally,

The Commission, for the purpose of its enquiry, took the term "settled areas" as connoting administrative districts or parts of administrative districts in the Colony in which land is held under individual title or in which there is Crown land available for alienation; and further as connoting townships in those districts, or parts of districts, with the exception of Nairobi and its environs, which were covered by a separate clause in its terms of reference. That is to say, the Kenya Protectorate and all purely Native areas were definitely excluded from the Commission's recommendations and in this Bill the administration of townships is not dealt with. Certain of these townships will no doubt be declared municipalities in due course and as regards other townships a separate Townships Ordinance has been drafted but was not ready for introduction at this Session.

Within the settled areas so defined the Commission advocated the establishment of seven District Councils. In two districts, which in part were covered by its definition, viz: Kericho and Machakos, the sparseness of the European population, the absence of intensive development and the disinclination of the residents for any change led the Commission to recommend that for the present no advance towards local government should be made.

During the last few months my hon. friend the Acting Colonial Secretary and myself have together or separately visited six of these seven areas to which the Commission's positive recommendations referred. We have discussed the principles of local government and the details of its operation with the various District Committees and Road Boards and I am

glad to be able to say that we have received from them resolutions favouring the declaration of their areas as local government districts.

I regret that it has not been possible to arrange meetings in the Laikipia—North Nyeri area—I hope to do so during the next few months—but it is satisfactory to be able to record that the opposition to the introduction of any change in the direction of local government which was voiced before the Commission at Lumbwa and Naivasha has now been withdrawn.

There may be in some areas a few points for adjustment in the boundaries proposed by the Commission and it may not be possible to establish all the districts at one time as local government districts. It is however hoped that no district will lag unduly behind when the feasibility of its establishment within the proposed system becomes clear.

Provision is not, however, made in the Bill for the establishment of definite areas. There is no schedule of districts in which the machinery provided by the Bill will come into automatic operation upon the enactment of this measure.

We have merely provided in clauses 4 and 5 power to the Governor to declare any area to be a district under the jurisdiction of a District Council after an enquiry held by the Commissioner for Local Government at which such details as boundaries, wards and the like will be examined.

There is, however, one matter connected with areas to which I would like to call attention. I refer to the Provincial system. Though this point is but dimly reflected in clause 6 (c), dealing with the constitution of Councils, it is important.

Before 1919 the whole country was divided into provinces each under a Provincial Commissioner but in that year the policy, which had been under consideration even before the war, was initiated of separating purely farming areas from the Provincial system of administration—a policy which owing to geographical considerations in some areas was not applied universally.

The Commission dealt briefly with the situation which would arise when Local Government units were created in adjacent native and non-native areas and advocated the establishment of a local point of contact. With Your Excellency's permission I will quote the short relative passage from the Report:

"It is necessary to recognize that there are certain points with regard to which the activities of Local Government authorities in Settled Areas will affect the interests of Native Reserves. So far as their administrative activities are concerned, the District Councils, in dealing

with Roads, Public Health and Medical Services, will be brought into contact from time to time with questions affecting the interests of natives in Reserves, and in their advisory capacity they will also be brought into contact with such questions, more especially in dealing with the granting of water-permits, and certain questions affecting the control and movements of stock. In order to ensure that questions arising under any of these heads, which affect the interests both of Settled Areas and Native Reserves, are dealt with in a satisfactory way with due regard to all interests involved, and for the more general purpose of providing a link between the District Councils in Settled Areas and the administrative authorities and Native Councils in the Native Reserves, we consider it desirable that there should be a Senior Local Administrative Officer who has to do with the affairs of both Settled Areas and Native Reserves. We consider that such an officer will find that he can do much to establish relations of mutual understanding and co-operation between the District Council as representing the Settled Areas and the adjoining Native Reserves. As a general principle, therefore, we think it desirable that the districts forming the areas of jurisdiction of District Councils should be included in the provincial organization and should thus be in official contact with the Senior Commissioner of a Province.

"Whether it is practicable to give effect to this principle in all cases, involves an examination of detailed geographical considerations in relation to Provincial boundaries which we are not able to undertake."

I am able to say that these detailed geographical considerations have been studied and a re-grouping of native and non-native districts has been devised. The principle of such re-grouping has been unanimously accepted in the six areas in which it has been discussed with District Committees and detailed proposals which I had the honour to put before the Senior Commissioners at their recent meeting were approved by them and are now under consideration by Government.

Any re-grouping of this kind requires statutory sanction by means of a Proclamation issued with the approval of the Secretary of State under the Kenya (Boundaries) Order in Council. In the meantime therefore it is necessary to retain the provision made in clause 6 (c) of the Bill for the nomination of the Resident Commissioner as the official member for an extra-provincial district.

In view of the generally expressed acceptance of the proposed establishment of district councils, I need not perhaps labour the administrative, financial and political arguments in favour of this step in the evolution of local destiny. I propose

therefore to pass on to an exposition, as brief as possible, of the system of local government which is proposed and to invite notice to certain of its more salient structural features.

It is proposed to entrust rural administration, within prescribed limits, to bodies of local citizens, answerable to the Governor for the efficient discharge of the duties and responsibilities laid upon them. These bodies—to be called District Councils—will at the outset be primarily district road authorities, charged with the maintenance and construction of such roads as are classified as district roads and equipped with resources which I shall particularise in a moment.

Care of their roads, combined with the making of bye-laws for their protection and for some other prescribed purposes; and the assumption of the powers of District Road Boards under the Public Travel and Access Roads Ordinance will be the extent of their executive activities at first, though they may make arrangements with the Central Government to undertake as contractors work on roads for the maintenance of which the Central Government retains full responsibility.

Councils will, in addition, be the recognised local authority to advise Government through its local administrative and departmental officers in regard to matters affecting public health, in regard to all matters affecting the district upon which District Committees at present advise, and in regard to the administration of minor townships which are geographically contained within the limits of their jurisdiction.

Councils will have powers to impose taxation, to employ their own staff, to administer the funds derived from road grants for district roads made by Government or from local rates.

As soon as local rates are imposed, Councils will be capable of being declared local public health authorities, of initiating, with the concurrence and assistance of Government, schemes for local hospitals and dispensaries, and of endowing bursaries for the education of the children of indigent parents residing in their districts.

In order to co-ordinate, inspect and advise on the work of Councils, a central organisation is created consisting, for the purposes of roads, of a Central Roads Board, which will also advise the Governor as to road classification, road grants, and road policy; and for other local government purposes of the Standing Departmental Committee constituted in the Local Government (Municipalities) Bill.

Each District Council will be constituted with elected, nominated and official members. It is proposed that there should be from ten to fifteen elected Europeans. It has,

however, been suggested that this maximum is too small, and a higher maximum might be considered in Select Committee.

Nominated Members will consist firstly of a representative of the Board or Council of any Municipality situated geographically within the district; this is an integral part of the general system of local government in which urban and rural administration is kept distinct, provided that the community of interests which exists between country and town is recognised by reciprocal membership on each authority.

Secondly, there will be one or two Indians nominated at his discretion by the Governor.

With the exception of Kisumu-Londiani District, in which special provision is made for an elected member to represent the Indian residents in the district, there will be no Indians resident within the jurisdiction of or taxable by a District Council. By virtue, however, of their residence in minor townships, Indians have an interest in district roads which they use for the transport of their merchandise, and of native produce; their township affairs will be advised on by District Councils, and so long as Government road grants form the basis of a Council's budget they have some interest in their expenditure as taxpayers. Furthermore, in the preparation of hospital schemes, the needs of the Indian community should, when possible, be taken into account.

The Indian community under these proposals will receive a representation on District Councils which they have not at present got on District Committees.

The official member will be the Provincial Commissioner, but, as he may be unable to attend all meetings of Councils and Committees, he is empowered to appoint a deputy who, in order to secure continuity, will also be entitled to attend, though in an advisory capacity only, all meetings at which the Provincial Commissioner is present.

Councils will elect their own chairman.

The electoral machinery proposed is the same *mutatis mutandis* as that provided for Municipal Boards.

When a district is declared to be a district for the purposes of this Bill, the Governor will nominate an interim body, whose duty it will be to prepare electoral rolls in order that proper elections may be held as soon as possible.

As regards the way in which Councils should conduct their business, the procedure, taken in the main from the Municipalities Bill, has been made as simple as possible, but there is one provision in Part IV, which deals with procedure, to which I wish specially to refer, as it provides, I think, a

solution to a difficulty which may still in some areas be the chief obstacle in the way of the acceptance of local government responsibilities.

A Municipal Council does most of its detailed administrative work through committees. Its functions are, however, varied, whereas a District Council will at first be concerned only with roads. We have therefore provided for the appointment by a Council of District Road Area Committees, to which any or all of the Council's powers, always saving those of imposing rates or raising loans, may be delegated. A Road Area Committee will therefore be able to take its allocation, spend it and account for it to the Council.

Later on, when district rates are imposed, power is given to impose differential rates in each Road Area, in recognition of the fact that various parts of a district may be distinct in character and may have a different ratio of road needs.

It is clear that a limit to the number of Road Areas must be imposed, and we have put the maximum in any district at three.

How then is it proposed to finance District Councils? From what sources will they derive their revenues?

The answer to this question is to be found in clause 103 of this Bill; and especially in the references in that clause to Government grants and local rates.

It is proposed to make to each Council an annual road grant, equivalent to the sum spent in 1927 on the district roads as classified plus a reasonable sum for the maintenance of district roads constructed between the end of 1927 and the date of a Council's establishment, or of district roads which, though not constructed at such date, have been approved for construction in the present approved Loan programme.

Further, a sum equivalent to 25 per cent. of these sums will be granted to enable Councils to employ staff and purchase or hire plant. Where this percentage is insufficient to enable the employment of adequate staff, a case may be put to the Central Roads Board for an increased allocation.

In most districts, however, it is considered that engineering staff will at first anyhow be shared between a Council and a Municipality, and furthermore this staff allocation can be supplemented by the arrangement with Government for contracts on main trunk roads.

As districts develop and an extended road system becomes necessary, it will be for the Councils to put up proposals to the Central Roads Board both as to the necessity for such new roads and as to the source from which their cost is to be met.

17th August, 1928

Government will generally require that a proportion of this cost should be met from local taxation.

While it must be recognised that a good case will be strengthened by evidence of local willingness to contribute towards cost, it is not to be assumed that Government will use this provision to demand a local contribution on every occasion. There will no doubt be cases where the circumstances of the district and its stage of development impose an obligation on Government to come to its assistance generously and, so far as the general financial position permits, that assistance will, when justified, be given.

This brings me to the question of local taxation. We have provided three forms of land tax for the purposes of a district rate and a special labour tax for the purposes of financing hospital schemes. In each case the safeguards are the same; that is to say, that when a Council resolves that a rate should be imposed, it must advertise its intentions to impose a rate for a space of two months and after that decent interval it must carry its resolution by a majority of not less than two-thirds of the elected members. On questions of taxation nominated members will have no voice.

Of the three methods of land taxation, the unimproved site value tax is, I think, undoubtedly the fairest and most scientific, and an inducement is offered to Councils to adopt this form in the shape of a promise to compile their first valuation roll for them free of cost.

The Bill contains detailed provisions for making a roll, for appeals from valuation, and the usual rating machinery.

So much for the one side of the picture, and the other side can be sketched in a few words.

The Governor's ultimate adviser as regards all matters concerning roads will be the Central Roads Board, composed, under the chairmanship of the Colonial Secretary, of official and unofficial members.

It will be observed that the Chief Native Commissioner is included as one of the official members of the Board. That appointment is specially apposite for the co-ordination of road systems in Native Reserves and District Council areas and because of the powers granted in clause 61 to District Councils to undertake, subject to the consent of the Governor, the maintenance of roads which pass partly through Native Reserves and partly through District Council areas.

This Board's first duty will be to classify roads into main trunk and district roads. The Bill gives no clue to the principle upon which this classification will rest; that is to be

found in the Report, which briefly enunciates that a main trunk road is a public road which connects territories or owes its importance to purely administrative or strategic purposes, and that any other public road is a district road.

The Board will also administer road grants, provide for inspection of the way in which Councils spend their grants, arrange for the hiring out of road plant to Councils, and consider all claims for increased road subventions by Government.

In this last capacity it will be responsible for submitting to Government annually its estimates for expenditure out of Public Works Extraordinary on roads in local government districts.

There is a further point in regard to this Central Roads Board which I wish to make clear.

As my hon. friend, the Director of Public Works, stated in his speech yesterday, a committee, called the Roads and Traffic Committee, was appointed by Government some time ago, one of whose terms of reference was the preparation of suitable legislation for roads and traffic. The traffic legislation has now been introduced; the roads legislation is still in draft. The questions of roads and traffic are most intimately connected, and the appointment of a Central Roads and Traffic Board to advise Government on the administration of these two measures when enacted will no doubt be proposed at some later stage. If and when such a Board is established, it will no doubt absorb the Board proposed in local government legislation, subject to the creation of such machinery as will preserve the distinct identity, possibly as a sub-board, of a body which will continue to perform the functions of the Central Roads Board proposed to be constituted by this Bill.

As regards all other matters which Councils are empowered to do, the Governor will be advised by the Standing Departmental Committee. The usual powers are taken as regards Councils which fail in their duties and, in order to assist Councils as far as possible, it is proposed to give to the Governor in Council powers to make rules in regard to the use of standardised documents in respect of contracts, specifications, etc.

That, Your Excellency, is as I see it an outline of the principles and the most important details of the system of rural local government which this Bill aims at establishing. I hope that in my exposition I have not outrun the indulgence of the House.

Other points will no doubt be discussed in the Select Committee whose appointment I will propose at a later stage.

Both principles and details have been thoroughly discussed in most of the areas concerned, and in those discussions many points of doubt and misunderstanding have been cleared up, and I venture to express the hope that the same harmony which has so far been experienced may continue to characterise the future relationships between Councils and the central organisation, and that when differences of opinion or judgment do arise it will be mutually recognised that each has at heart the best interests of the Colony and the success of this experiment in the art of local government.

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

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

THE HON. CONWAY HARVEY: Your Excellency, first of all I should like to thank the hon. Mover for his graceful and complimentary reference to my own humble services in connection with the work of the Feetham Commission. During a period of public service extending well into the second decade, I can think of no activity which has furnished me with more pleasure than my identification with this particular body. The pleasure was greatly enhanced throughout by the courtesy and consideration exhibited to all members of the Commission by its distinguished chairman, Mr. Justice Feetham, and the hon. gentleman the Mover of this motion.

It is almost superfluous for me to add that Elected Members unanxiously support the principle of this measure, inasmuch as it has received the cordial support of all representative bodies throughout the Colony.

Fears were expressed at one time that the introduction of local government would necessarily imply a certain amount of duplication of work and attendant increased expenditure. I suggest such is not the case, inasmuch as such activities as can be absorbed by the Local Authority will be given up by the Central Government and an attendant decrease in Central Government establishment is naturally expected.

It is important for the public to realise that during its initial stages local government will be almost solely concerned with roads—the expenditure of money on maintenance and construction—but at the same time the skeleton system outlined in this Bill is an elastic one, and it allows for the gradual assumption of further responsibilities as opportunity arises and circumstances justify.

The chief opposition which was advanced to these proposals, Your Excellency, was based on political and fiscal grounds. Some of the critics stated that in their opinion a

more elaborate form of central government should necessarily precede local government. These critics have not read English history. Had they done so they would have satisfied themselves that hundreds of years ago a very highly organised system of local government was in existence long before any central government, as it exists to-day, was even contemplated. I allude to hundreds of shires, and the numerous arrangements which existed for the proper and effective control of local affairs many, many years ago.

Increased taxation is necessarily implied if local district councils are to function successfully, and I hope before very long they will appreciate the necessity for imposing a system of rating for the purpose of taxing purely local services. They cannot for all time expect to be entrusted with the expenditure of public funds. If local authorities are entirely financed by public funds it must inevitably lead to irresponsibility and extravagance, a thing which no one wants. But at the same time it is important, I think, to emphasise the fact that very ample and adequate safeguards exist in this connection inasmuch as all financial proposals from district councils must first of all be advertised throughout the areas concerned before they can be brought before the councils, and when the proposals do come up they must be passed by a two-thirds majority of the elected members of such councils.

I suggest this precludes the possibility of any unpopular measure being introduced against the wishes of a considerable number of taxpayers.

A great deal could be said about the three possible methods of taxation proposed in the Bill. I suggest, however, that the Select Committee stage is probably the more appropriate one to go into that in greater detail, but this is based on very broad lines, and there are three alternative proposals which can be selected by the District Council according to its own feelings in the matter. Personally, I always have been, and always shall be, a very staunch supporter of the principle of a rate system on unimproved land values. (Hear, hear.)

I am sure, Your Excellency, that this measure will commend itself to all who desire to see local government started on a solid constitutional basis, which will later form a most admirable training ground for those who may achieve the higher responsibilities in connection with such legislative and executive bodies as may be established in the future.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, while approving of this Bill entirely, excepting in its minor details, I wish to raise the matter which I raised on the last Estimates, and that is that this Council is committed without having approved, and without having adopted, the Feetham

Commission's report, to embodying in legislation, piecemeal, certain portions of that report. That is, Sir, I consider an entirely wrong procedure. I think, Sir, that the report, as a report, should first be approved and adopted by this Council. I raised this matter before, and asked for an explanation as to why it was not done. I feel this matter should receive further consideration.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, I welcome this Bill, and I think I can say that not only has it been welcomed by the Elected Members, but certainly in all parts of the country with which I am intimately connected. In the Fort Hall and Kikuyu areas it was welcomed. It was explained to the District Committees there by the hon. Mover of this motion.

I propose to stress one or two points. The hon. Mover pointed out that in section 6, sub-section (1) (a), that the maximum of fifteen members would not be sufficient and proposed that the maximum of fifteen might be increased. In such areas around Nairobi as include the Fort Hall, Limuru and Kyambu districts, it is not considered that fifteen would allow of sufficient number to enable sub-committees to be formed to deal with the more local affairs. It is considered, Sir, and I think this will be probably agreed, that to enable this system of district councils to work with the greatest efficiency it should be possible to have local standing committees to deal with all the affairs affecting different parts of the locality which are now dealt with by the present District Committee. Although this Bill does not give any executive power, they will still have to do the work in the advisory capacity to Government. In the same way—dividing the district into not more than three district road areas—I do not know why the number of three should be stipulated. That is another thing which I think should be considered.

One other point which I think is a very important one. In section 104, sub-section (1), it says that the basic grant shall be taken on the amount granted for the rates in the financial year 1927. I can understand that there must be some definite figure taken to base it on every year, but the amount required in connection with rates increases very rapidly, and I believe I am correct in saying that the Central Board and the officer known as the special Road Engineer have recommended a very large increase in construction for the year 1929. I think, Sir, this must be considered very carefully in Select Committee, so that we do not start with basic sums less than will be required, and which will immediately necessitate that forms of taxation shall be applied, which will have a bad effect on the psychology of the people of the Colony. I do think, Sir, that it is essential to get a fair and reasonable figure on which to start.

There is only one other point which came up for discussion at the District Committees which I attended. That is, the general feeling that when this Bill comes into operation, which gives us the control over our local affairs, it should not be the means of a further cut between the native and non-native areas. It is generally felt by those of us who believe that the future of the Colony depends upon co-operation between the races that there should be no cut between native and non-native areas. Rather should white and black be drawn closer together in a mutual endeavour towards the progress of the country. The Senior Commissioner should be the liaison officer over the alienated areas and any contiguous native reserves. It is felt that there should be some portion of the native reserves under the same administration as the non-native areas, though I do not mean that these local councils are to administer the native reserves.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I think I can do no better than to endorse every word said by the last speaker. I am perfectly certain in my own mind that this Bill will make for efficiency and economy in running all the districts concerned. I have much pleasure in supporting it.

THE HON. T. A. WOOD: Your Excellency, as a very old resident in this country, it is very pleasing to see the signs of development shown by the proposals of Government to introduce this measure of de-centralisation, and I have extremely little to say against it—(laughter)—but I want to talk about one or two points. I should like to support—(I seem to have raised a certain amount of disagreement or humour in the House,—(laughter)—Sir; I gather it is my Yorkshire expressions that are causing this mirth.) I would like first of all to support the statement by the Hon. and gallant Member for Ukamba when he referred to the proportionate basis which is proposed in the Bill. Now, from my experience in Nairobi, it is perfectly clear, I think—but possibly my friend, the Hon. the Director of Public Works, will disagree—but it is perfectly clear to me that we had to start out on an unfair basis there, and I do hope that you will start these district councils off on a better financial foundation. I suppose we were actually given one-third of what we ought to have been given, but that is past and done with. I think we have got over the difficulty now, but it is necessary to refer to it when you are developing a new form of de-centralisation. Now section 106, which the hon. Mover referred to, indicates one method of providing funds, but I do not understand why with Government conceding the principle of granting vehicle taxation they should take away one important portion of that taxation, thereby raising the danger of the imposition of dual taxation, which

I am very strongly against. You specifically delete motor taxation. I would prefer very much to see Government adopt the principle which was laid down quite recently by a Select Committee appointed by the Government of the Union of South Africa, I think, who stated definitely that all taxation of any description whatsoever resulting from vehicles, including motor cars and including any taxation derived from petrol, should definitely go back into the construction and maintenance of roads in the areas concerned for these vehicles to run on.

I was also pleased to hear the Hon. Member for the Lake endorse the belief that taxation on unimproved site valuations is the best basis for taxation, and I would like to mention, although it is not exactly relevant to this particular Bill, that I do not understand why a contrary view is expressed when it comes to taxation in the towns. I am a great believer in sticking to the unimproved site values tax, and my reason is principally that the consumer pays in whichever way it is put; if you put it on improvements the lessee may pay directly, but if you put it on the site value he pays it also, although he may do so indirectly by the rent. The owner of the particular property presumably wishes to get a reasonable return on his capital and he relies on the man who is in occupation.

There is just another little point, not exactly one of principle, but a matter of procedure. When this Bill goes to Select Committee I would advise the Chairman of that Select Committee to complete the investigation of the Municipal Bill first because I see quite a number of clauses that are synonymous, and I think it will avoid any overlapping for Government to go into this.

THE HON. T. J. O'SHEA: Your Excellency, I have pleasure in joining in the chorus of approval of this Bill, which I believe has been built on sound lines, and is likely to result in receiving the approval of the country as a whole and likely to result in a workable system.

I very much regret, however, Sir, that the Bill, being one to provide for de-centralisation, did not proceed logically from the outset and de-centralise its headquarters to the extent which it should have done. I think the greatest fact in this Bill is that the Standing Committee is merely in an advisory capacity to that terrible person, the Governor in Council. I think, Sir, that now is the time to make up our minds and have the courage to say that the Governor in Council cannot be expected to bear the burden of the multitudinous duties thrown on his shoulders. I sincerely hope that before this Bill is passed through into law that the Standing Committee will be given an entirely different status.

Your Excellency, the approval of the people to the introduction of these local government measures was secured on the understanding that the application of these measures when they became law would be subject to local consent. We in this House hope it is the Government's intention to secure local consent, but I think it is necessary for a reassurance at this stage to be made that these promises will not be lost sight of. I think the country was also promised that the introduction of these measures would not result in increased taxation except in so far as to provide for new services. If that is a correct interpretation of Government's intention, I think it is necessary that a reassurance also be given in that connection.

I quite appreciate that these measures are likely to lead to new services being introduced, and we quite understand that fresh money will have to be found for such new services, but I think it is very necessary to re-emphasise that the central exchequer is not going to benefit or pay for present services out of the money raised locally. I can quite understand why Government has allowed in this Bill for local option in the matter of local rating, but I think it is an unsafe principle, Sir, to leave to district option to decide the basis upon which local rates shall be raised. I think it is primarily the duty of Government to settle that very intricate problem and lay down the basis for the country as a whole for local rating. If that is not done I am afraid the result will be a very unscientific system of rating of land to varying extents in different parts of the country, and I would ask that further consideration be given to that matter in Select Committee. It is laid down in the Bill that the number of rating areas under the control of any one district council shall be limited to three. I join with previous speakers in saying that I cannot understand the ideas underlying the limitation of that number. In the district of which I have most experience I feel safe in pointing out that to limit the number of road boards to three would result in inefficiency and in effect would prove unworkable. A very contentious point that is bound to arise on the application of this Bill is the basis on which road grants will be made. I notice with pleasure that Government has made provision that should, if worked in the right spirit, promote an even distribution of road costs as between the central and local governments, but I think it cannot be too strongly emphasised that in fixing the basis of division on the grant paid in 1927 that some districts are very likely to suffer severely indeed, unless particular attention is given to their situation in that year. I can well imagine, in a district like Rumurufi, Thomson's Falls and the Lalkipia country generally, where they have only just begun to open up the roads, that the amount ex-

17th August, 1928

pend is likely to form a very small proportion indeed of the three years. I have much pleasure, indeed, Sir, in supporting this Bill.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN): Your Excellency, I have only one short remark to make, and that is on the reference of the Hon. and gallant Member for West Kenya to the method of procedure in the presentation of reports to Council. There is, I think, a great deal in what he says, but the fact that we agreed to implement certain parts of the Report first and put them into legislative form rather than to move the adoption of the Report itself was, I think, due to a feeling that that would be the most expeditious method of dealing with the Report. I think the hon. and gallant Member referred to this point last November when the Estimates were under discussion, but Government took no further action in the matter because no specific resolution was moved, and Government took it that this procedure was acceptable to Council as a whole. There is, of course, undoubtedly an advantage in submitting specific legislation to the Council at once, rather than discussing the Report first and in addition. The latter course would probably involve a debate of great length on all the points which are included in all the Bills which we now have before us, and the possibility of subsequently re-discussing those points when the Bills resulting from the acceptance of the motion came up themselves for specific and separate discussion in Council.

I do trust therefore that Members will accept this procedure, without prejudice to a possibly more orthodox method, in dealing with reports of this magnitude.

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

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, it is very satisfactory to note the generous way in which the principles of the Bill have been accepted by this House, and no doubt most of the points of detail which have been made can be discussed in Select Committee. I may, however, perhaps refer to one or two of those points briefly.

With regard to the point raised by the Hon. and gallant Member for Ukamba, as to the increase of the maximum of elected members, if I may say so, I think probably the reason why the Commission limited the maximum number to fifteen was because in their view that would be the maximum number of members which could be easily obtained in the district, but there can be some elasticity in that respect.

The reason why we limited the district road areas committees to three was because we propose that these district road areas committees should be responsible bodies in the way of accounting for the expenditure of moneys in their own areas. They will have to keep their own accounts of expenditure; they will have, later on, when differential rates are imposed, to provide for all the necessary accounting and collecting machinery, and it seemed clear that many difficulties might be created from the point of view of audit if the number of bodies exercising those somewhat large powers within one district were not limited to what we thought was a reasonable extent and that is how we came to fix the number three. This will be especially necessary in the first instance while the Councils are operating, as seems to be the general desire, almost entirely through staff provided by the district administrative office, and to fix a limitation of this sort will, I think, be found desirable. But the exact limit will no doubt be further discussed in Select Committee.

With regard to the remarks of the Hon. Member for Nairobi North, comparisons as to road expenditure and road policies in other countries are, I think, somewhat dangerous. In this country, where—in this very Bill—we are proposing that Government should give District Councils a large road grant which will form their initial revenue, and where also the Government accepts liability for the main trunk roads, it is perhaps not unreasonable to expect that certain of the revenues available for road construction purposes, such as motor vehicle revenues, should be retained by the Central Government.

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

The question was put and carried.

Council adjourned for fifteen minutes.

On Resuming:

THE PUBLIC HEALTH (DIVISION OF LANDS) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the second reading of the Public Health (Division of Lands) Bill, 1928.

The present position in regard to the control of sub-divisions of land is not altogether satisfactory.

There is at present a Board of Health constituted under the Public Health (Building) Ordinance, whose approval is required to proposals to sub-divide land into plots of three

acres or less if the land in question is situated within five miles of a township or two miles of a railway station or halt. Land held in freehold outside those limits can be divided up at will by the owners, and the existing control within those limits can easily be set at naught by divisions into a minute fraction over three acres.

In the case of leasehold land within the same limits a similar division into a fraction more than three acres absolves the leaseholder from the necessity of satisfying the Board of Health requirements and in such cases, if the land is farm land held under agricultural title, consent to change of user and issue of township title is required from another authority—the Governor in Council.

In the case of township lands held on lease, consent to sub-divide derives from the Commissioner of Lands, but it is not proposed that this Bill should operate in municipalities or townships, since by administrative arrangements no such sub-divisions are approved until the local municipal or township authority has been consulted.

As regards, however, agricultural land, the scope of this Bill is extended to apply to all lands in the Colony outside municipalities and townships, and further the area proposed as the minimum below which division demands consent is raised from three acres to twenty acres.

It is true that the present law can be extended to cover any area to which the Governor may by notice in the Gazette apply it; the reservation of this power is in itself an acknowledgment that the restrictions of the law's operation fall short of the ideal; but when such occasion does arise some damage has already been done before the application can be made, and it is considered to be wiser and safer to make that general application at once in the opening clause of the Bill.

Any division of land into plots exceeding twenty acres of land can be safely allowed without risk to public health, and generally such divisions will not be for residential purposes. It is not, however, of course the intention to prevent all proposed divisions into less than twenty acres—all that is asked is that such divisions shall be controlled.

Indeed, if a would-be division into plots exceeding ten acres is shown to be *bona fide* for agricultural purposes to the satisfaction of the approving authority, further compliance with the provisions of this Bill can be remitted.

In another and vital way the scope of this Bill is wider than that of the existing law.

The Board of Health as at present constituted cannot, in respect of plans for which its approval is required, refuse that consent except on the ground that adequate arrangements to safeguard public health are lacking. The Board cannot demand that a plan should conform with the town-planning requirements of an adjacent municipality or township; that is to say, there is at present no means of preventing the establishment of conditions on the very borders of a municipality or township which may seriously conflict with extended road schemes, drainage or sewerage schemes, or which may involve vital differences in the matter of zoning on each side of a boundary line.

A municipal or township authority is clearly not only concerned closely with the type of building and residential conditions which are coming into being close to its borders, but it also can rightly claim to have a voice in the question as to the extent to which residential developments should be permitted within easy reach of its area.

The high standard of municipal activity required nowadays and the increasingly heavy cost of providing the amenities demanded have created a tendency all over the world for people to look for homes outside the range of municipal taxation and yet sufficiently near to enable them to make use of those amenities free of charge for their business purposes. The motor car has made this more and more possible, while at the same time its ravages on the roads have increased the costs of road maintenance.

While therefore it would be obviously impossible to enable a municipal authority to say "Thou shalt not," it is clearly reasonable that, where facilities for competing residential development require the State's approval, it should give to such local authorities the opportunity of contesting the necessity for further development of this character outside but within easy reach of its area of jurisdiction. The limit proposed is three miles, and a requirement that this opportunity shall be given is contained in this Bill.

Further, the establishment of suburban estates outside the area of any recognised and responsible local urban authority is a matter of which the State itself must take serious cognisance, even though such establishment may be innocuous to public health.

A community of this sort must eventually require public services for which the State is responsible, as for example, police protection; its development along sound lines must, in default of the presence of a local authority controlling public health, be a matter for direct State management and control;

and it is reasonable to suppose that after its establishment the nearest urban authority may decline to take it under its wing, and relieve the central Government of direct control.

It is therefore imperative that the principle should be established that for reasons of this sort alone, applications to divide land for building purposes may be rejected. Clause 9 enunciates this principle, and in clause 12 power is given to a disappointed applicant to appeal to the Governor in Council, whose decision shall be final.

In one other feature this Bill materially differs from the Public Health (Building) Ordinance which it repeals; and that is in the constitution of the Board. It is proposed to bring the new Board into the heart of the central organisation for Local Government purposes and to administer the Ordinance from the office of the Commissioner for Local Government.

In other respects the provisions of this Bill largely repeat those of the existing law.

The Bill is definitely one of the branches of the tree of Local Government institutions which we are planting this session. It has been thoroughly considered by the present Board of Health, and approved by it, and it will, I hope, commend itself to this House.

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

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

THE HON. T. J. O'SHEA: Your Excellency, I welcome the introduction of this measure. It is very necessary at this stage and it is unfortunate for some of our townships that it was not possible to introduce some such Bill several years ago. But, Sir, there is one aspect of the Bill with which I disagree very emphatically. It was brought in under the Public Health Ordinance. One would therefore imagine that its purposes were confined to the safeguarding of public health. From the study of the Bill itself, however, and from the lucid speech of the hon. Mover, it is obvious that Government intends using it not only for legitimate public health purposes, but for altogether different purposes, namely, to use it as an instrument of control over the sub-division of lands, and to restrict these sub-divisions to purposes that have nothing whatever to do with public health. I think it is very undesirable indeed that we should introduce legislation for one purpose and employ it altogether for a different purpose. It is wrong in theory, and it is likely to prove very difficult and very contentious in practice.

I also think it is entirely necessary to raise the area of three acres that should come within the purview of the public authorities. It may be even necessary to control up to twenty acres. But I suggest in bringing the area up to that very large acreage, the Bill would have to provide loopholes that would enable people to secure sub-division outside the scope of the Bill. Perhaps I have not expressed myself very clearly. It is laid down in the Bill that if people can give satisfaction to the authorities that the land is to be used for agricultural purposes, sub-divisions of less than twenty acres may be agreed to. Now, Sir, what is going to happen in actual practice if this Board, for reasons nothing whatever to do with health, refuses a sub-division possibly on the ground that it conflicts with the interest of an adjoining municipality? The owner of that area will immediately sub-divide piecemeal in such a way as to prove that the land is going to be used for agricultural purposes. A case in point: The development of some of our townships has already to-day reached such a stage that it is becoming an economic proposition to acquire small areas of land within their vicinity for the purpose of market gardening, poultry farming, and so forth. Is it not possible to evade the restrictions that are intended by surreptitiously cutting up the land into five, seven and ten-acre plots, growing a certain amount of produce of that nature, and making that a cloak for the type of residence that the person is really buying the plot for? I think that it is. It will be done. And, further, if this Bill is administered in the spirit that has been evinced in the past, it will not prevail for protection against those sub-divisions that you are aiming at. I urge on the contrary that the officers responsible for the administration of this side of Government activity should recognise the fact that under modern conditions people will necessarily go on living outside the townships, and that that should be encouraged as it is desirable. The facts should be recognised as they are, and provision should be made to deal with them. Now when you are setting up district councils in addition to municipal councils, I do not see why they should exercise the extra powers. It has been done in every other progressive and new country in the world, and I do not see why it should not be done out here.

It is agreed errors have been made in the past, but the fact remains that people, as soon as they acquire sufficient wealth to enable them to do so, do go outside these township areas to live. I say it is not right and proper from any point of view that you should prevent them doing so. The surroundings they find outside the townships are better than those in the townships. Furthermore, you must not lose sight of the fact that having removed the segregation policy from your township areas a strong stimulus has been created for

the exodus of the European population from the townships. They will go outside the townships, and instead of putting up artificial barriers you should recognise the fact and make proper provision.

One other point, Sir, which I think is a matter of principle. As far as I have been able to gather from a slight study of the Bill the control can only be exercised if the land is legally sub-divided, i.e., if the sub-divisions involve a change of ownership and application is made to the authorities for a sanction of such change. I should like to ask the hon. Member whether the Bill does provide for this measure of control if the owner of the land merely sub-divides, but does not ask for legal consent to sub-divide. I understand that in the neighbourhood of Nairobi, although there has been a law controlling under three-acre sub-divisions in the past, that control has been entirely ineffective because the control could not be exercised unless application was made for a change of ownership. I am not satisfied at the present stage that that state of affairs has been adequately dealt with in the Bill. It is a Bill that I suggest should receive very serious consideration in Select Committee because, although the intentions of it are good, I believe that the machinery set up is not likely to be effective in achieving its purpose.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in this Bill provision is made for dealing with the original application for sub-divisions by the owner only. No provision is made for the probability of an arrangement being made by an owner so to subdivide his land that it will not infringe the requirements of the Bill—an arrangement in which the owner prior to the sub-division will ensure a maximum of applications whose pressure Government will be unable to resist. It will merely mean that instead of the original applicant—the owner—making any profit through the sub-division of his land, that he will share that profit with his lieutenants, who will fight his battle for him. That is a probability which I feel should be met. It does not seem to have been considered. I hope that in committee some provision will be made to meet such a probability arising.

THE HON. A. C. TANNAHILL: Your Excellency, I hope, in spite of what the Hon. Member for Plateau South said, that the whole policy of this Bill is not to prohibit but to control sub-division outside townships. The Ordinance at present in existence is the 1913 Ordinance, which has been administered for the last thirteen years, and I believe I have been a member of its Committee ever since it started. We found, time after time, difficulties arising which it is hoped this Ordinance will do away with. One of the difficulties was the question of area. The present Ordinance provides the

three-acre minimum, and we found many times that when three-acre sub-divisions come into existence they may seriously interfere with the direct communications into the adjoining townships. It was after some considerable discussion that the area was extended to twenty acres. The reason, I think, was that with twenty acres you have plenty of margin to play with. You can shift the roads without upsetting buildings and so on.

There are three or four points in the Bill as drafted which I would like to have very seriously discussed. The first one being that I am very surprised to see that the Colonial Secretary is the head of the Board. I should have thought that on principle the Commissioner of Local Government, Lands and Settlement would have been the proper person, because it is rather a technical matter, and a little difficult perhaps for a non-technical man to control when he is chairman. And obviously, feeling that, it appeared to me that the Director of Medical and Sanitary Services was the obvious deputy chairman.

The next point of very real importance in the Bill is that it lays down for the first time that these sub-divisions shall be registered against the title, and it makes one rather shudder to think what is going to happen with the sub-divisions which have been passed under the 1913 Ordinance. How are those going to be provided for? How are those going to be registered? I think this should merit very important consideration.

One assumes that, in spite of the 1913 Ordinance being repealed under this Ordinance, the sub-divisions passed under the 1913 Ordinance will hold good, but I see no provision here for carrying on very distinct obligations laid down under the 1913 Ordinance, such as bonds which are in existence for providing roads on sub-divisions that have been approved.

Lastly, I very much regret that it has not been possible to include in the Ordinance some provision whereby the Board is compelled to give a decision within a certain specified time. I do hope the Select Committee will very carefully consider that point. In the old days, under the 1913 Ordinance, business undoubtedly was held up, for very many reasons, one of them being that the Board had so very little staff; at any rate, it was rather difficult to call members together. I foresee that under this Ordinance the Board may be very busy indeed, and possibly that difficulty may disappear, but I do think that some provision should be made that, if the Board does not arrive at a decision within a specified time, the applicant should be allowed to take it for granted that his application has been passed.

I notice that the Hon. Member for Plateau South mentioned a point which I believe was discussed when this Bill was under consideration in draft form—that it came under the Public Health Ordinance, when really I believe a large number of members felt that it would be better incorporated under the Town Planning Ordinance. Whether that can be done or not, I cannot say. I believe, as drafted, with a few slight amendments, it will form a very useful Bill in controlling sub-divisions of land.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS): As the chairman of the Board which is proposed to be extinguished by this draft Ordinance, I feel, perhaps, that I should give the new Ordinance my blessing. I only hope, Your Excellency, that this Ordinance will be passed, and that it will be passed with the consent of the whole Council. It is called the Public Health (Division of Lands) Ordinance, and the Hon. Member for Plateau South has rather cavilled at the proposed title. Your Excellency, it is one of the most important parts of local government that this Bill is concerned with. There is very little in the activities of local government that does not concern public health. I think the actual name is not of very great importance.

On the other Board we have found ourselves on several occasions in considerable difficulties, chiefly with regard to the size of the plots which came under our cognisance. It is to be remembered that the neighbouring townships are very intimately concerned with settlement that may occur outside their boundaries, and their interests require to be consulted. I agree, of course, that people will go outside a township. There is no intention of this Bill attempting to prevent that, but people who go outside townships will expect that they shall live under reasonable conditions. Their interests have also to be consulted. Before a sub-division of land is allowed for building, one has to look at the two sides of the question. The township side and the side of the people who are going to live there. We must not either, for the sake of the people themselves, or the neighbouring township, allow areas to grow up where conditions of life are not reasonably good. It is quite impossible, Your Excellency, for any one collection of human beings to remain isolated and unaffected by the conditions which obtain in another collection outside or near to its borders. There is no possible means of getting away from the fact that a bad area a few miles outside any existing township must very materially prejudice conditions inside.

That, I think, is the chief reason why we have to extend the area of land which shall come under consideration before it is divided. There is no intention whatever of preventing people going outside townships. The chief thing is to see

that the people shall have a reasonable possibility of getting the amenities for decent living which they have a right to expect. I trust, Your Excellency, that this measure will be passed without a large disagreement on its principles.

LIEUT.-COL. THE HON. J. G. KINKWOOD : It seems to me that there are two principles in the main ideas in the Bill. One is on the basis of public health, and the other is to prevent the public making unnecessary sub-divisions of land adjoining townships and municipalities. The plots are restricted to twenty acres, but there is provision made for ten acres where required for agricultural purposes. It does not seem clear to me that the Commissioner of Local Government, Lands and Settlement has stated that these plots of ten acres for agricultural purposes are solely restricted to agricultural purposes only, and that the necessary buildings are prohibited.

I should like to point out, in regard to where there is an urge for areas outside townships in the municipality, the conditions existing at the moment in a township which I know. Sub-divisions have been sanctioned and have been made on the outside areas of the township, not because people want or are anxious to get out outside the township, but because the department concerned has not made available plots for residences in the township for about twelve months. They have been asked to alienate further residential plots in that township, but at the moment of leaving it had not been done. The result is that there is not a single plot in Kitale available. I would like to call the attention of the authorities concerned to these conditions.

As I say, I agree with the general principles of the Bill, but I very much doubt whether the Bill, as drafted, unless it is altered in committee, will attain the objects for which it has been drafted.

LIEUT.-COL. THE HON. O. F. WATKINS : Your Excellency, there is one small point in the Bill which strikes me may require rather close attention, and that is the question as to whether native huts are human dwellings or outbuildings.

Under section 6, not more than five dwellings can be put on a plot of an area of 100 acres and I should think that that proportion is not anything like enough to provide for the ordinary requirements of a farm if each native hut is to be called a dwelling. Under a definition of "dwelling" as drafted I should say that a native hut is a dwelling, and I want to draw attention to that point, because I think there may be difficulties and complications for our Native Affairs Department in the future.

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

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Your Excellency, it appears that the general principles of the Bill have met with general support.

With regard to the title of the Bill, I should like to add to the remarks of the Hon. the Director of Medical and Sanitary Services and would point out that the Bill has nothing whatever to do with the Public Health Ordinance, as the Hon. Member for Plateau South seemed to think. It is called the Public Health (Division of Lands) Bill, but it stands on its own legs. It has no connection with the Public Health Ordinance, as such, or with the Town Planning Ordinance.

THE HON. T. J. O'SHEA : Your Excellency, on a point of explanation, may I say that I have no complaint about the title of the Bill. My complaint is that the purposes of the Bill are different altogether from the title of it.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT : Perhaps we shall be able to satisfy Mr. O'Shea in Select Committee on this point. (Laughter.)

The point which the hon. Member asked me specially to remark on was whether we had adequately provided for the control of sub-divisions which were not legally carried through. The existing Bill provides that a plot cannot be sub-divided and let or sub-divided and sold without the approval of the Board of Health, and cases have occurred where it has been found impossible to prove either sub-division and sale or sub-division and letting.

The matter was gone into most carefully some months ago when this Bill was being drafted by the Attorney General, and by eliminating the expression "sub-division," and referring throughout this Ordinance to a division of lands, it was thought that we had met that point.

The question raised that this legislation cannot be regarded as covering possible infringements where an applicant who had obtained permission to divide land for agricultural purposes and then later turned it into residential plots is, I think, covered by clause 13. The lowest limit there provided is ten acres; anything less than ten acres would not be considered to be a division for agricultural purposes, and the clause later on goes on to say that the Board must be satisfied that the division is solely for agricultural purposes, and involves no change of user in the title under which such land is held.

The point was raised by the Hon. Member for Nairobi South, and has been considered before, as to the legal validity of bonds issued under the old Public Health Ordinance. That

point was referred to the legal advisers subsequently after we had discussed the matter with the present Public Health Board, and I was assured that bonds already entered into would still be valid even after the dissolution of the present Board.

The other points of detail I shall be happy to discuss when the Select Committee is appointed.

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

The question was put and carried.

THE PUBLIC HEALTH (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move the second reading of the Public Health (Amendment) Bill, 1928.

This Bill is an interim measure designed to bridge a gap until a comprehensive amendment of the Public Health Ordinance is drafted.

The Local Government Commission recommended that, while Municipal Councils should automatically be local public health authorities, Municipal Boards should not assume this responsibility unless specially so appointed. The definition of a local authority therefore required amendment. It was also felt that executive authority should not continue partly, as at present with the Medical Officer of Health, in places where there was no Municipal Council, but rather that the District Officer in charge of the Administration should in these cases assume full responsibility, having the Medical Officer of Health as his adviser.

In order to include rural areas within the definitions I shall propose in committee that in sub-clause (d) an appropriate insertion be made. Clause 2 then repeals the present and provides a new definition of a local authority along these lines.

Clause 3 deals with the Central Board so as to ensure that that body, which will advise the Governor on all municipal matters, will also be the Central Authority in the case of municipalities whose Council or Board has been constituted as a local public health authority.

This was as far as the Commission went in their Report. It will, I suggest, be a matter for consideration in Committee whether the Standing Committee should not also perform the functions of the Central Board of Health towards all local public health authorities, whether urban or rural, throughout the settled areas.

17th August, 1928

It would be an obvious convenience that the same body as is familiar with all other local government conditions in these areas should also have authority to deal with public health matters.

I beg to move the second reading of the Bill intituled "The Public Health (Amendment) Ordinance, 1928."

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

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

The question was put and carried.

NATIVE AUTHORITY (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): Your Excellency, I beg to move the second reading of the Native Authority (Amendment) Bill, 1928.

This Bill, Sir, does not mark any new departure in native administration—it merely means an implementation of principles which have already been agreed to and established by legislation. I propose therefore to deal very briefly with the amendments that are proposed. It has been found necessary in view of certain recent developments to strengthen the hands of the Native Authority in certain respects, firstly to secure obedience to lawful orders and secondly in relation to trespass. There has been a growing practice in some districts among natives who are lawfully called out for communal labour on roads or other works for the benefit of the community to evade their obligations by the simple process of sending out their women and children in their stead. In cases where this is discovered by administrative officers and by responsible headmen the women and children are at once sent home and the defaulting males prosecuted, but this does not stop the practice because if the man is fined he merely pays the fine from the proceeds of the labour of those women and children. Now this practice is entirely contrary to the Government's dual policy of development whereby we hope to persuade every able-bodied male to do a job of work either in his own Reserve or outside and it is considered proper to make provision whereby in such cases the Courts may impose imprisonment without the option of a fine. This power will be discretionary and in no sense mandatory.

I would remind hon. Members at this stage that the Detention Camps Ordinance includes in its schedule the Native Authority Ordinance so that people convicted under this Ordinance can be sent to Detention Camps and not necessarily to the common gaol.

A further point is that it has been found that there is a good deal of native trespass not only on unalienated Crown lands but also on farms whether occupied or unoccupied. It is true that such people can be dealt with under the Resident Native Labourers Ordinance, but the defect is that if natives are found squatting on farms and ordered to move, they will, if not followed up, merely go and squat on some other farm. Under the Native Authority Ordinance, as it at present stands, any Senior Commissioner or District Commissioner who finds natives so squatting on unalienated Crown land can definitely order them back to their native reserves, and it is proposed in this Bill to extend that power to land which has been alienated. In actual practice whenever natives are found so squatting every endeavour is made by the officers of my Department to persuade them to take up proper work as resident native labourers on some adjacent farm and in the very great majority of cases we are successful, but in some cases the natives are disinclined to do this and it is necessary that such natives should be ordered back to their reserves so as to come under the Tribal Authority.

The financial provision that has been included in this Bill arises from the recent development of Local Native Councils. The more progressive Councils have shown themselves not only willing but anxious to subscribe money towards educational, medical and other services of common benefit and to supplement the funds which are provided by Government.

The practice is that such votes are not accepted unless a definite scheme has been arrived at between the administrative officers and the department of Government which must necessarily control such activities. When such a scheme has been approved the native contribution is either in the form of a reimbursement in aid or goes to provide some specific item such as a building which is placed at the disposal of the department concerned. It is very necessary in such cases, if Government is going to pursue this practice, that it should secure itself against the possible contingency of a Council, which has induced Government to enter into commitments in anticipation of an annual contribution which has been definitely promised, refusing at a future date to continue to provide the promised funds.

The Bill now before Council provides that in such a case the Governor in Council shall have the power to order the payment to be made and to levy any necessary local native rate for the purpose.

Advantage has been taken of this opportunity to make one other minor amendment in the Bill which really only rectifies an oversight. The old Native Authority Ordinance of 1913 provided definitely that the term "District Commissioner"

should include the Assistant District Commissioner. It is very necessary that this provision should be restored, because the majority of orders to Headmen are in actual practice issued by Assistant District Commissioners when on safari. By some oversight or other that definition has been omitted in the revised Edition of the Laws and has therefore been replaced in the present Bill.

I think that there are no controversial points whatever in this Bill, and I therefore commend it to the consideration of hon. Members.

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

THE HON. CONWAY HARVEY: Your Excellency: If Government is satisfied that the present penalties imposed are ineffective, naturally, we all support the change in penalties, but we do not know too much about the detention camps, and I take it that offenders under this Bill will not be able to send their women and children to serve their term of imprisonment similar to the proceeding of sending their women and children to labour.

Imprisonment, Your Excellency, is generally regarded by a very large number of natives as a rest cure, judging by the frequency with which the offenders qualify for a return to gaol. Whenever we discuss these matters in the native reserves with those best qualified to know they invariably say that there is one form of punishment and one only which is definitely a deterrent, especially where the young men are concerned, and that is whipping. That is a form of punishment which has been in universal practice in South Africa for several centuries now and I think it is very unfortunate indeed that the Kenya Government does not profit by the experience of countries which have had wider experience than we have in such matters.

We also welcome cordially the provision which exists in this Bill for the return of nomadic squatters to the Reserves. Such people are a nuisance to everybody. They pay no taxes, they trespass throughout the country, they break fences, they spread cattle diseases, and I am quite sure that in the administration of this section of the Ordinance the Government will receive a great deal of support from every European in the country.

CAPT. THE HON. E. V. M. KENEALY: I support this Bill but, on a matter of form, I suggest that in section 5 (2) where the penalties are increased, it is not proper to consider the application of the law without having the penalty at the same time quoted, and I feel sure that in future one should know what the penalty is. Here we increase the application

of the law from certain classes of land to any class of land. The penalty is not quoted and I feel it should be.

LIEUT.-COL. THE HON. O. G. DURHAM : In speaking as one who does not always see eye to eye with the honourable Mover I have the greatest pleasure in supporting the motion.

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

THE HON. THE CHIEF NATIVE COMMISSIONER : Your Excellency, I am afraid I could not, without some notice, make any detailed statement with regard to the work of Detention Camps, because they do not come under my control. They come under the control of the Commissioner of Prisons. I understand that they are operating quite satisfactorily.

With regard to the point raised by the Hon. Member for the Lake (Mr. Conway Harvey), I would say that no one could be committed to a detention camp except on a proper warrant. I cannot imagine any magistrate signing a warrant by which women and children would be allowed to act as substitutes for a male.

I am glad to supply the information asked for by the Hon. Member for West Kenya (Captain Kenely). The penalty for disobedience to a Magistrate's order in cases of unlawful squatting is similar to the present provision for disobedience to the lawful order of a headman, namely, a fine of Sh. 150, or in default of payment to imprisonment of either description for any term not exceeding two months.

There is also the important point that huts or crops found on land thus unlawfully occupied may be confiscated to Government, and may be dealt with in any way as the Magistrate may direct.

CAPT. THE HON. E.-M. V. KENELY : And stock?

THE HON. THE CHIEF NATIVE COMMISSIONER : That would come under the Diseases of Animals Ordinance as trespassing stock.

I think, Your Excellency, there are no other points which have been raised, and I will therefore not take up the time of the Council any further.

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

The question was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY : Your Excellency, I beg to move that the Local Government (District

Councils) and the Public Health (Amendment) Bills be referred to a Select Committee consisting of :—

The Acting Commissioner for Local Government,
Lands and Settlement (Chairman),

The Acting Attorney General,

The Director of Medical and Sanitary Services.

The Director of Public Works.

The Member for the Lake.

The Member for Ukamba,

The Member for Kikuyu.

The Member for Kenya,

The Member for Plateau North,

The Member for Plateau South,

The Member for Rift Valley.

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

The question was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY : I beg to move that the Public Health (Division of Lands) Bill be referred to a Select Committee consisting of :—

The Acting Commissioner for Local Government,
Lands and Settlement (Chairman),

The Acting Attorney General,

The Director of Medical and Sanitary Services.

The Surveyor General,

The Member for Nairobi South.

The Member for Plateau North,

The Member for Plateau South,

The Member for Kenya.

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

The question was put and carried.

HIS EXCELLENCY : I understand that the amendments proposed by the Select Committee to the Game Amendment Bill and the Trout Protection Bill will be laid for the Council's consideration on Monday next, and if it meets the convenience of Council I would suggest that the first business on Monday should be to go into Committee on those Bills to consider the amendments of the Select Committee.

Council adjourned to 9.30 a.m., on Monday,
the 20th August, 1928.

MONDAY, 20th AUGUST, 1928.

The Council assembled at 9.30 a.m., on the 20th August, 1928, at Government House, Mombasa, HIS EXCELLENCY THE GOVERNOR (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

MOTION.

DEATH OF SIR CHRISTIAN FELLING—ADJOURNMENT OF COUNCIL.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN) : Your Excellency, It is the custom of our race, when we lose from amongst us and from the number of our legislators, one who has done great service to the people, that we do him honour in our chief assembly.

Sir Christian Felling was long a member of this Council and he never joined in its deliberations but he added to them light and wisdom from the store of his knowledge and experience.

He was first a great and trusted public servant. Year after year have members listened to his exposition of railway and financial problems, have voted him the supplies he asked for and spontaneously expressed their increasing confidence in his administration.

Sir, this confidence was not based merely on the gains he achieved for us in the efficient organisation of the main factor in our economic life. It was fed from some quality of the man himself, who had within him a fount of enthusiasm we never knew to fail, and a power to concentrate all his faculties ceaselessly on his beloved work—concentrate indeed with that unreckoning devotion to which now we owe his loss.

And yet again there was some further mystery of charm which conquered friend and foe of debate alike. I say "of debate" because enemies I believe no man in this Council had fewer. But even there, when the clash of opinion rose to a note sharper than the usual tone, we must all remember both the passionate sincerity and the disarming boyishness of manner which could leave but one impression upon his hearers. Because he was single-minded we trusted his judgment; because he was simple of heart we gave him our affection in any crisis.

That crisis, Sir, has now arisen which was furthest from our thoughts and expectation; but it is the only one perhaps in which we can fully know our thoughts, with the solemnity which silence alone can give them.

I beg to move that this Council do now adjourn.

THE HON. CONWAY HARVEY: Your Excellency, all the elected members desire to associate themselves with this tribute to the memory of our esteemed colleague who has done so much to mould the destiny of Kenya and join with Lady Felling and other members of the bereaved family in mourning the all too premature passing of one whom we have ever regarded as an outstandingly efficient General Manager, a good sportsman and a warm friend. Long after many of us have been forgotten Sir Christian Felling's work will stand as a permanent memorial to one who, regardless of his personal convenience unstintingly and at all times gave of his very best to the Colony in which he took such a deep and abiding personal interest.

HIS EXCELLENCY: Honourable Members of Council, I hope that I may be allowed to say a few words about this motion, not as President of this Assembly—for in that capacity it would be my only duty to put the question to the House—but in the unusual capacity here of High Commissioner, since there is present in this Council, now that Sir Christian Felling's chair is vacant, no other representative at the moment of the Railway and the Port.

Of Sir Christian Felling's achievement it is almost superfluous to speak. In five years he transformed the whole working of the Railway and he transfigured its finance. No man realised more clearly than he did that behind that achievement lay the progress of the country and the energy of all who contributed to its development. No man understood better that the prosperity of the Railway was due in the first place to the vigorous expansion and steadily increasing production of both the Territories which the Railway served. But in new countries like this Railway development and general development are very closely allied. The steady policy of new construction which Sir Christian Felling pursued and which, without his foresight, without his gift of management, without his powers of persuasion, it would have been difficult to pursue—that policy was responsible itself in no small part for the increase of production on which the Railway thrives.

In these things Sir Christian Felling had the eye of faith; but he worked for the future without ever losing his hold upon the present and without ever over-taxing its strength. There was always associated with his steady policy of new construc-

tion an equally steady policy of renewals and betterment from revenue, for which he was often criticised, and also a thrifty, thorough and unceasing care for sound finance. The triumphant testimony to what he achieved in that respect is the success of our recent loans. I may also tell you—news which reached me this morning and which would have delighted him in every way—that the Secretary of State and the Lords of the Treasury have now approved the new berths at Kilindini, which this Council voted at Sir Christian Felling's instance only three or four weeks ago.

It must be remembered, also, that rapidly increasing production, while it helps a railway to pay, is also a terribly severe tax upon organisation and management, and I say without hesitation, for I saw it daily, and I saw it very close, that it was Sir Christian Felling's practical genius, and that alone, which brought the Railway triumphantly through the prodigious strain of the last five years.

The industry, the devotion, the resource, the skill which went to that achievement I was perhaps better placed than others to appreciate. He had in a very high measure the power of inspiration and leadership. He spared inefficiency or untrustworthiness in others as little as he spared himself, but he always held the affection and loyalty of his staff. Another unusual quality was the extent to which he combined great technical grasp of the business of railway management with a very high order of financial foresight and skill. That combination will be hard indeed to replace. You may find good technical managers, you may find good advisors on finance, but to find the two qualities combined in one man is rare indeed.

But above these things, I always felt that one quality in particular stood out. That was a certain natural and intuitive statesmanship which informed all he said and did. It showed in his discussion of every problem, but especially in two ways. He had, in the first place, a rare insight into the political and economic structure which underlie all development. He understood the need of a sound, political structure if other things are to thrive. He understood the play of forces and he never underrated the human element. Hence his wide interest in all our affairs—an interest much wider than those who were not living in close relations with him were able perhaps to realise. He often spoke to me about matters which were entirely outside his own province because he was deeply interested in them and liked to discuss them. An example of this was the Native Lands Trust Bill, which he held to be of the utmost importance. I shall never forget the pleasure and encouragement he gave me after I had spoken on that measure, when he came to tell me that he hoped that speech would be

a landmark in our affairs and that he shared to the full my faith in what the Bill would do for all races, and particularly for the native races, of this Colony. There are so many who misunderstand our problems that it is terrible to lose one who understood them so well. Another example of his interest in native progress and his belief in native capacity was the great impetus given under his management to the training and employment of Africans in the Railway workshops and on the Railway generally. He was one of the first to demonstrate how highly skilled as mechanic and artizan the native of Kenya can become.

In assessing his great services, it is necessary to remember that he was the servant of two Territories. That has always caused, and in present circumstances must inevitably cause, a peculiar anxiety and strain. There again his natural statesmanship came to his aid. He saw both Territories in perspective, and he was equally devoted to the interests of both. He had indeed the truest political instinct. He knew—no man better—that no public service can thrive permanently without the understanding and good will of the public which it serves; and that understanding he strove for with all his might. He was often indeed far more deeply agitated than people probably realised by evidences of public hostility to any policy which he believed to be in the public interest. His training in South Africa, which was in part political, greatly helped him on that side of his work; and I should like to-day, when we are honouring his memory, to acknowledge also our great debt to the Dominion from which he came and to the Government of that Dominion for sparing us his unrivalled services.

I would like to say only one thing more, and that is on the personal side. There was about Christian Felling, with all his sheer practical capacity, a touch of knight-errantry, a spirit of high and gallant endeavour, which thrilled to the romance of creative work and counted not at all the sacrifice of ease and health which would have deterred a lesser man. Often when I was speaking with him I thought of Kipling's lines to the "True Romance":—

*"Who holds by thee hath Heav'n in fee
To gild his dross thereby.
And knowledge sure that he endure
A child until he die."*

Christian Felling had the charm of mind which that sense of romance bestows. He was a singularly lovable man, in whose life the baser elements of our nature had little part, and with all his wisdom, with all his practical genius, with all his power of work, he had the eager, sensitive, appealing temperament of a boy.

I cannot think of him as growing old. He has passed, a gallant spirit, in the plenitude of his powers, his life given for the Empire in East Africa as truly and completely as any life laid down in the war, and I think we may believe that for Christian Felling as for Greatheart when he crossed the river, all the trumpets sounded on the other side.

I would like to add my tribute of deep sympathy to those which have already been tendered to Lady Felling, who was always to him the most helpful and truest of wives. I should also like to give my sympathy to his children, and particularly to his son who is at New College now.

While our sorrow cannot compare with theirs, I for one shall miss daily not only his official services, which were great indeed and correspondingly hard to replace, but also and above all the sense of companionship which always came to me when discussing problems with him. We have lost in him a brave and brilliant public servant, a noble and inspiring character, a personality of great sincerity and charm, and one of this country's truest friends.

The best tribute that we can pay to that vanished spirit is to ensure that his work is not squandered, but well and truly carried on. I am sure that as a Council we shall strive to do that, and that the Colony as a whole will keep his memory with affection and always honour his name.

I will ask hon. Members to stand while the question is put.

The question is that this Council do now adjourn.

The question was put and carried.

THE COUNCIL ROSE AND STOOD IN SILENCE.

Council adjourned to 9.30 a.m. on Wednesday,
the 22nd August, 1928.

WEDNESDAY, 22nd AUGUST, 1928:

The Council assembled at 9.30 a.m. on the 22nd August, 1928, at Government House, Mombasa, His EXCELLENCY THE GOVERNOR (SIR EDWARD WILLIAM MACLEAY BRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding:

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Ex-Officio Member:

BRIGADIER-GENERAL GODFREY DEAN RHODES, C.B.E., D.S.O.,
Acting General Manager, Kenya and Uganda Railways
and Harbours.

MINUTES.

The minutes of the meetings of the 17th and 20th August, 1928, respectively, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE DIRECTOR OF PUBLIC WORKS:—

Report of the Public Works Department for the year 1927.

ORAL ANSWERS TO QUESTIONS.

WATER SUPPLY AT ELDORET.

THE HON. T. J. O'SHEA asked:

"(1) When is it expected that the water supply at Eldoret will be available for the public?

(2) What is the cause of the excessive delay in completing its construction?"

THE HON. THE DIRECTOR OF PUBLIC WORKS replied:

(1) "It is expected that the major portion of the township will be supplied by the end of September.

(2) The delay has been due to the pipes not having arrived as soon as anticipated and it is stated to have been due to a breakdown at the suppliers' factory."

THE HON. T. J. O'SHEA: Your Excellency, arising out of that answer, may I ask whether the contract for the supply

of these pipes includes a delivery clause and what compensation, if any, has been made to Government in respect of the delay in delivery of such pipes.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, the matter has been referred to the Crown Agents for the Colonies and they are enquiring into the matter. We have no details here.

THE HON. T. J. O'SHEA: Your Excellency, again arising out of that, may I ask why the building of the reservoir which is a necessary part of the scheme was not given out to contract until a fortnight or three weeks ago, when it will take three months to complete.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I shall require notice of that question.

ELDORET SCHOOL BUILDINGS.

THE HON. T. J. O'SHEA asked:—

"In round figures, what is the estimated loss to the 31st July, on the building of the new school at Eldoret due to delays arising out of materials not being available when required?"

THE HON. THE DIRECTOR OF PUBLIC WORKS replied:

The loss on account of increased overhead charges is estimated to have been between £300 and £400.

THE HON. T. J. O'SHEA: Your Excellency, arising out of that answer, may I ask what has been the loss in unproductive labour?

THE HON. THE DIRECTOR OF PUBLIC WORKS: I am not aware of any other loss than that which I have stated, Your Excellency.

THE HON. T. J. O'SHEA: May I ask what has happened to the men who have been standing idle during the time the materials have not been available?

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I am not aware that any men have been standing idle during that period. The delay has been due to the failure of the contractor to supply bricks and I believe that the men were employed on other work during that interval. I am perfectly certain they were not standing idle.

ELDORET NATIVE HOSPITAL.

THE HON. T. J. O'SHEA asked:—

"When were the new native hospital buildings at Eldoret completed, and at what cost?"

How many patients have been treated there up to 31st July, 1928?"

THE HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS) replied:—

The new native hospital buildings at Eldoret are, I understand, complete except for additional drainage, the installation of which is strongly advised by the Medical Officer of Health, Eldoret. The matter is under consideration with a view to provision from savings on the cost of erection.

2. I am informed by the Public Works Department that the actual cost of erection of the new native hospital at Eldoret has not yet been arrived at; the figure will not, however, exceed the original estimate.

3. The building has not yet been taken over and no patients have been treated therein.

THE HON. T. J. O'SHEA: Arising out of that answer, may I ask whether it is not the case that the buildings were actually completed three or five months ago?

THE HON. DIRECTOR OF MEDICAL AND SANITARY SERVICES: Your Excellency, may I refer that question to my hon. Friend the Director of Public Works? Otherwise, I must have notice of that question.

THE HON. T. J. O'SHEA: On a point of order, may I point out that that question was embodied in the original question?

HIS EXCELLENCY: There is no obligation on members of the Government to answer a supplementary question, but they can answer any supplementary question if they wish to do so.

THE HON. T. J. O'SHEA: Will Your Excellency be good enough to see if that question was not down in the original question?

HIS EXCELLENCY: The Hon. the Director of Medical and Sanitary Services has answered it to the best of his ability. If the hon. Member is not satisfied with the answer he will no doubt put it down again in another form.

DEFINITION OF ENCLOSED LAND.

THE HON. CONWAY HARVEY asked:

"Will Government be pleased to consider the introduction of an amendment to section 2 of Ordinance No. 10 of 1924 so that a railway, road or other easily identifiable permanent mark may be included in the definition of 'farm boundary'?"

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT replied :

The answer is in the affirmative.

KITALA WATER SUPPLY.

LIEUT.-COLONEL THE HON. J. G. KIRKWOOD asked :

"What provision has been made towards providing funds for the Kitale water supply?"

THE HON. THE DIRECTOR OF PUBLIC WORKS replied :

No provision has yet been made. A sum will be included in the Draft Estimates for 1929 for the consideration of this Council."

MOTIONS.

PROPOSED FILM CENSORSHIP RULES.

THE HON. T. A. WOOD : Your Excellency, In proposing this motion I will ask the leave of the House to alter the word "the" to the word "a,"—that is the word "the" occurring before "Select Committee." When I drafted the resolution I was not aware that the Select Committee concerned had already been dissolved and therefore the motion standing in my name is not exactly, in my humble opinion, correct. I would ask to be allowed to move :—

"That this Council resolves that the proposed Rules regarding censorship of films be referred back to a Select Committee for reconsideration."

HIS EXCELLENCY : The hon. Member can move that later as an amendment to his motion, but I think it would be simpler to move his motion and then move the amendment later if he chooses to do so. It is purely a verbal amendment and I have no doubt there will be no difficulty in Council.

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

THE HON. T. A. WOOD : I beg to move :—

"That this Council resolves that the proposed Rules regarding censorship of films be referred back to the Select Committee for reconsideration."

I would like to preface my remarks by an apology to those members of the original Select Committee who must have spent considerable time in preparing their recommendations, and were it not for the fact that there is an overwhelming volume of popular opinion against these proposals, I would be one of the last to question their advice to Government on

the subject. Now, I like to look at the position this time from the Government point of view. I take it the ideal of Government in this country is the development and elevation of the native races, but they must not lose sight of the fact that they have partners in that undertaking—their principal partner being the members of the European community. So one has to take extreme care that there should be nothing introduced into local public life which is calculated to depreciate the value of that partnership. And when it comes to the exhibition of films, especially in a country of mixed races such as we have, one of the most important considerations is to control that element of depreciation, more especially in regard to the women folk—that, I think, is the foundation of this opposition which has arisen in very great strength from a well-known women's association, the East African Women's League.

We find that the proposals under these Rules depart in principle from the established practice elsewhere to a marked degree, although my contention is that this is a country in which we have to take more care. Take for example one proposal. The films which have been censored in other parts of the world may be passed without other censorship here. I submit with respect that films that are censored in England are not necessarily suitable to this country. Again, many films that are censored in South Africa are censored specifically for European audiences as against all other audiences. The proposal to appoint one censor with a Board of Appeal appears to me to be likely to break down very early. I cannot conceive that individual being prepared to take the responsibility and it seems to me that the Board of Appeal would be a body which would have to do the work. Why not therefore follow the practice in other countries and appoint a censorship board of three people in the first instance?

There is another point in this argument which seems clear and that is what was the reason for these alterations? We had a censorship which appeared to work very smoothly until we got up against trade interests. Trade interests complained that they were being harshly treated and the existing legal machinery was broken down.

On the question of the necessity of very careful scrutiny in regard to the films which are to be exhibited in such country as this, I beg to refer to what the Prime Minister of England had to say on this subject. He is reported to have said that he looks with the greatest apprehension on the effect of exhibiting the commoner type of films, as representing the white races, to the coloured races. Presumably he included all coloured races without distinction. Another reason why one has to take great care is that owing to some slackness

at some point we have already had a regrettable instance in this country. I refer to the case of an exhibition—I think at Kitale—of a film entitled: "Trapped by the Mormons." I understand that this was suppressed by the action of the local population. That indicates another weakness in these proposed Rules. I gather that there is an Appeal Board to which the public can appeal, and I suggest that possibly by that time the damage will have been done; that is to say that before they can get an opportunity to judge, and have a ground for their appeal, the film will have been exhibited. Now, Sir, as I am perfectly certain that I have the support, at any rate of all Members on this side of the House.

THE HON. T. J. O'SHEA: No.

THE HON. T. A. WOOD: . . . with the exception of the Hon. Member for Plateau South.

I have very little more to say. I don't wish to cover the whole of the ground, more particularly as they have very kindly permitted me, almost the youngest among those who have been recruited at the moment, to propose this motion in the first instance.

HIS EXCELLENCY: Now that the question is before the House I think it will be convenient if the hon. Mover will move his amendment so that we can dispose of that and resume the debate on the main question.

THE HON. T. A. WOOD: With Your Excellency's permission I will propose that the motion be amended by the Member for Plateau South. I have very little more to say. "Select Committee."

HIS EXCELLENCY: The question is that the motion be amended by the substitution of the word "a" for "the" before the words "Select Committee."

THE HON. CONWAY HARVEY: I think there can be no doubt, Sir, that the present film censorship arrangements are totally inadequate when such films are exhibited to coloured races as portraying blood-thirsty scenes from the French Revolution, the massacre of the Huguenots, and attacks by Red Indians on the early settlers of Virginia, and while in the advertisement columns of the "Standard" I notice a recent cinema attraction is described as "a thrilling story of the debauchery of King James I court." A really star film exhibited on June 30th is described as "Screenom's supreme achievement, depicting all the emotions of the human heart—love and lust, pathos and passion, courage, bravery and strength.

Now, Sir, I may be old-fashioned, but I am not a purist.

This sort of food develops criminals and idiots and should certainly be barred to all African coloured races whose criminal instincts will develop quite quickly enough without the stimulus of picture shows of this description. The prestige of the white man, who is likely to remain the governing race in Africa for all time, must inevitably suffer from the exhibition to natives of howling mobs tearing through the streets of Paris with gory heads held aloft on crude, improvised weapons; men rioting with women in night clubs and various phases of domestic infidelity.

The theory that the cinema is being used as propaganda to wear down slowly and subtly the prestige of the white race in the eyes of the coloured races is undoubtedly based on a large amount of fact, and I do consider that we in Kenya should follow the lead of practically all civilised countries and insist on a rigid system of censorship.

I have looked into the matter and I think I am right in saying that every country, colony and dependency has these matters controlled by a carefully selected Board of Censors. So important is this work considered that in South Africa the Transvaal Board of Censors will not accept the finding of the Cape Colony's Board of Censors. They insist on doing it independently themselves. In Australia the Federal Ministry appointed a Royal Commission to go into this matter. That Commission unanimously recommended the appointment of a board of three censors, one of whom should be a woman. I think in this matter it is very important indeed that so far as possible all the East African Dependencies and Colonies should embrace a common policy. In Uganda this matter is regarded very seriously indeed: In Tanganyika all films are censored by a Board of five representative people and I consider that we in Kenya might quite appropriately fall into line with these Colonies in this respect.

In many ways Kenya leads the way and I think it is very unfortunate indeed that in an important social matter of this sort Kenya should lag far behind, not only the rest of the civilised world, but even its adjacent territories.

I trust Your Excellency will appoint a strong and representative Committee which will hear evidence from anyone who is likely to prove helpful and that the justification will be forthcoming for a set of Film Censorship Rules more in keeping with the requirements of Kenya than the Rules which have failed so lamentably hitherto.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, as a member of the Film Censorship Committee I associate myself with the desirability of reopening the whole matter, because, Sir, although that Film Censorship Committee made

definite recommendations, those recommendations were not embraced in the Rules decided upon. Rather than merely having Rules, I think it is desirable that we have definite legislation to deal with this subject and not deal with it as an incidental part of controlling stage plays and shows. I believed that at the time of the framing of these recommendations that all the films entering this country should be censored, and that we should not accept the censorship of any other country where other conditions are and dissimilar races exist. We are not concerned with the amount of work involved for members of the Film Censorship Committee, or the sum of money required; if we are convinced that this work has to be done, and we are so convinced, then the work must be done irrespective of its cost.

THE HON. T. J. O'SHEA: Your Excellency, I have pleasure in opposing this motion, very largely because it gives me an opportunity of making a public protest against certain efforts and appeals, although I know I am in the minority of opinion on the subject. In carrying out their propaganda to bring about a more severe censorship of films, a certain ladies' association endeavoured to secure my support. I begged to disagree with their views and then an effort was made to compel me to express my opinion on that subject. Therefore—largely as a protest against that attitude—I oppose the motion. I do so, Sir, at the same time to gain a hearing on this important subject. With the necessity for censoring films to be shown the native population of the country, I am entirely in agreement. I agree, even though I hold the view that it is necessary to restrict, as far as ever possible, the interference of Government in the aesthetic activities of the people. Governments are, as a rule, very stupid and very unintelligent when they endeavour to enter into that sphere. To listen to the learned speech of the Hon. Member for the Lake one would think that the films that are being shown in this country and available to natives have been doing an immense amount of harm. I suggest that we keep to the facts and leave this theorising out of the question for the moment. There have been a number of cinema theatres in this country for a period of years showing films under a sort of censorship. The sort of pictures some people would object to for natives have been shown to them for all these years, and one would have thought that if there was any likelihood of them acquiring a taste for that sort of thing, they would have done so long ago. What are the facts. It is a very small number of African people who go to see the pictures. I am not myself a film fan but I have ascertained that those who are endeavouring to make a living out of the supply of these films find a very small number of natives going to their shows. I agree that

a censorship of films for natives is necessary, because a native has not that wider knowledge of life to give him the right perspective. But, when it comes to an effort to give an extra censorship to films for the Europeans in this country, I most emphatically protest. The recommendations of the committee are in my opinion quite adequate to deal with the situation. It is carrying the thing too far. There is no necessity for Government to take the place of the parents and supervise the pictures that are being shown to children. It is suggested that a board of three would be better than one individual censor. I disagree, and I suggest that those who are so keen on a board of three instead of one individual are not conversant with the work that is necessary if it is to be properly done. I understand that in England the Chief Censor there is paid a very large salary indeed and that he has a staff to assist him in the performance of his functions. Here, in Kenya, there are, I should think, not less than ten different films shown per week. To exercise the function of a censor properly, each and every one of those films should be seen in its entirety by the censor. I should like to know how this committee of three will exercise these functions. Again, Sir, I think those who are so keen on a more severe censorship have left out of consideration that there are many other directions in which the mind of the native and the mind of the Indian and the mind of the juvenile European can be affected in ways to which people can take exception. Going across the ferry recently I noticed that the natives were bringing home their purchases from the native market wrapped up in pieces of paper torn from two well-known English periodicals, the circulation of which is as great a menace to the development of the native as any films which are distributed. (Hear, hear.) It seems to me that you are allowing the Government to mould policy upon the views of a limited section of the community. If another committee is going to be appointed to go into this matter, I sincerely hope it will not be unduly pressed by vagaries of people who are a very small section of the community and that every effort will be made to hear the views of those who have the temerity to disagree with their point of view.

LIEUT. COLONEL THE HON. LORD FRANCIS SCOTT: Your Excellency, I support this motion and first of all I should like to reply to some of the remarks of my hon. Friend on the right (the Hon. T. J. O'Shea). He said in his opening remarks that he was representing the minority opinion. Therefore, I presume he recognised that the majority does agree with this motion, and I am sure that such a good democrat as he believes that the majority rules, though further on he says this is all an agitation by a very small section of the community.

Judging by the correspondence I have had from my own constituency it seems to be the unanimous wish in that constituency anyhow.

I have had letters from all the associations there and not only from the East African Women's League. The Women's League does now represent a very big proportion of the women of the country and from all quarters—from all the branches of the Women's League—the correspondence shows that they feel very strongly on this subject.

Another of the hon. Member's arguments, Sir, is that, as very few natives have so far attended the cinemas, it does not matter so much. Well, Sir, I do not think it is really an argument. It is very fortunate, if there have been bad films shown, that very few natives have seen them. But that is no guarantee that more natives will not get into the cinemas in the future. Now is the time to close the door—it is no use waiting until the horse has left the stable.

Another thing he said was that it was no good bothering about films when some of the newspapers coming into this country printed matter which did even more harm. Well, Sir, if we could prohibit these newspapers from coming into the country it would be an excellent thing, but it is not practical politics—unless the publishers give some reason, such as for instance publishing seditious matter, etc., to prohibit certain newspapers.

The reason why I support this motion is because I believe I am voicing the general feeling of the people throughout the country, and there are three points on which the people are specially keen; one is the question of a censorship board of three. Well, Sir, I think there are arguments both ways for a single censor or a board of three or more. In other countries it has been found that it is better to have more than one. In most other countries—and even quite recently in Australia—they have appointed a Board of three, including a woman, and I do think in this country there should be a lady on the censorship board.

With regard to doing the work, there is one man—one censor—who has got to do it in any case, the ladies of the Colony are prepared to find another one, and it is only a question of a third one over which they may be any difficulty.

Personally I think these cinematograph shows are such a very big agent for either good or evil that it is well worth the country's while spending a little money to ensure that the people are guided in the paths of good and not evil.

I do not think there is any question that the films shown in Great Britain to-day have added enormously to crime,

especially so amongst the juveniles, and I do not think that because a film is passed for exhibition in England it is necessarily suitable for other countries. Many of the films shown there certainly cannot be of any use and, on the other hand, they may do a great deal of harm.

Two years ago, when I was attending the Unofficial Conference at Livingstone, the representative of all the Territories present were unanimously in favour of a very strict censorship on films and they also agreed that they could not accept films which had been censored by other countries.

The one exception which was quoted at that time was the Transvaal censorship. That is very much stricter on account of the difficulties they have with various racial questions, and, as has already been stated by the Hon. Member for the Lako, the Transvaal will not accept films which have been censored in Cape Colony.

I do hope, Your Excellency, that Government will see their way to accept this motion, because I do feel it is very generally the desire of the country at large, and it would cause a great deal of satisfaction to the people of the country if Government could see their way to agree to this.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I wish cordially to support this motion and, as one who has had considerable experience in censorship of films in this country, I thoroughly endorse the view that the censorship should be increased to three persons. When I was censoring here I refused to licence two films for show to Europeans. In regard to one I had to give way as it had been already shown in Nairobi, but the other was not allowed. I always welcome any censorship of films. I do not agree that it is necessary for a censor to go straight through a film which is well-known.

Another point. If possible, I should wish that a very large proportion of the films allowed in this country should be of British manufacture. In Australia they insist on a very large proportion of films being of British manufacture.

REV. CANON THE HON. H. LEAKEY: Your Excellency, as one who holds the view that an invention which might have the most extraordinary high educative value is in danger of becoming, if it has not already become, a terrible curse in Europe and the world over, because of the tendency to pander to the tastes of those who wish for anything but elevating pictures, I entirely agree with those who have already spoken in favour of greater care being taken in the choice of films to be exhibited to such a mixed population as we have in this Colony.

I was glad to learn from a former speaker that the natives have not yet learned to squander their money on going to see such pictures as we are dealing with, but I would like to point out that the posters which are shown in our streets to advertise them are a disgrace and must tend to lower the prestige of the white man in the eyes of the natives. I think it is a disgusting sight to see a crowd of untutored and uneducated natives in the streets of our capital, and of this town, standing and gazing at some of the pictures of people with white faces which are exhibited on the posters.

Assuming that the object of the hon. Mover's motion is that there may be a very much severer censorship of films in the future I most cordially support the motion.

LIERT.-COLONEL THE HON. J. G. KIRKWOOD: Your Excellency, I am in sympathy with the motion before this hon. House, and I suggest that it is more or less a domestic matter. The difficulties seem to be mostly on the financial side—whether it should be a single censor or a board of three. I think this should be left to the House to decide, and it should also have the support of Government.

I think there can be no question that this side of the House is very much in favour of the motion, and I trust that Government will support the motion.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN): Your Excellency, I have been at some loss to understand this debate. It has taken a line which to me is quite unexpected, and it has ranged over almost the whole field of the local problem of film censorship. While the general insufficiency of the Rules as drafted has been argued, I have been puzzled by the lack of any specific reference to their provisions. For instance, so far as I am aware, the really controversial point in the Rules recently has been the proposal for a single censor and a board of appeal. Perhaps that point is so obvious that it was not worth mentioning; but it is surprising to find that instead the principle of the Ordinance itself is debated.

However, perhaps the root of the trouble is that whereas discussions in the past have centred on the avoidance of an over-strict application of censorship, the fear now is that it may be too lenient. Recent events may have influenced Members' minds, and they provide the only reason for a general reconsideration that I can imagine. I am, however, to say that the Government accepts the motion. (Hear, hear.)

HIS EXCELLENCY: Does no other hon. Member wish to address the House? Does the hon. Mover wish to exercise his right of reply?

THE HON. T. A. WOOD: No, Sir.

HIS EXCELLENCY: The question is:—

“That this Council resolves that the proposed Rules regarding censorship of films be referred back to a Select Committee for reconsideration.”

The question was put and carried.

BILLS.

FIRST READING.

AERIAL NAVIGATION (REPEAL) BILL, 1928.

On motion of the Hon. the Acting Solicitor General (Mr. McCarthy) the Aerial Navigation (Repeal) Bill was read a first time.

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

SECOND READINGS.

HARBOURS REGULATIONS BILL, 1928.

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIGADIER-GENERAL RHODES): Your Excellency, I beg to move the second reading of the Harbours Regulations Bill, 1928.

I do not propose to take up the valuable time of this Council unduly by giving a lengthy description of this Bill.

The need for a Harbours Regulations Bill is well known. It is required to give effect to that part of the Transport Order in Council of 1925 relating to Harbours and was referred to by Your Excellency in your opening address to this Council this Session.

The Bill itself has been under consideration for over two years. In drafting the Bill advantage was taken to consult every possible source of information regarding the practice found essential in other parts of the world. South African legislation was carefully studied, as also legislation dealing with the Malay Peninsula and the harbours of Singapore and Penang.

It is believed, therefore, that the Bill is a comprehensive one, framed on practical lines and based on experience elsewhere. In addition, it has been brought into line as far as possible with existing laws in the Colony, including the recently enacted Railway Ordinance.

Moreover, it has, I think, been before every representative body who would be interested in such matters, and their recommendations have been carefully considered and, where possible, incorporated in the revised draft now before Council.

Finally, the Harbour Advisory Board have very carefully examined the Bill, and, I understand, are unanimously in favour of it. I trust this fact will be given due weight, as the Harbour Advisory Board is fully alive to the requirements of the ports of the Colony and is continually giving the most valuable assistance to the Administration.

The Bill itself, as shown in the schedule, concerns Mombasa and three minor ports. Its importance is, however, regulated by the importance of Mombasa, not only to this Colony but also to Uganda.

It is essential that a Bill should be so drafted as to permit the fullest opportunity for development and efficient management. I believe the Bill now before the House to be so designed.

As stated above, the objects and reasons for this Bill are already widely known and I do not therefore at the present moment propose to deal with it any further in detail. These objects and reasons are briefly stated at the end of the Bill and it is not necessary for me to go any further into this matter. It is suggested that the principles are generally accepted. There may be details still to be thrashed out and cleared up. Government is very anxious that these details and objections should be considered and is prepared to meet any suggestion that can be accepted, in every possible way. I therefore suggest that the second reading be agreed to with as little delay as possible in order that this Bill may be referred to a Select Committee where the details themselves can be fully thrashed out.

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

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

HON. J. CUMMING: Your Excellency, I have listened with great interest to everything the Hon. Acting General Manager for Railways and Harbours has said. I also admit that there have been many alterations in the revised draft. At the same time I still think that there are many points requiring careful consideration.

The first point in which I think the Bill requires alteration is that it gives too wide powers to the High Commissioner for Transport. The High Commissioner for Transport need not be the Governor of Kenya. We must remember that the Kenya and Uganda Railway to all intents and purposes is a large company with two shareholders. There is a possibility, and I think it will be realised, that there will be more shareholders of this Railway. That being the case, I think Kenya should be very careful of what it does with its own property, and Mombasa to all intents and purposes belongs to Kenya.

Secondly, the powers granted to the High Commissioner for Transport are liable to conflict with the rights of the Crown, the Municipality and private persons. With Your Excellency's permission I shall give some examples.

According to clause 4, item (a), the High Commissioner for Transport can "acquire, take, use, hire, purchase, work, sell, lease, deliver, transfer or otherwise lawfully dispose of property . . . for harbour purposes and turn the same to account."

In clause 4, item (b), he can "construct, maintain and repair roads, bridges, or any other works whatsoever."

In clause 5, item (b), he can "alter streams or water courses for the purposes of constructing and maintaining bridges, passages, or other works."

In clause 5, item (f), he can "take, carry away and use any earth, stone, timber, gravel or sand out of land adjoining any harbour and other works," without necessarily consulting the municipality or the private person involved. It might be inserted that these powers should be restricted to areas excluded from Crown and private land for Port purposes.

Then again in Part IV, clause 38, "the High Commissioner for Transport shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay the tax."

I do not think any of us wish a Municipality to be paid taxes on a Port or rather on an area railed off as a Port, but we certainly think that on ordinary buildings and such like for residential quarters the Railway should pay the same as any other department. I would therefore suggest that that clause might be re-drafted and written the other way—that "the High Commissioner for Transport shall be liable to pay any taxes in aid of the funds of any Local Authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner not to be liable to pay the tax."

Then there is another important question—that is the question of the foreshore.

According to Part V, clause 50, item 14, the High Commissioner for Transport has powers conferred upon him in connection with the "prevention of obstructions and the preservation of good order on the foreshore . . . or the approaches to the same." This surely may conflict not only with private foreshore rights but also Crown rights over Mangrove Reserves.

I think the solution would be that the whole of the foreshore rights should be vested in the Governor in Council and that the Port Authority should apply to the Governor in Council as land thereon is required for public purposes.

Thirdly, there are a number of terms used in the Bill which are not sufficiently defined, for example, according to clause 3 of the Bill "ferry" includes a bridge of boats, pontoons or rafts, a swing bridge, a flying bridge and a temporary bridge. I think it would be better if "ferry" was defined quite separately from "bridges" and also a proviso added that bridges may, upon sanction of the Governor in Council come under the jurisdiction of municipalities in the case of such bridges being component parts of any road scheme.

The definition of "harbour" and "port" is also too loose. A port should be definitely stated to be that area definitely allocated by the Governor in Council for port purposes.

It may further be said, I think, Sir, that the looseness of definition is also shown in the definition of the area of jurisdiction of the High Commissioner for Transport. While the extent of his jurisdiction on the seaward side is carefully demarcated, no definite limit appears to be set to the extent of his powers on the landward side. The schedule at the end of the Bill, where the area of jurisdiction of the High Commissioner is supposed to be defined—"harbours, places or areas of sea or land mentioned in the schedule to this Ordinance"—should be amended, as it is very vague and should be more clearly put, as follows:—

"1. (a) The Harbour of Mombasa, including the Port of Kilindini, Port of Mombasa, Port Reitz, Port Tudor and the whole of the waters encircling Mombasa Island. The waters of the Harbour are bounded on the seaward side by a line drawn from Ras Kunwongbe to a point on the shore of the mainland half-a-mile south of Ras Mwaku Singe.

(b) The Port of Kilindini, including such area of land as may be declared by Order of the Governor in Council

to be part of the Port of Kilindini, more particularly defined as that area etched in black on the plan attached to the report of the Port Commission, excluding such area as may be specifically allocated to Railway services only by the High Commissioner.

(c) The Port of Mombasa, including such area of land as may be declared by Order of the Governor in Council to be part of the Port of Mombasa."

HIS EXCELLENCY: I do not wish to interrupt the hon. Member, but the time for dealing with the detailed schedule is in Committee. He is going rather beyond the principles of the Bill at the present moment.

THE HON. J. CUMMING: Well, Sir, I would ask that there should be a more defined definition of the Port and I would go further and say that the question of Malindi, Lamu and Kilifi should also be considered further. Possibly the hon. and gallant Member for the Coast will have something to say about the latter.

THE HON. CONWAY HARVEY: Your Excellency, I have been asked to mention to Government that Elected Members have been rather handicapped in considering this Bill, due to the fact that at least two editions of the Bill have been published and I would suggest that in future when new editions are published that they be marked in some way so that members can very easily recognise the latest edition. It is a very real inconvenience, Your Excellency, which we would ask Government to put right.

With the main principles of this Bill, namely that the Ports should be controlled by the High Commissioner, I am sure we all must cordially agree, but a great many of what I may call the minor principles we are not quite in complete agreement with. The hon. Member who has just spoken has drawn attention specifically to a considerable number of these points. The two outstanding ones, Your Excellency, are the ownership of land and the principle that the High Commissioner should be relieved of the necessity of paying municipal taxation. I hope, Sir, it is not contemplated for one moment that port and harbour land, which undoubtedly is a Kenya asset, is to be thrown into an inter-Colonial pool, and, so far as municipal taxation is concerned, Your Excellency, it seems to me that this Bill rides completely roughshod over one of the main recommendations of the Feetham Commission. I think in Chapter VI, Your Excellency, they lay down quite clearly that the Government should in all ways share the liability of anyone else domiciled in a municipal area for municipal taxation. As Your Excellency so truly said on Monday, no public service can thrive permanently without the understanding and goodwill of the people concerned. I

sincerely trust that the Select Committee about to be appointed will invite expressions of opinion from various local bodies who can be very helpful indeed in drafting legislation which will be of permanent value. I refer to such bodies as the Port Advisory Board, the Local District Committee, the Shipping Companies and Local Administrative Officers, all of whom I suggest are capable of contributing something of very real value to the purposes of this measure.

MAJOR THE HON. R. W. ROBERTSON-EUSTACE: Your Excellency, there is one clause that may be added to the Bill. That is that the Port officer should also be given the powers of a magistrate, so that he can deal with certain cases under the Shipping Ordinance and the Master and Servants Ordinance.

Also in the schedule there is no . . .

HIS EXCELLENCY: I would remind the hon. Member that we are discussing the principles of the Bill, and amendments to the Bill should be discussed in Committee.

THE HON. T. A. WOOD: The hon. and gallant Mover of the Bill has inadvertently compelled me to offer comments, when he said that as far as he knew the Harbour Advisory Board were unanimous on certain points, because I happen to be a member of that body at the moment, and I for one am fully in agreement with all the principles that were put up by the Hon. Member for Mombasa, who also happens to be a member of the Harbour Advisory Board. Land in Kenya does belong to Kenya and not to the joint partnership, and also the rights and interests of the municipal body in Mombasa must be safeguarded because this Harbour organisation is going to work more or less inside their area. There are various points of that kind which occur throughout the Bill.

I think the hon. Member for Mombasa did not read the reference to the removal of earth and soil fully, because I think permission must be obtained for a thing like that under the common law when you are dealing with people's land. Provided Government is in agreement to leaving it to a Select Committee to thresh out and produce a workable measure that is fair to everyone concerned, I shall be perfectly happy.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, in this legislation one of the fundamental principles which the Feetham Commission was appointed to consider arises, and that is the principle of taxation by local authorities of possibly opposing Government authorities in the same neighbourhood. I have raised the question of the appropriateness of taking the Feetham Commission piecemeal, and in this instance

we find that Government utilises such portions of the report as are favourable to Government's policy, and definitely passes by such other portions of that report as are unfavourable. I raised the point before that it was inadvisable to take such portions piecemeal that were favourable to Government's policy without first discussing the report as a whole.

HIS EXCELLENCY: Does any other hon. Member wish to address Council?

THE HON. THE ACTING GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I am glad to note that there is so little objection to the principles of the Bill, and I think that most of the details that have been referred to can adequately be dealt with by the Select Committee, which will, I hope, be a very representative one and will, as suggested, take all the evidence possible from not only people representing local interests, but possibly people representing all the country interests as well.

The idea at the back of this Bill is not to ride roughshod over any authority that already exists, but to provide for what the Port of Mombasa will become in the future and to see that legislation is so designed as to enable it to become such a Port, and further to enable the Port to be efficiently managed. That was the whole idea at the back of our minds in drafting that Bill and that idea only.

With reference to one or two points regarding the wide powers to the High Commissioner in clauses 4 and 5, and also to the remark of the Hon. Member for Nairobi North, I would also point out that very heavy compensation would have to be paid in the case of an infringement of rights. I think the effect of clause 8 in regard to compensation in connection with these and other matters has not been taken into consideration. The fact of having to pay for everything you do with other people's property is the most effective safeguard that can be devised.

Another safeguard which has not hitherto been mentioned is that all important matters concerning the Port have to be referred to the Harbour Advisory Board, which has direct access to the High Commissioner. I think those two safeguards are very important indeed.

The other point is with regard to the question of taxation. I am advised that the clause as drafted does not prevent the principles of the Feetham Report being fully incorporated and brought into force.

The question of the foreshore is a difficult one. Our only object is to see that navigation is not hindered in any way, for example if a municipality erects a pier or jetty which is

so lighted up as to interfere with the leading lights for ships entering the Harbour and so to constitute a danger. In that case we must take steps to prevent any such danger, and it is from that point of view that we are particularly anxious to make sure that there are no difficulties that exist. However, I think that this question of obstructions, preservation of good order and approaches is a matter for the Select Committee to consider.

The question of ownership of land does not arise in this Bill. The land is merely placed at the disposal of the High Commissioner and is not alienated in any way so far as I am aware.

With regard to the suggestion that the Port Officer should have the powers of a magistrate, that can be also considered. The only point that occurred to me is that if you give this officer the additional duties appertaining to a magistrate he will not have the time to do his own work in connection with the Harbours. We are rather anxious to get agreement in all these matters as far as possible, and we are also anxious to see that everybody does recognise that the Port of Mombasa is going to be a very important port indeed, and that no legislation should be drafted which is going to hinder any development in that direction.

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

WATER BILL, 1928.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES): Your Excellency, I beg to move the second reading of the Water Bill, 1928.

The need for the enactment of an Ordinance to provide for the conservation and control of the diversion and use of water from rivers, streams and lakes has been realised for many years by those who have been concerned with the administration of existing water law, by many of those who are using water, and by others who have studied the matter. A Bill was drafted in 1921 and was printed in 1922, but further action was held in abeyance as it appeared that the cost of administering the Ordinance if enacted would be greater than Government could agree to at that time of financial difficulty.

In 1925, Mr. Lewis, the Director of Irrigation of the Union of South Africa, visited the Colony in connection with certain irrigation projects which Government desired to have investigated, and the opportunity was taken of ascertaining his views regarding water law in this Colony. Mr. Lewis

devoted the last chapter of his report, which was printed in December, 1925, and laid on the table in 1926, to a review of existing law and its administration in the Colony and an expression of his views regarding the principles which should guide the framers of future law and the administration of that law.

Towards the end of last year, following a motion by the Hon. Member for West Kenya, a Committee was appointed "to make recommendations regarding water legislation and control," and the report of that Committee, dated May 18th, 1928, has been laid on the table at this session. The Bill which that Committee recommended for enactment is the subject of this motion.

In view of these reports, which are in the hands of hon. Members, and which explain in some detail what existing water law consists of and how that law is administered, I do not propose to cover that ground again. I assume that those hon. Members who are interested in the subject of this Bill are conversant with those two reports.

Perhaps it would be useful, however, if I refer briefly—even at the risk of reiterating arguments already known—to what is perhaps the chief defect in existing water law and its administration. It is perhaps the chief reason for the enactment of this Bill, and nearly all the clauses are in one way or another connected with the rectification of that defect. I refer, of course, to the fact that an operator under existing law does not possess secure title for his works and his use of public water. Although he may have expended large sums on his works as authorised by water permit; although the whole of his farming or industrial operations may be dependent on the continuance of the right of user he has not got legal security of the right to continue to divert and use water by means of his works.

The document he relies on is a permit. It is an expression of the permission of Government to him to do certain things. It is not transferable, and it is withdrawable or alterable at the will of the granter. As an instrument giving him authority to divert and use water it compares unfavourably in respect of legal security with the deed which grants him the lease of his land. What the operator relies on is, of course, the sense of equity of Government, or in other words, that Government will not act in an arbitrary manner to his detriment, by withdrawing a permission already granted, if the operator has complied with all the conditions of that permission, even though Government might be legally entitled to withdraw it. Doubtless he has a very high measure of security when the matter is viewed in this light, and I cannot call to mind any case where permission, having once been given, has been arbitrarily withdrawn.

It may be asked why it is that, if security of title of the right to divert and use water is the main thing to be achieved, it is necessary to enact such a long Ordinance.

To explain this point it is necessary to examine what the difference is between a permit to divert and use water as granted under existing law and a water right as the term is understood in other countries. The difference is somewhat similar to that between a temporary occupation licence in respect of land and a deed granting a lease of land.

In granting a permit for the diversion and use of a certain flow from a stream, we say, in effect, to the applicant: "We have some knowledge of the fluctuations of the flow of this stream, but we are not certain of them. We have already authorised the diversion and use of a considerable proportion of it to others at various points. We think there is sufficient to fulfil your requirements and that a sufficiency will remain for the reasonable future agricultural developments of the drainage area and for public purposes and for riparian amenities, but we are not sure as it has not been possible fully to study the hydrographic and economic conditions. We will grant you a permit on certain conditions, but you must understand that, although we will endeavour not to disturb you in the future, we reserve the right to do so after hydro-metric survey has provided us with greater knowledge of that stream and future development on it."

The situation is analogous to that which would arise if land had to be given out in an unsurveyed area, without waiting for survey.

An applicant coming with a sketch and details of the area he required would be likely to be told in effect: "We have a map of that area, but it cannot be relied on. We have marked the land you apply for on that map, and as far as we can see, it does not overlap other areas already applied for. It would seem that there is enough land left for such public purposes as townships, forest reserves, outspans, etc., but we cannot be sure of any of these things, until we survey the area and divide it up precisely. All we can do meantime is to give you permission to occupy under certain conditions, and although we will endeavour not to disturb you, we reserve the right to do so as a result of survey and greater knowledge of the requirements of the district."

The proper administration of land matters requires comprehensive law if security of tenure is to be given. In the same way the proper administration of waters requires comprehensive law if security of tenure is to be given.

I wish to emphasize the great importance of the subject which we are considering. The water resources of a country are one of its most important natural resources, and it is of supreme importance that they should be properly investigated and controlled in the interests of the development of that country. Knowledge of those resources can only be acquired by hydrographic survey extending over a period of years. The administration of this Ordinance, if enacted, is dependent on that knowledge being obtained. It is not possible to give adequate security of title to operators by grant of water rights until that knowledge has been obtained. The hydrography of each body of water, whether lake or stream, requires study, sometimes over years, before reasonably accurate knowledge can be obtained. It may be observed that this principle applies with equal force to small streams as it does to large ones, for as the district served by such small streams develops, the demand for essential purposes, such as domestic, farming, and industrial purposes far exceeds the supply.

I do not propose to describe the provisions of this Bill or to defend by argument the reasons which have led to the adoption of the particular methods embodied in the Bill for dealing with particular requirements. This speech would be unduly prolonged if I endeavoured to do so. Paragraphs 19 to 22 of the report of the Committee briefly describe the provisions of the Bill.

I would mention that the Bill is the result of much investigation and study of the water laws of other countries and correspondence with the administrators of those laws. It is based largely on the Water Act of British Columbia, but some of the clauses are based on provisions in the laws of other countries, especially the Irrigation Act of the Union of South Africa.

If the principles of this Bill are accepted by passing the second reading, I propose to move that it be referred to a Select Committee.

The water resources of this Colony are all too scanty and inadequate for the full development of the country except perhaps in a few well-favoured areas. As agricultural and industrial development progresses, we shall realise more and more how much we are dependent on our water resources, and how important it is to make the maximum beneficial use of those resources.

The matter is of national importance. It therefore behoves us to conserve our water resources and not to fritter them away to individuals who will not use them in a beneficial manner. By conservation of course I do not mean holding up the water from use. On the contrary, the term "conserva-

tion" implies beneficial use, for water which is not being beneficially used is of no economic importance while it remains unused.

Natural loss of water is very great in a country like this where there is a long dry season. Everyone knows that most of the streams in this Colony become markedly reduced in discharge from natural causes during the dry season as they flow from higher to lower levels and often disappear altogether by evaporation and absorption.

But failure of conservation by reason of ill-designed works is also important. As an illustration of what I mean I would observe that I have measured the flow in a particular canal in this country at its point of intake and at its point of discharge, and found a loss in three miles of 97 per cent. of the water entering the canal, only 3 per cent. of the quantity entering the canal being available at the point of discharge for beneficial use.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I trust I am in order in seconding this proposal. I have been greatly complimented by Government giving me an opportunity of seconding this motion, because the motion is essentially domestic in character. I feel, Sir, that elected Members are fundamentally responsible for legislation of a domestic character. There is one principle in this motion, which although I am seconding it, I am opposed to, and I hope, Sir, that consideration will bring the Council in agreement with me on this particular point, and that is, I consider it entirely unnecessary for Government to insist on vesting ownership of all water in the country in the Crown, because if they insist on vesting control it will be entirely sufficient for the purposes of this Bill. If Government insists on having ownership, it can then logically claim the right to sell water at its highest commercial value to the highest bidder, instead of utilising it to its greatest economic advantage from the national and not merely the financial point of view. That is a dangerous principle for any Government. The individual has a greater claim than the Crown can ever possess in this respect.

We are glad that this legislation has not been based on English legislation, because English water legislation is the worst in the world. It is based on foreign and imperial legislation. As a country England is very well watered and strict legislation is not necessary.

Again the obstructionist is prevented from exercising his malevolent influence because of powers in this Bill given to the Water Board to enable the individual to develop his rights in spite of obstruction. This legislation embodies the principle that the greatest economic utilisation dominates all alienation

of water. Now, Sir, this Bill will confer a far greater degree of security of tenure on the individual. The farmer at present has no security, but under this Bill large works involving a capital outlay can be constructed, because people will now be prepared to invest large sums of money.

In this Bill we come down to a philosophic basis, and an economic basis, and they coincide and they are based on impartiality and they are based on benevolence and they demand that the greatest economic use shall be made of water, irrespective of persons, because every drop of water which reaches the sea is a drop of water wasted, and every waterfall which is not utilised for purposes of irrigation and as a means of getting water to a place where it is required is also an asset wasted.

One might as well pour a sack of silver over a cliff, it would have the same superficial artistic effect to the eye as a waterfall would have, and its monetary value—the loss of both—would probably be equivalent if the mouth of the bag were a sufficiently large one.

In this Bill we deal with the man who is either an absentee landlord or wishes to prevent his neighbours from utilising a natural asset. An obstructionist cannot prevent the utilization of water by any man who wishes to utilise it. In the past we have had very little obstruction, but as we have had this little obstruction it is desirable to prepare the Bill in such a way as to provide for that possibility.

I hope Government will agree to reconsider the suggestion that ownership should not be dealt with as vested in the Crown. It is absolutely unnecessary to make that claim, for the control is vested in the Crown, and that is all that is required.

I hope Government will reconsider its decision on that particular point.

I commend the Bill to the Council.

THE HON. T. A. WOOD: Your Excellency, There are just two points I would like to refer to. One of them is that which has been anathematised by the Hon. Member for Kenya, and that is the principle embodied in section 4 of this Bill: "That the water is hereby declared to be the property of His Majesty." It appears to me that if an individual has already invested a certain sum of his money in some reclamation work preventing the water going to waste, I think he has a right to object. He has conserved the water which otherwise would have gone to waste. I do not know whether inspections will be made.

There is another small point in the drafting of the Bill on page 6, clause 20, where there is no marginal note, and the result is that I was looking for it at some considerable difficulty.

REV. CANON THE HON. H. LEAKEY: Your Excellency, water being one of the necessities of life, unquestionably everything to do with the supply should be regulated by the most carefully prepared Ordinance and regulations. This is more especially so with regard to rivers passing through reserves and Crown land, and alienated land where there is the possibility that in administering the Bill some form of hardship might accrue to those native reserves which have been in the past most accustomed to use their water.

I should like to mention to Your Excellency that a very representative meeting was held recently in Nairobi of people who take a great interest in native affairs. As a result of that meeting I have received a telegram to look especially into one or two clauses, which I am not detailing now, as imperilling native rights. There is no one in this House other than myself who will deal with these points and I would ask that the Select Committee be appointed to deal with them. I shall receive the points by post this morning.

HIS EXCELLENCY: If no other hon. Member wishes to address the House, I will call upon the Hon. the Director of Public Works to reply.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I am sorry that my Hon. Friend the Acting Attorney General is not here to-day to deal with this question of ownership, as this is a matter on which he feels very strongly. The laws of other countries vary a good deal in that respect. Some definitely establish Crown or State ownership of public water, and that is so especially in the Western States of America, where State ownership of all natural waters is established by law; in many colonies and dominions it is the practice, however, merely to vest the right of user and the power to control in the Crown and as far as the administration of this Ordinance is concerned it seems to me that that would be adequate. The matter, however, should I think be dealt with and gone into by the Select Committee.

The marginal note to clause 20 has evidently inadvertently been omitted and will be put in by the Select Committee.

The hon. Member representing Native interests referred to the question of water rights in Native Reserves. That is a matter which has already received full attention in collaboration with the Hon. the Chief Native Commissioner. I hope that the Chief Native Commissioner will be a member of the Select

Committee and this matter will be re-examined in that Committee. I share the views of the hon. Member representing Native interests that it is a matter of vital importance.

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

The question was put and carried.

HIS EXCELLENCY: I see there is one more piece of business on the Order Paper. Would hon. Members prefer to deal with it now or after the interval?

THE HON. CONWAY HARVEY: I think hon. Members would prefer an interval, Your Excellency.

Council adjourned for fifteen minutes.

On resuming.

COMMITTEE STAGE.

NATIVE AUTHORITY (AMENDMENT) BILL, 1928.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): Your Excellency, I beg to move that this Council resolve itself into a Committee of the whole Council to consider clause by clause the Native Authority (Amendment) Bill.

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

The question was put and carried.

In Committee:

The Bill was considered clause by clause.

THE HON. THE CHIEF NATIVE COMMISSIONER: I beg to move that Council now resume its sitting.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Native Authority (Amendment) Bill has been considered in Committee of the whole Council and is reported to Council without amendment.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to give notice that at a subsequent stage of this Session I shall move the third reading of this Bill.

SELECT COMMITTEES.

FILM CENSORSHIP RULES.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the following be appointed a Select Committee to consider the Film Censorship Rules:—

- The Chief Native Commissioner (Chairman).
- The Acting Solicitor General.
- The Member for Nairobi North.
- The Member for the Lake.
- The Member for Kikuyu.
- The Member for West Kenya.
- The Member for Plateau South.
- The Member for the Coast.

HIS EXCELLENCY: As I understand that the membership of that special Select Committee is agreed to, there is no need to put a further motion, because it has been referred to a Select Committee in terms of the motion accepted by Government and moved by the Hon. Member for Nairobi North.

HARBOURS REGULATION BILL.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that the Harbours Regulation Bill be referred to the following Select Committee:—

- The Acting General Manager, Kenya and Uganda Railways and Harbours (Chairman).
- The Acting Attorney General.
- The Acting Commissioner for Local Government, Lands and Settlement.
- The Commissioner of Customs.
- The Director of Public Works.
- The Director of Agriculture.
- The Surveyor General.
- The Senior Commissioner for the Coast.
- The Member for Mombasa.
- The Member for the Coast.
- The Member for Nairobi North.
- The Member for Nairobi South.
- The Member for Plateau South.
- The Member for Rift Valley.
- Sheikh Ali bin Salim.
- The Arab Member.

It is a very large Committee; Your Excellency, but it is recognised that large interests are concerned, and I may say that a considerable number of the names put forward are the names of Members who asked to be put on the Committee.

WATER BILL.

I beg further to move that the Water Bill be referred to a Select Committee consisting of:—

- The Director of Public Works (Chairman).
- The Chief Native Commissioner.
- The Director of Agriculture.
- The Acting Commissioner for Local Government, Lands and Settlement.
- The Surveyor General.
- The Acting Attorney General.
- The Member for West Kenya.
- The Member for Nairobi South.
- The Member for Rift Valley.
- The Member for Kikuyu.
- The Member for the Lake.

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

HIS EXCELLENCY: The question is that the Harbours Regulations Bill and the Water Bill be referred to the Select Committees named.

The question was put and carried.

NOTICE OF MOTION.

REPORT OF THE SELECT COMMITTEE ON THE LOCAL GOVERNMENT (MUNICIPALITIES) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to give notice that at a later stage of the Session I shall move the adoption of the Report of the Select Committee on the Local Government (Municipalities) Bill.

*The Council adjourned to 9.30 a.m. on Friday,
the 24th August, 1928.*

FRIDAY, 24th AUGUST, 1928.

The Council assembled at 9.30 a.m., His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 22nd August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. THE DIRECTOR OF AGRICULTURE :

Report of the Select Committee appointed to consider the Cattle Cleansing Bill.

Report of the Select Committee to consider the Fencing Bill.

NOTICE OF MOTION.

PROTECTIVE TARIFFS AND CUSTOMS DUTIES.

THE HON. T. J. O'SHEA : Your Excellency, I beg to give notice of the following motion :—

" That this Council is in favour of a Committee being appointed to enquire into the advisability of a Tariffs Board being established representing Uganda, Tanganyika and Kenya, to deal with protective tariffs and customs duties generally."

ANSWERS TO QUESTIONS.

TELEPHONE COMMUNICATION : INTERRUPTIONS.

THE HON. A. C. TANNAHILL asked :—

" Will the Hon. the Postmaster General state the number of days in June and July, 1928, when telegraphic communications were interrupted on the two routes to Bukoba; viz. :—

- (a) Mombasa via Kampala to Bukoba;
- (b) Mombasa via Tabora to Bukoba; and
- (c) The number of days in June and July, 1928, when both routes were simultaneously out of order?

(d) In view of the valuable native coffee crop which is handled at Bukoba during the months of June to September, will the Hon. the Postmaster General state what steps are being taken to improve the telegraphic facilities on the above-mentioned routes?

THE HON. THE POSTMASTER GENERAL (MR. FITZGERALD) : As the telegraph route between Mombasa and Bukoba via Tabora was not opened until the middle of June, the following particulars of interruptions refer only to the month of July :—

- (a) Route via Kampala, 4½ days;
- (b) Route via Tabora, 6½ days;
- (c) Both routes interrupted simultaneously : 2 days.

The normal route between Mombasa and Bukoba is via the Tanganyika Service, the route via Uganda serving only as an alternative route in the event of a breakdown. I am in communication with the Tanganyika Administration in regard to this particular service, and with a view to making, by close co-operation, the most effective use of both routes.

DEFENCE FORCE ORDINANCE.

THE HON. A. C. TANNAHILL asked :—

“ Is it the intention of Government to reconsider certain sections of the Defence Force Ordinance in view of representations received?

If so, is it the intention of Government not to enforce the penalty sections of the Ordinance until further notice?”

THE HON. THE ACTING COLONIAL SECRETARY : The answer to both questions is in the affirmative.

RAILWAY SANITATION AT ELDORET.

THE HON. T. J. O'SHEA asked :—

(a) Are the Railway Authorities empowered by law to turn the Railway sewage on to privately owned land?

(b) Is it with the approval of the Government Medical and Sanitary Authorities that the Railway sewage system at Eldoret is being emptied on to privately owned land adjoining the Railway Reserve?”

THE HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAY (BRIG.-GEN. RHODES) : (a) No. (b) The Railway Administration has no sewerage system at Eldoret. Surface drainage, however, is being dealt with by a scheme which has received the approval of the Public Works Department, the Medical and Sanitary Authorities, and representatives of the owners of adjoining land.

REDUCTION OF POSTAL RATES.

THE HON. A. C. TANNAHILL asked :—

“ In view of the hope held out by His Excellency the Governor in his speech on the 1927 Estimates, to the effect that any increase in the excess of Revenue over Expenditure in the Department of Posts and Telegraphs would be utilised as far as possible in the reduction of postal rates, will Government make provision in the next Budget for a reduction in the present charges on letters sent by post?”

THE HON. THE POSTMASTER GENERAL : The Government has under examination the whole problem involved in the relationship between the demand for extensions of telegraphic and telephonic facilities and the demand for reduced postal rates.

MOTIONS.

HIS EXCELLENCY : I think it will be to the convenience of Council generally if the first three motions are postponed in order to enable some further Committee work to be done.

I will call upon the Hon. the Senior Commissioner for the Coast to deal with the motion standing in his name.

SUSPENSION OF STANDING RULES AND ORDERS.

FIRST READING.

NATIVE LIQUOR (AMENDMENT) BILL.

THE HON. THE SENIOR COMMISSIONER FOR THE COAST (LIEUT.-COL. O. F. WATKINS) : Your Excellency, I beg to move :—

“ That Rule 64 of the Standing Rules and Orders of this Council be suspended in order to enable the Native Liquor (Amendment) Bill to be read a first time.”

In speaking to this motion, Your Excellency, I have some difficulty in supporting the question of urgency. With regard to the question of the principle of the Bill, I would ask Council to assume that the principle of the Bill, which is an amending Bill, has already been approved by them and that all I need explain here, at this stage, is the way in which the urgency has arisen. That is set forth in the objects and reasons, and is that certain judgments have been given by the Supreme Court which have interfered with the working of the Ordinance. In a matter of this kind, which is entirely a matter of discipline, discipline does not stand still. It has

either to go forward or backward, and the very good work already done under the Ordinance will be lost, unless we can get back into the straight again, and restore the working of the Ordinance to its previous efficiency.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): I beg to second the motion.

The question was put and carried.

BILLS.

SECOND READINGS.

IMMIGRATION RESTRICTION BILL.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE): I beg to move the second reading of the Bill to amend the Immigration Restriction Ordinance. Your Excellency, this Bill is designed to strengthen the Immigration Restriction Ordinance in two ways. The first way is by making it perfectly clear that a person who is deemed to be an undesirable immigrant, in consequence of information received from any trusted source, is a prohibited immigrant, and may be ordered to leave the country. This, Your Excellency, will be achieved by clause 2, which repeals section 5 (f) of the Immigration Restriction Ordinance, and replaces it by a section which is stronger and clearer in effect than section 5 (f) of the present Ordinance. Section 5 (f) as it stands at present provides that the entry into the Colony by land or sea of any person being or appearing to be a person deemed by an immigration officer to be an undesirable immigrant, in consequence of information received, from any Secretary of State or Colonial Minister, or through diplomatic channels, or any minister of a foreign country, or from any other trusted source, is prohibited. Doubts have arisen as to the interpretation of the phrase "any other trusted person"; as to whether it means any other trusted source of the same kind as a Secretary of State, a Colonial Minister or any minister of a foreign country, or whether it means information received from any source whatever, including information received from a trusted source in this country.

In order to make the matter perfectly clear that the information may come from any trusted source of any description, section 5 (f) of the Principal Ordinance is proposed to be repealed, and replaced by the paragraph appearing in this Bill. I think hon. Members will agree with me that it is highly desirable that we should have this power, more particularly as at the present time a number of undesirables who have sufficient means to pass the Immigration Authorities, enter the Colony as conditional permit-holders and spend their

time in living on credit and on their wits. Although these persons are known as undesirables, they can, provided they do not surrender themselves as vagrants, contravene the provisions of the Immigration Restriction Ordinance and obtain the refund of their deposit at the end of six months. Eventually, they get themselves into financial difficulties, surrender themselves as vagrants, and have to be deported at Government expense. Once it is made clear that information from a trusted source means information received from anywhere, including information received from a trusted source within the Colony, information will be able to be given by the Police against this type of undesirable and they will be treated as prohibited immigrants and ordered to leave the country.

The object of clause 3 of the Bill, which is an amendment to section 40 of the Immigration Restriction Ordinance, is to prevent nationals of foreign states and British subjects who have been refused a visa for the British Empire, from entering the Colony. This accords with the instructions issued by the Foreign Office, and is a considerably stronger clause than the present section, which only requires a person to have a passport or some other document establishing his identity. The effect of this new clause is that undesirables will be kept out of the Colony.

This Bill, Sir, achieves two objects; it strengthens the hand of Government both in ordering undesirables to leave the Colony and in excluding undesirables from the Colony.

THE HON. THE ACTING SOLICITOR GENERAL (MR. MCCARTHY): I beg to second the motion.

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

THE HON. CONWAY HARVEY: Your Excellency, I am sure we all appreciate the necessity for some amendment on the lines indicated in clause 2 of this Bill, but there are one or two points which appear to me to require further elucidation or amplification. There appears to be a great deal left to the discretion of whoever may be functioning as Immigration Officer. He merely has to be satisfied that the source of his information is of a trusty nature, and we should like to know from whom the Immigration Officer takes his orders—if in fact he is the sole arbiter in such matters; and the point does arise as to whether this enormous power which is being vested in Government in this matter could not be exercised in a variety of ways. I think one has to be very, very careful to see that ample safeguards are provided against any oppressive action being taken under legislation of this nature, and I have heard from my hon. and learned Friend nothing about an appeal

I do think it very important indeed that some provision should exist for an appeal against the decision of an Immigration Officer.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I cordially support this Bill, and trust that all on this side of the House will also support it.

There are one or two points still that can be elucidated if the Bill goes into a Select Committee. There are also two or three other matters which I would very much like to see carried into the amendments to this Bill. There is, for instance, the question of the deposit required from Europeans coming into this country, which at present is £37/10. This is exactly the third-class fare out of the country. Now, what is going to happen where you have a person who has been deported and comes from, say, the Northern Frontier Province, or somewhere like that? He has to be sent down by train with an escort. There is no provision in the £37/10 allowed for this expenditure. There are other expenses also in connection with these matters, and I would very much like to see the deposit raised to £50 for Europeans instead of £37/10 to cover those expenses.

Another question is the one of a bond. At present the bond is signed on behalf of a person coming into this country by some person, presumably a friend of his, who guarantees a refund of £37/10 should it be necessary. This person who signs the bond, at the end of six months is free from all liability concerning the man he signed for. As a matter of fact, it has happened several times that the person who signed the bond at the end of two or three months has stated that the person for whom he signed had left his employment, and no action has been taken against the person who signed the bond. I would therefore like to see that the person who signs the bond is held liable for such length of time as the Immigration Department consider necessary, and therefore the section concerned should be so amended as to enable the police to take the matter up and prosecute in such cases.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency, I support the Bill, but I do hope that Government will enlarge the scope of the Committee which, I suppose, will be appointed to go into this, and will allow the Committee itself to make general recommendations with regard to immigration, and not restrict the scope merely to these two clauses. From this side of the House we have already had several suggestions showing that it is highly desirable to increase the scope of such an inquiry, and if it is impossible under this Bill, when this Committee is appointed, to make the terms of reference wide enough to face the general question, then I hope Government will consider the question of appointing such a committee at a later date.

THE HON. T. A. WOOD: Your Excellency, one small question on a point of order. This is an amendment of a Bill, and quotes amendments to two clauses which do not appear on the paper. We have agreed formerly that in the case of Bills that clauses proposed to be amended should be shown, so that Members can see exactly what is proposed, because Members do not carry a complete copy of the laws on the subject.

THE HON. T. J. O'SHEA: Your Excellency, on a point of order, some of us would appear to be in possession of a first edition of the Bill.

THE HON. CONWAY HARVEY: Your Excellency, on a further point of order, I believe that Government did make a very serious attempt to have the Bill printed in the usual way with the objects and reasons, but owing to certain geographical conditions I understand that the consignment only arrived a short while ago. I am sure the people concerned have done their best.

HIS EXCELLENCY: The hon. Member is quite right. The Bill in its original form is not different from the Bill in the second form. The second copy contains the clauses referred to and the objects and reasons.

LIBUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, in supporting this Bill I should like to point out that it is five years since we were promised by Government a more complete Immigration Ordinance, which has never been implemented, and I do think—whether this Bill gives sufficient powers or not; I am not sure—but I do think it is most important, at this stage of the country's progress, that it should be possible to have very strict powers for keeping out the poor white, who may form a menace to progress of this country. If that is included, it is all right; but if not, I hope something will be put in to give greater powers in that direction.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, while the general feeling on the other side of the House is that the scope of the Bill should be enlarged, what we have to consider now is the actual Bill in front of us. I suggest that we refer this Bill to a Select Committee, and that the question of the extension of the Bill, which I think hon. Members must recognise is a separate question, is one which should be considered by Government for investigation by a separate Committee.

HIS EXCELLENCY: Does no other hon. Member wish to address the House?

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, with regard to the first point, put by the Hon.

Member for the Lake (Mr. Conway-Harvey), I think that is a very good suggestion. It was considered at the time the Bill was drafted, whether there should be an appeal from the Immigration Officer, and it was then decided that the Bill should be put before Council in its present form. I do certainly think that the matter should be considered in Select Committee.

I also sympathise with the points raised by the Hon. Member for the Coast, and they also will be dealt with in Select Committee.

With regard to the point made by the Hon. Member for Nairobi North, I should like to say that there are copies in existence of this amending Bill entirely complete with both the amended sections and the objects and reasons, but unfortunately, owing to some error in the first instance, the wrong copies were supplied to us.

With regard to the point made by the Hon. Member for Ukamba, about the poor whites, I should say that that also is a point which can be further considered in Committee, as to whether greater powers should not be given in this connection. The amending Bill as it stands now tightens up the clause relating to prohibited immigrants and allows that, on information being received from any trusted source, a man shall be deemed to be a prohibited immigrant. I think, therefore, that that will probably satisfy the hon. Member, but he can elaborate any view he has on that in Committee.

HIS EXCELLENCY: I think it may be desirable that I should explain exactly what points it is considered should be referred to the Select Committee dealing with this Bill.

There are really two questions. One is the comparatively simple matter dealt with by the two clauses in this Bill—the extension of the source of information on which Government relies to a source within the country, and the prohibition of entry of any foreigner who has not received the visa of the British Empire—and I think the only point which is really germane to these two points is the question of the appeal, raised by the Hon. Member for the Lake. I would suggest that the Select Committee deal with the question of appeal and the two clauses, and should not go outside that reference.

I fully recognise, however, with the Hon. and Gallant Member for Ukamba, and with other Members on that side of the House, that the further question of prohibition of immigrants, particularly of poor whites, is of the utmost importance. That, however, involves making provisions which do not arise out of this Bill. It involves, for instance, the establishment of posts along our boundaries besides the Coast, and if this

Bill is going to be held up because of the consideration of such points, I think it would be delaying a very useful piece of legislation which is urgently needed.

I would suggest to hon. Members that if a Select Committee is appointed to deal with the points I have outlined and Government gives an undertaking to go much more fully into the further question—which, in fact, I have been doing myself lately—and to lay suggestions before the Committee a little later on, that would meet the views of hon. Members.

THE HON. CONWAY HARVEY: I am quite sure they will, Your Excellency.

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

The question was put and carried.

THE AERIAL NAVIGATION (REPEAL) BILL, 1928.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of the Aerial Navigation (Repeal) Bill, 1928.

This Bill repeals the Aerial Navigation Ordinance (Chapter 69 of the Revised Edition), and the reason for its repeal is that it is no longer required, seeing that it has been superseded by the combined effect of an Order-in-Council issued in 1927 under the provisions of the Imperial Air Navigation Act and of the Air Navigation Directions issued under the powers conferred upon the Governor by that Order in Council.

The Aerial Navigation Ordinance gave powers to the Governor in Council to regulate various matters connected with aviation. But the Air Navigation (Colonial, Protectorate and Mandated Territories) Order-in-Council, 1927, gives to the Governor much wider powers than was given to the Governor in Council under the Aerial Navigation Ordinance. The Order-in-Council applies in detail the provisions of the Convention for the Regulation of Aerial Navigation, which was signed in Paris on the 13th October, 1919. The Air Navigation Directions give specific orders in these matters, which have been left to the discretion of the Governor, to lay down instructions concerning matters of routine procedure. With regard to these directions, I may say that Mr. Tynms, the Air Ministry representative in Cairo, came to this Colony early in this year in order to help in drafting Air Navigation Directions under the Order-in-Council. These Air Navigation Directions are based upon those issued in England under the Air Navigation Act, and were issued on the 30th June. We hope these will in effect serve for the whole of East Africa.

Mr. Tymms remained here some months, and I collaborated with him in drafting the Directions, which are very comprehensive. They have already been adopted in Uganda, and when Mr. Tymms left here, a couple of months ago, he went to Tanganyika with a view to getting the Directions adopted there as well.

It will then be seen that a large part of East Africa now has the same legislation regulating aerial matters. In view of this recent legislation, the Aerial Navigation Ordinance is no longer required, and should be repealed.

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

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

The question was put and carried.

THIRD READING.

NATIVE AUTHORITY (AMENDMENT) BILL, 1928.

THE HON. THE CHIEF NATIVE COMMISSIONER: I beg to move. Your Excellency, that the Bill to amend the Native Authority Ordinance be now read a third time and passed.

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

The question was put and carried.

FIRST READING.

NATIVE LIQUOR (AMENDMENT) BILL, 1928.

On motion of Lieut.-Col. the Hon. O. F. Watkins, the Native Liquor (Amendment) Bill was read a first time.

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

HIS EXCELLENCY: I understand that it meets the convenience of all parts of the House if we resume at 9.30 a.m. on Monday next.

THE HON. CONWAY HARBVEY: Yes, Sir.

Council adjourned to 9.30 a.m. on Monday,
the 27th August, 1928.

MONDAY, 27th AUGUST, 1928.

The Council assembled at 9.30 a.m., on the 27th August, 1928. His Excellency the Governor (Sir EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 24th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN):

Statement of Excesses on Sub-Heads which have been met out of Savings under the same head as at 31st December, 1927.

Statement of Excesses on Sub-Heads which have been met out of Savings under the same Head as at the 31st March, 1928.

By THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLM):

Statement re conditions governing treatment of coffee, other than Kenya coffee in the Kilindini Port Area.

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

A Progress Report of the Nairobi Anti-Malarial Works Committee for the period ended 30th June, 1928.

NOTICES OF MOTION.

HIS EXCELLENCY: Does any hon. Member wish to give notice of any motion.

RAILWAY RATES ON SALT.

CAPT. THE HON. E. M. V. KENBLY: Your Excellency, on a point of order, during the last session of Council I submitted a motion which read: "that in the general interests of both the pastoral and agricultural industries, the railway

rates on salt be reduced". That is a proposal not to vary the revenues of the country in any way because if the motion is adopted and put into effect in a proper manner it will entail no alterations whatever upon the revenues of the country.

That motion, Sir, according to the Rules we have adopted should have been discussed on a day which was to be set aside for the discussion of motions by private members. I have been given no opportunity of raising this motion and I should like a ruling on this particular point.

HIS EXCELLENCY: The hon. and gallant Member is seeking to set a precedent of the kind which has not been created yet, and that is the raising of a motion in this Council which gravely affects, or may gravely affect, the revenues of the Railways, which is an Inter-Colonial Organisation. I am very doubtful whether it would be in the interests of this Colony to set that precedent at all. I am not aware when he gave notice of that motion—was it at the end of last Session?

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

HIS EXCELLENCY: My attention has not been drawn to it, and I am afraid that the fact that he gave notice of it had slipped my memory, but I will go very carefully into the matter and I will speak about the matter privately with him if he wishes me to do so.

ORAL ANSWERS TO QUESTIONS.

REVENUE FROM LIKONI FERRY.

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

"What is the amount of revenue derived from the Likoni Ferry to the 31st July this year, and whether this would not justify an improved and more up-to-date service?"

THE HON. THE ACTING COLONIAL SECRETARY on behalf of the Hon. Acting General Manager, Kenya and Uganda Railway replied:

For the first six months of this year the revenue from the Likoni Ferry has been £749 8s. The actual cost of maintenance for this ferry for the same period, has been slightly in excess of the earnings.

The financial results of working would not therefore appear to justify any increase in capital expenditure. Inquiries are, however, already being made to ascertain the probable cost of a double-ended ferry to carry five to six cars.

THE HON. T. J. O'SHEA: Your Excellency, arising out of that answer, may I ask whether Government is perfectly satisfied that the amount of revenue earned is actually collected and paid into the revenues of the Colony?

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I think that the answer to that is that the whole question of the administration of these ferries is under consideration by Your Excellency's Government.

EUROPEAN PRISONERS.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE to ask:

"Whether any special arrangement exists with the Home Authorities regarding taking over European prisoners sentenced in this country to long terms of imprisonment?"

THE HON. THE ACTING COLONIAL SECRETARY replied:

Arrangements exist under the Prisoners' Removal Act, 1884, as applied by the Colonial Prisoners' Removal Order in Council, 1907.

The following is a précis of the relevant portion of the Act and Order in Council in question:—

Under the Prisoners' Removal Act, 1884, as applied by the Colonial Prisoners' Removal Order in Council, 1907, a prisoner undergoing imprisonment in any British possession for any offence may be removed to any other British Possession, or to the United Kingdom provided that the removing authority thinks that:—

- the life of the prisoner will be endangered or his health permanently injured by further imprisonment in such a British possession; or
- the prisoner belonged, at the time of committing the offence, to the Royal Navy or His Majesty's regular military forces; or
- the offence was committed wholly or partly beyond the limits of the said British Possession; or
- there is no prison in the said British possession in which the prisoner can properly undergo his sentence or the removal is expedient for his safer custody or for the more efficient carrying out of his sentence; or
- the prisoner belongs to a class of persons who, under the law of the said British possession are subject to removal under the Act.

The removing Authority is a Secretary of State who signs the warrant of removal. If the prisoner is to be removed to the United Kingdom, a copy of this warrant is sent to the Governor of the Colony from which the prisoner is to be removed; if to another possession, a copy is sent to the Governor of each colony concerned.

The Governor of the Colony from which the prisoner is to be removed issues a Notification of Concurrence in the Order of Removal. If the prisoner is to be sent to the United Kingdom, copies of the Order of Removal and Notification of Concurrence are sent to the Home Office, the former by a Secretary of State, the latter by the Governor of the Colony concerned.

If the prisoner is to be sent to another possession, the Governor of the Colony from which he is being removed sends a copy of the Notification of Concurrence to the Governor of the Colony to which he is being sent and another copy to a Secretary of State. The Governor of the Colony to which the prisoner is being sent also issues a Notification of Concurrence on receipt of the Secretary of State's Order of Removal and sends copies to the Governor of the other Colony concerned and to the Secretary of State.

The prisoner is then removed under a Removal Warrant signed by a Secretary of State and received into prison in the United Kingdom or other Colony as the case may be, under a Reception Warrant also signed by a Secretary of State.

Unless a prisoner so removed belonged to the Royal Navy or regular armed forces at the date of sentence, he may be returned to the Colony from which he was removed, either to serve a residue of his sentence or for discharge, under an order from a Secretary of State or the Government of the Colony to which he has been sent. If he is not returned, as above, he is entitled, when discharged at the expiration of his sentence, to be sent free of cost to the Colony from which he was removed.

HIS EXCELLENCY: As the answer to this question is very long, would the hon. and gallant Member like it sent in writing?

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: Thank you, Sir.

ROUTE A, LIMURU.

THE HON. COLONEL DURHAM asked:

"In view of the replies given in reference to the completion of Route "A" Road, Limuru, will Govern-

ment state on whose authority the sum applied for was excluded from the 1928 Estimates and the reason for its exclusion.

As I am informed that money will not be available this year, will Government reply to my previous questions, i.e.:

1. Will Government close one of the routes during the rains to heavy lorry traffic?
or
2. Will Government construct dual roads?"

THE HON. THE DIRECTOR OF PUBLIC WORKS replied:

The total demands for provision for works under Public Works Extraordinary in the 1928 Estimates approached £1,000,000 in estimated cost. When the Draft Estimates were being prepared, it appeared from the forecast of revenue that the total sum likely to be available for Public Works Extraordinary would not exceed £70,000.

A small Government Committee considered the schedule of demands and recommended items which should, in their opinion be included in the Draft Estimates, up to a limit of £70,000.

The Committee was of the opinion that the continuation of the surfacing of the Limuru Road was of lesser importance than those items which they recommended. It was open to the hon. Member to move the insertion of this item in the Draft Estimates at meetings of the Select Committee on the Estimates or when the Estimates were being considered in Committee of Council.

2. Government is not prepared to construct dual roads, but would be prepared to close one of the routes to heavy lorry traffic during the rains if there is a clear expression of desire by the persons whose farms are served by the road that that action should be taken, and if it is supported by the Kiambu District Road Board.

STORAGE OF UGANDA AND TANGANYIKA TERRITORIES' COFFEE WITHIN THE KILINDINI PORT AREA.

THE HON. T. A. WOOD on behalf of the Hon. A. C. Tannahill asked:

"(a) Will the hon. Director of Agriculture state what objections there are to allowing Uganda and Tanganyika Territories' coffee to be stored in private godowns within the Kilindini Port Area?"

"(b) Under what circumstances and conditions will the Hon. the Director of Agriculture allow of the storage of

Uganda and Tanganyika Territories' coffee in the said Port Area?"

THE HON. THE DIRECTOR OF AGRICULTURE replied :

(a) Restrictions upon the storage of coffee from the territories of Uganda and Tanganyika were previously imposed in order to reduce the risk of introduction and spread of plant diseases and pests; also to protect the high reputation of Kenya Coffee by disallowing opportunities for admixture.

(b) Authority to control the movement of coffee within this Colony is conveyed under the " Diseases of Plants Prevention Rules, 1927 ". Conditions which are calculated to protect the coffee industry of Kenya have recently been laid down. Under them coffee from neighbouring territories may be treated in an approved " Cleaning Mill " within the Port Area.

A copy of the agreement licensing parties so to treat coffee has been laid on the table.

In addition consideration is at present being given to the framing of rules whereby coffee from Uganda and Tanganyika may be stored in private godowns in the Port Area under control exercised by the Department of Agriculture.

THE HON. T. A. WOOD : Your Excellency, arising out of that answer, is Government aware that the revenues of both the Railway and Harbour Departments are being seriously prejudiced unless some steps are taken at an early date?

THE HON. THE DIRECTOR OF AGRICULTURE : I think it is correct to say, in reply to the supplementary question of the hon. Member, that such steps have been taken as will protect the interests of the revenues concerned.

MOTIONS.

PROTECTIVE TARIFFS AND CUSTOMS DUTIES.

Appointment of Tariffs Board.

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

" That this Council is in favour of a committee being appointed to inquire into the advisability of a Tariffs Board being established, representing Uganda, Tanganyika and Kenya, to deal with Protective Tariffs and Customs Duties generally."

Perhaps I owe the Council an apology, Sir, that I should think of introducing a motion dealing with such an important matter at the end of a very strenuous session, and also without having given reasonable opportunity to Government and Members on this side of the House to fully consider the matter, but

I have thought it advisable to table the motion, even though it is not dealt with here and now, as I think it is necessary to make it plain to the many parties interested that the subject is one that is receiving consideration both by Government and the elected members of this House. There can be no question, Sir, that in the last twelve or eighteen months very considerable opposition indeed has grown up to our present tariff policy. Some may be inclined to dismiss that opposition by describing it as selfishness. I do not think, however, Sir, that it can be so dismissed and that it is justifiable so to describe it thus. The very fact that the two neighbouring territories are agreed to the tariff policy being drawn up in the interests very largely of this country, and that they have subjected themselves to its burdens for a period of years is I think proof that they are prepared to give every consideration to our legitimate claims in favour of such a policy, but they are beginning to feel very strongly that the operation of that policy is imposing burdens out of proportion to the benefits being derived from it. Much the same feeling exists, I think, among a large proportion of the people of Kenya. They do not object in principle to a policy of preference in favour of our industries, but they do feel that our present methods of carrying out that policy are imposing a maximum of the burden upon the consumer and resulting in a minimum of progress in the industries so protected and the amount of progress is not commensurate with the measure of protection that has been afforded. That being the case, I think it is very necessary that the whole problem should be inquired into afresh, and I am convinced after thinking the matter over for some time and discussing it with, among others, the members of the Hilton Young Commission and various people who know more about these things than I do that the creation of a tariff board would possibly prove the solution of the problem. It would give a measure of elasticity to our methods which is impossible under the present rigid system. The subject, Sir, is one which requires a very large amount of study by all who are going to participate in the efforts to solve it, and I understand it will meet the wishes of the Government and certainly of the Members on this side of the House, if some statement is made by Government about the motion, and then the motion is withdrawn for discussion at a later date.

CAPT. THE HON. E. M. V. KENEALY rose to speak.

HIS EXCELLENCY : Does the Honourable Member rise to second the motion?

CAPT. THE HON. E. M. V. KENEALY : Yes, Sir, but I am rather in an anomalous position in regard to this, although I feel it is highly desirable to appoint a committee, before committing ourselves to introducing a policy which will so

largely affect the revenues of this Colony I feel it is desirable to further any measure which will ensure the maintenance of our present protective policy, and I feel that this committee, if appointed, probably will have or may have that effect. If, Sir, the appointment of this Committee means the re-opening of the question of the desirability of maintaining a protective policy in this country I should oppose it, but I am convinced that it will not make such a suggestion and therefore I support the motion in principle.

HIS EXCELLENCY: The question is:—

"That this Council is in favour of a committee being appointed to inquire into the advisability of a Tariffs Board being established, representing Uganda, Tanganyika and Kenya, to deal with protective tariffs and Customs duties generally."

THE HON. THE COMMISSIONER OF CUSTOMS (MR. WALSH): Your Excellency, Government is fully aware of the necessity for keeping its Customs House in order, and I am authorised to state that an inter-Colonial Conference to discuss tariff questions generally has already been arranged with the neighbouring territories of Uganda and Tanganyika. The Conference will probably meet towards the end of the year, but the detailed Agenda has yet to be settled. I am further authorised to state that if hon. Members on the other side of the House are desirous of putting forward their views in regard to the details of the Agenda Government is very willing that they should do so and is prepared to sanction the appointment of a committee to consider this particular matter. This I hope will settle immediate difficulties. The question of the appointment of a permanent Tariffs Board would then have to be considered in consultation with the neighbouring territories as regards personnel and the scope of the inquiries of such Tariff Board.

HIS EXCELLENCY: I think I should perhaps make it clear that the Conference is so far definitely fixed only between this territory and Uganda. The Tanganyika Government state that they would prefer in the first instance to see the Agenda before deciding definitely to participate and this Government has undertaken to send them the Agenda in the near future.

THE HON. T. J. O'SHEA: Your Excellency, in view of the statement made, I would ask the leave of the House to withdraw the motion.

HIS EXCELLENCY: The motion is by leave withdrawn.

BILLS.

SECOND READINGS.

NATIVE LIQUOR (AMENDMENT) BILL.

LT.-COL. THE HON. O. F. WATKINS (Senior Commissioner for the Coast): Your Excellency, I beg to move the second

reading of the Native Liquor (Amendment) Bill. I need not long take up the time of Council upon the question of the principle of the Bill because it is an amending Bill and the principle was already approved when the main Ordinance went through. It is in the control of the younger men that the native administration was probably so very much better than ours. It came down very strictly on the young men who got drunk and reserved that privilege to those elders whose seniority and economic position justified their indulgence in strong drink. In the districts in question the control of the younger people has always been one of our most difficult ones. Under native rule the young man was a warrior and had to keep himself in readiness at all times. Under our rule he has the liberty that our law gives to the individual. The original law has broken down. If you will turn to section 14, as it is shown on the left hand side of the page—I beg your pardon section 11: you will see that if you find a man in possession of stolen drink anywhere in the reserve you have got to prove that he got it on licensed premises, and that is practically impossible. The whole administration of the Ordinance, which was becoming quite effective in its grip of some undesirable phases of native life, has been obstructed. The other point is that we have found it necessary to make it an offence to buy liquor. Under the existing law it is only an offence to sell liquor. These, I think are the only two points I need present to the Council, and I would ask them to assist their District Officers by allowing the Bill to go through as rapidly as possible.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. MAXWELL): I beg to second the motion.

The question was put and carried.

Committee Stage.

IMMIGRATION RESTRICTION (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE): Your Excellency, it is understood, I think, and was arranged at the last meeting of Council, that a Select Committee should be appointed to consider and report on the provisions of a Bill to amend the Immigration Restrictions Ordinance, the point being raised by the hon. Member for the Lako that there should be an appeal against the decision of the Principal Immigration Officer when he has made a decision upon information which has reached him from a source, whether within or without the Colony.

I beg to move, Your Excellency, that the following committee of this hon. Council be appointed for the purpose:—

Acting Attorney General (Chairman).

Commissioner of Customs.

Member for the Lake.

Member for Kikuyu.

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

HIS EXCELLENCY: The question is that the Bill be referred to a Select Committee.

The question was put and carried.

AERIAL NAVIGATION (REPEAL) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move that this hon. Council resolves itself into a Committee of the whole Council to consider the provisions of a Bill to repeal the Aerial Navigation Ordinance clause by clause.

HIS EXCELLENCY: Before I put the question, I should like, on a point of form, to suggest that the custom, which is intermittent, of describing this Council as an "Honourable Council" should be abandoned. The House of Commons never describes itself as an "Honourable House." It is always "this House" and only individual members are described as "Honourable Members" and I think it is desirable that the practice in these small things should conform to those of the Mother Parliament. It sometimes appears in motions and it sometimes does not. I always take it out when I see it.

The question is that this Council resolve itself into a Committee of the whole Council to consider the provisions of the Aerial Navigation (Repeal) Bill.

The question was put and carried.

In Committee.

The Bill was considered clause by clause.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move that the Aerial Navigation (Repeal) Bill be reported without amendment to Council.

The question was put and carried.

Council resumed its Sitting.

HIS EXCELLENCY: I have to report that a Bill to Repeal the Aerial Navigation Ordinance has been considered in Committee of the whole Council and has been reported to Council without amendment.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to give notice that I shall move the third reading and passing of this Bill at a later stage of the session.

PROGRAMME OF BUSINESS.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order, I wonder whether Government, for the benefit of all hon. Members, could let us know what the programme will be for the next three days and what the probable duration of Council will be, as naturally certain arrangements have been made, Sir.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, a statement of the main business and the order in which it will be taken I hope to circulate to hon. Members to-day. So far as is possible, we hope that business will be finished the day after to-morrow.

THE HON. CONWAY HARVEY: Thank you.

*Council adjourned to 9.30 a.m., on Tuesday, the
28th August, 1928.*

TUESDAY, 28th AUGUST, 1928.

The Council assembled at 9.30 a.m., on the 28th August, 1928, at Government House, Mombasa, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGO, 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 27th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. THE ACTING ATTORNEY GENERAL :

Report of the Select Committee on the Immigration Restriction (Amendment) Bill.

BY THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT :

Report of Select Committee on the Local Government (Rating) Bill.

MOTIONS.

REPORT OF SELECT COMMITTEE ON THE TROUT PROTECTION BILL, 1928.

THE HON. THE ACTING SOLICITOR GENERAL (MR. MCCARTHY) : Your Excellency, I beg to move the following motion :

" That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Bill to Provide for the Protection of Trout and the Regulation of the Trout Fishing in the Colony be adopted subject to the following amendments :—

The definition of the term ' resident ' is amended by the addition of the following words—

' and shall include any officer in the public service in the Uganda Protectorate or the Tanganyika Territory or any officer or one of His Majesty's Ships on the East Indies Station or such other officer of His Majesty's Forces visiting the Colony on duty but not usually resident in the Colony as the Governor in each case approve.' "

Your Excellency, the Committee after careful consideration recommend certain amendments to the Bill before Council.

There are one or two material amendments which I shall go into in detail. The others are purely consequential or verbal amendments.

The first material amendment recommended by the Committee is that there should be a provision in the Bill whereby persons who sell imported, canned or tinned fish will not be liable for an offence under the Ordinance as they would be if this provision was not included—that dealers who sell canned or tinned fish, imported from overseas shall not be liable for the commission of an offence under the Bill.

Now the second material point concerns licences. In the Bill Your Excellency, provision was made for trout fishing. No differentiation exists between visitors and residents as to licences, that is to say, that a visitor to the Colony could obtain a trout fishing license for the same fee as a resident. The Committee were unanimously of the opinion that the principles of the Game Ordinance should be followed and that licenses should be granted to residents on more favourable terms than to visitors. The Committee therefore recommended that with regard to licenses that a yearly license for trout fishing for a visitor should be Sh. 200, and a yearly license fee for a resident should be Sh. 25. The fortnightly and daily licenses granted respectively to visitors and to residents are in proportion. The Committee also recommended that a person in possession of either a visitor's or a resident's fortnightly license should be permitted to obtain a yearly license by payment of the difference in the fees between those for a fortnightly and a yearly license. The same principle applies in the case of a visitor who becomes a *bona fide* resident, who shall be entitled to a refund of the difference between the sum paid as a visitor and that payable as a resident.

With regard to the exception appearing in the motion, Your Excellency, that was considered—the Committee actually did consider it, but unfortunately in the drafting owing to an oversight it was omitted from the Report. The same provision exists in the Game Ordinance.

The Committee further recommended—this is the last material recommendation—that clauses 5 and 6 of the Fish Ordinance should be repealed. In printing the Bill that was over-looked. These clauses provide that the Treasurer may out of the monies collected from license fees pay to certain associations, who some years ago were administering the trout fishing in the Colony certain sums in order to help them in the protection of trout in the Colony. Now Government, having realised what an asset trout fishing is to the Colony, have taken complete charge of trout fishing and the protection of trout. It was therefore considered unnecessary to retain these two sections in the Fish Protection Ordinance and they are consequently recommended to be repealed.

Those are all the material recommendations, Your Excellency, and I beg to move that the Report of the Select Committee be adopted.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN) : I beg to second the motion.

HIS EXCELLENCY : The question is :—

“ That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Bill to Provide for the Protection of Trout and the Regulation of the Trout Fishing in the Colony be adopted subject to the following amendments :—

The definition of the term ' resident ' is amended by the addition of the following words—
' and shall include any officer in the public service in the Uganda Protectorate or the Tanganyika Territory or any officer or one of His Majesty's Ships on the East Indies Station or such other officer of His Majesty's Forces visiting the Colony on duty but not usually resident in the Colony as the Governor in each case approve ' .

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, may we have a ruling as to how this Bill is going to be taken—whether, if the report at this stage is adopted it will go to the third reading right away or whether it will be dealt with as in the past by taking it clause by clause.

I should like to base my subsequent remarks on Your Excellency's ruling on this point.

HIS EXCELLENCY : The procedure which Government proposes to adopt is that, on the adoption of this motion by Council, the Bill will proceed to the third reading, that being, I think the intention of the new Standing Rules and Orders in order to save the time of Council where the full Committee stage on the floor of the Council is not desired. It is, however, within the power of hon. Members to ask that the Bill shall be taken in Committee of the whole Council if ten members rise in their places expressing that desire. That is under new Standing Rule 80. I think that is the information the hon. and gallant Members requires.

CAPT. THE HON. E. M. V. KENEALY : Yes, Sir, but will it be appropriate to raise the question on each such occasion when a new bill comes up for discussion or will the procedure be laid down later?

HIS EXCELLENCY : It must always be open to Government to take the Bill in Committee of the whole Council if they desire to take it clause by clause or to move the adoption of the Report of the Select Committee, and if any ten members of Council wish to have the full Committee stage taken they can

rise in their places to secure that. There are really two alternatives. The alternative method of procedure was laid down in the new Standing Rules and Orders in order to save the time of Council.

If the hon. and gallant Member has no other point to put, I will put the question.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am at the moment not concerned with the question of procedure, but I would like a ruling and instruction. I wish to move an amendment to clause 10, and I would like to know whether I can do it at this stage or whether it is necessary to go into committee of the Bill?

HIS EXCELLENCY: The hon. and gallant Member could have easily had an answer to that question if he had consulted me beforehand. I wish hon. Members would consult me about these matters beforehand. The hon. Member can move the amendment by saying "I beg to move that the following amendment be made to the Report of the Select Committee."

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I should like to make a few remarks about the proviso to clause 5 regarding the establishment of fishing clubs. There are established in this country already. Sir, several angling societies and associations, and this Bill will enable such societies and associations to be recognised by Government, which recognition will confer on the country many advantages. These advantages will become more apparent on the Rules of this Ordinance being promulgated.

In regard to licenses, although that comes under the rules, I do hope that Government will see the appropriateness of including on the licenses not only the terms under which they are issued, but instructions on how to detach from the hook undersized fish, because lots of embryo fishermen do not know how to do that.

HIS EXCELLENCY: Will the hon. and gallant Member let me have the amendment he wishes to move?

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to move that in clause 10 the visitors' licence be reduced by 50 per cent. I understand that the majority of rivers are over-stocked and that the functions of the licence are two-fold—one is protection and the other is for revenue, and to put the licence at so high a figure, which will probably encourage irregularities, is not advisable. I also believe that when the rivers are stocked with trout fish in this Colony it will be an added attraction and inducement to tourists to stop in the Colony, especially if here is good fishing to be had at a reasonable figure.

For these reasons, Your Excellency, I would like to move that the licence be reduced by 50 per cent., and if necessary that another amendment be moved later on that a six-monthly licence be provided for. At the present moment it is twelve months, a fortnight or twenty-four hours, and I think everybody will agree that Sh. 25 for a day's licence is excessive.

HIS EXCELLENCY: Does the hon. and gallant Member desire to make the half-yearly licence half the cost of a yearly licence?

LT.-COL. THE HON. J. G. KIRKWOOD: Yes, Sir.

HIS EXCELLENCY: Does he desire also to have a half-yearly resident's licence?

LT.-COL. THE HON. J. G. KIRKWOOD: I think it would be advisable, Sir.

HIS EXCELLENCY: The question is to amend the motion before Council by the addition of the following words at the end—

"and subject to the following further amendments:— in Clause 10 (1) delete the words 200, 80, and 25 and substitute the words 100, 40 and 12/6d.

In the same clause after sub-clause (a) insert the words (b) Half-yearly 50, Half-yearly 12/6d., and re-number the following sub-clauses (c) and (d) respectively."

THE HON. T. A. WOOD: Your Excellency, I would like to second the amendment in general terms. I am not altogether in agreement with some of the details. I do not see anything particularly wrong with your resident's licence, but, with regard to the visitor's licence, the only other country that I know about issuing a licence on the same principle is New Zealand, where they used to issue a licence to visitors for 12 months, for Sh. 20. I never possessed such a licence myself—I have never been in New Zealand—but an old resident, who visited New Zealand, handed me a licence he had received there for the purpose of discussing the Fishing Ordinance, in the past. It was Sh. 20, and unless they have amended their regulations very considerably it does seem a great difference for us to propose ten times that amount.

HIS EXCELLENCY: The question is to amend the motion before Council by the addition of the following words at the end—

"and subject to the following further amendments:— in Clause 10 (1) delete the words 200, 80 and 25 and substitute the words 100, 40 and 12/6d.

In the same clause after sub-clause (a) insert the words Half-yearly 50, Half-yearly 12/6d., and re-number the following sub-clauses (c) and (d) respectively."

THE HON. CONWAY HARVEY: Your Excellency, I find myself in complete opposition to the proposed amendment and would urge hon. Members to support the Report of the Select Committee. At the second reading I was largely responsible for certain suggestions in regard to a change of license fees. Your Excellency will remember that originally one fee was imposed for visitors and residents. That figure was fixed at Sh. 60 for either class for a yearly licence. It seemed to me then, Sir, and I still think so, that inasmuch as trout fishing has been established by the taxpayers generally of Kenya, the sport of fishing as a recreation should be made as accessible as possible to the most humble payer of taxes. For that reason I consider that the license fee in the case of residents should be reduced to the lowest possible figure, and in order that the Colony's revenue may not suffer the Select Committee have gone very, very carefully into the matter and they thought it would not impose an undue hardship on visitors if they were asked to pay as much as £10 for a year's fishing, Sh. 80 for a fortnight's fishing, or Sh. 25 for a day's fishing. Those rates compare very, very favourably with rates in most countries—perhaps not in New Zealand—but I would invite hon. Members who are responsible for the amendment to consider that, in the majority of countries, England and Scotland particularly, in addition to the small Government license an enormous fee is almost invariably imposed by people who are fortunate enough to have trout in their waters. This is super-imposed on the Government tax, and I do not think that a mere matter of £10 for a year's fishing is going to make the slightest difference to the budget of the sportsman who comes out here to tour the Colony and pays no less than £100 for a licence to shoot game, and a great deal more for special game which he wishes to shoot and which does not come under that licence.

I do hope for those reasons that the Council will adhere to the Report of the Select Committee and disregard the proposed amendments.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I agree generally with the remarks of the last speaker. I think it should be made clear that the analogy of New Zealand and some such Colony as that is not necessarily of any particular importance to us here at the moment where a rather different policy as regards the charges for this sort of thing obtains. As some hon. Members have already pointed out, we do charge as little as we can for sporting licences of various kinds to residents in the country and we have always considered it justifiable to charge an entirely different scale for

the incoming visitor. Well, Sir, if we are going to depart from that policy we should not do it in the case of a single Bill. It should be a matter of general policy in which other legislation must equally be involved. If for no other reason than that I must oppose this amendment to the motion. I do not think it can be maintained that £10 for a year's extraordinarily good fishing is unreasonable, and I do not think that Sh. 25 for twenty-four hours' fishing for somebody who has not got a stake in the country is out of the way. It might be suggested that the residents' license is too low. Well, I hope nobody will agree to that, because, as has already been said, it has been the policy of Government to put this sort of sport within the limits of the humblest person in the Colony and Sh. 25 a year I think secures that.

On behalf of Government, I have to say that the amendment is not accepted.

LT.-COL. THE HON. LORD FRANCIS SCOTT: I am entirely in sympathy with there being a big differentiation between residents' and visitor's licenses. I think that in this schedule of licenses the visitor's license has been made too high. Because, besides the rich sportsmen who come to this country and take out £100 game licenses, there are other who cannot afford to pay all that money for a game license, and it is to this class that fishing licenses appeal.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, on a point of explanation, I would like to point out that a fishing licence at Home is not all that is necessary to secure good fishing.

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

"and subject to the following further amendments:—
In Clause 10 (1) delete the words 200, 80 and 25 and substitute the words 100, 40 and 12/6d.

In the same clause after sub-clause (a) insert the words (b) Half-yearly 50, Half-yearly 12/6, and re-number the following sub-clauses (c) and (d) respectively."

The question was put and lost.

LT.-COL. THE HON. O. F. WATKINS: Your Excellency, may I, in the interests of the officers who have to issue these licenses, suggest that a slight verbal amendment to the report of the Select Committee be made? Clause 10 (1) reads—

"The following Trout Fishing Licenses may be granted by any licensing officer and the following fees shall be chargeable therefor,

The word I am taking exception to is the word "chargeable," which is not mandatory—it is permissive. It gives somebody discretion and I suggest that that word be deleted and the word "paid" substituted thereto.

It is not an imaginary point, Sir, I have had the same thing crop up several times with township licenses, and an officer does like to know whether he is at liberty or not to make that charge.

HIS EXCELLENCY: Will the hon. Member move that in clause 10 (1) line 3 of the Report of the Select Committee the word "chargeable" be deleted and the word "paid" substituted therefor.

LT.-COL. THE HON. O. F. WATKINS: I beg to move that in clause 10 (1) of the Report of the Select Committee the word "chargeable" be deleted and the word "paid" substituted therefor.

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

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

"and subject to the further amendment that in clause 10 (1), line 3, delete the word "chargeable" and substitute the word "paid" therefor."

The question was put and carried.

HIS EXCELLENCY: Does the hon. Mover of the original motion wish to reply.

THE HON. THE ACTING SOLICITOR GENERAL: Your Excellency, I have to reply to one point raised by the Hon. Member for West Kenya, and that is with regard to instructions as to the method of removing young fish from hooks and returning them to the water. I am informed that instructions can be printed on the back of the licenses. I do not think there will be any objection to that. It will be done.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order, and on behalf of the Press, may I ask that the hon. and learned gentleman who has just spoken will endeavour to be a little less confidential. (Laughter).

HIS EXCELLENCY: I am sure he will do his best to do so.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Bill to Provide for the Protection of Trout and the

Regulation of the Trout Fishing in the Colony be adopted subject to the following amendments:—

The definition of the term "resident" is amended by the addition of the following words—

'and shall include any officer in the public service in the Uganda Protectorate or the Tanganyika Territory or any officer on one of His Majesty's Ships on the East Indies Station or such other officer of His Majesty's Forces visiting the Colony on duty but not usually resident in the Colony as the Governor in each case approve.' "

and subject to the following further amendment in Clause 10 (1), line 3, delete the word "chargeable" and substitute the word "paid" therefor.

The question was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE GAME (AMENDMENT) BILL.

THE HON. THE ACTING SOLICITOR GENERAL: Your Excellency I beg to move:

"That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Game (Amendment) Bill, 1928, be adopted, subject to the following amendments:—

That Section 8 (a), which is set out in Clause 5 of the Report be amended by the addition thereto of the following proviso:—

'Provided that nothing in this section contained shall be deemed to prohibit the purchase or the acquisition by barter or exchange of any game alive or dead, or any portion of any game, where written consent to sell, barter or exchange has been obtained in accordance with this section.' "

The omission of that proviso, Your Excellency, was an oversight. It simply provides that it shall be unnecessary to have a license to purchase from a person who is licensed to sell in accordance with the provisions of the Ordinance.

With regard to the Report, Your Excellency, one point to which I should like to draw attention is the fact that the Select Committee found that the Bill purported to amend certain sections of the Ordinance. Now it is usual in drafting for these amendments to appear in the order of their respective sections in the Ordinance. It was necessary therefore to displace certain sections of the Bill and change them about so that now they are in order of the sections of the principal Ordinance. That was the principal reason for reprinting the Bill, Your Excellency. The Committee also found that the Bill provided

new sections to be added to the principal Ordinance. These sections had no place in the principal Ordinance so that the Committee placed these new sections under the appropriate sections of the principal Ordinance, and numbered them accordingly.

With regard to amendments which may be considered material. Firstly paragraph 6 and 9 of the Report. In these paragraphs it will be seen that the Committee recommend that sections 10 and 23 of the principal Ordinance be deleted. Section 10 and 23 of the principal Ordinance refer to game dealers and trophy dealers' licenses, and their deletion is consequential on the abolition by the new Bill of these licenses. Clause 6 of the Bill is referred to in paragraph 13 of the Report. Clause 6 of the Bill repeals and substitutes a new section for section 31 of the principal Ordinance, and the proposed new section reads as follows:—

"No person shall hunt, kill or capture game on private land without the consent of the owner or his agent or the occupier of such land."

Now the Committee considered that this section might by implication be held to confer a right on a land-holder to preserve game regardless of the possible consequences to his neighbours. The Committee therefore recommended that the following proviso be added to that section:—

"Provided that nothing herein contained shall be deemed to confer any right on any owner or occupier of private land to preserve or cause or permit to be preserved or to purposely accumulate any game on such private land unless such owner or occupier shall have taken such reasonable and adequate precautions as may be necessary for preventing such game from being a nuisance to neighbouring landholders: And provided further that nothing herein contained shall be deemed to prejudice the right of any aggrieved landholder in any suit which may be brought by him in respect of any damage occasioned by such preserved or accumulated game."

The Bill contains a bribery clause making it an offence for anybody to offer a reward to a servant of the Game Department. That clause is redundant as provision exists under Chapter 78 of the Revised Edition of the Laws, so the Committee recommended its deletion.

The other material recommendation brought forward by the Committee was that any person who for any other reason, is unqualified, such as being of a race which is not allowed licenses under this Ordinance, or who because of some reason, such as misconduct has already been refused a license by the Game Department—the provision provides that any such un-

qualified person or persons, suffering from such disability, who obtains or attempts to obtain a license shall be guilty of an offence against the Ordinance.

There is one slight mistake in the reprint of the Bill that occurs in the schedule of the principal Ordinance, as shown opposite to page 6 of the reprinted Bill. Paragraph 13 of the schedule should contain another sub-clause (c), which was omitted owing to an oversight. This sub-clause (c) reads: "Within ten miles of high water mark on Naivasha Lake."

These are all the material amendments recommended by the Committee, and I beg to move that the Report of the Select Committee appointed to consider the Game Amendment Bill be adopted.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Game (Amendment) Bill, 1928, be adopted, subject to the following amendments:—

That Section 8 (a), which is set out in Clause 5 of the Report be amended by the addition thereto of the following proviso:—

'Provided that nothing in this section contained shall be deemed to prohibit the purchase or the acquisition by barter or exchange of any game alive or dead, or any portion of any game, where written consent to sell, barter or exchange has been obtained in accordance with this section.'

THE HON. CONWAY HARVEY: Your Excellency, as we are all agreed on the principle of game preservation so long as it does not come into competition with industrial development, I am quite sure we all support the Report of the Select Committee, but, Sir, there is one, to my mind, very serious omission. Consideration of this particular point may have been barred to the Select Committee by their Terms of Reference. I do think it is a most important point, and that is the imperative need for consolidated game legislation. When I attempted to understand the full purport of this new Bill I lost myself completely in a maze of Ordinances, Amending Ordinances and Rules, and as a matter of fact, Sir, it is absolutely impossible for any ordinary layman to understand Kenya Game Legislation at all and I imagine that its administrative officers who are responsible for the carrying out of such legislation must labour under great difficulties. I do trust, therefore, that

Government will give most serious consideration to a suggestion made that consolidated legislation should be arranged as soon as possible.

Quite recently, Sir, a letter appeared from people interested in Kenya in the "Times" in which they emphasised in the strongest possible terms the need for some consolidation of our game legislation.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I support the motion, but there are one or two points I should like to make. The first one deals with the farmer's Magna Charta—section 31 in the Bill—which is the first time that Government has definitely recognised that in future the game shall not be preserved at the expense of the farmer. That is the most important recognition of a domestic nature that has yet been accorded the farmer in this country, but I should like the recognition extended a little more. The proviso makes it impossible for the owner or occupier of private land to preserve game to the detriment of his neighbours. I should like to see that principle extended because it is primarily a principle of justice, and I should like to see it extended to Government so that the Crown should not be allowed to preserve game when it becomes detrimental to its neighbours. In section 31 it prevents persons from hunting or killing game without the consent of the owner or occupier of the land. If the Court has demonstrated, Sir, on an appeal that that owner or occupier is preserving game to the detriment of his neighbours, then 31 should cease to apply, and the individual suffering from excessive game should have the right automatically by the decision of the Court that, where there is game preserved under those conditions, he may destroy such game.

May, I, Sir, comment on a point of order. I am in rather a difficulty at this stage to introduce all the points that I have thought about. There are quite a number of split infinitives about one of which I have had to see the Solicitor General, so that he should not trip over it. Are we accepting the correct English of the Acting Solicitor General or are we accepting the incorrect English of the drafted Bill?

Under this method of doing things it has been rather trying to get at things. It enables one only to introduce such points that come to ones mind when one rises to speak for the first and only time that is permitted under the rules. That being so if one finds amendments later on it will be impossible to

He is always entitled to move his amendments, and any number of amendments, if he obtains the leave of the Chair, and there is nothing to prevent him moving any amendments to the report, one after the other, as he wishes, and he may speak to each of the amendments as well.

CAPT. THE HON. E. M. V. KENEALY: That comforts me considerably. (Laughter).

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, may I remind the hon. and gallant Member that he was himself a member of the Select Committee, whose report he signed. (Laughter).

CAPT. THE HON. E. M. V. KENEALY: The report I endorsed very strongly (laughter), but we are all liable to make mistakes and there are one or two mistakes—not of a serious nature—but since the High Court does occasionally pass some comment on the way in which legislation is drafted I do consider it is essential to make it as correct as we can.

I suggest that in para. 14—section 31, the split infinitive be corrected. In para. 16—section 35.

HIS EXCELLENCY: Perhaps the hon. and gallant Member will resume his seat. He will have to move a separate amendment about each split infinitive. Perhaps I may state that if he is going to pick out all the split infinitives from the legislation of Kenya he is undertaking very heavy work. Legal English is not always the best English but apparently it serves the purpose, and I doubt if it is worth the time of Council to take them at this stage.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I would like to move an amendment—on page 4, clause 14—section 31, insert the words "the Crown" before "any owner or occupier."

HIS EXCELLENCY: The amendment then reads that in clause 14, line 7, after the word "on" insert the words "the Crown or". Does any hon. Member rise to second the amendment?

HIS EXCELLENCY: There being no seconder the amendment is lost.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, another amendment clarifying one on page 3, clause 8, section 14, I think it would clarify matters if you make

HIS EXCELLENCY : The hon. and gallant Member is moving an amendment to a section which has been deleted from the Ordinance. (Laughter).

THE HON. THE ACTING COLONIAL SECRETARY : On a point of order, Sir, may I read the following Standing Rule :—

" Amendments which are, in the opinion of the President, merely formal, clerical or consequential may be made before the Bill is read a third time without the Bill being recommitted."

CAPT. THE HON. E. M. V. KENYALY : Your Excellency, I would suggest that on page 5.

HIS EXCELLENCY : I will put the hon. and gallant Member's amendment if he wishes me to do so, but perhaps I may appeal to him not to detain Council on questions purely of literary style, because they do not affect the Ordinance and if the Legal Advisers of the Crown are satisfied I think that is all that Council is concerned with. Does the hon. and gallant Member still wish to press his amendment?

CAPT. THE HON. E. M. V. KENYALY : No, Sir. On a point of personal explanation, may I state that the amendment which was accepted was brought to the notice of the Legal Advisers by me, because I thought it was an important one—I refer to the one dealing with buying and selling.

HIS EXCELLENCY : That has been provided for.

HIS EXCELLENCY : The question is :—

" That the Report of the Select Committee of the Legislative Council appointed to consider the provisions of the Game (Amendment) Bill, 1928, be adopted, subject to the following amendments :—

That Section 8 (a), which is set out in Clause 5 of the Report be amended by the addition thereto of the following proviso :—

" Provided that nothing in this section contained shall be deemed to prohibit the purchase or the acquisition by barter or exchange of any game alive or dead, or any portion of any game, where written consent to sell, barter or exchange has been obtained in accordance with this section."

The question was put and carried.

SECOND SUPPLEMENTARY ESTIMATES, 1928.

THE HON. THE ACTING COLONIAL SECRETARY : Your Excellency, in speaking to the motion in my name I would suggest to hon. Members that we follow the usual procedure

and appoint a Select Committee consisting of all the Elected Members and certain Official Members to consider the various items in these Estimates.

Briefly the position is as follows :—out of this £68,000 something like £52,000 represents interest on the May loan, and against that figure there are of course the usual reimbursements in respect of the Railway items of the loan. There will be consequently additions both in revenue and expenditure under " Interest, Advances pending the raising of Loans."

Of the remaining items, none of them are considerable. There are expenses in connection with Locust Destruction and Hydrographic Survey, which I think have been discussed by hon. Members outside the House. There is also a number of building items of comparatively minor importance.

I suggest that the Select Committee be appointed in the usual way to consider these Estimates and that that Committee should meet tomorrow afternoon.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE) : I beg to second the motion.

HIS EXCELLENCY : The question is that the Second Supplementary Estimates be referred to a Select Committee of this Council.

The question was put and carried.

HIS EXCELLENCY : Hon. Members understand that the Select Committee will, as usual, consist of all the unofficial members of Council together with such official members as may be required, under the Chairmanship of myself or the Acting Colonial Secretary.

BILLS.

Committee Stage.

NATIVE LIQUOR (AMENDMENT) BILL.

LT.-COL. THE HON. O. F. WATKINS : Your Excellency, I beg to move that Council go into Committee to consider the Native Liquor (Amendment) Bill.

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

The question was put and carried.

In Committee.

The Bill was read clause by clause.

LIEUT.-COLONEL THE HON. O. F. WATKINS : I beg to move that the Native Liquor (Amendment) Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to report that the Native (Liquor) Amendment Bill has been considered in Committee of the whole Council and has been returned to Council without amendment.

LT.-COL. THE HON. O. F. WATKINS: Your Excellency, I beg to give notice that I shall move the third reading and passing of this Bill at a later stage of the Session.

THIRD READING.

AERIAL NAVIGATION (REPEAL) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: I beg to move the third reading and passing of a Bill to Repeal the Aerial Navigation Bill.

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

The question was put and carried.

BUSINESS OF COUNCIL.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, with regard to the remaining business of this Session, I am in hopes that certain Committees will be in sufficient agreement to produce reports to-day which may enable certain Bills, such as the Rating Bill and possibly other Municipal Bills, to be taken to-morrow, to enable the third readings to be taken the day after (Thursday).

*Council adjourned to 9.30 a.m., on Wednesday,
29th August, 1928.*

WEDNESDAY, 29th AUGUST, 1928.

The Council assembled at 9.30 a.m., His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIDG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 28th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

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

Report of the Select Committee on the Local Government Municipalities Bill.

MOTIONS.

REPORT OF SELECT COMMITTEE—LOCAL GOVERNMENT (RATING) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move:—

“That the report of the Select Committee appointed to consider the provisions of the Local Government (Rating) Bill be approved.”

Your Excellency, the majority of the amendments which the Committee have suggested should be made to the Bill are, either of a formal nature or designed to improve the general working in practice of the Ordinance, and I do not think that I need take up the time of the House by referring to them in any great detail.

There are three points which may require explanation. The emendation proposed to clause 4, in addition to making a statutory declaration before proceeding upon the valuation, is that—

“Every valuer shall, on completion of the valuation entrusted to him, attach to the valuation a certificate under his hand that such valuation is the valuation to which the declaration provided for in sub-section (1) hereof refers.”

That was inserted at the wish of the Hon. Member for Nairobi South and by virtue of his experience as a valuer in practice to local authorities in England. A certificate of this sort is commonly attached to a valuation roll by valuers for their own protection and we thought that it would be desirable to include it here in the Ordinance—making it statutory—in order that ratepayers may have an opportunity of referring to the roll and satisfying themselves both as to the name of the valuer and that he had certified that his valuations had been made conscientiously and so forth.

In clause 7 we have recommended the deletion of the words "not being less than ten acres in extent," as that limitation seemed to be unnecessary in view of the concluding words of the section that—

"where such land has a value in excess of its agricultural value, it shall also be rated upon the full amount of such excess value."

Government therefore has agreed to delete this provision from the Bill.

The third point to which I would draw attention is the deletion of clause 27 in the Bill. This clause was inserted on the recommendation made in the Local Government Commission's report. It was taken from the Transvaal Rating Ordinance, but it seemed that the differences in the tenures of land between the Transvaal and ours here made its retention a somewhat academic matter and in view of the unanimous opposition of Elected Members Government agreed to delete it from the Bill.

There is one further emendation in clause 30 of the Bill as printed which really provides that when the Bill is applied to townships unless the context otherwise requires, "Local Authority" means the Governor; "Municipality" means the area of the township; "Mayor," "Town Clerk" and "Town Treasurer" means the "District Commissioner."

THE HON. THE ACTING ATTORNEY GENERAL (MR. BATES): I beg to second the motion.

HIS EXCELLENCY: The question is:—

"That the report of the Select Committee appointed to consider the provisions of the Local Government (Rating) Bill be approved."

The question was put and carried.

REPORT OF SELECT COMMITTEE—IMMIGRATION RESTRICTION (AMENDMENT) BILL.

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

"That the report of the Select Committee appointed to consider the provisions of the Immigration Restriction (Amendment) Bill be adopted."

Your Excellency, clause 2, paragraph (f) of section 5 of the Bill as it stands reads as follows:—

"Any person who, in consequence of information received from any trusted source or from any Government, whether British or Foreign, through official or diplomatic channels, is deemed by the Immigration Officer to be an undesirable immigrant."

That gave unrestricted power to the Principal Immigration Officer and on the second reading of this Bill it was suggested that some form of appeal should be given against the decision of the Principal Immigration Officer and the Committee recommended that the following proviso be added to the paragraph:—

"Provided that every decision of the Principal Immigration Officer under this paragraph shall be subject to the confirmation or otherwise of the Governor in Council, whose decision shall be final."

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

HIS EXCELLENCY: The question is:—

"That the report of the Select Committee appointed to consider the provisions of the Immigration Restriction (Amendment) Bill be adopted."

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in the proviso to clause 2, paragraph (f), I propose the deletion of the words "or otherwise." They mean nothing.

HIS EXCELLENCY: I do not understand the hon. and gallant Member. They mean the confirmation or possibly the non-confirmation.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, may I point out that the wording is "shall be subject to the confirmation." If they are subject to the confirmation the opposite to that is implied.

HIS EXCELLENCY: I think the hon. and gallant Member is pressing a verbal point rather strongly. If he wishes to move that amendment I will put it. I should have thought, though, that it would have been safer to put the words in.

CAPT. THE HON. E. M. V. KENEALY: As an alternative, Your Excellency, I suggest that the words "or rejected" be used. That means something.

HIS EXCELLENCY: Does the hon. and gallant Member wish to press his original amendment? The deletion of the words "or otherwise"?

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

HIS EXCELLENCY: The question is:—

"That the report of the Select Committee be amended in paragraph (b) of clause 2 by the deletion of the words 'or otherwise'."

Does any hon. Member rise to second?

HIS EXCELLENCY: There being no seconder, the amendment is lost.

HIS EXCELLENCY: The question is:—

"That the report of the Select Committee appointed to consider the provisions of the Immigration Restriction (Amendment) Bill be adopted."

The question was put and carried.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to give notice that I shall move the third reading of this Bill at a subsequent stage of the Session.

BILLS.

THIRD READINGS.

TROUT PROTECTION BILL.

On motion of the Hon. the Acting Solicitor General (Mr. McCarthy) the Trout Protection Bill was read a third time and passed.

GAME (AMENDMENT) BILL.

On motion of the Hon. the Acting Solicitor General the Game (Amendment) Bill was read a third time and passed.

NATIVE LIQUOR (AMENDMENT) BILL.

On motion of Lieut-Colonel the Hon. O. F. Watkins (Senior Commissioner for the Coast) the Native Liquor (Amendment) Bill was read a third time and passed.

BUSINESS OF COUNCIL.

HIS EXCELLENCY: I have asked the Hon. the Acting Colonial Secretary to make a statement in regard to to-morrow's business.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN): Your Excellency, to-morrow we propose to take the adoption of the reports of the remaining Local Government Bills, with one small exception, and if hon. Members so desire I suggest we might also proceed to the third readings of the Bills involved. The taking of the third readings, of course, depends on the adoption of those reports.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, on a point of order, when will these reports be laid in their complete form?

THE HON. THE ACTING COLONIAL SECRETARY: The answer to that is that I think that one report has been laid and the other ones will be laid to-morrow but circulated to-day.

CAPT. THE HON. E. M. V. KENEALY: Further, on a point of order again, is there any assurance that the report as laid originally will not be amended by a further report? How are we to know when the report in its complete form has been submitted to Council, because I understand that the report on the Municipalities Bill has since been altered.

THE HON. THE ACTING COLONIAL SECRETARY: The report of the Municipalities Bill has just been laid this morning on the table. It is open therefore for the hon. and gallant Member to see if his signature still holds good if he was a member of the Committee.

THE HON. T. J. O'SHEA: Your Excellency, on a point of order, a report of the Municipalities Bill was laid this morning. Is that the same report that was laid last week?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: The report is the report which was circulated last week, together with the paper which has been laid on the table this morning.

HIS EXCELLENCY: I understand that the Select Committee made an addition to their report—a subsequent addition—affecting certain amendments which were originally proposed. It is such addition which has been laid this morning.

THE HON. T. J. O'SHEA: On a point of order, as a member of that Committee I know of no amendment to a report. I should like a ruling, Your Excellency, as to whether this paper which was laid this morning is considered as a part of the report.

HIS EXCELLENCY: It is signed by a majority who constitute the Select Committee. Was the hon. Member not there when it was discussed? Was he unable to attend the meeting at which it was discussed?

THE HON. T. J. O'SHEA: I was at a *gathering* of members of the Committee yesterday afternoon. I am not aware it was a *meeting* of the Committee, inasmuch as all the members had not been summoned to the meeting of the Committee.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Every member, Sir, who was present in Mombasa was summoned to the meeting. One member of the Committee left three or four days ago for Nairobi—he of course was not summoned.

THE HON. T. J. O'SHEA: I am endeavouring, Your Excellency, to protect the privileges of members of this Committee. In this instance, the report of the Committee was signed on Wednesday last and handed to the Chairman to be laid on the table of the House, in terms of clause 60 of the Standing Orders. It then passed out of our hands and was not laid, and some members of the Committee have apparently endeavoured to amend it, but without the consent of the Committee as a whole. I would ask Your Excellency's ruling as to whether it is a proper procedure.

HIS EXCELLENCY: I do not understand the hon. Member's point of order. Any Select Committee can amend its report if it desires to do so. A majority of the Committee can, of course, sign a report if they desire to do so. If one member dissents he can register his opposition, but the proceeding is perfectly proper. A minority of the Committee can also sign a report.

CAPT. THE HON. E. M. V. KENYALY: Is it not possible that the member who was away when the fresh report was signed would consider it necessary to be furnished with this additional report if he knew that the report which he signed has been amended and materially altered in its meaning?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, the further paper laid this morning is an expression of opinion from certain members of the Committee of their personal wishes in regard to the original report.

HIS EXCELLENCY: The Acting Commissioner for Local Government has not got the point. The question is whether the member who is absent in Nairobi had an opportunity of registering his opinion in regard to the report.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: No, Sir.

HIS EXCELLENCY: He was absent.

CAPT. THE HON. E. M. V. KENYALY: Therefore is it constitutionally correct to accept a report which was not submitted to one of the members of the Committee?

HIS EXCELLENCY: Yes, of course it is. Single members are often unable to attend Committee meetings on account of illness and for other reasons, and if work is held up because of one member, no Select Committee would ever get its work done. If a member has got to go elsewhere on business it is his own affair, but the business of Council cannot be held up on his account.

THE HON. T. J. O'SHEA: Your Excellency, I should be glad to have for our future guidance a ruling as to whether, in terms of clause 60 of the Standing Rules and Orders, the report which was signed last Wednesday should not have been laid on the table within a reasonable time.

HIS EXCELLENCY: Under Standing Rule 60? I am afraid I have not got the hon. Member's point.

THE HON. T. J. O'SHEA: The report of the Committee was signed on Wednesday afternoon last.

HIS EXCELLENCY: There is no rule dealing with that.

THE HON. T. J. O'SHEA: It was signed on Wednesday afternoon, Your Excellency, but was laid only this morning.

HIS EXCELLENCY: Yes, because I understand the majority of the members of that Committee wished to consider it further. There is no rule compelling the laying of the report the day after it is signed.

Does the hon. Member refer to Rule 60?

THE HON. T. J. O'SHEA: Yes, Sir.

HIS EXCELLENCY: I see no rule which states that a report must be laid the day after it is signed, and I would say further that Government must have an opportunity of considering reports of Select Committees. They may be very important reports and Government must have some time to consider them.

CAPT. THE HON. E. M. V. KENEALY : On a further point of order, may we have an assurance from Government that the report of the District Councils Select Committee has now reached finality and will not be re-opened for further consideration?

HIS EXCELLENCY : I cannot give the hon. and gallant Member any assurance on behalf of a Select Committee of which I am not a member. The report as laid is, so laid by the majority of the Select Committee and I can give him no further assurance that it will not be discussed again. If hon. Members wish to make further amendments and to consider further their report they are perfectly entitled to do so. I am afraid that hon. Members seem to think that the minority are entitled to conduct the business of a Committee.

THE HON. T. J. O'SHEA : On a point of personal explanation, Your Excellency, may I explain that such is certainly not my attitude, for I understand that the report of that Committee was completed on Wednesday last and handed to the chairman to be laid and I take the point of view that any subsequent alteration is a separate report to that original report, and I would refer Your Excellency to the first paragraph of that report which was signed by everybody on Wednesday last. I wish to make it clear that there is no effort on my part as a minority to impose my wishes on the majority.

HIS EXCELLENCY : I fully appreciate what the hon. Member has said and I think as a matter of fact all that the majority of the Committee have done is to ask that an addition to their report should be laid, the addition being this paper that was laid this morning. I think it is merely a matter of form whether you consider it an additional report or not. I do not think it is a matter of importance.

Council adjourned to 9.30 a.m. on Thursday, 30th August, 1928.

THURSDAY, 30th AUGUST, 1928.

The Council assembled at 9.30 a.m. on the 30th August, 1928, at Government House, Mombasa, His Excellency the Governor (SIR EDWARD WILLIAM MACLRAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.O.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 29th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

BY THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT :

(a) Report of the Select Committee on the Local Government (District Councils) Bill.

(b) Report of the Select Committee on the Public Health (Amendment) Bill.

BY THE HON. THE ACTING COLONIAL SECRETARY :

Report of the Select Committee on the Second Supplementary Estimates, 1928.

ORAL ANSWERS TO QUESTIONS.

SURVEY OF THE COAST FISHING AREA.

HON. J. CUMMING : Your Excellency, I beg leave to ask the question standing in the name of the Hon. Member for the Coast :—

"What action has Government taken regarding the Report submitted last year by the Committee appointed to enquire into the question of a survey to be made of the Coast fishing area?"

In view of the great importance of this industry, will Government expedite the establishment of same?"

THE HON. THE ACTING COLONIAL SECRETARY : It is proposed to make provision for the survey in the Supplementary Estimates.

MOTIONS.

SUSPENSION OF STANDING ORDERS.

REPORT OF SELECT COMMITTEE ON SECOND SUPPLEMENTARY ESTIMATES, 1928.

HIS EXCELLENCY: I think that in dealing with the business of the day it will be convenient before taking a motion which stands for approval of the Second Supplementary Estimates, 1928, to take a motion adopting a Report of the Select Committee on the Second Supplementary Estimates, 1928. That procedure will be proper, I think, and if hon. Members will agree, I will call upon the Hon. the Acting Colonial Secretary to move the suspension of Standing Orders in order that that motion may be moved.

THE HON. CONWAY HARVEY: That will be all right, Your Excellency.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move that Standing Orders be suspended to allow the adoption of the Select Committee's Report on the Second Supplementary Estimates, 1928, to be taken without due notice.

THE HON. THE TREASURER (MR. GRANNUM): I beg to second the motion.

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended in order to allow the adoption of the Report of the Select Committee on the Second Supplementary Estimates, 1928.

THE HON. CONWAY HARVEY: Your Excellency, in support of the motion, I should like to say, for the benefit of the public generally who may consider that these items of expenditure have not been given adequate consideration, that Government met Elected Members yesterday and went in detail into all these individual items and unanimous agreement was reached.

HIS EXCELLENCY: The question is:—

"That the Standing Rules and Orders of this Council be suspended in order to enable the adoption of the Report of the Select Committee appointed to consider the Second Supplementary Estimates, 1928, to be moved without due notice."

The question was put and carried.

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

"That the Report of the Select Committee appointed to consider the Second Supplementary Estimates, 1928, be adopted."

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

The question was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY: I beg to move the original resolution on the Order Paper:—

"That this Council do approve the Second Supplementary Estimates, 1928."

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

HIS EXCELLENCY: The question is:—

"That this Council do approve the Second Supplementary Estimates, 1928."

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I beg to move an amendment to the motion by the addition of the following words at the end:—

"As amended by the additions contained in the Schedule to the Report of the Select Committee and with the consequent substitution on page 4 of the figures £88,242 for the figures £68,937 in column 4; of the figures £332,286 for the figures £312,981 in column 5; and the figures £79,321 for the figures £60,016 in column 6."

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

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

"As amended by the additions contained in the Schedule to the Report of the Select Committee and with the consequent substitution on page 4 of the figures £88,242 for the figures £68,937 in column 4; of the figures £332,286 for the figures £312,981 in column 5; and the figures £79,321 for the figures £60,016 in column 6."

The question was put and carried.

The question on the original motion as so amended was put and carried.

REPORT OF THE SELECT COMMITTEE ON THE LOCAL
GOVERNMENT (MUNICIPALITIES) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL
GOVERNMENT: Your Excellency, I beg to move:—

"That the report of the Select Committee appointed
to consider the provisions of the Local Government
(Municipalities) Bill be adopted."

In speaking to this motion, I should like to put what I
have to say broadly under three heads.

In the first place, I would draw the House's attention to
the recommendations in the Select Committee's Report with
regard to the proposals referred by Government to them for
consideration as published on August 9th. These proposals
resulted from the Round Table Conference and referred to
the constitution of the Nairobi Municipal Council and the
Mombasa Municipal Board; and further, to the replacement
of Part II of the Bill by one new clause, giving the Governor
in Council power to make rules for election machinery when-
ever elected members are included in the constitution of a
Council or Board. These proposals the Select Committee
recommends should be adopted with the exceptions to which
Mr. T. A. Wood and Mr. O'Shea.

HIS EXCELLENCY: Order, order.

THE HON. THE ACTING COMMISSIONER FOR LOCAL
GOVERNMENT: I beg your pardon, Sir. The Hon. Members
for Nairobi North and Plateau South.

The Committee recommended the adoption of these amend-
ments as printed. That entailed the re-numbering of the
whole of the remaining clauses of the Bill, and I trust that that
will not inconvenience hon. Members in studying this report.

One point arising out of the Conference was specially
referred to the Select Committee for consideration, and that
was the question of a majority of a definite proportion of
councillors for the passing of the Municipal budget, and with
the exception of the Hon. Member for Plateau South, the
Committee recommended that the procedure to be followed in
the case of passing annual estimates should be on the same
footing as the procedure required for approving applications
for Municipal loans; that is to say, that special meetings
should be called and that a majority of the whole Council
should be required before passing such estimates.

Under the second head there are certain points of detail
which I may mention briefly. The penalties for infringement
of the law by councillors have been tightened up in new
clause 74, and made more severe. The point which was

raised by the Nairobi Municipal Council and I think by the
Hon. Member for Nairobi North, in regard to the Finance
Committee and surcharge, has been dealt with in a way which
entirely meets with his approval. I refer to new clauses 84
and 96 (2). The onus of keeping the accounts entirely correct
has now been put upon the Council's officers instead of upon
the Finance Committee.

Certain clauses of the printed Bill dealing with electricity
and the licensing by councils of electricians have been cut out
at the instance of the Postmaster General as overlapping the
provisions of the Electric Power Ordinance, and a new clause
has been inserted to require that plot-owners who intend to
erect buildings on their plots which will come within seven
feet of an electric main should give notice to the licensee under
the Electric Power Ordinance.

In one other clause, where it was proposed to recover rates
from owners and occupiers generally, we have provided now
that, before a Council exercises the power to recover from an
owner when it has been in the habit of recovering from an
occupier, it should give the owner due notice that the occupier
is falling into arrears; see new clause 85, sub-clause (2).

Lastly, Sir, that part of the Report which is unanimously
signed suggested the amendment of clauses 125 and 126 so
as to give this body some executive powers, the extent of which
was shown by amendments proposed to various clauses of the
Bill in which approval had been laid upon the Governor in
the Bill as printed. The intention in this recommendation
was to enable the Standing Committee of technical and other
Government officers to deal finally with matters of municipal
routine on behalf of the Central Government, always provided
that in case of dissatisfaction with their decision any Municipal
Council should have the right of appeal to the Governor in
Council, whose decision should be final.

At a later stage, certain members of the Committee after
further consideration decided to add a rider withdrawing their
support from the recommendations in question; that is to say,
they no longer recommend the substitution of the words
"Standing Committee" for "Governor" where that altera-
tion is proposed in the first part of the Report. This entails
a revision of some twenty-three clauses and sub-clauses in the
Bill. Those members recommend that as regards these sec-
tions the Bill shall stand as originally drafted, with the
exception that in clause 125, instead of the words "Deputy
Director of Sanitary Services and Municipal and Town Plan-
ning Engineer" in the constitution of the Standing Com-
mittee there should be inserted "the Director of Public Works
and the Attorney General," and that a proviso should be added

that in the event of those two officers and the Director of Medical and Sanitary Services being unable to attend or being absent, they should be represented by deputies.

They further recommended that clause 126 should stand as in the printed Bill.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the provisions of the Local Government (Municipalities) Bill be adopted."

THE HON. T. J. O'SHEA: Your Excellency, up to very nearly the end of the speech of the hon. Mover, I was under the impression that he was moving the adoption of the original authentic and unabridged edition of the Committee's Report, but at a later stage I gathered that the Report as submitted by Government is an expurgated version, the authenticity of which I most respectfully challenge. The original report—that which I regard as the one and only report—regarded as authentic was signed on yesterday afternoon of a week ago, unanimously by all the members, and was handed to the chairman to be laid. A week later, reasons were given for the inability of Government to accept that Report, and the members of the Committee were asked to change their mind upon certain recommendations contained therein. Some of the members of the Committee found it possible to change their mind with regard to these recommendations, and put in a supplementary statement to that effect, but other members of the Committee found it impossible to change their minds and adhered to the original Report. Now, Sir, there are various criticisms against Government for the way they have dealt with that situation, and I must express my disappointment that Government has adopted a course that is open to question. However, I accept the situation as it is made by Government, as regards this new and revised edition of the Report, and it is with that Report as revised that I shall deal.

In the original Report, Sir, it was unanimously recommended that the clauses in the Bill dealing with the status of the Standing Committee should be altered, and that the Standing Committee should be reconstituted and provided with given executive powers. The amended edition recommends that that change be not made. I should like, Sir, even at this stage to urge upon Government the acceptance of the original decision of the Committee. There is much to be said for it, and I cannot really understand why Government finds so much

difficulty in accepting it. There are already in existence a number of statutory committees that have been vested with at least equal powers. Under the Native Land Trust Bill, Government itself proposes by delegation to a body acting under the Government to grant much greater powers than we are, Sir, offering in these disputed amendments. Again, in the Railway Councils Bill, powers are delegated to the General Manager that far exceed those asked for in the suggested amendment to the Municipalities Bill. It may be urged that these particular matters require exceptional handling, but if that be the case, I would ask what is the difference between this case and that of the Water Board, which it is proposed to set up under the Bill at present before the Council. In that Bill, a Government measure, a board is given much greater responsibilities and much greater executive power than is suggested in the amendments to this Municipalities Bill. Furthermore, Sir, I must say that I feel very much surprised indeed that Government should have found it impossible to accept this strongly supported suggestion and then at the same time agree to its inclusion in the Bill dealing with District Councils. I should have thought it would have made much smoother working of the machinery of local government if the powers of the two bodies were the same, and in fact one executive body was appointed to deal with both forms of local government. Also, Sir, I should like to emphasise that the setting up of machinery for local government was surely the time in which to carry out the policy to a logical extent in decentralising government. If I remember rightly, one of the strongest arguments given in favour of the adoption of local government was that it would facilitate the operation of decentralisation. As the Bill now stands it confers upon the districts the right of rating themselves and controlling the expenditure of that rating. I should have thought, Sir, that they might very well have been entrusted with a little more power.

I was in a minority of one in entirely disagreeing with the basis of representation proposed for the Nairobi and Mombasa bodies. Being in a minority of one, the impression might be given that I am something of a diehard on the subject, but my attitude towards the political status of the Indian in this country is not that of a diehard. When the proper time arises I shall not be unreasonable; that is, not more unreasonable than my fellows. But I consider that the time has not arrived to deal properly with that question, and I have the strongest objection to settling it piecemeal. So long as the political basis of this country is subject to the exigencies of politics, or the time has not arrived when the political destinies of this country are under the control of the people of this country—and efforts are being made at present to settle it—there will

not result any basis that will satisfy the Indian or any other section of the people. My attitude towards the representation that should be given to the Indians is decided by my regarding these municipal bodies as business organisations for the management of the towns with which they deal. I consider that it is altogether improper to form them upon a racial basis, but under another administration they would probably deal with people on a racial basis. It does not in the least follow that the masses of the Indian community in these townships are of necessity best represented by people of their own race. In fact they would be very much better represented by people of the European race. I say that, because I believe that the Indians in this country are not qualified to take on responsibility upon these boards. The Indian has not the tradition behind him of orderly government that is found elsewhere to enable him to appreciate his responsibility in this position. He has not the knowledge. He may have the will. He certainly has not either the tradition or personal knowledge or experience necessary to enable him to administer these towns as they should be administered. Therefore I say it is wrong to provide officially for an unduly large number of these incompetent people. They will be a hindrance rather than a help on the bodies to which they are nominated.

I understand, Sir, that the numbers proposed for these bodies are being decided by Government, because of the findings of a round table conference, and Government is most anxious not to make any material alterations in the Bill, because that would upset the conclusion come to by that conference, and would give any party an opportunity of re-opening the matter. That attitude is wrong, because it ignores that the findings of that conference have been repudiated by the very people whom you are endeavouring to pacify. However responsible, however capable may be the people who represented the Indian community on that occasion they have been repudiated by their people. Several representative bodies of Indians have made it public that they do not abide by the decisions of their people. The Indians will not be satisfied with these bodies until the members thereon are elected on a common franchise, so, Sir, I say that the object you have tried to achieve has not been achieved, and in your efforts you have allowed these local government bodies to be stultified at the outset by the black hand of this Indian conference.

I must also comment, Sir, on the action of those present at that conference in deleting the representation of the Goan community entirely. I am not urging that there should be special provision made for Goan representation on these bodies. The Goans are foreign subjects of a foreign power, and I do not think they have any very strong claim to representation

on these boards. But on the other hand, I think it is wrong in principle that they should be entirely deprived of any form of direct or indirect representation. For certain reasons, the Indian representatives have given Government to understand that they would prefer not to have their members elected on a communal franchise, but that they would prefer nomination. As a result thereof, the Goan ratepayers of these towns are deprived of any voice in the affairs of these municipalities. I think that is wrong, and steps should be taken to put it right.

It is not too late at this hour to reduce the number of the Indian members on these bodies and at a later stage of the proceedings I shall move an amendment to this effect.

Also, in an effort to create an artificial majority on some of these bodies, provision has been made for special procedure in regard to the annual estimates. I think, Sir, it is hardly fair, in order to meet the conditions of two of these bodies, that all the other local government bodies in the country should be subjected to a procedure that may seriously hamper them in the carrying out of their business. The procedure adopted on this occasion, Sir, has been rather unusual, and I am not quite certain as to how I must proceed first. I should like to ask Your Excellency therefore whether I shall be in order in moving various amendments to the Report as we go along?

HIS EXCELLENCY: Yes.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, every honest man is entitled to his opinion, and every man is entitled to his honest opinion. That may be coincidence and that may not. I think with that as a hypothesis one should analyse the report at this stage and arrive at a basis of the validity that one is prepared to give to it. Now, Sir, let us deal with the facts as they exist. The Report was unanimously signed. Then, owing to outside interference, the majority of the members of the Committee swallow their convictions with regard to the elementary principles of the Report to which they previously unanimously agreed. I suggest, Sir, that the logical mind would draw the conclusion—and probably the right conclusion—that that report now represents, not the opinion of the majority of that Committee, but the opinion of that outside interference.

HIS EXCELLENCY: The hon. and gallant Member is not entitled to impute improper motives to other Members of this Council. At the present moment he is doing so.

CAPT. THE HON. E. M. V. KENEALY: May I recall, Sir, to the minds of hon. Members of this Council the phrase I used before, that every honest man is entitled to his opinion, and every honest man is entitled to vary that opinion. Now,

Sir, I submit that sufficient time has not been given to hon. Members of this Council to digest that Report. We are indulging in hurried legislation in this country, and we are going to pay very dearly in the future for indulging in legislation based on speed rather than on accuracy.

Now, Sir, the fundamental object to be achieved by the establishment of local authorities is the decentralising and delegating of authorities to local bodies from the Central Government. Is that object attained here; can it be attained when powers which should be definitely in the hands of a decentralising factor—in other words, a Standing Committee—are retained entirely in the hands of Government of the country? There are, Your Excellency, adequate safeguards for the country. It is unanimously agreed that there should be final safeguards, and these should be vested in the Government of the country—the Government of the country—constitutionally, Sir. The Governor is in a very powerful position; he has the power of veto, generally and particularly. There is no need and it is inadvisable, for reasons which I will subsequently give, for these powers to remain in the hands of the Governor. Now, Sir, there are fundamental differences between the way in which a Standing Committee would work if it were executive and the way in which it would work if it were advisory. If the Government would remember this, that if it had these powers it would have the initiation of policy in its own hands, we would see the results of not pursuing the initiation of policy ourselves. Government, as at present constituted, is in every way open to declare its policy, and the same position will arise in the event of these powers being retained by the Government of the country instead of by this Standing Committee. If these powers are given to the Standing Committee we shall have continuity of policy by persons with intimate knowledge of the country, and we shall have continuity of personnel on that Standing Committee. Matters will be decided on a business basis. If, on the other hand, these powers are retained by the Government of the country, then all these factors will cease to operate, and the Committee and the whole of this decentralisation will be subject to the political vagaries of a sojourning Government, and it is highly undesirable that a business organisation, which a decentralising local authority is, should be so subject to political persuasions. I am certain, Your Excellency, that very soon it will be necessary to alter this. I realise that there is a majority against the suggestions made by my hon. friend and myself, but, Sir, we feel the necessity for starting on a proper basis, and if we are going to have decentralisation as a primary quality of local authorities then, Sir, let us take the powers which are

now vested in the Government, or it is proposed to invest in Government, and hand them over to the Standing Committee. I oppose the adoption of this Report, Sir.

LIAUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I would like to say a few words as a member of this Committee who signed both the original Report and the supplementary Report.

With reference to clauses 125 and 126, it was agreed by the Committee unanimously to alter those clauses so as to give executive powers to a departmental Standing Committee. I expressed myself at the time to the effect that I had no strong views on the question, that I thought if it was sanctioned that we were getting very little in reality; to me it meant nothing. Arguments were used to the effect that it was decentralising—that it would take off a certain amount of donkey work from the Governor in Council and put it on to the shoulders of the Standing Committee. I pointed out, and expressed my opinion, that I had very little hope of a Committee exercising that executive authority under our present constitutional conditions. To ask them to do so was asking a great deal, so in effect really, although I signed the supplementary report; I have not changed my mind on the effect of the first report. I definitely stated that I had no strong views in the matter.

The Hon. Member for Plateau South has stated that he does not agree with the composition of the municipalities at Mombasa and Nairobi, and that he is in a minority of one. I am afraid he is claiming something which does not exist. There are a great number of people, including myself, who do not agree with the position of those bodies, but who see that no useful purpose can be served by endeavouring to alter what has already been arrived at by mutual agreement at the Round Table Conference.

With regard to the Goan question, which has arisen, they have my greatest sympathy. I am going to give any movement my support which welcomes their inclusion in some shape or form on any representative body. It is not for me to express an opinion, but I hope the few words I have said will make it clear that I have neither eaten my words nor swallowed my convictions. I still have my own opinion, and I still express and maintain it. The majority of Members who signed the Report signed it as it stood without alteration.

THE HON. CONWAY HARVEY: Your Excellency, I associate myself with the views of the majority, with one exception—I allude to the exception signed by the Hon. Member for Plateau South and the Hon. Member for Nairobi North—and I sincerely trust, Sir, that this Council will fully appreciate

the trend of social affairs, and will recognise the absolute necessity, under modern conditions, especially in so far as natives are concerned, for making arrangements for the regulation and control, as well as the complete supervision, of brothels. I associate myself with the hon. Members' plea for prostitutes. The supreme form of vice is ultimately the most efficient guardian of virtue. But for her, countless happy homes would be polluted and not a few who in the prime of their untempted chastity think of her with an indignant shudder would have known the agony of remorse and of despair. Creeds and civilisations may rise and fall, but she endures for ever.

I took part, Sir, in a debate on this subject about six years ago, and I sincerely trust that the example of Your Excellency's distinguished predecessor will be followed and that all hon. Members will be encouraged to express their views quite honestly, and asked to record a free vote on the subject.

I understand, Sir, that the hon. Member on my left (Mr. O'Shea) will move an amendment on these lines in due course, and I shall have very much pleasure in supporting it. With this one exception, I am in complete agreement with the report of the majority of this Select Committee.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move the following amendment to clause 5: That in sub-section (1) the number 9 be deleted and the number 10 be substituted therefor. That in sub-section (2) the number 7 be deleted and the number 6 substituted therefor.

Your Excellency, the effect of this amendment, if accepted, would be to increase the number of European members on the Nairobi Municipal Council to 10, and to decrease the provision for Indian members from 7 to 6. I think there is very much indeed to be said for such a change. It was generally understood that when greater Nairobi was created by bringing into the municipal area all the suburban areas adjoining that European representation would be considerably increased—increased to an extent that would prevent the Council Chamber being used as a debating ground on racial lines. Under the constitution, as proposed in the report on the Bill, however, it seems to me unavoidable that the affairs of that body will be argued not upon business lines, but upon racial lines, and that the only way of securing that that will not happen is to have an unquestionable European majority. I consider there is every justification for having an unquestionable European majority in the interests of all classes, creeds and races of the ratepayers of that town. They are much more likely to get an efficient administration if they have a majority of people who do know something about municipal

government, who have the unselfishness to give up their time to the affairs of their council, and who have the knowledge and ability to enable them to discharge their duties efficiently. I hope, Sir, Government will give favourable consideration to this amendment.

HIS EXCELLENCY: I understand that the hon. Member's amendment is to the following effect:—

"That the motion be amended by the adoption of the following words at the end:—'And subject to the following amendment: that in clause 5, sub-clause (1), of the Bill the number 9 be deleted and the number 10 substituted therefor. That in sub-clause (2) of the same clause the number 7 be deleted and the number 6 substituted therefor.'"

Does any hon. Member rise to second the amendment?
CAPT. THE HON. E. M. V. KENEALY: Your Excellency, I beg to second the amendment.

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

"And subject to the following amendment: That in clause 5, sub-clause (1), of the Bill, the number 9 be deleted and the number 10 substituted therefor. That in sub-clause (2) of the same clause the number 7 be deleted and 6 substituted therefor."

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I am afraid I must oppose this amendment. I think I need not set forth at great length the arguments which produced the proportion of representation as it now stands in the Bill, to which the Hon. Member for Plateau South has objected. We have, rightly or wrongly, embarked here on a course as regards Nairobi Municipal representation which has led us to this particular point, which it is now desired to get away from. That course was taken, Sir, after mutual discussion and agreement. Having embarked on that course, I think, taking into account the precautions that were taken to get representative views, it would be impossible at this stage for Government to agree to make the alteration, which would upset the results of the discussions on which this Bill was based.

The Hon. Member for Plateau South, when he opened his speech and started by opposing the motion—the substantive motion—went right to the heart of the issues before us. Those issues are of course concentrated round the particular proposal which we now have to consider—the proposal, that is to say, of forming a municipality in Nairobi and a municipality in Mombasa with as far as possible the avoidance of racial friction. I can only repeat that the particular methods we adopted were taken to prevent as far as possible friction before ever the Bill was passed.

It has been suggested that there will be friction in any case, that there will be repudiations of at least on one side of this agreement. Well, Sir, that may be. It is not expected in any of these sort of agreements that the lesser elements of the community—that those elements of the community which have less responsibility than others—should take the same views as the more responsible elements.

Well, Sir, I think I had better leave the matter at that, and on behalf of Government I oppose the amendment.

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

“And subject to the following amendment: That in clause 5, sub-clause (1), of the Bill the number 9 be deleted and the number 10 substituted therefor. That in sub-clause (2) of the same clause the number 7 be deleted and 6 substituted therefor.”

The question was put and lost.

CAPT. THE HON. E. M. V. KENYALY: Your Excellency,—page 4, clause 11. I wish to move the excision of “the Governor” and the substitution therefor of “The Commissioner for Local Government.” I wish to excise “by proclamation” in line 27 and after the words “he may” which are at the end of the paragraph, add “and where proclamation is necessary the Governor thereupon shall proclaim.”

THE HON. T. J. O'SHEA: I beg to second the amendment.

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

“Subject to the following amendment: That in clause 11, line 27, the word ‘Governor’ be deleted and the words ‘Commissioner for Local Government’ substituted therefor. That in lines 27 and 28, the words ‘by proclamation’ be deleted and that in line 29, after the word ‘may’ be inserted the words ‘where proclamation is necessary the Governor thereupon shall proclaim.’”

THE HON. THE ACTING COLONIAL SECRETARY: I am afraid I shall have to oppose this amendment, too. The force of it would be to put the Governor in the strange position of being under the orders of the Commissioner for Local Government. I think that can be hardly intended by the hon. Member, but I take it in any case the main issue is challenged, and this has already been challenged by the Hon. Member for Plateau South in regard to the position of the Governor in these matters. Well, generally speaking, it was considered by the Feetham Commission, which reported some time ago—and perhaps it is because it reported some time ago and put

yesterday that we have these things suggested. I would, however, point out that these measures now put forward show after all a very marked increase in decentralisation of local government. I think, Sir, if we had been able to legislate on the lines of the Feetham Report at the time or soon after it was issued we should have found that the political aspirations of members would not have reached so far forward as they appear to do now. I suggest that there will be further opportunities, perhaps in the near future, when such matters may be discussed in a more proper way, and I ask Sir that we should stick to our original proposals as to the relationship of the Governor and such bodies or officers as may carry out the duties outlined in this Ordinance. On behalf of Government I oppose the amendment.

CAPT. THE HON. E. M. V. KENYALY: On a point of order, may I reply to one of the statements made by the Hon. the Acting Colonial Secretary?

Your Excellency, I wish to controvert a statement made by the Hon. the Acting Colonial Secretary, inasmuch as he said that to adopt this procedure would put the Governor under the orders of the Commissioner for Local Government. That, Sir, is not so. The Governor has the power of general instruction, and presumably he would give his Colonial Secretary that instruction. He also has powers of veto. Therefore the statement made was not absolutely correct.

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

“Subject to the following amendment: That in clause 11, line 27, the word ‘Governor’ be deleted and the words ‘Commissioner for Local Government’ substituted therefor. That in lines 27 and 28, the words ‘by proclamation’ be deleted and that in line 29, after the word ‘may’ be inserted the words ‘where proclamation is necessary the Governor thereupon shall proclaim.’”

The question was put and lost.

THE HON. T. J. O'SHEA: I beg to move that in clause 100, page 56, the amendment contained in the original report be adopted. That is to say, that this clause be amended by the deletion of the words “advise upon” in line 1, and the substitution of the words “deal with” therefor. Your Excellency, my motive in moving this amendment is to remove an extraordinary anomaly from the Bill. As it is at present drafted, in a large number of cases, it makes the Governor the deciding authority, and at a subsequent stage provides for him being the court of appeal. Now, Sir, I would urge that that should not be done. One of the reasons why I was so strongly

In favour of giving executive powers to the Commissioner for Local Government, Lands and Settlement is that it was really my first opinion—subsequently I modified it in the Standing Committee—so as to ensure that we would not have the extraordinary anomaly of the Governor at one and the same time being a court giving the judgment and the court of appeal. I do think, Sir, there is a lot to be said from this point of view. It is not fair to the Governor or other authorities to embody two powers under one person, and I would urge that Government very seriously consider the removal of this extraordinary anomaly.

CAPT. THE HON. E. M. V. KENEALY: I beg to second the amendment. I do hope, Sir, that the Government will accept this amendment. It is a very real one—it is not a fancy grievance. It will improve the Bill.

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

“subject to the following amendment:—

that in Clause 100 the words ‘advise upon’ be deleted in line 1 and the words ‘dealt with’ substituted therefor; and by the deletion of the word ‘upon’ in line 3 and the substitution therefor of the words ‘as provided for in this Ordinance’; and by the deletion of the word ‘the’ in line 3, and by the insertion of the words ‘its approval or the’ before the word ‘approval’ in line 4; and by the addition thereto of the following proviso:—

‘Provided that there shall be an appeal from any decision of the Standing Committee under this section to the Governor in Council whose decision shall be final.’”

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, no clear instance has been given to suggest that an appeal from one authority would be heard by the same authority. An appeal from the Standing Committee or from the Governor himself would go to the Governor in Council. For want of specific illustration of the difficulty I must oppose the amendment.

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

“subject to the following amendment:—

that in Clause 100 the words ‘advise upon’ be deleted in line 1 and the words ‘dealt with’ substituted therefor; and by the deletion of the word ‘upon’ in line 3 and the

substitution therefor of the words ‘as provided for in this Ordinance’; and by the deletion of the word ‘the’ in line 3, and by the insertion of the words ‘its approval or the’ before the word ‘approval’ in line 3; and by the addition thereto of the following proviso:—

‘Provided that there shall be an appeal from any decision of the Standing Committee under this section to the Governor in Council whose decision shall be final.’”

The question was put and lost.

THE HON. T. J. O'SHEA: Your Excellency, with regard to old clause 130 now number 104, on page 66 of the Bill, line 44, I beg to move the deletion of the word ‘Governor’ and the substitution therefor of the words ‘The Commissioner for Local Government Lands and Settlement.’ The effect of this amendment would be to have the Central Road Board report to the Commissioner for Local Government Lands and Settlement instead of direct to the Governor. My object in moving this amendment is that it is time that the extremely difficult task of making something effective out of the machinery we need should be attempted by this Bill. It seems to me only right that a Central Roads Board should be part and parcel of the machinery of local government, and should be subject to the controlling supervision of the Commissioner for Local Government Lands and Settlement. If that is not done, Sir, it will be a semi-independent body. It will not be completely independent because its function will be to advise Government. But I think if it were made a part of local government machinery it would be more correct procedure. I hope, Sir, that at least that recommendation will commend itself to Government.

HIS EXCELLENCY: Does any hon. Member rise to second the amendment?

There being no seconder, I declare the amendment lost.

THE HON. T. J. O'SHEA: Your Excellency, with your permission I shall move an amendment, of which I have already given notice:—

“and with the amendment that in new section 69; subsection 74, the words ‘for suppressing houses of ill-fame’ be deleted and the words ‘for supervising, regulating and controlling brothels’ substituted therefor.”

Your Excellency, the clause as at present drafted reads “for suppressing houses of ill-fame.” I dislike the use of the words “of ill-fame” in that connection, Sir, because I am not at all certain that the class of houses with which this is intended to deal are infamous. On the contrary there is a

mass of historical evidence that these houses have existed since an early stage in man's history, and that they have had the approval of mankind throughout the ages; that they are even necessary to the development of mankind, and that they have had the patronage of not only royalty, but of high dignitaries of the church. I think that we should not resort to a term that is not as correct as it might be.

This clause was discussed at some length in committee, Sir, and there was a very strong feeling expressed by, I think, the majority of the members that it should be amended, but we were given to understand that the Secretary of State for the Colonies would most strongly object, and that his objection would probably result in the whole Bill being held up and for that reason and that reason alone, the majority of members agreed not to insist upon the amendment. Now, Sir, in this matter the English suffer from an extraordinary complex; a complex of very deep interest to the psychoanalyst. The English people, as a whole in this matter are most arrant hypocrites, and yet at the same time individually they express and act upon altogether different views. I understand that the Secretary of State for the Colonies would be likely to object to my amendment on the ground that the policy I recommend is not the one that is allowed in other parts of the Empire subject to Colonial Office control. I should like to know how that is really the case, as in that connection I have been informed that in other parts of the Colonial Empire arrangements such as I suggest are made. In our case it is absolutely necessary that arrangements be made for regulating and controlling this class of house. It is a difficult subject to speak upon in public because of the prudery that has been fostered by mass psychology, and that does not exist when people discuss the matter among themselves. I shall deal with it as gently as I can. The Hon. Director of Medical and Sanitary Services is unfortunately away to-day, so that I cannot appeal to expert opinion, but I believe I am right in saying, and he would be in a position to support my statement, that every community in this country is suffering from a large amount of venereal disease, and that that menace to the race is the result of stupidly persevering in our policy of hypocrisy, and not allowing Government to arrange for the supervision of houses of ill-fame. If Government were in a position to suppress these houses, I would say that there is something for the policy, but, inasmuch as no Government has succeeded in doing so, and no Government is likely to do so, and has not tried to do so, I say, Sir, we should not indulge in the hypocrisy of pretending that that is our policy. It is necessary as a part of our policy that Government take this matter in hand. It is necessary for the future welfare of the land that Government should undertake the control of this

particular human activity, which goes so deep down. I strongly urge that Government adopt a common sense and honest attitude towards the problem. I would urge it to accept my amendment. If it does not do so it will have a very grave responsibility on its shoulders and I cannot honestly say that it can fall back on the very futile objections—besides pursuing the very willful and wrong policy—of people who do not understand our problems and who do not follow but the practice which they so hypocritically say is part of their national ideals.

THE HON. CONWAY HARVEY: I beg to second the amendment.

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

“and subject to the following amendment—
that in Clause 69, sub-section 74, the words ‘for super-
preaching houses if ill-fame’ be deleted and the words ‘for
supervising, regulating and controlling brothels’ sub-
stituted therefor.”

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, this subject has been discussed before at great length but on its own merits. I suggest now that the question whether this or that provision for these things should or should not be countenanced by the State is not one which should be raised in discussing a minor sub-clause of the Bill. The reference to it in the Bill is in accordance with the policy in being in the Colony and that policy is established elsewhere than in this sort of Ordinance. I can only suggest, Sir, that this is hardly a fitting occasion to raise this question and I think it most improper to attempt to change so important a matter of general policy wherever it is hardly more than casually referred to in new legislation. I strongly oppose this amendment.

THE HON. T. J. O'SHEA: Your Excellency, I must confess that I am altogether astonished at the reply of the Hon. the Acting Colonial Secretary.

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

THE HON. T. J. O'SHEA: It was never my wish, Sir, that I should obtrude an issue of this kind in view of my strong disagreement with the views of the majority on grave issues from a political point of view, but I have done so, because it is not merely a minute detail of this Bill, but a very important part. Recognising that it was most unlikely that the Central

Government under its present constitution would agree to the alteration of England's traditional policy on this question. I have never attempted the impossible, nor tried to do so. What I am attempting now is altogether a different thing. You are setting up local bodies for the control of local areas. They should be given the power if they desire to use that power of putting their own little houses in order. I am not asking that the Government of the country should embark on any new policy. I am simply asking that it be allowed as one of the powers of these local bodies that they have the right to regulate and control these houses. I think it, Sir, most injurious that they should not be given that power. I think it most injurious not to give them that power because I know it will be necessary. I know that an area exists in this town that very urgently needs that measure of control. I know that an area of the same sort exists in Nairobi that very badly needs that control. I have reason to believe that in any masses of settled population arising in the country that there will be sections requiring the same control. Surely, Sir, it is not unreasonable that we should allow people who we are asking to undertake the responsibility of governing these areas, that it should be in their power to safeguard the people from the evils of the suppression policy. I should very much like the question to be reconsidered, and I would ask, Your Excellency to give it further consideration.

HIS EXCELLENCY: As the hon. gentleman has appealed to me directly, I may say that I cannot personally agree to a fundamental question of policy in the Colony being settled by a Municipal By-law. It is open at any time to the hon. Member to bring a motion, on this point. I should like to assure him that I will not exclude a motion of that kind under the six months' rule should he wish to move it later, but I think it hardly proper that he should move that motion now under a question of Municipal By-laws.

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

"and subject to the following amendment:—

that in Clause 69, sub-section 74, the words "for suppressing houses of ill-fame" be deleted and the words "for supervising, regulating and controlling brothels" substituted therefor."

The amendment was put and lost by 13 votes to 6.

Ayes:—Messrs. Cumming and Harvey, Captain Kenealy, Lieut.-Colonel Kirkwood, Mr. O'Shea, Lieut.-Colonel Lord Francis Scott.

Noes:—Messrs. Baker, Biss, Bruce, Brigadier-General Rhodes, Messrs. Grannum, Holm, Logan, Martin, Maxwell,

Sheikh All bin Salim, Messrs. Sikes and Walsh and Lieut.-Colonel Watkins.

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the provisions of the Local Government (Municipalities) Bill be adopted."

The question was put and carried by 17 votes to 2.

Ayes:—Messrs. Baker, Biss, Bruce, Cumming, Brigadier-General Rhodes, Messrs. Grannum, Holm, Colonel Kirkwood, Messrs. Logan, Martin, Maxwell, Lieut.-Colonel Lord Francis Scott, Sheikh Ali bin Salim, Messrs. Sikes and Walsh and Lieut.-Colonel Watkins.

Noes:—Captain Kenealy, Mr. O'Shea.

REPORT OF SELECT COMMITTEE.

LOCAL GOVERNMENT (DISTRICT COUNCILS) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT: Your Excellency, I beg to move:—

"That the Report of the Select Committee appointed to consider the provisions of the Local Government (District Councils) Bill be adopted."

This Report, Sir, contains a certain number of consequential amendments arising out of amendments proposed by the Select Committees on the Municipalities and Rating Bills. There are also some other minor amendments and I should like, if I may, just to mention five particular points in the Report.

It was represented that the number of Members on the Area Committee should be raised from three to four, and to this the Committee agreed.

It was also represented that the maximum of elected members proposed in the Bill should be increased. It was not thought desirable to increase the maximum to any definite number, but rather to meet the case by deleting the words "not more than fifteen" so as to allow elasticity.

In the power section of the Bill we have added a clause to give power to District Councils to establish and maintain hospitals, and under the rule-making section we have given the Governor in Council power to make rules for giving binding effect to hospital schemes arranged between District Councils and Government.

In regard to the basic grant we have recommended in Clause 104 the inclusion of the words "or insufficient" after

the word "no" in order to enable Districts which consider that the 1927 allocation represents an inadequate provision for their roads to make a case to this effect to the Governor in Council for consideration.

In Clause 119 the powers of the Standing Committee have been recommended for variation and a new clause divided into six sub-sections has been drafted, the effect of which is to give certain executive powers to the Standing Committee subject to an appeal to the Governor in Council and subject to Royal Instructions, Letters Patent, etc. All financial control and rule-making powers are centred in the Governor in Council.

These are the major alterations suggested, Your Excellency.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE) : I beg to second the motion.

HIS EXCELLENCY : The question is :—

"That the report of the Select Committee appointed to consider the Local Government (District Councils) Bill be adopted."

CAPT. THE HON. E. M. V. KENEALY : One sees, Your Excellency, the attitude of the opposition from this side of the House on this Bill. The matter is more pernicious, and still more pernicious because here we have a Bill which is not swayed by political considerations, which my hon. friend quoted as applicable to the Municipal Bill. Here we have a Bill which deals purely with decentralisation or should, and yet Government in this instance also wishes to retain that objectionable control from which this country has suffered so very, very much; and it is essential that we jettison that old man of the sea, that incubus which has been riding on our back so long.

I wish at a later stage to move amendments, but I oppose the Bill on those grounds. All my remarks made about the impropriety of submitting a report such as the last report we had, are applicable equally to this report, because this report postulated the acceptance by the Council of the first report on the Municipalities Bill. We have not reconsidered this report since the addition was made to the original on municipalities. I suggest, Sir, that the original report on municipalities was improperly submitted.

HIS EXCELLENCY : Order, order, the hon. and gallant Member has had an opportunity of speaking on that report. He really must speak about the report which Council is now considering.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, I am drawing a comparison between a pernicious case and a more pernicious case.

HIS EXCELLENCY : The hon. and gallant Member must deal with the report under discussion. He is now dealing with the report which has been already disposed of by Council.

CAPT. THE HON. E. M. V. KENEALY : Your Excellency, the report which is before Council, in regard to the particular clause which I am quoting, clause 4, was not debated because it was supposed to have been dealt with in the previous Municipal Report. It is impossible for me to mention this except by reference to that previous report. It may have been disposed of.

HIS EXCELLENCY : The hon. and gallant Member is perfectly entitled to refer to the previous report, but he will persist in discussing the merits of such previous report, which has already been done and disposed of.

CAPT. THE HON. E. M. V. KENEALY : This particular aspect of decentralisation was not considered in detail because it had been considered in detail in the previous report, but, Sir, if certain members on this side of the House consider that where there was a political committee at work, in spite of that political factor which existed, it was undesirable to vest in the Government the powers which this clause vests in Government, then, Sir, I maintain that that political power is still lost.

THE HON. T. J. O'SHEA : This is the report I have signed, and I therefore support the recommendations that have been made in that report, but, Sir, I am still left free to raise points that have been independently covered by that report. I have signed it very largely because it creates a very piquant situation. In dealing with that situation it may be necessary for me to refer to a report which has been dealt with. I am afraid reference to the last report is necessary. In that unabridged report the elected members of that committee and the Government members have reported in favour of the adoption of a procedure that had been previously turned down for a Bill of a similar sort. Now I have never impugned the methods of my colleagues on this side of the house. They are above question. Their methods are good and sound, but their judgment, however, is certainly questionable, and I think that their judgment and the attitude of Government before these local government measures has exposed the weakness of it. The weakness has been exposed and made very evident indeed by the inclusion in this Bill of the provisions that are turned down in another

Bill. My attitude towards these local government Bills was one of destructive criticism. It was my earnest wish that I should carry out my responsibility as a member of this side of the House, and do everything in my power when the Bills were submitted to me for criticism, to meet them in every direction that I thought desirable, and that would be likely to improve the working of the machinery of the local Government. I would emphasise that that was my attitude throughout and it is my attitude at the moment. It was no part of the policy of obstruction then than it is part of the policy of obstruction now that I should raise that issue, as I am entirely in agreement with the Committee in that part of their report in which they have recommended provision being made for the delegation of executive powers to the Standing Committee. I would have urged that further powers in that direction be conferred upon the Committee, but that I know that agreement as regards these further powers could not be reached. In an effort, therefore, to be constructive, I waived my view regarding these and in collaboration with the Hon. Member for West Kenya, I should like to deal with one or two of the other matters in a later stage of the debate.

Before passing from the broader issue involved in this measure I should like to say, Sir, that I do not see how it is possible to justify the inclusion of executive powers in this case and exclude them in other cases, and further I must record my opinion that it is going to complicate the machinery of local Government very considerably.

It will be observed, Sir, on page one of the report, that the majority of the Committee was inclined to amend clause 104 so as to provide in the Bill for a definite and substantial increase on the amount provided in the 1927 Estimates. That is for district roads, but they refrained from any amendment further than that laid down in the report on representations that clause 105 met the case.

"The Elected Members of the Committee desire to emphasize that their acceptance of clause 104 does not imply any agreement on their part that the amount provided in the 1927 Estimates is nearly sufficient. On the contrary, they are emphatically of the opinion that substantially increased grants from General Revenue must be made on lines of Clause 105."

Now, Sir, I have drawn particular attention to those portions of the report because I think it is necessary for us on this side of the House to emphasize to Government that our acceptance of that clause does not in any way mean that we consider the 1927 Estimates provide anything like sufficient money for our road requirements and that we are definitely looking forward to a very much larger provision being made

in the 1929 Estimates for the road requirements of the country. If that is not done, if Government has not the foresight to see that it is necessary to do that, then I think in a very early stage of the administration of those measures we shall be faced with a crisis that may result in a complete breakdown of the whole scheme. If any effort is made by Government during the next two or three years to throw on to the shoulders of district local rating the increasing burden of cost of our road requirements, the machinery of local government will break down in the districts; I feel confident of that.

It is only within the last year or two that we have begun to realise that the millions we have spent on our railways are very largely a waste of money unless we are prepared to spend very considerable sums, not perhaps running into millions, on the completion of that transport system by the creation of good roads. It is becoming more obvious every day that it will pay us to pursue the same policy in relation to our roads that we have in recent years pursued in regard to our railways, and I cannot emphasize too much that it will be from the general revenues of the country and not from the district local rating that we must get the bulk of the money for this purpose. I feel certain that all my colleagues on this side of the House will support that view.

Clause 3 of the report mentions the Hon. Member for Kenya and myself. We are in a minority regarding the general executive powers and we were in favour of these to a large extent being placed on the shoulders of the Commissioner for Local Government. In anticipation that my colleague has an amendment on these lines, I shall leave that discussion to a later stage of the debate.

CAPT. THE HON. E. M. V. KENEALY: I do not know, Sir, whether you wish members to move an amendment. I was not moving an amendment before, I was speaking to the report.

HIS EXCELLENCY: If hon. Members wish to move a certain number of amendments, it may be convenient to take them after the interval.

Council adjourned for fifteen minutes.

On resuming.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: Your Excellency, there are only two points I wish to refer to. As a member of the Select Committee, I signed this report, and I support it. There is the one point; Sir. There is a proviso shown at the beginning on the first page of the report; and to which my hon. Friend on the right has referred, which

is the question of the basic grant based on the year 1927. Your Excellency, it was pointed out that it would be difficult to have the grant based on the estimates for 1929, which really would be best, but as these estimates have not yet been approved they could not be put into the Bill, but I do feel very sure that it is essential to the sympathetic working of the new constitutions for local and rural district councils that they should start with good feeling and with the support and goodwill of the people concerned. If we start with a basic grant which has already been proved to be insufficient for the needs of the district to keep up their roads, it does mean that rating would have to be put on the class of people who originally opposed the grant of this local government, and Government will be told: "I told you so, this is just a dodge of Government to impose further taxation on us to increase the central taxation under the cloak of local taxation," and there will not have been the good feeling which is essential to the initiation of any such scheme.

Your Excellency, we are informed that this can be made right under clause 105, but in actual fact it is 104 which refers to the annual basic grant which has got to be granted every year, while 105 is for special purposes. It will be on a variable amount and it will depend on the good cases put up by the various district councils. On the other hand, Sir, I am glad to see the Government have accepted the slight amendment which we proposed in the second section of clause 104, sub-section 1, line 28. The words we have been asked to put in are "or insufficient" between the words "no" and "provision".

Your Excellency, those words in my opinion will give the Governor in Council a means whereby he can increase the amount for 1927 up to what is considered a reasonable amount required on the recommendations of the Central Road Board which is now being formed, and with these provisos I feel quite confident that Government will wish to do this in a fair way, and they will agree that it is essential to start in a good spirit. With these provisos we signed the report.

On the other question of the executive powers of the Standing Committee I have signed the report and have supported the recommendations, but I am afraid I have not been convinced that it is of such vital importance whether the executive powers remain in the hands of the Government or in the hands of the Standing Committee which consists to a very large extent of heads of departments who are only the servants of the Government. It is not of very grave importance from either one side or the other. These amendments may make it a little more easily and quickly worked,

but I cannot myself believe that any Government would override the recommendations of such a representative Standing Committee, if they were only advisory. Nor can I believe that the Committee would make use of their executive powers in such a way as would be opposed to the Government of the Colony at the time. It is a trifling matter one way or the other. Therefore I have supported these recommendations. I do not on the other hand support the views of the Hon. and Gallant Member for West Kenya as to changing section 4.

HIS EXCELLENCY: I think it may be to the convenience of Council if hon. Members who desire to do so will move amendments now.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, page 2, clause 4, and, Sir, as I am challenging a fight on this particular point, I shall not take it any further if Government accepts it. I take it that Government will also accept such consequential alterations as will be implied therein.

I move, Sir, the excision of the word "Governor" and the substitution therefor of the words "the Commissioner for Local Government," and after the words "any district" the addition of the words "and where proclamation is necessary the Governor shall thereupon proclaim."

This, Sir, is a decentralising Bill, and the only way to effect the desires of the Bill as therein expressed is by adopting this method.

I need not labour this further. I have mentioned the reasons for such amendment before. I therefore beg to move this amendment.

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

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

"Subject to the following amendment in clause 4, line 27 of the Bill:—

delete the word 'Governor' and substitute the words 'Commissioner for Local Government'; therefor, and in sub-clause (1) of the same clause, line 26, after the word 'District' insert the words 'and where proclamation is necessary the Governor shall thereupon proclaim'."

THE HON. THE ACTING COLONIAL SECRETARY: I am afraid, Sir, I shall have to oppose this amendment in the same way as I opposed the corresponding amendment in the Local Government (Municipalities) Bill. I think, Sir, it is quite impossible to provide for a decision of the Commissioner of Local Government entailing automatically a Governor's proclamation.

On the question of decentralization, which has been alluded to by the hon. Mover of this amendment, I do not propose to speak now. If an opportunity offers itself later, I can speak then on the main motion.

HIS EXCELLENCY: Does the hon. and gallant Member wish to reply?

CAPT. THE HON. E. M. V. KENEALY: No, Sir.

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

" Subject to the following amendment in clause 4, line 27 of the Bill:—

delete the word ' Governor ' and substitute the words ' Commissioner for Local Government ' therefor, and in sub-clause (1) of the same clause, line 26, after the word ' District ' insert the words ' and where proclamation is necessary the Governor shall thereupon proclaim '."

The question was put and lost.

HIS EXCELLENCY: Does any other hon. Member wish to move an amendment?

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, in regard to the second paragraph of the report, here we have a statement, Sir, expressing the views of the majority of the members of the Committee. I am referring to clause 104 in the Bill, and to paragraph 2 in the report. Here, Sir, we have a recognition and an expression of the opinion of the majority of the Committee, but, Sir, we have no undertaking from the Government, which is what we want.

HIS EXCELLENCY: Order, order. The hon. and gallant Member has already spoken on the report. If he wishes to speak again he must move an amendment to that report.

CAPT. THE HON. E. M. V. KENEALY: I would like to move an amendment, Sir, to clause 104.

HIS EXCELLENCY: If the hon. and gallant Member will notify me of the amendment he can then speak. He has not yet explained what the amendment is.

CAPT. THE HON. E. M. V. KENEALY: Clause 104, Sir. That instead of the year " 1927 " the year " 1929 " be substituted. In this matter, Sir, we have an opinion by the majority of the members of the Committee urging Government to accept that, but we have no undertaking from Government that it is prepared to accept that recommendation.

HIS EXCELLENCY: I think if the hon. and gallant Member wishes to put that amendment he had better move it to clause 104 rather than to the report—substituting the words " 1929 " for " 1927 ".

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir, that was what I was pressing. That is merely a cross reference. I do not think it is necessary to amplify the reasons for so doing. They have already been ably stated, but I do suggest that it is absolutely useless providing machinery for Government to do what it does not intend to do. If Government expresses its desire to carry out the wishes of the majority in regard to this matter, we shall be perfectly satisfied. If it does not, it is useless providing Government with the authority to do what it does not intend to do.

One word of explanation, Your Excellency, I think I made a mistake in saying I propose to oppose the adoption of this report. I do not. I endorse the report with these few amendments.

HIS EXCELLENCY: The question is that the words " 1927 " be deleted and the words " 1929 " substituted therefor.

THE HON. CONWAY HARVEY: Your Excellency, I quite agree with the principle indicated by the hon. and gallant Mover of this amendment, and I associate myself entirely with the views expressed on this subject by the Noble Lord a short time ago, but in recommending the substitution of " 1929 " we are making a shadow of it; we have no knowledge whatever as to the sum of money which will be provided in the 1929 Estimates. It is even possible that it will be less than the sum provided in 1927, and we shall gain nothing thereby.

When this has been disposed of, I propose to suggest a small amendment to the proviso following sub-section one, which will help us to some extent to meet the case. It has been suggested that under the powers granted to the Governor in Council he may grant special funds for special roads if a sufficiently good case is made out, but I do not consider, Sir, that the Governor in Council is altogether quite the right authority to decide the money to be granted for these purposes. I do think that should only be done with the concurrence of the Central Roads Board which is about to be established. The Central Roads Board, Sir, has all the roads of the Colony and the various economic requirements of the different districts before it, whereas the Governor in Council quite conceivably will be swayed by some pathetic case which is put up for an individual road without considering the requirements of the road system generally.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I am grateful to the last speaker for putting the case so well against this amendment (laughter), and I have very little more to say on it. The 1929 figure is not a known figure—the 1927 figure is. I agree with his suggestion that one year's basic grant may be less than that of previous years. I suggest we adopt the figure 1928 for 1929, if an amendment is required.

I would like to point out that the sum for 1928 is, I believe, less than for 1927. (Laughter.)

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, since we have discussed the matter I should like to withdraw the amendment.

HIS EXCELLENCY: Has the hon. and gallant Member leave to withdraw the amendment?

THE HON. CONWAY HARVEY: Yes, Sir.

HIS EXCELLENCY: The amendment is by leave withdrawn.

THE HON. CONWAY HARVEY: I should like to propose the insertion of the words "with the concurrence of the Central Road Board" in the first proviso, which will then read: "provided that such sum may be increased by such amount as the Governor in Council with the concurrence of the Central Road Board . . ."

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

"and subject to the following amendment—

That in clause 104, sub-clause (1), line 28, the words "with the concurrence of the Central Road Board" shall be inserted between the words "Council" and "may."

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: I beg to second that.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I do suggest that the amendment in its present form rather puts the cart before the horse. It suggests that the authority to initiate the suggestion of road construction be the Governor and he should then go to the Central Road Board. Surely it ought to be the other way round? Should it not be the Governor in Council on the advice of the Central Road Board?

THE HON. CONWAY HARVEY: In explanation, Your Excellency, I am not the least bit concerned about the actual wording. I thought I made my point entirely clear, the principle being that the Central Roads Board should be consulted. It is not easy for the mere layman to draft amendments at a moment's notice.

THE HON. T. J. O'SHEA: Your Excellency, it is not, as the Hon. Member for the Lake has just said, easy for a member at a moment's notice, to draw up an amendment, nor is it easy always for members at a moment's notice to make up their minds as to how they should treat a motion. If this amendment had been suggested at an early stage of the proceedings and we had had time to think it out, I may have had time to agree. But, as it appears to me at the moment it would seem that our road grants, if this amendment were adopted, would be subject at all times to the concurrence of the Central Roads Committee. I feel certain, Sir, at least I can hardly imagine that that is the intention of the hon. mover. If he was agreed to the suggestion that it be amended on the advice of the central road board so that the Governor or Legislative Council is at liberty to go contrary to that advice, I would see no harm in supporting it. If he insists on the concurrence I cannot support it.

THE HON. CONWAY HARVEY: Your Excellency, with your permission I should like to accept that suggestion: "on the advice of the Central Roads Board", which is precisely what I intended.

HIS EXCELLENCY: Then I will take it that the amendment before Council is withdrawn and the following amendment is substituted therefor:—

"that the motion be amended by the addition of the following words at the end:—

that in section 104 (1) line 27 of the Bill the words "with the advice of the Central Roads Board" be inserted between the word "Council" and the word "may."

THE HON. CONWAY HARVEY: That is so, Sir.

LIEUT.-COLONEL THE HON. J. G. KIRKWOOD: I beg to second the amendment.

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

"That in section 104 (1) line 27 of the Bill the words "with the advice of the Central Roads Board" be inserted between the word "Council" and the word "may."

THE HON. THE ACTING COLONIAL SECRETARY : I should like on behalf of the Government to accept that amendment.

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

“ That in section 104 (1) line 27 of the Bill the words ‘ with the advice of the Central Roads Board ’ be inserted between the word ‘ Council ’ and the word ‘ may ’ . ”

The question was put and carried.

HIS EXCELLENCY : If no other hon. Member has any amendments to move, I will call upon the hon. the Acting Colonial Secretary to reply on the main question.

THE HON. THE ACTING COLONIAL SECRETARY : Your Excellency, speaking to the main motion, I should like to make a few remarks on a word which hon. Members will forgive me if I say has been mis-used by them during the debate on this report, as well as in the adoption of the Local Government (Municipalities) Bill Report. I refer, Sir, to the word “ decentralisation. ” I contend that in this Bill, as in the other Bill, a measure of decentralisation of the functions of Government has been granted to the people of this country on a scale which has hardly been contemplated before, and I am speaking, Sir, now, as I say, of real decentralisation. I am not referring to the so-called decentralisation from the Governor in Council with a number of unofficial members, to a standing committee with a lesser number of unofficial members, but I am referring to a decentralisation from headquarters itself to the districts in which the functions dealt with in this Bill are to be carried out. I find it very difficult indeed to understand the concentration of hon. Members' attention on the relative functions of the Governor in Council and the Standing Committee, and I have been given very good reason for finding it so difficult to understand. I would ask members to read this Bill through again, before it becomes law, and to try and understand the very great increase of power and responsibility put by it into the hands of local bodies. To realise too that that power carries with it obligations—and here I am going to touch on the question of finance and roads. Time will have to be given up by private citizens and money voted by local communities: the former have given their leisure already to advise Government—without effect they often say—now they will be able to command results and to help to pay for them as things develop in the Colony. An assurance has been asked for from Government in respect of its attitude towards the expense of future road problems in the districts, though I do not believe that

it has been suggested with any conviction that the Government will use this new Ordinance to slip away from its future obligations and shift on to local bodies an unfair burden of taxation. Such an assurance I am quite definitely prepared to give, and can say that Government contemplates a scheme of generous support for this sort of expenditure—such expenditure I mean as is entailed by the reasonable road development of each district; what will be the actual figures of Government's contribution, or on what proportion, it is quite impossible for me to say at present. That essentially must be a matter for discussion when any such further scheme of road construction comes up, whether it be road construction or road reconstruction, and I would ask hon. Members now to accept the assurance that Government will consider those discussions in a very generous spirit. But there is another side to that. I refer to the question of self-help. It is recognised in this Bill by all Members on the other side that we are now making it possible—we are now making it a matter of system and policy in this country—that local taxation should be raised where reasonable and where possible. Well, Sir, I hope that hon. Members will not forget that side, and I hope the country will not forget that side of the question, too—the question of its obligations. In the Native Reserves many of the road schemes are I understand now being carried out from the proceeds of a local cess. That is probably not universally known. But I am not going into the general questions involved by native and non-native taxation—that is far too big a subject.

I very heartily support the adoption of this report. (Hear, hear).

HIS EXCELLENCY : The question is :—

“ That the report of the Select Committee appointed to consider the provisions of the Local Government (District Councils) Bill be adopted, subject to the following amendment :—

“ That in clause 104 line 27 of the Bill the words ‘ with the advice of the Central Roads Board ’ be inserted between the word ‘ Council ’ and the word ‘ may ’ . ”

The question was put and carried.

REPORT OF SELECT COMMITTEE.

PUBLIC HEALTH (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT: Your Excellency, I beg to move:—

"That the report of the Select Committee appointed to consider the provisions of the Public Health (Amendment) Bill be adopted."

The Report suggested amendments to the Bill as drafted, merely to make the Standing Committee established under the Municipalities Bill the Central Authority for all Urban Areas and the Standing Committee established under the District Councils Bill the authority for Rural Areas in which District Councils have been established.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee appointed to consider the provisions of the Public Health (Amendment) Bill be adopted."

The question was put and carried.

BILLS.

THIRD READINGS.

LOCAL GOVERNMENT (MUNICIPALITIES) BILL.

On motion of the Hon. the Acting Commissioner for Local Government the Local Government (Municipalities) Bill was read a third time and passed.

LOCAL GOVERNMENT (RATING) BILL.

On motion of the Hon. the Acting Commissioner for Local Government the Local Government (Rating) Bill was read a third time and passed.

LOCAL GOVERNMENT (DISTRICT COUNCILS) BILL.

On motion of the Hon. the Acting Commissioner for Local Government the Local Government (District) Councils Bill was read a third time and passed.

PUBLIC HEALTH (AMENDMENT) BILL.

On motion of the Hon. the Acting Commissioner for Local Government the Public Health (Amendment) Bill was read a third time and passed.

IMMIGRATION RESTRICTION (AMENDMENT) BILL.

On motion of the Hon. the Acting Attorney General the Immigration Restriction (Amendment) Bill was read a third time and passed.

BUSINESS OF COUNCIL.

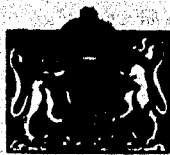
THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, as regards such business as Council has not yet fully dealt with this session, I should like to remind hon. Members of proposals which have been submitted during the last recess that we should take the opportunity on the last day of the session to try and arrange the business and sittings of Committees before the next session.

There are one or two Committees which it is hoped will report to the next session and I would ask hon. Members to consult with the Chairmen of those Committees as also the Clerk of the Legislative Council as to dates which may be convenient to hon. Members in the interval.

THE HON. CONWAY HARVEY: Your Excellency, before Council finally adjourns, I should like to take this opportunity of expressing the very sincere gratitude of all the Elected Members and I think perhaps in this I am speaking for the whole House, and to thank Your Excellency for your very kindly consideration for the comfort and convenience of all members during this session, more particularly, Sir, in allowing us to sit under such delightful conditions in this charming residence. The strain of a particularly strenuous session has been relieved in no small degree by the help we have invariably received from my hon. and distinguished *vis-a-vis* (the Acting Colonial Secretary).

HIS EXCELLENCY: I am very much obliged to the hon. Member for his observation and I am sure my friend the Acting Colonial Secretary is too.

Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES,
1928

THIRD SESSION.

FRIDAY, 9th NOVEMBER, 1928.

The Council assembled at 11 a.m., at the Memorial Hall, Nairobi, His Excellency the Governor (SIR EDWARD WILLIAM MACLEAY GRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Ex-Officio Member:

CECIL MOORE DOBBS, O.B.E., Acting Chief Native Commissioner.

Nominated Official Member:

EDWARD BUTLER HORNB, O.B.E., Senior Commissioner, Kikuyu.

Acting European Member:

THOMAS ALFRED WOOD, C.M.G., M.B.E., Nairobi South.

COMMUNICATION FROM THE CHAIR:

HONOURABLE MEMBERS OF COUNCIL,

It is customary at the opening of this Council for a new legislative year that the communication from the Chair should take the form of a brief review of the history of the past twelve months.

The most outstanding event in our history this year is also the most recent. I refer, of course, to what is in all our minds, the visit of the Prince of Wales. His Royal Highness has made his own itinerary, and has fixed his own engagements. We all desired that he should do so, and we hope he has been as happy as ourselves in the result. Without departing from the informal character of his visit—the more easily, I think, because of the informal character of his visit—he has been able to see for himself all sides of the Colony's life. He has, I know well, a natural and instinctive understanding of the feelings, the anxieties and the struggles of a young Colony, and I am sure that there is none of our communities who has not felt the stimulus of his interest and sympathy. We hope His Royal Highness has found his experiences enjoyable; we hope indeed that they have been such that he may at some time be willing to renew them; and we thank him, all of us, from our hearts, for having come amongst us to see the life of Kenya.

May I add that this Council feels itself greatly honoured by his presence in this hall to-day.

During the past year this Council has had to deal with two great legislative undertakings, one of them now achieved, one of them still unachieved. I refer to the Native Lands Trust Bill and to the two Bills dealing with Local Government. The Native Lands Trust Bill is still awaiting final approval. As honourable Members know, it has been reserved for discussion with the Secretary of State, but I hope to see it made law on my return to the Colony next year.

The Land Bank is also awaiting final discussion with the Secretary of State. The settlement schemes, which are based upon it, have already been approved by this Council, and I am taking the financial proposals which have been considered by the Select Committee appointed by this Council to deal with it home with me for discussion with the Secretary of State. I hope that I shall be able to bring this measure also back for approval by this Council when I return.

Apart from assistance to settlement, I am convinced that some form of assistance from State credit is also essential at the present time to the development of the Native Reserves. I would give as an instance the present condition of the

Ukamba Reserve, where re-conditioning after a long period of denudation must involve capital expenditure. There is great difficulty in securing such credit for the Native Reserves because it is not easy to find adequate security for loans without in some way compromising native lands. But Government hopes in connection with the Native Lands Trust Bill to find some suitable form of State credit for the development of Native Reserves for submission to Council next year.

Also dependent on the establishment of the Land Bank and on the provision of State credit are the measures before this Council dealing with Fencing and Cattle Cleansing. These measures are equally important for the progress of European and native industry. They have been exhaustively discussed not only in this Council but in many meetings in all parts of the Colony, and I hope that in their final form they will receive the support of the farming community. Every experienced observer who has visited this Colony and with whom I have had the opportunity of discussing these problems has advised that measures of this kind are absolutely vital to our progress and that they ought greatly to facilitate the steady increase of mixed farming, which is essential to the security of a farming colony. So much for the Native Lands Trust Bill and the measures connected with it.

Apart from this, and now achieved and on the Statute Book, are the Local Government measures, which are the main legislative achievements of this Council during the year. As regards the new municipal organisation of Nairobi and Mombasa, I should like to express again the appreciation of Government for the work of the Round Table Conference, which produced a compromise in regard to these measures.

The spirit of accommodation shown on both sides has done signal credit to the Colony, and has earned the thanks of both the Imperial and the Indian Governments.

I think that a note of sincere gratitude should also inspire our farewells to the old Municipal Council in Nairobi and the District Committee in Mombasa. They have done a great deal under difficult conditions, not the least of which was the fact that they enjoyed inadequate powers. The position indeed was always difficult for both sides. It was difficult for the Local Authorities and it was difficult for Government. There were certain faults in the system which obviously had to be removed. But the need for wider and stronger municipal organisation is no reflection whatever on the past services of these bodies, and I think the thanks of all communities are due to them. The increase and crowding of population in these towns in the heart of Africa create a host of health problems and other problems; they create a demand, which

must be met, for water, sanitation, and all the services essential to rapidly growing towns; and I hope that in all these respects a new era is in sight for the two main towns of the Colony.

We have also passed a system of local government for the settled areas of the Colony. I hope the importance of that constitutional step is realised. I shall only say of it that it is the essential preliminary to constitutional reform in the central government of the Colony. The Government is most anxious to assist local authorities in the development of local government. It does not wish to make this new system merely a ground for new financial impositions and for getting rid of its present burdens. Far from it. I can assure all local authorities and district councils that when they come into being they will find the attitude of Government both helpful and generous.

Both in town and country public service on these bodies involves a great strain on the time of busy men in an active farming and commercial community; but their work will now be associated with much more responsibility and authority. The manner in which men come forward for that work will be a test of the readiness and fitness of this community for further responsibilities.

Before I leave the subject of local government, I should like once again to express the thanks of the Colony to Mr. Justice Feetham for the great work done in his report. I believe that in coming years the Colony will look back upon that work with ever increasing gratitude.

Before I leave the local government measures, there is one other subject which arose in debate upon them in the course of the Mombasa session, upon which I ought to say a word. I refer to the suggestions which were then put forward for the State regulation of brothels. My ruling upon that occasion will be in the memory of honourable Members. I said that it seemed to me undesirable that a subject of such importance should be discussed as a side issue in connection with two municipal measures; but that I would be ready to give facilities for further discussion of the subject without regard to the six months' rule later on if honourable Members so desired. That ruling, which dealt solely with a matter of procedure, has been taken in many quarters to mean that Government has some such proposals as State regulation under consideration. I have had protests from all the Christian bodies and institutions in Kenya. I have had protests from many quarters at home. I know very well that the proposal was advocated by honourable Members on that side of the House as a measure of health, but I believe it to be entirely

mistaken even from that standpoint. There is in this Colony a great authority upon the subject, Dr. Bequeira, who was for a long time chairman of the Society for the Prevention of Venereal Disease. I think that the records in Europe and elsewhere show that regulation and inspection have been ineffective, and from the health point of view alone are now being abandoned everywhere. But that is only one aspect of the matter, and about that aspect there may still be different opinions. What admits of no question is that regulation of that kind is utterly repugnant to the moral feeling and tradition of the British Empire. While I will of course provide for debate on the subject if desired, I must, in view of what has happened make it absolutely clear that there is not the remotest possibility that the present Government of the Colony will be persuaded to depart from British practice in this matter or to provide in any form whatsoever for the regulation or recognition of prostitution by the State.

There is one other point in connection with local government on which I would say a word. Suggestions for the reorganisation of Provinces will be submitted to this Council, or to a Select Committee of this Council, in accordance with the recommendations of the Feetham Commission, in order to provide for the relations between authorities in the settled areas and in the native reserves. That is an essential part of the Feetham recommendations in regard to local government, and honourable members will find that the necessary provision has been made in the Estimates.

I would add that the appendices in regard to Provincial expenditure, which I promised this Council in May or June, are in preparation and will be laid when the consideration of the Estimates is more advanced. The weakest point in that aspect of our financial expenditure is the drain which we suffer from the administration and defence of the Northern Frontier Provinces. They involve us in a perpetual and most serious drain on revenue, revenue which should be available for necessary services in other Provinces. We have had some assistance from Uganda in regard to military provision in Turkana, and closer administration is being established now in Turkana with good results. But nevertheless, the position is very serious. Deducting the Uganda contribution I find that the cost of the Frontier Provinces, which amounted to £161,099 in 1925, and had only been reduced to £129,402 in 1927, is still little short of that figure, while the revenue derived from the two Provinces amounts to little more than £5,000 a year. I believe, and I have long believed, that this serious drain upon our resources, the most serious to which the Colony is now exposed, can be arrested. I have travelled all round the Northern Frontier Province, and I hope to have proposals

to submit to this Council for the reorganisation of that Province when I am back here next year. They require at the moment further discussion with the Inspector General and also with the Secretary of State, because they affect other bodies and other authorities than the Government of this Colony, but I hope, as I say, to have definite proposals to make on this subject when I return to the Colony next year.

I would say in this connection that I have very great confidence in the active co-operation of the Ethiopian Government, which is absolutely essential to closer administration in our Frontier Provinces. That Government has shown a real determination to disarm its people on the Abyssinian side of the Frontier and it is providing for closer administration in various ways. I have great confidence in its good intentions in this respect, and those good intentions are of the utmost importance to us.

In the meanwhile, I have found—and I think that all the local authorities and the military authorities agree with me—that for some time longer military control of transport in the Northern Frontier Province is essential. I have therefore to report with much regret—I think that honourable members have already learned it from Supplementary Estimates—that the economies expected in regard to transport have not been realised. But the provision of wireless and of more mechanical transport under military control has made some reduction possible in the establishment of the King's African Rifles.

In regard to the Northern Frontier Province, we are still in the transition stage. The Province is now in the hands of one of the most experienced officers in the Colony who, I am glad to say, postponed his retirement in order to take over that work. I refer to Mr. Hemsted. He is dealing with the improvement of communications, with the very necessary reorganisation of districts and headquarters of districts, and I hope that we shall be able to take a long step towards closer and more economic administration next year.

I have dealt so far only with questions of legislation and administration. If I may tax your patience a little further, I would like to carry this review on to a brief survey of what gives life and substance to all the other activities of the Colony. I mean production and trade.

As honourable members are only too painfully aware, drought conditions have now prevailed for two years. The drought has brought with it a serious invasion of locusts and in certain parts the resultant loss has been very grave. With regard to the campaign against locusts, Government has not stinted funds in any way. The expenditure up to date has amounted to £8,000, and in spite of criticisms which are some-

times directed against my hon. friend the Director of Agriculture, I think on the whole that the results of that campaign have not been unsatisfactory. But in several places the problem remains to be dealt with, and it is absolutely essential to prevent a permanent settlement of locusts in the Colony. I have had one or two suggestions put before me privately for improving the measures taken in that campaign and I shall be glad to submit those to the Select Committee. May I say also that Government will welcome any suggestions put forward from any part of the House. It is not a question of money at all. The money is available and all that Government wants to be sure of is that it is being spent in the most effective manner.

Moving about the Colony I have seen a good deal both of drought and locusts, and I realise that in several places there has been very grave hardship and heavy loss to industry. I should like to express my strong sympathy with all who have suffered from either of those pests.

The effect on production, however, as a whole I am glad to say is not so grave as might have been anticipated. As honourable members are aware, the exports of this country in 1927 increased by 27 per cent. over those of 1926, and I have been very anxious to discover whether that rate of progress or any rate of progress was being maintained under the continuation of drought conditions. I find from the Customs returns up to the 30th September this year that there is still a 10 per cent. increase in exports over the same period in 1927. I think that the export figures are particularly satisfactory in one or two respects. There have been large increases in the export of wheat, wheat meal and flour, large increases in the export of coffee, hides, wool and carbonate of soda from the Magadi works. I think that the coffee figures, which are of particular importance to the Colony, may interest honourable members. In 1927 there were exported for the first nine months 120,431 hundredweights of coffee; in 1928 for the same period the export was 161,307 hundredweights. The difference in value is £828,000 in 1927 as against £852,375 in 1928.

There have, on the other hand, been considerable decreases in the export of maize and sisal. With regard to maize, the decrease is partly explained by the large increase of exports to Uganda, but the crop has undoubtedly shown the effect of serious drought conditions. I am glad to say, with regard to the exports to Uganda, that there has also been a large increase in the export to that Territory of wheat-meal and flour. With regard to sisal, the export figures of which are lower than in 1927, I understand that much of what has been produced this year is being held up owing to unfavourable prices, and that production is not in any way reduced.

Including the exports to Uganda, the total increase of exports for the nine months' period up to September 30th this year as against the same period last year is just under 16 per cent.

This ascertained and realised increase of production for export is reflected in the revenue figures for the year. There was on the 31st of August this year a realised surplus of revenue over expenditure of £162,105. That is a smaller figure than was realised at the same date in 1927, but in the drought conditions of this year I think it is not unsatisfactory.

I come now to what is even more important, the prospects for 1929. Careful crop estimates have been formed by the Director of Agriculture based upon 178 returns from different farmers in the settled areas. These returns are of course subject to much correction. They are only a rough indication, but I think they may be useful as a guide. Experience shows that they lean usually to the pessimistic rather than the optimistic side of the picture.

Maize is undoubtedly very poor this year in some of the chief maize-producing areas, notably in Lower Molo, Rongai and Solai. But the shortage in these areas, I am glad to say, seems to be more than compensated by very good crops in the Nyanza Province, the Trans Nzoia and the Uasin Gishu. An increase of surplus for export seems to be reasonably certain. The same considerations apply to wheat. There will probably be an increase for export this year. With regard to coffee, the crop for export in the early part of 1929 will undoubtedly show a considerable reduction and there is only a chance that the short-fall may be compensated in the latter part of the year. There will be a considerable increase in sisal; and with regard to the native reserves, there are ample food crops, except in some parts of the Coast and Kerio, and there will undoubtedly be a considerable increase of grain for export from the native reserves.

This forecast may, I think, be fairly held to dispel anticipation of any grave set-back in the development of the Colony owing to the two years' drought, provided we have good rains next year. But we cannot be certain of such rains, and for that reason Government has considered that caution is essential in the framing of the 1929 Estimates, particularly with regard to non-productive expenditure. This caution is expressed in the Estimates which are laid on the table to-day and submitted for your scrutiny. The memorandum published with them summarises and explains the detailed estimates. Next week, as usual, there will be a full exposition of the Estimates made in this Council by my honourable friend the Acting Colonial Secretary.

Here I desire, as a preliminary reflection on the Estimates, to call attention to only three salient features.

The first feature is the Estimate of Revenue. Last year we estimated for an increase of revenue over 1928 of £244,000. This year, in order to be well within the mark and to provide for any short-fall which may arise from drought, we have taken a very much lower estimate of increase of revenue, lower by more than £100,000. The estimate of increase in revenue for 1929 over 1928 is £132,480. We have taken that conservative figure deliberately.

The second point to which I will call the attention of honourable Members is the increase of the margin between recurrent expenditure and total revenue. If you will look at page three of the Memorandum, which I think is before you, you will see how largely that margin has grown in recent years. In 1926 it was only £50,000; it was £138,000 in 1927; £220,000 in 1928, and £270,000 this year, in spite of the very much reduced estimate of increased revenue. Government attaches particular importance to that margin, and honourable Members will realise that the increase of the margin is in accordance with the undertaking I gave to Council on the subject last year. The net increase of expenditure for the year 1929 over 1928 amounts only to £29,504, and the increase in new pensionable appointments has been kept down to £9,600.

The third point to which I would call attention is the extent of the surplus, which amounts to £122,000; roughly £100,000 more than the usual surplus budgeted for in this Colony. Government considers it essential in the conditions which prevail to take some measure to reduce the cost of living for people with small incomes in the Colony, and it will submit proposals to that effect for discussion by the Select Committee in order that when agreement has been reached instructions may be given to our representatives at the coming Tariff Conference. The large surplus budgeted for is intended to cover any loss of revenue from indirect taxation that may arise in that way. Provision has been made for all communities to share in the remission of taxation which is proposed.

These provisions would not have been possible but for some reduction in extraordinary expenditure. So far as buildings are concerned, that offers no difficulty. But increased expenditure is essential for roads and for various productive works, and in accordance with the proposal made by Government extra provision is being made for these services in the Third Supplementary Estimates, against the realised surplus balance of the year, which already amounts, as I have said, to £152,000.

With these few observations on the main principles of the Estimates submitted to you, I leave detailed exposition to my honourable friend the Acting Colonial Secretary.

If I may draw on your patience a moment longer, I would like to say a word on the gravest problem confronting the Colony, namely, how to provide the services necessary to our development without too serious an increase of recurrent expenditure and of the Pensions List.

In the Interim Report of the Pensions Committee it has been pointed out that on the basis of the present establishment the annual charge for pensions will amount in twenty years' time to a sum ranging from £180,000 to £200,000. That burden should not be aggravated without most cogent justification. I do not think it is beyond the resources, the reasonable capacity of the Colony as it stands to-day, but it should not be aggravated without cogent justification. Expansion nevertheless is in many directions necessary to the development of the Colony.

It is necessary, for instance, in regard to scientific research. Take the agricultural and pastoral industries. Much has been done already in the way of plant breeding and veterinary research. I think our work in that respect compares very favourably with that of other parts of the British Empire. We have also made some progress, with the assistance of the Empire Marketing Board and the Rowett Institute, in special investigations with regard to pasture, diet and so on. We are also making provision for the establishment of an Experimental Farm in conjunction with the Rowett Institute and for a model farm as part of the closer settlement scheme at Kitale. The Colony, like others, has been handicapped in the development of research by the shortage of scientific personnel; but I think that now the Imperial Government has decided to inaugurate an Imperial Agricultural Service, more trained men will be available. Research in many other forms is desirable, especially in regard to diet, disease, native customs and so on; and I am convinced that in our own interests we should not stint these services.

The same considerations apply to education. Children are the greatest asset of any State, and the State which neglects their welfare, neglects them at its peril. With regard to the European community we will be putting forward a scheme of compulsory elementary education. With regard to the Indian community, further provision for education is being constantly requested from Government. From Africans also, the demand for education is insatiable. It is most important we should settle the aims of African education, the question of language, and the best means of

providing teachers, and I wish to express the thanks of the Colony to Mr. Hussey, the Director of Education in Uganda, who visited us recently and left us some very valuable notes. The new Director of Education, Mr. Scott, is arriving at the end of the year and I hope that the Colony will see a great advance in its educational organisation in 1929. The utmost economy is essential, but I believe that stinting the necessary provision in this direction would be bad economy.

The other services which cannot in my opinion be stinted, are the services which deal with health. In this Colony a dark and lurking spectre has shadowed us throughout the year and has claimed many lives, including one or two of the most valuable. I refer to malaria, and to the great loss we have sustained by the death of Sir Christian Felling. I would like to express my sympathy to all the many families in the Colony who have suffered this year in this respect. Malaria should be stamped out, malaria can be stamped out, and this Government means to see that it is stamped out as rapidly as possible.

The same principle applies to the medical services in the reserves. The anti-hookworm campaign has shown what can be done and we must make progress with the training of African staff. I would add that much more is needed in the way of research into conditions affecting the welfare of European women and children in the Colony.

The technical services again require steady support and co-operation from the administration, and in this respect also there is a constantly increasing demand for more administrative officers. Now the Colony, I repeat, cannot afford to stint these services any more than it can afford to stint roads and communications, but they must be provided with the minimum increase of permanent charges. The way to do this, I think, will be found in three directions.

The first and most essential is the revision of the terms of service for the various Government Services in the Colony. Such revision must of course be voluntary for present officers. That is absolutely clear. But revision for future officers is, I believe, absolutely necessary, and present officers can come in under the new conditions if they please. At present about one-quarter of the total establishment of the Colony is always absent through leave, sickness, or some other cause. The result is a constant movement of officers which makes co-operation between the various services very difficult and which discourages interest and efficiency. These difficulties apply even more to the Education Department than they do to the Administrative Services. Now, in Ceylon and the Malay States the tour of service, the normal tour of service, is four years, and I do not think it can be urged that the climate of

those Colonies is superior to that of Kenya. I think, therefore, that we must provide for longer tours with regular local leave, and that such provision will be better for the services as well as for the Colony. It will increase the strength and efficiency of the establishment without increasing expenditure.

I think we must also deal with the provision which enables officers to retire after they have reached the age of fifty years or after they have done twenty years of service. I have recommendations in all these respects from the Pensions Committee and from the Committee on Leave Regulations, which I propose to discuss with the Secretary of State at home, and I hope to have definite proposals to submit to you next year.

Another way of keeping down recurrent expenditure and permanent charges is undoubtedly that the State should wherever possible assist and encourage private enterprise. I refer to the medical and educational work of Missions and other institutions. This is sound and economic expenditure, provided the State sets the standard of teaching, supervises the curriculum, and insists on adequate inspection. Expenditure of that kind is really productive, and expenditure in that form saves a great deal in pensionable commitments.

Thirdly and finally, wherever possible I think that the work of development should be entrusted to staff specially recruited for the purpose on terms which provide for its disbandment as soon as the work is done. There is much work urgently needed to be done in the Colony which can undoubtedly be done on these terms, such as topographical survey, geological survey, water-finding, and the anti-malaria campaign, and so on. Much of this work is absolutely essential to our welfare, but it should be done without permanent commitments wherever possible.

In the steady pursuit of economy I am sure that Government can count on the zeal and co-operation of Heads of Departments and all ranks of the Service. I have had a welcome example of that in the preparation of the Estimates this year, and I wish to express my gratitude to my hon. friend the Acting Colonial Secretary, and to all Heads of Departments for their loyal co-operation in framing these Estimates. It has been a struggle for all. The reduction has not been merely mechanical. My hon. friend the Acting Colonial Secretary has not approached the Estimates of any Department with the abhorred shears and merely lopped off something which he thought to be redundant. On the contrary, the economies have been made by careful adjustment and reorganisation by Heads of Departments themselves, and I believe the results do them much credit.

May I also express my great appreciation of the steadiness and good temper shown this year by all those upon whom the strain of hard times has been weighing for so long. The year has been one of many difficulties, both economic and political, and I have been full of admiration for the spirit in which the Colony has faced those difficulties. I only trust that its steadiness and patience will be rewarded by good rains and better times from now onwards.

I have left to the end one outstanding event of the year, the visit of the Closer Union Commission. As yet I know nothing of its recommendations; but, as honourable Members know, I am going home early next month on the instructions of the Secretary of State to discuss those recommendations in a preliminary way. In my absence the Government of the Colony will be administered by the Chief Justice, Sir Jacob Barth.

Apart from the very important business on which I have been called home, I am very glad of the opportunity of discussing many other subjects, such as the Native Lands Trust Bill, the Land Bank, the reorganisation of the Northern Frontier Province, and certain Civil Service questions with the Secretary of State. I have alluded to most of these questions in the course of this speech.

So far as I know there is no reason why this programme of business, important as it is, should not be transacted within a reasonably short period, and I hope to be back in Kenya well before this Council is called upon to consider the more important business of the coming year.

I hope and believe that, under Providence, the Session of this Council, which now begins, will mark an era of sound and solid progress throughout the Colony and Protectorate.

MINUTES.

The Minutes of the Meeting of the 30th August, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN):—

Estimates of Revenue and Expenditure of the Colony and Protectorate of Kenya for the year 1929.

Memorandum on the Draft Estimates of Expenditure of the Colony and Protectorate of Kenya for the year 1929.

THE HON. THE ACTING COLONIAL SECRETARY: Your Excellency, I hope it will be acceptable to Hon. Elected Members to adjourn now until Wednesday. On that day it is proposed to introduce and move the usual formal motion in respect of the Budget and explain it. There is a good deal of business which I think can be transacted in the meantime. There are Committees who have reports to prepare and I have no doubt that hon. Members—particularly unofficial Members—will desire to study the Budget during that period.

*Council adjourned to 10 a.m. on Wednesday,
the 14th November, 1928.*

THURSDAY, 15th NOVEMBER, 1928.

The Council assembled at 10 a.m., on the 15th November, 1928, His Excellency the Governor (Sir EDWARD WILLIAM MACLEAY BRIGG, K.C.M.G., K.C.V.O., D.S.O., M.C.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the Meeting of the 9th November, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN):—

Statement of Colonial Loans.
Kenya Prisons Annual Report, 1927.
Judicial Department Annual Report, 1927.
Registrar-General's Annual Report, 1927.
Letter from Lady Felling, dated Johannesburg,
October 8th, 1928.

By THE HON. THE TREASURER (MR. GRANNUM):—

Statement of Excesses on Sub-Heads which have
been met out of Savings under the same Head
as at the 30th June, 1928.

By THE HON. THE DIRECTOR OF MEDICAL AND SANITARY
SERVICES (DR. GILKS):—

Annual Medical Report, 1927.

By THE HON. THE ACTING GENERAL MANAGER, KENYA
AND UGANDA RAILWAYS AND HARBOURS:—

Estimates of Revenue and Expenditure of the Kenya
and Uganda Railways and Harbours for 1929.

ORAL ANSWER TO QUESTION.

DEFENCE FORCE.

THE HON. CONWAY HARVEY asked:—

"What number of persons enrolled voluntarily
in the Kenya Defence Force?"

2. What proportion does the number of voluntary
enrolments bear to the total number of persons
eligible for enrolment?"

THE HON. THE ACTING COLONIAL SECRETARY replied: The total number of voluntary enrolments in the Kenya Defence Force is 4,821. Of this number 290 persons are of 50 years of age, who are not liable to enrolment, or are foreigners. The net number of voluntary enrolments for purposes of comparison with the census figures is, therefore, 4,531.

2. The total number of persons liable to be enrolled, based on the 1926 census plus 20 per cent. increase, is 5,229. The percentage is therefore 86.65 per cent. It should, however, be remembered that a number of persons, estimated at 300, are absent from the Colony on leave. Should these enrol the total percentage will be approximately 92.39 per cent.

MOTION.

ESTIMATES, 1929.

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

"That the Estimates of Revenue and Expenditure of the Colony and Protectorate of Kenya for the year 1929 be approved."

In Your Excellency's address to Council on Friday Your Excellency referred to the main features of the Budget for 1929, the approval of which I now beg leave to move.

It is unnecessary, I think, for me to go further into the general lines of structure of the Estimates as now presented to Council, but I should like to recapitulate its main features.

They are—first—that a very conservative estimate of Revenue has been adopted; secondly—that estimates of expenditure have been prepared within that very conservative estimate of revenue; and thirdly—that the margin between revenue and recurrent expenditure has been materially increased.

Before proceeding to outline the proposals contained in draft Estimates under the various Heads of Expenditure, I should like to add one or two words in respect of these three features.

The experience of the past four years has shown that the estimates of Revenue as presented to Council are very conservative. In actual practice the revenue collected has been considerably in excess of the estimate. As far as can be judged at the moment, the estimates for 1928 will show a similar result. The estimates of revenue for 1929, which will be explained in greater detail by the Treasurer, have been

prepared on a basis precisely similar to that adopted in previous years. No effort has been made to increase estimates of revenue above the figures submitted by the officers responsible for the collection of revenue and no innovation has been introduced into the method by which estimates of revenue are prepared, in spite of the fact that that method has proved so conservative in the past.

I mention this point, Your Excellency, because it has become clear in the course of the preparation of the estimates for 1929 that a revision of the system upon which revenue estimates are framed might with advantage be considered in the near future. A comparison of the figures of actual receipts with the figures of estimated revenue over a number of years gives an indication of those items of revenue which have been consistently under-estimated, shows the amount of the error and may be held to point a way to a more accurate method of preparing estimates of revenue.

In a normal year, when development is progressing on normal lines, it might be considered advisable to recast the system upon which estimates of revenue are prepared in order that estimates as presented to Council may portray more accurately the financial prospects of the Colony during the forthcoming year.

The fact that no such revision of system has been considered in relation to the revenue estimates for 1929 marks Government's appreciation of the fact that 1928 is not a normal year, that agricultural prospects throughout the Colony are not altogether such as might be expected in a normal year and that agricultural conditions call upon Government to conserve the resources of the country by a very special effort during a period of agricultural hardship.

Government therefore lays before Council estimates of revenue and expenditure prepared on more conservative lines than those adopted in any one of the past four years. In doing so it makes no apology for the small list of new appointments and new services provided for in the estimates of expenditure. There has been no lack of suggestions placed before it for the expansion of public services. The vast majority of these are not reflected in the estimates.

One or two have been singled out—such as an increased activity in anti-malarial measures—which shows greater provision both in respect of staff and of works; an enlarged staff for native agriculture; and a strengthening of the staff of the Post Office and of Police and Prison Services.

All these new appointments appear to Government to be of major importance. Many other proposals made for the strengthening of services are of great importance also but the

Government has considered that the circumstances under which the estimates for 1929 are prepared make it more important to bring down the increase in recurrent expenditure as between 1928 and 1929 to the lowest possible figure compatible with the maintenance of existing services.

The increase in net recurrent expenditure as between 1928 and 1929 estimates amounts to £81,705—or slightly over half the comparative increase shown as between 1927 and 1928 estimates—and of that figure of £81,705 nearly £25,000 is due to increased payments in respect of interest on borrowed money and of pensions and gratuities.

Of the remainder nearly £12,000 has been devoted to the development of postal facilities, against which additional revenue is expected to accrue to a similar extent.

A reference to page 7 of the volume of estimates will show hon. members the changes in net recurrent expenditure. Growing educational requirements and the provision of increased school accommodation from loan funds have necessitated a considerable increase in the Education Vote. The net cost of the Police covers £9,000 of the increase.

Military estimates show an increase of nearly £9,000 but this does not represent new expenditure. £18,000 have been added to Military estimates owing to the restoration to those estimates of provision for the Supply and Transport Department, which figures in 1928 estimates as a branch of the Public Works Department. Provision has been included for the operation of the Defence Force and a small Reserve of Officers, and the establishment of the King's African Rifles shows a reduction of one Company.

The introduction of legislation promoting Local Government in urban and district areas has resulted in a net addition of nearly £6,000 to the estimates and the inclusion of provision for a hydrographic survey and administration of the Water Law of the Public Works Department, which was approved in Supplementary Estimates for 1928, together with operation expenses of three new water supplies at Machakos, Thika and Gilgil, has swollen the estimates of the Public Works Department.

I come now to the third main feature of the Estimates for 1929—namely the material increase in the margin between revenue and recurrent expenditure. Your Excellency in dealing with this essential feature of the Budget in addressing Council on Friday referred to the statement of the manner in which Government has deliberately increased that margin as given on page 3 of the Memorandum on Estimates laid on the table of the House.

The margin as shown in the estimates for 1929 is more than four times as large as that contained in the Estimates for 1926 and the very considerable margin of £280,000 reflected in the estimates for 1929 is one which I think hon. members will agree fully carries out the financial policy of the Government as expressed by Your Excellency during the past three years.

This margin between revenue and recurrent expenditure represents the sum which is available on annual estimates to meet the cost of non-recurrent works, to maintain stability in the Colony's finances and to make additions to surplus balances if necessary. In previous years, Council has approved the expenditure of nearly the whole of the estimated margin on non-recurrent works.

Government proposes in the 1929 estimates to devote about £75,000 of the margin to an attempt to reduce the cost of living where it bears hardly on persons with small incomes. I need not add to what Your Excellency has already said on this matter. Of the remainder, Government proposes that about £180,000 should be devoted in 1929 to expenditure on non-recurrent works—this amount being supplemented, in accordance with the policy outlined by Your Excellency, by provision in Supplementary Estimates.

I should like to add here, for the purpose of clarity, a short statement of Government's policy in regard to non-recurrent expenditure. In Your Excellency's address to Council a year ago, on the introduction of the draft Estimates for 1928, Your Excellency referred to the special circumstances of this Colony, in which it may be regarded as a certainty that estimates of revenue will be considerably exceeded in every normal year. At the same time, the expenditure of the Colony must fall within the sanctions given in Estimates, so that in the absence of any large Supplementary Estimates of expenditure, each year should show, and has in fact shown, a large surplus of actual revenue over expenditure. Hitherto annual surpluses of revenue over expenditure have been accumulated; they have been used to swell the total of the Colony's surplus balances, with the result that our surplus balances now total more than £800,000.

If this process is allowed to continue, each future year will witness a steady growth in the Colony's surplus balances and it is obvious that the time will come when these balances are in excess of the Colony's requirements. With so substantial a margin of assets over liabilities as £800,000, Government considers that the time has come for a comprehensive examination of this question, with a view to reaching a decision on this important factor in our financial policy.

The annual acquisition of a large surplus means that large sums of money become available from year to year, either to swell our surplus balances or to be expended on works of importance to the development of the Colony.

It is obvious that the allocation of this money to surplus balances prevents its being used on works and it will, I think, be admitted that there are many works in this country insistently demanding attention. There is a danger, a very real danger, that unless a halt is called in the policy of adding to our surplus balances all excesses of revenue over expenditure as they accrue, we shall be allocating many works to loan which can quite properly be carried out from revenue or else, to use Your Excellency's own words, that "the Colony must be persuaded to dispense with many public works, such as roads and bridges, which from the state of its revenue it can perfectly well afford."

Government has therefore consulted a Committee appointed to consider the question and, in accordance with the recommendations of that Committee, it proposes to lay before Council, from time to time in Supplementary Estimates, lists of non-recurrent works which in all the circumstances of the case can be provided for from revenue, as apart from loan funds, owing to the existence of surplus funds over and above the amount required for the maintenance of adequate surplus balances.

Put briefly, the Government's present proposals in regard to non-recurrent expenditure are as follows:—

Provision for a number of urgent works upon which money can be spent before the end of the year will be proposed in Supplementary Estimates during the present Session of Council. The second part of the programme is reflected in the draft Estimates for 1929, the total of £157,000 shown on page 7 of the volume of Estimates being capable of increase to about £180,000 in Select Committee. The third part of the programme will come up for consideration with First Supplementary Estimates, 1929, the amount then proposed for expenditure being made dependent on the amount of the accrued surplus during 1928 and the financial circumstances and prospects of the Colony at the time.

By adopting this procedure, and by relating proposals for expenditure on non-recurrent works to the surplus of the Colony's revenue over expenditure as it accrues from year to year, Government propose to lay before Council a more comprehensive programme of non-recurrent works than would otherwise be possible. Your Excellency's speech to Council on the introduction of Estimates last year made plain how

small has been the annual provision from revenue in past years, how behind-hand we are in this form of development and how necessary it is to devote to such works money which is available for the purpose.

Before leaving the subject of non-recurrent expenditure, I should perhaps refer to the paragraph at the bottom of page 3 of the Estimates Memorandum, from which it will be seen that, while draft Estimates were in course of preparation, a sum of £100,000 was set aside as part of the surplus shown on the Estimates for 1929, with the object of assisting in a reduction of the cost of living where it bears hardly on persons with small incomes. Government's proposals in this respect are not yet mature—they depend in fact on circumstances which cannot as yet be fully judged—but it appears probable that a sum of £75,000 will be sufficient for this purpose and on this assumption it is proposed to add practically the whole of the balance of £25,000, during consideration of Estimates, to the provision included in Estimates for non-recurrent expenditure, thus increasing the sum so allocated from £157,870—as shown in the volume of draft Estimates—to a figure in the neighbourhood of £180,000.

Analysis of Government's proposals will show that a very large part of the non-recurrent expenditure is devoted to roads and bridges. A sum of £49,000 was devoted to roads and bridges in the Estimates for 1928. The present programme includes £21,000 for this purpose in third Supplementary Estimates, 1928; £47,000 in draft Estimates, 1929; and £32,000 in First Supplementary Estimates, 1929; a total of £100,000—or more than twice as much as the provision in 1928.

I now come to a consideration of the various Heads of Estimates and of the manner in which the provision made for 1929 is related to changes in the administration and improvements in the public services. I feel, Your Excellency, that I can pass over this part of my task in a few words, in view of the fact that the draft Estimates are accompanied by a Memorandum which gives a detailed explanation of all changes proposed. This Memorandum has been in the hands of hon. Members for six days and the explanations given in it require little elaboration.

Since the Estimates for 1928 were under consideration in this House, Kenya has gone to the London Market for loans to a total of £8,500,000. The £5,000,000 Loan for 1927 and the £3,500,000 Loan of 1928 make it necessary to provide an additional sum of £407,500 for interest under the Head "Public Debt Funded."

Practically the whole of this money was borrowed on account of Railway and Port Services against reimbursement by the Railways and Harbours Administration. The flotation of these Loans has naturally been accompanied by a decrease in the amount of interest paid in advances by the Crown Agents to meet Loan expenditure pending the raising of the Loans and it will be found from the table given on page 7 of the Estimates Memorandum that the net amount of interest payable by the Colony in 1929 is estimated to come to some £8,000 only more than the amount estimated as being payable in 1928.

The increase under the Head "Pensions and Gratuities" amounts to nearly £17,000. This Head, in fact, shows a larger increase than any other Head of Expenditure. £10,000 of this increase is due to the insertion for the first time in Estimates of provisions for the payment of gratuities under the European Officers Pensions Ordinance, 1927. Hon. Members will recall that under Regulation 14 (1) of that Ordinance it is laid down that "any European officer to whom a pension is granted under the Ordinance may, at his option . . . be paid in lieu of such pension a pension at the rate of three-fourths of such pension, together with a gratuity equal to ten times the amount of the reduction so made in the pension." An officer whose pension on retirement after many years of service was assessed at £600 per annum can, under that Regulation, if he has exercised his option in full, draw a gratuity of £1,500 and accept a pension reduced from £600 per annum to £450 per annum.

The payment of such a gratuity, therefore, is accompanied by a reduced liability in respect of the amount of pension paid annually to the officer concerned.

For some time past it has been clear that the arrangements at present in force for the payment of allowances to Unofficial Members of this Council leave much to be desired. As time goes on, the demands made on the time and energy of Members become more exacting, particularly in respect of Committee work.

The present privileges of unofficial Members of Council include the provision of a pass on the Railway, an allowance of twenty shillings a night in respect of the period during which the Member is necessarily absent from home on the business of the Council, or of a Committee of the Council and, in certain instances, a mileage allowance in respect of journeys by motor car.

I do not wish to enter here into an examination of the adequacy or otherwise of these allowances or to refer to the broader question of the payment of Unofficial Members. Such

matters can best be dealt with in the first instance by consideration in Committee and it is my intention, at a later stage in the Session, to propose that a Select Committee be appointed to go into the question, to examine the present system and to propose, if it seems desirable, a system of making payments on a more appropriate basis.

In anticipation of some change, draft Estimates provide under Head VI—"Secretariat and Legislative Council"—for a substantial increase in the amount set aside for this purpose.

The Government and the Railway Printing Presses were amalgamated in May, 1927, and we have now had eighteen months in which to assess the results of that step. I am confident that my hon. Friend the General Manager of the Kenya and Uganda Railways will agree with me that the amalgamation has been an unqualified success, that the growing amount of work is being dealt with expeditiously under the able direction of Mr. Knightly, and that considerable economy in working has been achieved. After deducting the revenue earned from sales of the Official Gazette and printing, the net cost to the Colony under the Head "Printing and Stationery" is more than £2,000 less in 1929 than that contained in the Estimates for 1927, before amalgamation took place.

As Your Excellency indicated in your speech last Friday, Government has had under consideration a revision of the administrative system with the object of giving effect to the recommendation made in the report of the Local Government Commission, "that the districts forming the areas of jurisdiction of District Councils should be included in the provincial organisation and should thus be in official contact with the Senior Commissioner of a Province."

This recommendation aimed at ensuring that questions which affect the interests both of Settled Areas and Native Reserves should be dealt with in a satisfactory way with due regard to all interests involved and was intended to satisfy the more general purpose of providing a link between the District Councils in Settled Areas and the administrative authorities and Native Councils in the Native Reserves.

It is therefore proposed that the Colony and Protectorate should be divided into ten Provinces, each Province being placed under a Senior Local Administrative Officer, who will have to do with the affairs of both Settled Areas and Native Reserves. The detailed delimitation of the boundaries of these ten Provinces has not yet been undertaken—this question is still under consideration—but in order that effect may be given,

The annual acquisition of a large surplus means that large sums of money become available from year to year, either to swell our surplus balances or to be expended on works of importance to the development of the Colony.

It is obvious that the allocation of this money to surplus balances prevents its being used on works and it will, I think, be admitted that there are many works in this country insistently demanding attention. There is a danger, a very real danger, that unless a halt is called in the policy of adding to our surplus balances all excesses of revenue over expenditure as they accrue, we shall be allocating many works to loan which can quite properly be carried out from revenue or else, to use Your Excellency's own words, that "the Colony must be persuaded to dispense with many public works, such as roads and bridges, which from the state of its revenue it can perfectly well afford."

Government has therefore consulted a Committee appointed to consider the question and, in accordance with the recommendations of that Committee, it proposes to lay before Council, from time to time in Supplementary Estimates, lists of non-recurrent works which in all the circumstances of the case can be provided for from revenue, as apart from loan funds, owing to the existence of surplus funds over and above the amount required for the maintenance of adequate surplus balances.

Put briefly, the Government's present proposals in regard to non-recurrent expenditure are as follows:—

Provision for a number of urgent works upon which money can be spent before the end of the year will be proposed in Supplementary Estimates during the present Session of Council. The second part of the programme is reflected in the draft Estimates for 1929, the total of £157,000 shown on page 7 of the volume of Estimates being capable of increase to about £180,000 in Select Committee. The third part of the programme will come up for consideration with First Supplementary Estimates, 1929, the amount then proposed for expenditure being made dependent on the amount of the accrued surplus during 1928 and the financial circumstances and prospects of the Colony at the time.

By adopting this procedure, and by relating proposals for expenditure on non-recurrent works to the surplus of the Colony's revenue over expenditure as it accrues from year to year, Government propose to lay before Council a more comprehensive programme of non-recurrent works than would otherwise be possible. Your Excellency's speech to Council on the introduction of Estimates last year made plain how

small has been the annual provision from revenue in past years, how behind-hand we are in this form of development and how necessary it is to devote to such works money which is available for the purpose.

Before leaving the subject of non-recurrent expenditure, I should perhaps refer to the paragraph at the bottom of page 3 of the Estimates Memorandum, from which it will be seen that, while draft Estimates were in course of preparation, a sum of £100,000 was set aside as part of the surplus shown on the Estimates for 1929, with the object of assisting in a reduction of the cost of living where it bears hardly on persons with small incomes. Government's proposals in this respect are not yet mature—they depend in fact on circumstances which cannot as yet be fully judged—but it appears probable that a sum of £75,000 will be sufficient for this purpose and on this assumption it is proposed to add practically the whole of the balance of £25,000, during consideration of Estimates, to the provision included in Estimates for non-recurrent expenditure, thus increasing the sum so allocated from £157,870—as shown in the volume of draft Estimates—to a figure in the neighbourhood of £180,000.

Analysis of Government's proposals will show that a very large part of the non-recurrent expenditure is devoted to roads and bridges. A sum of £49,000 was devoted to roads and bridges in the Estimates for 1928. The present programme includes £21,000 for this purpose in third Supplementary Estimates, 1928; £47,000 in draft Estimates, 1929; and £32,000 in First Supplementary Estimates, 1929; a total of £100,000—or more than twice as much as the provision in 1928.

I now come to a consideration of the various Heads of Estimates and of the manner in which the provision made for 1929 is related to changes in the administration and improvements in the public services. I feel, Your Excellency, that I can pass over this part of my task in a few words, in view of the fact that the draft Estimates are accompanied by a Memorandum which gives a detailed explanation of all changes proposed. This Memorandum has been in the hands of hon. Members for six days and the explanations given in it require little elaboration.

Since the Estimates for 1928 were under consideration in this House, Kenya has gone to the London Market for loans to a total of £8,500,000. The £5,000,000 Loan for 1927 and the £3,500,000 Loan of 1928 make it necessary to provide an additional sum of £407,500 for interest under the Head "Public Debt Funded."

Practically the whole of this money was borrowed on account of Railway and Port Services against reimbursement by the Railways and Harbours Administration. The flotation of these Loans has naturally been accompanied by a decrease in the amount of interest paid in advances by the Crown Agents to meet Loan expenditure pending the raising of the Loans and it will be found from the table given on page 7 of the Estimates Memorandum that the net amount of interest payable by the Colony in 1929 is estimated to come to some £8,000 only more than the amount estimated as being payable in 1928.

The increase under the Head "Pensions and Gratuities" amounts to nearly £17,000. This Head, in fact, shows a larger increase than any other Head of Expenditure. £10,000 of this increase is due to the insertion for the first time in Estimates of provisions for the payment of gratuities under the European Officers Pensions Ordinance, 1927. Hon. Members will recall that under Regulation 14 (1) of that Ordinance it is laid down that "any European officer to whom a pension is granted under the Ordinance may, at his option be paid in lieu of such pension a pension at the rate of three-fourths of such pension, together with a gratuity equal to ten times the amount of the reduction so made in the pension." An officer whose pension on retirement after many years of service was assessed at £600 per annum can, under that Regulation, if he has exercised his option in full, draw a gratuity of £1,500 and accept a pension reduced from £600 per annum to £450 per annum.

The payment of such a gratuity, therefore, is accompanied by a reduced liability in respect of the amount of pension paid annually to the officer concerned.

For some time past it has been clear that the arrangements at present in force for the payment of allowances to Unofficial Members of this Council leave much to be desired. As time goes on, the demands made on the time and energy of Members become more exacting, particularly in respect of Committee work.

The present privileges of unofficial Members of Council include the provision of a pass on the Railway, an allowance of twenty shillings a night in respect of the period during which the Member is necessarily absent from home on the business of the Council, or of a Committee of the Council and, in certain instances, a mileage allowance in respect of journeys by motor car.

I do not wish to enter here into an examination of the adequacy or otherwise of these allowances or, to refer to the broader question of the payment of Unofficial Members. Such

matters can best be dealt with in the first instance by consideration in Committee and it is my intention, at a later stage in the Session, to propose that a Select Committee be appointed to go into the question, to examine the present system and to propose, if it seems desirable, a system of making payments on a more appropriate basis.

In anticipation of some change, draft Estimates provide under Head VI—"Secretariat and Legislative Council"—for a substantial increase in the amount set aside for this purpose.

The Government and the Railway Printing Presses were amalgamated in May, 1927, and we have now had eighteen months in which to assess the results of that step. I am confident that my hon. Friend the General Manager of the Kenya and Uganda Railways will agree with me that the amalgamation has been an unqualified success, that the growing amount of work is being dealt with expeditiously under the able direction of Mr. Knightly, and that considerable economy in working has been achieved. After deducting the revenue earned from sales of the Official Gazette and printing, the net cost to the Colony under the Head "Printing and Stationery" is more than £2,000 less in 1929 than that contained in the Estimates for 1927, before amalgamation took place.

As Your Excellency indicated in your speech last Friday, Government has had under consideration a revision of the administrative system with the object of giving effect to the recommendation made in the report of the Local Government Commission, "that the districts forming the areas of jurisdiction of District Councils should be included in the provincial organisation and should thus be in official contact with the Senior Commissioner of a Province."

This recommendation aimed at ensuring that questions which affect the interests both of Settled Areas and Native Reserves should be dealt with in a satisfactory way with due regard to all interests involved and was intended to satisfy the more general purpose of providing a link between the District Councils in Settled Areas and the administrative authorities and Native Councils in the Native Reserves.

It is therefore proposed that the Colony and Protectorate should be divided into ten Provinces, each Province being placed under a Senior Local Administrative Officer, who will have to do with the affairs of both Settled Areas and Native Reserves. The detailed delimitation of the boundaries of these ten Provinces has not yet been undertaken—this question is still under consideration—but in order that effect may be given,

to this very desirable alteration in the system of administration, provision has been made in Estimates for the appointment of ten Senior Commissioners, that is to say, of one more Senior Commissioner than was approved in the Estimates for 1928, and the number of District Officers working under the Senior Commissioner has been reduced by one.

There is therefore no change proposed in the total number of Administrative Officers. The contemplated alteration in system can be introduced by the simple process of regrading the existing establishment.

The contributions payable by Government to Urban Authorities and District Councils on the lines approved in recent legislation have been dealt with specifically in these draft Estimates, and a separate Head of Estimates—Head XXVII—has been opened, which includes provision for such contributions.

The effect on Departmental Estimates of combining such provision under this new Head has been worked out in the Memorandum on Estimates, from which it will be seen that the financial results of the introduction of Local Government measures in Nairobi, Mombasa and District Council areas is estimated at a net excess of less than £8,000 per annum recurrent expenditure. Two Heads of Revenue and many Heads of Expenditure, including the Medical Department, Miscellaneous Services, Public Works Department and Public Works Recurrent, reflect changes owing to this rearrangement.

Under the Head "Administration" provision is now no longer made for those services which have been transferred to the newly-constituted Municipality of Mombasa, and for those in respect of Eastleigh Township, which becomes a part of Greater Nairobi.

Certain measures of reorganisation were introduced in 1928 Estimates in respect of tribal administration in Native Areas.

The organisation of administration in the reserves, with particular reference to the status and emoluments of the chiefs and headmen and their retainers, has been placed upon a better footing.

The Estimates for 1929 make provision for the development of tribal administration throughout the reserves on the lines then laid down.

The Estimates for 1929 also contain provision for considerable progress to be made in the endeavour to modernise transport facilities. The day is now past when the old form of head transport can be regarded as an adequate or justifiable

means of transportation if any better method is forthcoming. The development of the road system throughout the Colony has introduced alternative means into all but the most exceptionally difficult districts. In particular, recent efforts in the Northern Frontier Province and Turkana have shown that tolerably adequate roads can be constructed and all forms of communication materially improved by the use of motor transport.

Hon. Members will find that provision has been made in Estimates for the purchase of motor lorries for service in Ukamba, West Suk, South Turkana, Fort Hall, and the Northern Frontier Province, and that in addition to the advantages to be derived from the introduction of a more efficient service a considerable saving is shown on the local transport and travelling vote of native areas administration.

In the 1928 Estimates provision was made for the appointment of three additional Resident Magistrates who should hold Courts in the Naivasha-Kisumu area, on the Usain Gishu Plateau, and in the Nyeri-Nanyuki-Rumuruti area.

During the course of the year the distribution of work between Resident Magistrates has been considered in detail and three officers have now been selected to fill the new posts. It is considered that the interests of magisterial work will be most efficiently satisfied if these three new magistrates are posted to Nakuru, Kisumu and Eldoret.

Hon. Members will recollect that on the inclusion in the Estimates for 1928 of provision for three new Resident Magistrates, the number of District Officers was reduced by three, and an undertaking given that a further reduction of one or more posts of District Officer would be made if experience showed that this could be done. In accordance with this undertaking the possibility of making a further reduction in the Administrative staff will be carefully watched.

Further proposals have been made by the Chief Justice for the appointment of two more Resident Magistrates to serve Kitale and the Settled Area round Mount Kenya, but the Government considers that further increase in the staff of magistrates might be deferred until the reorganised provincial system of administration has been brought into operation; until experience of the working of the larger staff of magistrates already approved has been gained; and until financial circumstances clearly admit of a further extension of the staff of the Judicial Department.

I have already referred Your Excellency to the considerable increase shown on Estimates in respect of the Colony's Police Force.

As the Colony develops it is only to be expected that demands for Police activity should become more insistent, and from a long list of proposals put forward by the Commissioner of Police for the establishment of new units and the strengthening of existing posts, a few of the more urgent calls for additional Police services have been selected for inclusion in Estimates. Details of these proposals are given on page 16 of the Estimates Memorandum.

The Commissioner of Police is most anxious to introduce as an experiment a service of police motor cars for operation in the Nakuru-Naivasha area, in order to increase the mobility of his force.

Provision has been made accordingly. Government hopes by means of this improvement in the transport facilities placed at the disposal of the police to make more economical arrangements than would otherwise be possible in the staffing of the area concerned, and I should like to add my view that such facilities, affording as they will more rapid and efficient means of communication between the different parts of an area of somewhat scattered settlement, should go far to promote the development of that area in more ways than police service only.

A further method of increasing the efficiency and economy of the Police Force by a development of the system of rural telephones has also been under consideration. This matter, however, is not yet sufficiently far advanced for any specific scheme to be reflected in draft Estimates.

Government is particularly anxious that the Commissioner of Police should be satisfied with the organisation of the Criminal Investigation Department. It has received an assurance that the Estimates for 1929 contain adequate provision for this service.

The Estimates for the Kenya and Uganda Railway and the Port Police have been worked out between the Commissioner of Police and the General Manager. The cost is covered by reimbursement from the Railways and Harbours Administration.

Hon. Members will find that it is proposed to make a small increase in establishment of Prison warders. During the past five years the prison population in the Colony has increased by more than one-third without any compensating addition to the warder staff. The paucity of warders reacts on the efficiency of the work of the Prisons Department in more than one way. Supervision of prison labour operating in the field is more difficult, and no opportunity is given to the warders for obtaining adequate recreation or time for education and discipline.

Warders are now engaged from dawn to dusk, supervising gangs of convicts, and have no opportunity for undergoing courses of instruction so necessary to the preservation of an adequate *esprit de corps* in the Force.

Government regards the obtaining of a more fully trained and a better educated type of Prison warder as a matter of real importance: not only in respect of the amount of work done by convicts during the term of their imprisonment, but also in relation to the training in efficient manual labour which a term of imprisonment under efficient supervision and direction should provide. Every effort has been made during the past twelve months to improve the operation of the recently instituted system of detention camps and a considerable improvement can be reported in the extent to which use of the facilities so afforded is now made. Overseers have been appointed over these camps under sanction conveyed in Supplementary Estimates for 1928.

It may be convenient if I refer here to the action taken by Government in the preparation of the draft Estimates for 1929 in respect of the inclusion in Estimates of provision for certain members of the temporary staff of the Colony engaged specifically for Loan Works.

It has been found that the distinction between Revenue Works and Loan Works in relation to the appointment of temporary Works Staff, is not always clear. The Government feels, therefore, that in all cases of doubt it is preferable for the cost of such an appointment to be met from Revenue and so to avoid a charge against Loan funds in the case of an employee who may possibly come to be intermittently engaged on works financed from revenue. Such staff is, of course, engaged on purely temporary agreement, and appointments can be terminated on short notice at any time.

Staff costing nearly £7,000 per annum have accordingly been provided for in Estimates—where their salaries will be paid out of revenue to the relief of Loan Funds.

A list of this staff is given at the bottom of page 47 of the Estimates Memorandum. It includes five carpentry instructors, previously employed in the supervision of Prison labour performing Loan Works; ten leading artisans supervising operations on Loan Works carried out by members of the Native Industrial Training Depot; and certain appointments in the Public Works Department—notably that of a Chief Storekeeper—whose employment is necessary to cope with the increased activity of that department as a result of the greater provision for non-recurrent public works now being constructed from revenue and from Loan.

During this three-year period a notable extension of medical work has taken place throughout the Colony. New hospitals have been built and staffed and a marked improvement has taken place in the manner in which medical facilities have been made available, particularly in the Native Reserves.

At the same time, progress in the erection of hospitals and of quarters for the medical officers and nursing sisters has not been so rapid as could have been desired, and the lack of hospital and other such facilities has prevented the extension of medical works on the original programme to many areas.

The appointment of staff in advance of buildings is fraught with many difficulties, and Government feels that the proper policy in this matter for the present is to consolidate the existing position; to press forward the construction of the buildings necessary to the development of medical facilities in the areas covered by the scheme, but not as yet dealt with; and to hold over the appointment of the additional officers and nursing sisters necessary to the fulfilment of that programme until proper facilities and accommodation are available for them.

In respect of the general programme, therefore, the only new appointments shown on Estimates are those of four Nursing and Health Sisters required for the staffing of new hospitals now under construction and for whom quarters are being provided.

Government regards the provision of money for staff and works aimed at the elimination of malaria to be a vital factor in the progress of the Colony. I need add nothing to what Your Excellency has already said on this matter except to point out that the strengthening of the activities in this respect has already received the approval of this Council and that funds have been made available for this purpose, not only under the Medical Department—from which staff is being made specifically available for this work—but also under the Head "Public Works Extraordinary," where, in addition to funds set aside for the improvement of certain drainage systems, a sum of £10,000 has been provided for anti-malarial measures.

The rate at which money for the satisfaction of the educational requirements of all races in the Colony is growing is a matter of considerable concern to the Government—and in the preparation of the Estimates of the Education Department more difficulty has perhaps been experienced in keeping Estimates within the figure available than in the case of any other Department.

In spite of the most urgent call for economy an increase of more than £14,000 is shown, and the Acting Director of Education feels that even with the increased provision now made it will be very difficult for existing commitments to be met from the figure proposed in the Estimates.

All that I can say on the subject of the Estimates of the Education Department is that they have been framed by the Acting Director of Education on the most conservative lines; that the various items of expenditure have been carefully scrutinised; and that they represent, as far as can be gauged, the cost entailed in maintaining existing Government services and grants-in-aid to institutions conforming to Government requirements.

Certain proposals for a revision of a number of aspects of the educational policy of the country were made in the report of the Select Committee on the Estimates for 1928. The Select Committee suggested that the attention of the new Director of Education should be invited to these proposals. This will be done on the arrival of Mr. Scott.

Your Excellency referred on Friday to the main features of the Military Estimates, which are that it is proposed to abolish one company of the King's African Rifles on the provision of improved communications and transport facilities—which are to include the installation of a number of wireless stations in the Northern Frontier Province—and the provision of first and second line transport.

The Estimates include provision for the Supply and Transport Services to be under Military control as was the case in 1927—and as has in fact been the case during the present year—the transfer of transport facilities to civil control, as incorporated in the 1928 Estimates, never having come to fruition.

The constitution of the Defence Force on the lines laid down in the Defence Force Ordinance has entailed an addition of nearly £3,000 to the Estimates.

I need not, I think, enter into the details of changes proposed in the staff and other charges of the Post Office and Telegraphs Departments.

The provision of postal facilities should, I think, be regarded as a whole. The time has come when the expansion of business necessitates reorganisation and the splitting of duties, particularly in the larger postal offices. The first part of the proposed reorganisation is reflected in the Estimates for 1929. It will probably be necessary to approach Council with proposals for completing the revision in the Estimates for 1930.

I would only mention two further points in regard to postal services. In the interest of the Port, provision has been made for a continuous service to be maintained, day and night, at the Mombasa Wireless Station. This extension of facilities has been strongly urged by the Port Authorities.

My second observation is concerned with the letter rate of postage. Government has had under consideration the possibility of effecting a reduction in the rate of letter postage and has been in communication on the subject with the Government of Uganda. The Government of Kenya is of opinion that consideration of this question should be deferred for another year.

Heavy expenditure is being incurred on an extension of postal facilities, particularly telephones, and the financial situation generally does not at the present time make it desirable to take steps for a reduction of revenue in this respect. The Government of Uganda has also proposed to postpone further consideration of this question for a year.

I may add that one other factor has considerable bearing on the question—it is possible that the report of the Hilton Young Commission may lead to some kind of postal federation of the East African territories—in which case the question of postal rates as a whole would have to be examined.

Government is particularly anxious to promote the development of rural telephone facilities.

A sum of £5,000 has been inserted in Estimates for this purpose, as indicating the extent of estimated requirements during 1929, but Government is prepared to welcome proposals for the expenditure of a larger amount, if the demand from rural areas exceeds expectations.

I have already referred to the developments which it is expected will accrue to the efficiency and economy of the Police Force by an extension of rural telephone facilities.

The Estimates of the Agricultural Department contain proposals for a very considerable increase in the sum allocated to the promotion of Native Agriculture. One of the new officers whose appointment is proposed is intended to have experience of tropical agriculture in order to carry out agricultural work on the Coast.

The other additional appointments and alterations in Estimates are, I think, sufficiently explained in the Estimates Memorandum—and I will only add that the Director of Agriculture has pressed for the temporary appointment of a sheep and wool officer to promote the sheep and wool industry by advising with regard to sheep breeding and management, sheep and wool classing, and the preparation of wool for market.

The large increase in the export of wool referred to in Your Excellency's address lends particular force to this proposal.

The Estimates of the Forest Department have been prepared so as to include full and adequate provision for the performance of Forest services—particularly in relation to public demands for tree seed and plants and for a continuation and extension of the reforestation policy.

The desirability of pressing forward the survey of native reserve boundaries has led to the suggestion that the additional appointment of one staff surveyor should be made for this purpose.

Government desires to give such support as may legitimately be given from State funds to the development of civil aviation in Kenya and for this purpose proposes a subsidy of £3,000 in the Estimates for 1929.

Another new item of expenditure is the proposal to make a grant of £1,000 to the East African Archeological Expedition, now operating in Kenya under the supervision of Mr. L. S. B. Leakey, who was born in Kenya and spent the early years of his life in this Colony. This expedition has, as hon. Members know, already made discoveries of great interest. It is endorsed by the opinions of various leading scientific bodies and deserves in the opinion of Government, financial support from the Colony.

The Estimates of the Public Works Department include provision for the hydrographical survey and the administration of Water Law division, approved in Supplementary Estimates, 1928, for the operation of new water supplies at Gilgil, Machakos and Thika, and for the payment from revenue of the salaries of certain officers previously paid from Loan funds.

I have endeavoured, Your Excellency, to deal with the salient points of the Estimates for 1929 as laid before hon. Members Head by Head—without going too closely into the detailed figures.

I have thought it unnecessary to make any reference to a number of minor departmental adjustments. Full information on such matters is contained in the volume of Estimates and in the Estimates Memorandum. I am prepared to refer to any point of detail in reply to observations made by hon. Members during the course of the debate, but I do not wish to introduce into my remarks in moving this motion questions of detail which can only serve to confuse the main issue.

Your Excellency, the Estimates for 1920 have been prepared with the greatest possible consideration for the agricultural and financial circumstances in which this Colony finds itself. They show in my opinion a really marked effort to control recurrent expenditure and—within the limits laid down by the adoption of a very conservative estimate of revenue—they make a special effort to promote the development of roads and other forms of communication in this country.

I shall have certain amendments to the Estimates to move while Estimates are under consideration in this Council—but I shall not refer to these in detail at the moment—except to say that the majority of them are also mainly devoted to the further improvement in communications.

I beg leave to move the Motion standing in my name on the Order of the Day.

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

HIS EXCELLENCY: The question is:—

“That the Estimates of Revenue and Expenditure of the Colony and Protectorate of Kenya for the year 1920 be approved.”

THE RIGHT HON. LORD DELAMERE: Your Excellency, I do not propose to go as fully as usual into the Estimates of this year, or make quite the same sort of answer as usual to the speech by the Hon. Acting Colonial Secretary, for two reasons. One is that I have lost my voice, and the other is that owing to circumstances over which I have no particular control I have not been able to go into these matters this year as carefully as I have done in the past. Also, so many new—such a new aspect of policy is brought forward under this Budget, that it has been impossible for hon. Members on this side of the House to get quite a clear idea of how that new policy is going to work out in actual figures and we all feel that it would be advisable to work that out in the Select Committee first, find out how far the actual figures will respond to the policy laid down, and then make such answer to the general policy of Government on general principles as has been done in the past, on many occasions, on the motion for adjournment, in answer to Your Excellency's speech from the chair. I think, Sir, that that is a better way perhaps of doing it than to try to put up a case now for or against a policy which cannot be quite clear to Members on this side of the House until the actual figures have been gone into.

Sir, may I first be allowed, on behalf of all the hon. Members on this side of the House, to congratulate the Hon. the Acting Colonial Secretary on his speech on the Budget, and also, Sir, the Government on the Budget as presented, because whatever the facts may be in regard to some of the figures, the Budget is one which I think everybody must agree is a suitable one to be put forward by the Government at a time when the Colony is in difficulties from drought and disease, and so on. It is a very conservative Budget, I think. I think there is no doubt that the estimates of revenue are conservative, and I think that as far as this country is concerned—because we are an extravagant people—I should say, it is a comparatively economical Budget. The Hon. the Acting Colonial Secretary alluded to a committee on surplus balances, and I think it is extremely necessary that the whole question of what is to be done with surplus balances—both now and in the future—should be thoroughly cut and dried before we go into the Estimates. There is, indeed, some sort of doubt—and on this side of the House there is disagreement—on this subject; and I propose to ask Your Excellency to allow a further meeting of that Committee on Surplus balances before the actual report is presented, in order that we may again go into the subject thoroughly and be able to give more conclusive advice to Your Excellency. There is always difference of opinion about this sort of thing—whether you should put your talent in a napkin and bury it in the ground at 4 or 4½ per cent., or whether you should use it for productive work, which you believe will bring in an infinitely higher percentage over a period of years. I think, Sir, that is the difference of opinion, as far as it rests on general principles. I think it is possible that some mean between the two will eventually be arrived at. The point is, how much the reserve shall be. Some of us rather feel that if the Government has too big a reserve it will probably bank on that, and some of us think that if there is a reserve simply sufficient to enable us at any time of stress to get down to it, and work out some new method of economy, that might possibly be better than a very large reserve. But these are questions which the Select Committee can go into.

Sir, I think the chief thing before the country at the moment undoubtedly is the question of the diseases and pests which we are suffering from at the moment. Nobody can deal with drought altogether. It is, as far as the Budget of the country is concerned, to a certain extent affected by the tremendous extension of communications, which means that you are tapping tremendously larger areas of the country, and that drought in the drought districts does not affect the Budget of the country quite as it used to. But in regard

to the diseases, I think we all feel that they have got to be tackled. Government did make a slight allusion to malaria, and I see they have allowed, I think it is £10,000 for that purpose. This matter has been raised, by the great interest taken in it by the Prince of Wales during his visit, above all controversy, I think, and I think that all we have got to do now on both sides of this House is to get down to tackle that question. I think there is a great deal to be said for the fact that in the past our own people have minimised it as well as the authorities to a certain extent, or rather, that the authorities who were dealing with it thought that the psychological moment had not arrived when the people of this country would take it sufficiently seriously to enable proper provisions to be made. But in regard to this particular disease I think it can very easily be exaggerated. Those who have lived in this country for a long time know there are large areas in this country which are practically non-malarial, but where malaria is introduced by carriers, by some special condition of climate, and during certain years of drought, and so on, I think the danger from malaria can be exaggerated in that way. There is no doubt that the position of malaria in this country has been brought to a head by the experiences of the last year or two, and for the sake of the Colony, and the sake of the whole future of the Colony, I am sure that we have to tackle that matter and deal with it. I am sure it can be dealt with. Hon. Members on this side of the House may think without disrespect, and without any disparagement to the present Department that in order to get weight behind the blow to deal with individuals—because individuals are very difficult to deal with—that it will be advisable for the Government to introduce into this country, first of all in order to report, and secondly, if possible for a limited period, for a year or two years, some individual who has made a name on this subject and has the prestige to enforce on the whole country his opinions; so that the opinion of the country may be unanimous and we may deal with it from one point of view. I do not suppose that there is any difference of opinion on this matter and I understand that this is the policy the Government wishes to adopt.

Now with regard to these other diseases which have been bothering the country, and pests, the Members on this side of the House feel that it is very important indeed that the matter of locusts and the matter of the beetle which bores the coffee bean should be dealt with. There again, I think we ought not to exaggerate these things. I have lived in this country for many years and I have never seen locusts which did any harm before. No one can be certain of the duration of the present visitation owing to the climatic conditions which

have recently been in favour of the pests. It might be three years before they retire to where they came from and give us a rest again. I think everybody will agree that if you had another year this next year when locusts were really bad the Colony might have considerable difficulty in weathering the storm, especially if the numbers were further increased, and we feel very strongly that efforts should be made to deal with the matter. There again, I think, general opinion on this side of the House is that during the short time that this particular visitation takes place a rather special organisation should be arrived at to deal with it. But there again, I think, that can be dealt with by a special Select Committee of the Government and hon. Elected Members.

I think that in a year when we have these diseases and pests it does seem a pity that we should import a Sheep Expert. I cannot imagine what he can be for. I remember distinctly being at the Government farm at Naivasha on one occasion, and being told that the Government was importing a sheep expert who would teach us all about sheep. The very next year a very large proportion of the lambs had to be knocked on the head. To tell the honest truth, it does appear to me to be a pity, when we want all the money we can find to deal with locusts, that we should import a Sheep Expert. I do not think there is anybody who can tell us anything very much about it.

The Colonial Secretary has said something about the relief of taxation, and I think that personally it is very nice to see that to-day our chief argument is to be what we are going to do with our surplus balances, or our yearly surplus. After all, it was only in 1922, or something of that sort, that the country was bankrupt, and I think it is very pleasing to know that our chief disagreement, as I said before, is on this question.

With regard to this relief of taxation I do not think there ought to be any misunderstanding about it, at any rate on the part of individuals. I do not admit myself, at any rate, that the cost of living is inordinately high. Until this report of the statistics of the committee is out and until the report has been thoroughly gone into, and it is found where the extra expense of goods occurs, and at what period from the farmer to the consumer, I am not at all prepared to admit that there is a very high cost of living in this country. On the other hand, everybody, I think, must wish to make it easier for people in a country like this with families. I think the Government is wise in making a gesture of this sort at a time when the country is in difficulties as it is at this time.

There is one other point, in regard to education. The Hon. Acting Colonial Secretary said it was very difficult to keep down the Estimates. I think, Sir, that it is quite time that this honourable House and the Government of this country put aside theories from home and other places and came to a decision as to what exactly they are going to do in regard to native education in the future. I personally think that the money given to the Medical Department and to Missions for medical purposes is of far greater value to-day than money given for any existing education, putting aside technical education and things of that sort, which enables the native to have a trade and earn the money which he wishes to spend on things which he wishes to buy as he becomes more civilised.

Hon. Members on this side of the House during the last three days have discussed a large variety of subjects, but there is one subject on which I would like to say one word, and that is the question of roads. I am pretty sure that I have not got this quite clear. The money to be made available for roads is to be increased by the addition of money from the surplus, but on the figures for the Budget as it stands to-day it appears that there is less money for roads than last year. Although the Central Roads Board recommended £150,000 per year for the upkeep of roads, the amount allowed towards that in the Budget is only £93,000 or £95,000, and it is not clear to us quite what the policy of the Government is on this particular subject. I think we must all congratulate ourselves on the enormous improvement which has taken place in the matter of roads since we took to civilised methods of dealing with them by using machinery in place of Kerais. I hope, perhaps, the Hon. Acting Colonial Secretary will make it perfectly clear in his reply. It is a little difficult to get it. You first of all have to create new district committees under local government before you make grants to them. The thing has been split up a good deal and it is rather difficult to arrive at. But we do feel, if the money can be made available in any way, that the roads of the country are very important, and we should not allow the present system to fall back, and keep unused modern machinery on which we have spent a large sum of money.

THE HON. CONWAY HARVEY: Your Excellency, first of all I should like to congratulate whoever may be responsible for the greatly improved form in which the Estimates have been presented this year. I have had the honour of participating in these debates for a large number of years and I have now been identified with eight or nine different Kenya budgets. I do not intend to quibble about the wrong dates which appear on page 23 at the top of columns 4 and 5. That is a matter

of detail which will be put right in Select Committee; but at the risk of painting the lily, Sir, I should like to suggest for the consideration of the Government that a seventh column be added to page 7, which should indicate the proportion that each of the items in column 3 bears to the total net local revenue. Perhaps that might even be done in the case of these Estimates, when they finally emerge in a purified form from the filtration process to which they are likely to be subjected at the hands of Elected Members. This would enable interested parties to spot form at a glance and institute interesting comparisons from year to year so far as Kenya is concerned, and also make valuable comparisons with other countries.

I am very glad to see that Government recognises the necessity for some readjustment of allowances paid to Elected Members. It is manifestly unfair that in addition to giving freely of their time and energy Members should also be called upon to suffer considerable pecuniary loss for the privilege of belonging to this august assembly. I suggest when the Committee go into this matter that they should make their proposals retrospective so far as this session is concerned. It has often been said that this Legislative Council is the special prerogative of the idle rich, by people singularly unfamiliar with the true position of affairs.

I am not satisfied that a sufficient sum of money has been allocated to the extremely important productive work of roads and bridges and I intend to go far more fully into this matter when we discuss the relative items in Select Committee; but I do associate myself very strongly indeed with the views of the Noble Lord in regard to the employment throughout the year of modern road-making mechanical appliances. It does seem to me to be most unbusinesslike and improper to import machinery, and men to work that machinery, and then omit to supply the necessary money to work it.

I notice in the Forest Department estimate that a mere matter of £500 is to be devoted to the very important work of reforestation. Other countries have neglected their responsibilities in this direction, and such neglect has led to a greatly increased expenditure when they realised the supreme importance of maintaining the forest asset, and I suggest that unless the process of denudation is arrested in such industrial centres as Kericho and Nandi the rainfall is likely to be seriously affected, with very unfortunate results to the Forest Department and Government planting industries.

I am not satisfied, Your Excellency, with regard to Government policy in regard to pensions, and I am of the opinion that in the absence of a contributory pension scheme.

which I understand is presently under consideration, Government should seriously consider the advisability of establishing a pension fund, and definitely budget year by year for a sum of money to swell that fund. At the present moment we are faced, or our successors will be faced, with a colossal contingent liability, which, in the course of about twenty years will probably reach something in the region of a quarter of a million. That, Sir, I suggest, is thoroughly unsound finance.

Another matter about which I feel very strongly, Your Excellency, is the inadequate nature of the scientific staff of the Agricultural Department. This, Sir, is a matter that I have brought up repeatedly in previous years, and I consider that that need to-day is as imperative, or more so, than at any time in the history of the Colony. No country which is dependent for its revenue on agricultural production can afford to neglect its responsibilities in regard to research work, and I believe that there is cogent justification for increased expenditure in this direction. It is somewhat difficult to define what the duty of Government is in this connection and what is the duty of industry itself, but I suggest, Sir, that it is the bounden duty of Government to make itself entirely responsible for all original research work, and also to take steps to ensure that its own rules and regulations in regard to the prevention of pests are carried out. This represents, as my noble friend once said, the public health of plant husbandry. The clearing up of individual plantations is not the work of Government, and I suggest that technology is purely a matter for industry itself. Here again in this particular sphere of activity I consider that effective work is very seriously hampered by the outrageous leave conditions, and having regard to the extreme importance of the work now being performed by the plant breeder, the agricultural chemist and various assistant entomologists—whose work only begins to have a value when they have been in the country a considerable number of years—I consider it very important indeed that steps should be taken to render these people secure and happy in their positions, so that we can keep them. I consider that might be done to a very great extent by putting the Plant Breeder, and possibly others, on the permanently pensionable establishment. I am surprised that recommendations in this connection have not been made to Government before. At any rate, Government now has an opportunity of explaining why these very important posts are at a serious disadvantage in this connection compared with many members of other branches of the service, whose posts could be filled adequately in five minutes. That is not so in the case

of a scientific officer, and unless we make these posts sufficiently attractive we shall continue to lose first class men. It is a false form of economy to allow Kenya to be used as a training ground for this work.

I do hope, Sir, to hear from the hon. gentleman, the Director of Agriculture, precisely what steps Government propose to take in order to limit the spread of *Stephanodores* in coffee. This is regarded as a major pest in Java, Sumatra, Brazil, and many other countries, and its movements can be controlled. It only recently has found its way into Kenya. That indicates the extreme importance of localising the disease as it exists in Kenya to-day, and I would suggest that it is very important indeed that a number of local gentlemen should be engaged and put on to inspection work, in order to ascertain precisely to what extent the disease exists at present, and then Government will be able to formulate a policy to arrest its spread and possibly arrange for its complete eradication.

There are many minor matters which I intend to bring up in Select Committee, but taken broadly I consider that the 1929 Budget represents a very creditable effort under all the circumstances. But I should like to make one comment on the line of Government policy indicated in your Excellency's opening speech. Quite rightly, Sir, in my humble opinion, the greatest possible use should be made of private enterprise, more particularly in regard to elementary education work and health measures in the Native Reserves. But I would ask missionary bodies, who are financed in this way, if they expect these grants to continue unless they exercise a restraining influence over such members of their staff as indulge in violent and often unfair criticism of Government policy in various directions.

HIS EXCELLENCY: Perhaps before the debate continues it would be convenient to settle the question of procedure. I understand from what the Noble Lord said, and what the hon. Member for the Lake said, that hon. Members on that side of the House would like to move that the Estimates be referred, in the first instance, to a select Committee, as usual, and that the Select Committee should deal in the first instance with the question of surplus balances and then proceed to a discussion of the Estimates. I may say that that will be quite convenient to Government, and I would add, with reference to the question of procedure, that Government will be prepared to lay before that Select Committee immediately also the 3rd Supplementary Estimates. Hon. Members are quite right in referring to the fact that the road policy as foreshadowed in the Estimates appears to be inadequate. The reason is that the Estimates, although they contain part of the

programme, another part is shown in Appendix C. to the Memorandum, which details the proposals which will be included in the 1st Supplementary Estimates next year. But there is missing the programme in Third Supplementary Estimates this year. That will be laid before the Select Committee at the same time as the Estimates, so that the full picture will be there. If that is agreed, perhaps the Noble Lord would move that the Estimates be referred to a Select Committee.

THE RT. HON. LORD DELAMERE: Your Excellency, I beg to move that the word "approve" be deleted and that the words "referred to a Select Committee" be substituted therefor.

THE HON. CONWAY HARVEY: I beg to second the amendment.

HIS EXCELLENCY: The question is that the word "approve" be deleted and that the words "referred to a Select Committee" be substituted therefor.

THE HON. T. J. O'SHEA: Your Excellency, I have known some very much worse Estimates of Revenue and Expenditure being introduced by Government, but I am not at all sure that I remember any better. It seems to me that, within the limits imposed upon the framers of these Estimates, they have presented a very sound document.

The restrictive limits under which they work are in some respects very severe, and it is not therefore their fault if the full results of their efforts are not better than they are.

In the first place, the system of Government under which they work is one which entails an expensive and not very efficient organisation; also, they are handicapped by the very high cost of having to work under foreign service conditions. There is no doubt about it, Sir, that it imposes a very severe strain upon the financial resources of the country, to have the whole Civil Service contracted for and appointed under foreign service conditions. Your Excellency has, of late, referred to that and promised that it would be given early attention by Government, and the sooner it is done the better, because it certainly does impose a very severe strain upon our financial resources.

I think, Sir, in dealing with these Estimates, too much emphasis cannot be laid upon the transformation they disclose in our financial state now, as compared with six years ago. Six years ago we were bankrupt to the extent of nearly half a million. To-day we have a surplus of nearly one million.

That, I think, reflects credit upon everybody concerned, the Government and the people of this country in every direction and, also, I think, is a very effective answer to those Job's comforters who, at every stage when we have a set-back, are ready to envisage us again on the verge of bankruptcy. To any impartial observer of our present financial position, it must be obvious that there is no justification whatever for the pessimistic views which are expressed from time to time in the local papers. Some are inclined to be frightened at the very high figure to which our gross Revenue has already reached. It is rather astonishing to find that the total figure on the Revenue side of the Estimates is £3,270,000. Many of them in ignorance, some, I think, not altogether in ignorance, fail to observe that the gross figure of our net Revenue is only £2,400,000 and that, of that sum, only approximately two million represents the fruits of taxation and the balance is made up by payments for services rendered.

Now, Sir, that figure of two millions is one which I think we can regard certainly without any uneasiness and possibly with a certain amount of satisfaction, because it is a figure on which we can with confidence expect a steady increase in the future, without imposing any further burden upon the country. I think it must be plain to anybody who endeavours to envisage the next ten years of development in this country, that its taxable capacity will very rapidly expand and that it should be possible to provide for the requirements of the country without imposing further burdens upon the individual, and that the money will be forthcoming because of the broadening of the basis of taxation.

The immigrant population upon whom it may to-day be a hardship to impose a taxation of £35 per capita, will, I think, in the future find it much easier to bear a considerable increase upon that figure, and I also think it is most important to find it likely that the native population of the country, because of the development which is taking place in respect of their activities, will be in a position to carry a much heavier burden of taxation than is now imposed upon them. This is not an unguarded expression of my predatory instincts; it is merely an expression of my faith in the native progress that is going to take place in this country because of native contact with white civilisation.

Now, turning to the expenditure side of the Estimates, one cannot fail to express regret that the increase should be so largely in connection with the non-productive departments. I think it is a very great pity indeed that we have to spend more money on the Police in the country, on administering justice in the country and on various other activities which are not of a productive nature. I had hoped to find time to

analyse the figures of expenditure so as to show the balance between productive and non-productive expenditure, but I have not had time. I feel that expenditure on non-productive departments is increasing very rapidly, and, because of that, it is not possible to increase the expenditure on departments which are of greater practical value to the country. The steady increase in our pensions commitments is beginning to cause alarm and I do hope that that problem will be tackled by Government in the immediate future.

It will, Sir, be necessary for inquiries to be made into revised terms of service. Pensions and the present terms impose a real drain upon our financial resources. The terms of service of to-day are clean out of keeping with the conditions of the country, and, as a Member of the Committee appointed to advise Your Excellency on the matter, I should like to record my opinion that it is impossible to frame terms of service likely to meet the requirements of the country in the future, which will be acceptable to the Civil Service as a whole, working under the old contracts. Bargaining with them seems to be impossible, because, when we come to bargaining, we find that every privilege and every concession is regarded as applicable to every member of the Civil Service, whether he is in a position to take advantage of these concessions or not, and too much is likely to be asked for the deletion of these privileges and concessions. I think, Sir, it would be very much better to recognise frankly that the existing contracts cannot be altered, and even those gentlemen who have come under them recently are not likely to accept a form of contract more in keeping with the requirements of the country. If, as many of us have urged, Government would recognise that it is no longer necessary to regard this country as requiring foreign service conditions, and will lengthen the period of service, I think it will be found that the majority of the lower branches of the service will very gladly accept the altered conditions, but it cannot be reasonably expected that the men in the senior positions will be willing to accept. Their position is, of course, entirely different.

As regards the Medical Department, I should like to congratulate them on the outstanding success of their hookworm campaign. I recently had the pleasure of attending a very instructive lecture on the subject at Eldoret given by one of the Senior Officers of the Department, and I thought it rather unfortunate that he did not emphasise the influence that such work would be likely to have on the labour supply of the country. We are all very hopeful, Sir, that the success of that campaign is an augury of the success which will be achieved in the anti-malaria campaign. I think we should be failing in our duty, Sir, if we on this side of the House did not

emphasise the importance of this subject, and that Government should get on with the anti-malaria campaign with all the force and power at its disposal. The psychological moment has arrived and it can be done if it is tackled now in the right spirit and in the right way by Government. I feel sure that the co-operation of all will be secured and it will be possible to make a success of the work if undertaken. There is one other activity of the Medical Department that I should like to refer to; that is the matter of venereal disease. Your Excellency made it plain in your address last Friday what Government's policy is in the matter of medical inspection. I am neither surprised nor disappointed by that statement. The Kenya Government has never been remarkable for moral courage and I had very little hope that, on this issue, it would face the antagonism of the Churchmen, the hypocrisy of their hangers-on to whom the naked truth is a thing abhorrent and the moral cowardice of the man and woman in the street. But medical inspection in the townships is only a minor issue. Well, Sir, the immigrant population can I think look after themselves, but there is the much graver problem of the native population, for whom the Government is the trustee. The Hon. Director of Medical and Sanitary Services is, of course, too much afraid to run counter to the policy of Government by over-emphasising the seriousness of this problem amongst the natives, but he is too humane to ignore it altogether, and on page 13 of the Medical Department's Report for 1927, there is ample justification for my statement that this is a serious problem and that Government will have failed in its duty to the natives if they do not tackle it now. If they fail to do it they will be imposing on their successors of five or ten years time a very serious problem indeed, and I sincerely hope that the Government will give it the attention it deserves.

Turning to the Education Department, Sir, to the department of unfulfilled promises, I feel in a difficulty in deciding whether to approve or disapprove of an increase of £14,000. I refer to it, Sir, as the Department of unfulfilled promises because, having been associated with it for five years, I find that during that time it has promised, promised, promised, and I see very little evidence of the fulfilment of any of those promises. In the course of those years the financial provision for it has been increased from £50,000 to £150,000. Can anybody say that the work now being done by the Education Department, the increase or the importance of the work being done, is commensurate with the increased expenditure? They cannot. Experts have been brought out. The Hon. Director when he was here, and more recently the Hon. Acting Director, from time to time and time after time, has assured us that the greatest requirement of the department was an inspectorate; there must be inspectors of the right type

and there must be enough of them. During the last few years a considerable amount of money has been spent in providing for no less than five inspectors, yet, when one turns to the Report of the Department for 1927, one finds on page 13 that, of that staff of five inspectors, only one inspector has been inspecting—that one of them has been "pinched" by the Director as his personal assistant, that another of them has been employed in the Head Office, and that of the three who have been appointed to the provinces, only one has been actually engaged in inspecting. Well now, Your Excellency, what can we say to a state of affairs like that? We take the advice of these experts, we listen to the pleadings of the Heads of Departments to assist them to do their work properly: Government provides the money and then, when these men have been engaged, instead of doing the work for which they have been engaged, they become a further incubus at the Head Office. I can remember the time when the Education Department in Nairobi consisted of the Director, one European and one clerk. To-day it rivals the Secretariat, (Laughter). So enormous has the clerical staff become, that it has asked now that an additional accountant be sanctioned to enable them to keep their accounts in order. I would again refer to the Department's Report for 1927. On page 11 we are informed that the average number of European pupils attending schools in the Colony is 1068, but further on in the Report we find that of that number only 644 attend Government schools, leaving a balance of approximately 424 attending private schools. Sir, I suggest that that is the people's reply to the efforts being made by the Education Department to give the European children of this Colony a proper education. As fast as private schools are being erected, so fast are European children being withdrawn from the Government schools. The number of Arab and African children attending schools shows a decrease of 12½ per cent. instead of an increase and yet we have been told that the native is howling for education, and that the Government is not providing facilities for it.

The Military Vote, Sir, provides us with a number of impressions. I see with much pleasure that at last provision has been made for the organisation of the Defence Force for which the country has been waiting so long. Unfortunately, the Military Estimates have been drawn up in such a way this year that the public will get the impression that an actual increase in expenditure has been incurred. I think I am right in saying, Sir, that this is due to re-insertion of provision for transport, but for which the Estimates would show a decrease. I think, in your statement the other day, Your Excellency, you dwelt upon the conditions prevailing in the Northern Frontier, and said that these conditions imposed a burden of

£126,000 per year on the Colony. I think this is an extraordinary state of affairs. We are supposed to be at peace with Abyssinia and yet we have to maintain a military force on the frontier to prevent inroads into our territory by numbers of the Abyssinian people. I should like to know, Sir, whether any representations have been made by this country to the League of Nations in this respect. Abyssinia is either at war with us or she is not, and I consider that it is worth considering whether or not it will be advisable temporarily to withdraw our troops from the frontier and allow Abyssinia to take the consequences of attacking private property and showing that they are antagonistic and therefore an unfriendly power.

In connection with the Land Department, Sir, I should like to have a statement from Government in the matter of further alienation of land. The subject was debated in August last and Government undertook that steps would be taken in regard to the further alienation of land and further areas made available for settlement without raising any questions of native interests. I shall be glad, Sir, of a comprehensive statement of Government's intentions during the forthcoming year.

Lastly, Sir, I would like to deal with the Agricultural Department. It seems strange, now that the country is developing rapidly along agricultural lines, that although we can find £12,000 more for the Police and for possibly less desirable things; yet for one of the most important Departments in the country we can only find an extra £3,000. Well, Sir, on the one hand I should like to see a very much larger expenditure on that department, and yet, on the other hand, I am not quite satisfied that it would be advisable to entrust that department with further large sums of money at the present stage. The Agricultural Department has never had the complete confidence of the country and to-day I am afraid it has less of its confidence than ever. The extraordinary thing about it is that, at the same time, the individual officers of the Department are held in considerable esteem by the agricultural community. You will hear the greatest praise on all sides for everyone on the staff from the Director downwards, yet you will also find the most intensive criticism of the Department because of its failure to give results. I have tried to analyse this extraordinary state of affairs, and I have come to the conclusion that the cause of the failure of the Department is due to its being a glaring example of the habit of Government indulging in what I call window dressing. It deals with nothing properly. It is supposed to be, or should be, a department dealing with subjects along scientific lines, yet its activities are amongst the most unscientific imaginable. As an illustration I see that it is proposed that next year there should be appointed a wool and sheep expert and a Tropical Agricultural Officer. The Rt. Hon. Member for Rift Valley,

himself a sheep man, has scouted the idea of a wool officer as being of any practical use to the industry, and I would like to know if it is possible for one Tropical Agricultural Officer to be of any practical use to the Coast Province. To one knowing nothing of the conditions of the country, reading the expenditure estimates of the Agricultural Department, one would get the impression that it was a department of which the country might be proud. It is a department of "ologists". It has all the "ologists" in the technical dictionary, but when one turns to its annual reports one gets a different picture. It is a continual series of failures to achieve results. This "ologist" or that "ologist" starts off with a series of experiments, the results of which might be of very great value to the country, but we find that, owing to the exigencies of leave or some other cause, his experiments are continued by "Njeroge" or the yard man, and he returns to find that the ink has been spilled over the serum and he has to start all over again. I challenge the Hon. Director of Agriculture to deny that; if the reports of the Department for the last six years are examined they will be found full of that sort of thing. I am sorry to be so critical, but I think it is only right that I should give expression to the feelings of the country towards the Agricultural Department. It is not satisfied. We are anxious to see much larger sums of money spent on this Department and that such expenditure should be made available immediately, but I, for one, would not like to take the responsibility of urging further expenditure under present conditions. The activities of the Department should be either cut down, there should be greater concentration on some definite lines of activity, or, alternatively, the Department should be reorganised on very much larger lines and provided with the money to enable it to deal adequately with a larger number of things, which at the present time it is only fiddling about with. As an illustration of what I have in my mind, native agricultural instructors have been engaged. What are they going to do, I should like to know? A couple of years ago one man was employed on showing the natives how to turn out their hides in a better condition for the market. Has that work been carried right through? I believe not, and yet we have it on the authority of the people engaged in that trade that, if that work were only done thoroughly, an increase in the value of the hides going out of the country could easily be secured. I understand that improved methods in dressing hides would certainly bring in an increase of 1d. per lb. and that would represent £40,000 on the value of hides exported.

Your Excellency, I feel I owe an apology for having taken up so much time of Council. I am afraid I have made it all too obvious that to go into details one must be critical. At

the same time, Sir, I should like to support the adoption of the motion with great pleasure.

CAPTAIN THE HON. E. M. V. KENYAL: Your Excellency, Government is entitled to expect from this side of the House, not an overdose of human kindness, but an honest degree of criticism, which has been accentuated by our past financial position owing to the drought, and in this connection I trust I shall not disappoint Government in both the quality and quantity of criticism. Now, Sir, a Budget always tells a story. There is a tale running through this Budget, and, in some instances, as in others, a fairy tale.

On the whole, Sir, the characteristic of this Budget is its flat featurelessness, and the Government no doubt relies on that quality. Just as a man who is featureless cannot have his nose pulled, so, if a Budget is featureless, it is difficult to tackle Government on it and elongate the missing feature.

But, Sir, although this Budget may be featureless, it has a certain character, and, Sir, it is that character that we on this side of the House greatly deprecate. Its bad character, the dominating characteristic of this Budget, Sir, is that instead of being actuated by economic considerations, the policy of Government is actuated and dominated by political considerations. This has been so in the past, and it is manifest in this Budget.

Now, Sir, I will deal with the major principles in which Government manifests that it is political considerations rather than economic factors which are guiding it in its policy to-day. First of all, one of the major points of criticism is that there appears to be a fluctuating liability, and we seem to be going back to those distressing days in which Supplementary Estimates used to be tolerated with a smile. I thought that we had passed those days; I thought we had definitely decided that, unless Supplementary Estimates were very, very extraordinary in their nature, they were undesirable things to introduce. We seem to have gone back on that, and it is now suggested that if we find such and such circumstances to exist, Supplementary Estimates will be tolerated and will, moreover, be welcomed. That, Sir, I regard as a very grave dereliction into barbarism. Now, Sir, as an instance of Government befuddlement, it is suggested that a sum of £75,000 may be saved and devoted to a reduction of taxation in some way or other, and it is definitely proposed that, for the consideration of so small a sum, the whole fiscal policy of the country should be reconstructed. Now, Sir, if that actually is the fact, is Government really anxious to reconstruct our fiscal policy for the sake of benefitting the taxpayer? It is laughable to suggest that that is Government's intention. We know

very well that Government is being forced to reconstruct our fiscal policy because of the attitude of Tanganyika Territory and Uganda, and I think it is most injudicious to postulate the desirability of such a policy by providing in these Estimates such a sum. It is not only wrong—it is weak. Now, Sir, after a long period of drought, we require a diet of something substantial, and, Sir, what does this Budget give us to eat? It gives us a diet of promises, which are awfully unsatisfying to the hungry interior. It is the interior that requires consideration. What we want is more domestic legislation, and less political recommendations. One of the manifestations of the dominant political factor is in the postponement of all our domestic problems, so that the political basis of these problems shall be less clear, and to apply political bias which exists elsewhere. Now, Sir, in this country it is essential that the Government entity should be an administrative entity, and entirely divorced from the Judicial entity. Government has definitely shown that political considerations are dominant and that administrative considerations are lesser in importance than the political ones, and yet it is proposed to appoint to the Acting Governorship a member of the Judiciary.

HIS EXCELLENCY: Order, order. If the hon. and gallant Member wishes to discuss this matter he can do so another time, but he is out of order in doing so now. It has nothing to do with these Estimates.

CAPT. THE HON. E. M. V. KENEALY: I think there is a sum of £400 provided in these Estimates; yes, on page 25 there is reference to this particular factor, and if I am out of order I shall refrain; but, Sir, it is a matter which deeply concerns the country, and it is a matter which is reflected in this Budget by the accentuation of the significance of factors political over factors administrative, and it is high time that the administrative factor should be the dominant one in Kenya. Now, Sir, what would be the products of last year, because, after all, the Estimates for the next year are based on the last year's figures—drought, malaria, and promises, and there have been more of the last than of the other two. We have had promises from Government at each Budget of the reconsideration of the terms of service, and what have we obtained? We have obtained nothing but more promises, but what are these promises worth? Has there been a single one of any of these promises which has been beneficial to the country? Has any one of these been fulfilled? Now, Sir, in this country the dominant need is for an increased population; is, in fact, settlement. What have we done? How much settlement has there been in the past year? Practically none. Why has there been none? Does Government lack the ability, does

Government lack sincerity? It must lack something to have failed so lamentably in its settlement policy. It is absurd, it is idle, for Government to shelter behind the fact that they have appointed the Kenya Advisory Committee. Government has definite responsibilities in the matter. It definitely undertook to further settlement in this country, and what has it done? It has done nothing. I do not know if the body appointed is obstructing settlement, but I do not know of a single case where it has actually favoured settlement. After all, if we go through the statistics we can readily find that our increase in settlement has been in the past four or five years. It has been negligible. Government will not face this issue, and it has been the same thing year after year. We, on this side of the House, must insist upon it, and it is time we adopted a stronger attitude on this question. After all, the only salvation of this country's financial difficulties is by increasing the number of persons who pay taxes.

In the past, from this side of the House, pressure has been brought to bear on Government to state the land transactions pending and the land transactions which were passed, and to furnish a review of these factors for three months. Why cannot we get this simple thing? There is nothing disgraceful in it, but Government will not agree to so simple a measure as that because it lacks sincerity.

Now, Sir, I have mentioned muddle as the dominating factor. Of course, muddle has also, not dominated, but manifested itself in the administration, and has cost the country a considerable sum of money. One sees the spread of disease in the country, and the Veterinary Department attempts to handle that disease. But what is that spread of disease due to? In most cases it is due to administrative inefficiency. I will take the situation as it existed during this year, and as it still exists, as a heritage, in the districts of Gilgil, Thomson's Falls and Rumuruti, through the failure of the administration to handle the Somali cattle problem. There has been a great increase in the disease, and to-day we are inheriting the consequences of it. It is costing the Government a great deal of money because the Government has lamentably failed to handle the situation to which its attention was drawn and that situation has not yet been handled. We do not know whether it is a spasmodic effort or not, but Government has recently taken some steps to control the situation, and it may be merely a gesture to silence us at this time of the year when we are inclined to criticise Government about its policy. We do not know whether it is merely a passing phase, and so we have got to comment on it.

Now, Sir, what is the position in regard to the Northern Frontier. Committees have sat on the possibility of bringing down stock from the Northern Frontier, but what is the situation in that Province? What is the policy of Government in regard to the controlling of the Frontier? There was established a Frontier Police Force. Now there seems to be mooted the suggestion that there should be a new establishment of Police not being under the control of the administrative officer of the Province concerned. That is the proposal now. There is to be a new establishment of Police stationed at Marsabit. Where are the headquarters of the Northern Frontier Province? Meru was suggested and adopted a year or two ago; Archer's Post has now been suggested. After all, surely the administrative centre of a district should be in the district.

Now, Sir, what is the position in regard to one of the dominant features in legislation which Government has been preening itself upon having done? I refer to local government. What is the financial policy? We have definite sums of money allotted to certain areas, but the division for road improvement is not defined. One would like to know how the money which is voted or which it is proposed to vote is to be divided amongst the different centres, because some centres have not yet agreed to come under local government, and it is desirable, before we vote the money, to find out to how many centres it applies. Of course, there are means by which Government can bribe or coerce local authorities. One of these is that the local authorities should be given the control of unalienated Crown land in their areas, and have the power to alienate land. Let us examine it. That of course would be a tremendous asset to the local authority concerned, because it would be possible for the rateable capacity of the entire district to be increased, but I would ask Government whether it is desirable to allow an asset of national importance (we can term it national) to be under the control of a local authority. Surely there should be some kind of policy applicable. There is no constructive land policy. If only we could get some definite statement from Government regarding land and land alienation! We cannot. Government has given us a re-assurance in regard to surplus balances. I do hope that Government will not attempt to carry out its own opinion as regards these surplus balances against the opinion of the majority of the Members on this side of the House, because the whole of the Budget of this year and other years depends upon the method in which these surplus balances are dealt with. The two things cannot be divorced, and, of course, the Land Bank is tremendously interwoven with the bigger question.

I should now like to comment upon the Budget in regard to the Administration. I boldly state that there has been an insufficient increase in the personnel, and I consider that inefficient methods of control are being proposed probably with economical ideas. One of these methods of control is for the District Officers to use more motor transport than human transport. Now, this is not entirely desirable, because the human and personal factor which is so desirable amongst primitive people is lost, or may be lost. I should like the re-assurance of Government in regard to that particular point.

I think there is a highly dangerous degree of looseness in the manner and number of beer shop licences which are administered at all the different centres, and it is a matter which I consider very, very speedily requires revision. It is not only a question of duty; it is a matter of ethics and morality. It deals with the welfare of the fabric of the entire State, and I should like to see Government take early steps in the matter.

In regard to the Agricultural Department, I think they should dig more and write less. In regard to the Veterinary Department, the Veterinary Department uses as erasers the bones of our cattle, and these erasers are required to rub out the mistakes which our administration has been guilty of in following the trail of disease.

Now, Sir, there has been a gross waste in the Forest Department; not in its administration, because I feel, Sir, that the Forest Department has been efficiently administered in the last few years; but, Sir, we have had thrust upon us another Forest Adviser. We have had Professor Troup's Report. Have we carried out any of the recommendations of that Report? I think not. It is lost, and we have not done anything. Yet we have another Adviser. We have not yet seen his Report. What are his terms of reference? I think it is a very great pity, Sir, that we have no one in this House to-day answerable for the Forest Department. It is a very important Department, and it is being subordinated to most of the other Government Departments.

With regard to the Education Department, Sir, I feel that the Education Department has made a very wasteful use of a lot of very good material. It has a lot of good material, and my hon. friend the Member for Plateau South also referred to this to-day. We have an inspectorate, Sir, of very highly qualified and highly paid men, who are being used upon services which really do not call upon their high qualifications. It is a very distressing situation, Sir, and I hope it is one which will be altered. I do not know whether political considerations have prevented the attendance or the appointment

of the new Director of Education, but it is very, very disappointing, Sir, that the new Director's Report could not have been submitted to this Council before the Estimates were considered, and I feel that this could have been obtained in some way.

In regard, Sir, to the Road Vote, Government has attempted to reassure us in this way that Government is trying to demonstrate that the provision asked for is being made in the way in which we require it. Well, Sir, it is not quite so, because the provision in the Third Supplementary Estimates has not yet been voted; it is not automatic, but a conditional provision. Since the Central Road Board require and demonstrate the absolute necessity for each individual item in its requirement of £150,000, I feel, Sir, that that money should have been provided in that form without any additional disability. Now, Sir, one of the elements in regard to the Road Vote is this: that there has been a diminution in the sum of money voted for the maintenance, improvement and preservation of native production tracks. I feel, Sir, that this is utterly and entirely wrong. All production, whether European or native, should be fostered, and I feel that the provision made for the native production tracks and roads and means of egress from Native Reserves for the products grown in Native Reserves is inadequate, and Government must face this issue and increase the vote.

I trust Government will recognise the various factors which are not commented upon.

With regard to the provision for malarial control, we see, Sir, that there are several items in the Estimates. At any rate, there is one item which obviously will be insufficient to deal with this matter. I suggest, Sir, that we should definitely allocate a sum of £50,000 for dealing with malaria, to show an earnest—it is desirable to show an earnest, and I think that £50,000 should be provided. There should not be an isolated provision here and there, Your Excellency, but there should be one comprehensive vote for dealing with the subject in a way which recognises its absolute and ultimate importance.

Well, Sir, there is little else to say, but it is pleasing to us on this side of the House—we who have recognised so long the necessity—to see that Government is at last beginning to realise the necessity of hauling down the bunting and applying that to our roof. We have had too much bunting in Kenya.

THE RT. HON. LORD DELAMERE: Your Excellency, on a point of order, may I ask Your Excellency to reconsider your decision with regard to the ruling out of order of the honourable and gallant Member who has just spoken. I see that in the

Vote for His Excellency the Governor, on page 18, there is an acting allowance for the Acting Governor of £400, and it does appear that that does bring in order the remarks of the hon. Member on the question, and any further remarks he may make. I do not happen to agree with him, but that has nothing to do with it.

HIS EXCELLENCY: The Noble Lord may have observed that I did not press my ruling. I observe that there is that item in the Estimates, of which I was not aware when I called him to order. At the same time, I am doubtful whether the actual point which he is discussing—the relations of the Judiciary to the Administration—is very easily discussed under a vote of this kind. However, I will not press that ruling if the hon. Member wishes to press his case.

CAPT. THE HON. E. M. V. KENEALY: Will Your Excellency allow me to amplify what I said?

HIS EXCELLENCY: The hon. and gallant Member is quite in order in discussing the vote for an Acting Governor, but I do not think it is desirable for him to discuss the relations of the Judiciary to the Executive. I should be glad if he would see me and discuss the matter before he does so in Council.

CAPT. THE HON. E. M. V. KENEALY: Yes, Sir, I shall be happy to do so before going any further.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, my hon. Friends on my right have dealt with most points, I think, but without going over them again there are a few points which I should like to accentuate.

I should like to support the Noble Lord on my right with regard to our feeling the very grave importance of dealing with the menace of locusts. It is I think unanimously considered by hon. Members on this side that to deal with such pests the right system is to have some officer definitely in charge, with a free hand to organise and to have the service under him directly, rather than for the Department to spare whom they can, to deal with it piecemeal.

The next point is the question of the anti-malaria campaign. I think this is an opportune moment to take the lead given by our Royal guest—whom we were all sorry to see leave our country yesterday—but I have heard it argued that to lay so much stress on it is a very bad advertisement for the country. It is not in accordance with facts, because this is not naturally a malarial country in the real sense of the term. I believe some years ago there was practically no malaria in

Nairobi; there is a great deal now. There was at one time none at Eldoret; there is malaria there now. I want to emphasise in the fullest terms—now is the moment to tackle this problem with all the force at our command, and then we can justifiably advertise this country as healthy in every respect, including any danger from malaria.

On the question of the inadequate provision for roads, Your Excellency did tell us just now that there was other provision made, but what we want to stress is not more money for new works, but the provision for the ordinary maintenance of existing main roads and bridges; and in the Native Reserves too there is not adequate provision; it has been cut down, and I think it would be a thousand pities if there is not sufficient provision in this year's Estimates for maintaining these roads at the present standard and to provide for gradual improvements.

We have in this country now, Sir, a road engineer, and I think everybody who travels about the country must agree that he has already shown his worth, and I feel we must support him in every way, so that he may get on with this important work, and not let it go backward.

On the question of the provision for district roads, it is very difficult to see exactly how the figures work out, because they are not all concentrated. I should like to know more definitely about the machinery for working on those roads. The system now is to do away with *kerais* and to use graders, and I am not quite certain how far the District Committees are to get the use of graders, or whether they are to provide their own; if so, the money will not be adequate.

In dealing with the Public Works Department, there is one branch which I think very important, and which is going to add to the development of the country. I refer to water-boring. I think there is no doubt that as at present situated the water-boring service is nowhere nearly adequate to deal with development. I believe it would require at least four more machines to deal in reasonable time with the number of applications in the hands of the Public Works Department at the present moment, and I do think this is one of the most productive of the services, because water is essential to the progress of the country, and I do hope that Government will seriously consider whether they can allot more money for the service, and also whether they could not with advantage offer more than the ordinary terms and make them more attractive when obtaining foremen, because I understand there has been great difficulty in getting suitable staff to deal with the water-boring plants.

Then as for Military Estimates—I am a little surprised that none of the hon. Members on this side of the House should have congratulated Government on getting rid of one company of the King's African Rifles. As my hon. friend the Member for Plateau South has said, it seems to be the impression that the cost of the Military has gone up. It has gone up in comparison with last year, owing to the inclusion of the Transport Service, but in spite of the additional cost of the Defence Force, it is lower by three or four thousand pounds, and I am delighted to think that we have at last got a beginning with the Defence Force.

We have had the figures this morning from the hon. Colonial Secretary that 90 per cent. of the people of this country have voluntarily enrolled in that Defence Force. I should like to say that as an old soldier—a voluntary soldier from my fifteenth birthday until I had to leave as no longer fit for military service—I do hope that the remaining 10 per cent. will now enrol voluntarily, and make it 100 per cent., and not stay out on the quibble of the voluntary basis of enrolment. It is not really a worthy argument for anybody who has had training or previous voluntary service.

On the subject of Pensions, Sir, I agree with the hon. Members who said it was a burden, and that we have to see if anything can be done to improve it, but I am afraid I cannot agree with the hon. Member for the Lake that we should put large sums to reserve, and so have another talent wrapped up in a napkin. What I should like to support is his plea that the Plant Breeder should be put on the pensionable list. Where I live I have an opportunity of seeing his work, and there is no question of the value of the work he is doing for the country, and it was a surprise for me not to see him on the pensionable list.

In regard to the question of Forests—I do think it is most important that we should immediately tackle the question of reforestation, and do it on sound lines, taking long thought for the future. It is a thing which ought not to be put off; it ought to be tackled here and now.

I am glad to see the provision in Estimates for a Conservator of Forests, a post vacant for two or three years; but at the same time I trust that the post of Forest Adviser will disappear, as the two posts seem unnecessary, and personally I prefer an executive officer to an advisory one.

The question of rural telephones was touched on by the hon. Colonial Secretary; a question which I have examined on previous occasions, and we agree how important it is to develop

the service, but I trust that the Postmaster General will not go on with the very excessive rates and prohibitive charges quoted up to date. Nobody will take it on those conditions.

On the question of land alienation, Sir, I am given to understand that there are a certain number of farms to be put up for sale in the course of the next few months, and I should like to make a special plea for farms in my own constituency on the Athi River. I do not know whether they are, but I trust they will be, included in the list of farms to be put up for sale. There is one point, Sir, I should like to refer to—that money should be provided for doing something in the Ukamba Reserve. That Reserve is to-day in a deplorable state; it is completely denuded, and has been overstocked for years. It is no use trying to do anything piecemeal or trying to do anything on a small scale. It must be tackled on a big scale to be any use, otherwise it is money wasted.

Your Excellency also referred to hopes that private enterprise would be more stimulated in this country. I do think a great many services could be economically done this way, and I hope Government will try to utilise private enterprise as much as possible.

I have only one other thing I wish to refer to—a question affecting the revenue side of the Budget—the question under one of the Heads, "Estate Duty, £9,000." I do ask Government very seriously to consider if they cannot see their way to abolish death duties in this country. They were originally introduced at home with the avowed object of breaking up estates. They were started on a fairly small scale, and now have grown to very large proportions. There is no question they have achieved their object, and, in my humble opinion, very much to the detriment of the general welfare of the country. However much it may help the Exchequer at home, where there are millionaires who can well afford to have a big slice taken out of their estates, here we have a young country with no millionaires. Everybody is struggling to develop his estate and hand it on to his children. The object of the Government is to try to assist development, and it seems a little inconsistent to encourage people to develop while they are alive, and then when they are dead to give a kick to their widows and children. At the very moment when the breadwinner is taken away is the time when those left behind want assistance—not to be mulcted of the little left to them.

At home, most people have a certain amount of money in securities which can be realised to meet such difficulties; out here, where everything is in land, the only way out is a forced sale. I believe that it is not a good tax for a new country. Apart from which, Sir, our present system of taxation is chiefly

indirect. Death duties are not a tax on income, but on capital, and I hope Government will consider during this coming year whether they cannot see their way to abolish this form of taxation, while it does not affect the revenue to any great extent, whereas later on, in some years, it may amount to greater sums, and be more difficult to get rid of.

I should like to join with others in congratulating the Colonial Secretary and other officers concerned on the Budget generally. It does seem to be an honest attempt to meet the requirements of the country at the present moment.

Council adjourned to 2.15 p.m.

On resuming at 2.15 p.m.

CAPT. THE HON. H. F. WARD: Your Excellency, I have very little to add to what has been said this morning on the Budget as presented to this House, but there has been considerable reference by hon. Members on this side of the House to the wrapping of their talents in a napkin and hiding them under a rock. I should like to say at once, I am quite sure that if either of the hon. Members who have spoken could perform that difficult operation, neither of them would be content to hide them under a rock, and I think the Noble Lord underrated his talents when he placed them on such a low basis as $\frac{1}{2}$ per cent.

Reference has been made to certain balances, and out of that arises a further question, the question of loan redemption. Surplus balances, as I understand them, have never yet so far been invested in definite securities. Studying the statement of assets and liabilities, there is no sum shown therein as definite investments in easily realisable securities, with the exception of such items as the annual investments on behalf of the Savings Bank.

I take it, as far as I understand it, surplus balances must be absorbed largely in advances pending authorised loans, so that I do not think that question arises in the shape in which it was introduced this morning. The divergence of view on the question of surplus balances is largely affected by the policy Government proposes to adopt in the matter of redeeming loans that have now been raised. If that point—speaking personally for myself—if that point were put on a rather more satisfactory basis than it is at the moment, I do not think I should have the feelings about surplus balances that I have to-day.

The position in regard to debt redemption is that at the moment we have only tackled debt redemption in respect of the 1921 loan, and that we are only providing 1.8 per cent., which

leaves a small balance unmet when this loan matures. No provision is made for the 1927 or 1928 loans. The last two loans have been almost entirely anticipated by advances pending the raising of those loans, and so, whilst it is customary in a loan provision to give some three years before redemption becomes due, in fact we have had that money over a considerable time, and we have already secured the assets under that loan. In point of fact, to keep pace with our liabilities, it is quite clear that we should be making provision this year for redemption in respect of the 1927-28 loans.

On the general question of whether or not we can keep pace with our liabilities, there are a considerable number of arguments advanced against it. One argument is, why should we take money which could be so profitably employed locally, and place it in a debt redemption fund which is based as low as 4½ per cent.

THE RT. HON. LORD DELAMERE: I did not say that. On a point of explanation, I said it should not be placed in investments bringing in so low a rate of interest if it could be profitably placed elsewhere.

CAPT. THE HON. H. F. WARD: If that theory is accepted, it means that in fact every time money is raised the attractiveness of the results are not to be used for paying it back, but are to be employed in further development of the country in which the money was borrowed, and there must surely be some end very soon in sight.

The second argument which has been advanced is that our loans do command a high premium in the London market, and therefore that the bond-holders are perfectly satisfied with their bargain. I think the answer to that argument is that the outlet for investment by trustees is a very restricted one, and further, that the investors at home possible place an equal value on the Imperial Government's interest on that loan as they do upon the securities offered by the Kenya Government.

The third argument I have heard advanced is: why should this generation provide an asset, which is to be handed over free of any liability to another. I think the right answer to that, Sir, is this: that each generation as and when it borrows money is under a definite obligation: not only to bond-holders, but to itself, and to the next generation, to keep pace with its liabilities, and gradually clear its credit for the purpose of further borrowing. If this generation, and every generation, were to adopt this policy, we should adopt a snowballing effort which might be colloquially described as "passing the buck." But sooner or later that again must come to an end.

I think it vitally important that each generation, whenever it does go to the London market, should make a full provision for the redemption of its loan. The net expenditure of the Colony—I have the question from memory—is I understand to be in the neighbourhood of 3½ millions this year. In order to keep ourselves completely on the safe side, we have to incur an additional liability of £17,000 only, and I do think that the value of so doing and keeping our position right in the money market is considerably under-estimated by the arguments I have enumerated.

Under advances pending the raising of authorised loans, we are committed already to a programme involving £2,207,000 for which no provision has so far been made; and it is anticipated that in six weeks' time we shall actually have expended £844,000 of it.

MAJOR THE HON. R. W. B. ROBERTSON EUSTACE: Your Excellency, I for one welcome the appointment by the Agricultural Department of a Tropical Agricultural Expert. I consider he will be of invaluable use, not only on the Coast, but throughout the country. It must be remembered that the Coast is not the only tropical part of this country; there are many others. Also, the natives on the Coast, owing largely to the very successful efforts of the Medical Department, are now a very different class from what they were a short time ago. They are prepared to work; they are strong and healthy, and they wish to work; and anyone who can show them what else they can grow will be of very great assistance to us.

Under the heading of Administration, Sir, I see provision has been made for re-inserting the post of Kathi of Takraungu. Some six months ago, I asked a question in this House as to why he had been removed, and was told it was not the intention of Government to replace him. I do not know a reason for it, beyond that his abolition has proved unsatisfactory. I would also like to point out, Sir, that there is a Kathi at Malindi. But there is no Kathi who is capable of doing the work south of Mombasa at all. The Kathi at Mombasa undertakes the work right down to the border of Tanga, which is over eighty miles away.

With reference to roads, Sir, as we are all aware, the road through the Northern Frontier District and Tanaland has lately been opened from Wajir to Lamu, but there are several parts of it which still require attention and expenditure. I refer especially to the part from Bura to Lamu—about fifty miles. Very great credit is due to the officers at Lamu and the Assistant District Commissioner at Bura for the work and energy which they have shown in making this road. I was

up there a short time ago, and while there the first cars from Wajir to Lamu passed through Bura, and there is no doubt that if that stretch of country is put in a better state traffic will increase very largely.

With reference to the natives of Tanaland, some years ago the report of the Native Affairs Department drew attention to the deplorable condition of the river tribes, where they were said to have developed ducks' feet and I think caudal appendages. A short time ago I had much pleasure in attending a baraza in the district, and I was very much surprised at the general appearance and intelligence of these people. But I do think, Sir, that they do very much lack attention by the Medical, Veterinary and Agricultural Departments. They are, however, given a great deal of attention by the proteges of the Game Department, who are destroying large numbers of the shambas.

With regard to the Education Department, I am sorry to see that no further provision is made for the education of European children at Mombasa and the Coast. There is only a very small school there, which is insufficient to accommodate the numbers who are there. There are now fourteen or sixteen European children hoping to get education who are unable to do so.

I am not quite satisfied, Your Excellency, that the education of the youth of the country is yet proceeding on entirely the right lines. I consider it should be instilled into every boy and girl, irrespective of his or her particular need to do so, the will to work, and to foster not only the ability but the intention to achieve the ambition of making a reasonable living. I cannot understand why education and training to make a living cannot go hand in hand. After all, a nation's prosperity may be measured in units of work, and in this lies the secret of the much-advertised prosperity of the United States.

LIEUT. COLONEL THE HON. J. G. KIRKWOOD: Your Excellency, I understood this morning that the procedure on this side of the House was for Members to speak in order from right to left—it has now arrived at my turn, and I will try to be as concise and precise as possible.

Personally, I should like to say that it appears to me that the kick has been taken out of the debate by the wise provision of Government to keep the Budget down to a minimum.

I do not wish to go into details—that will be done in Committee—and I have no doubt there will be alterations and adjustments made by agreement.

I see the word "Road" in my notes—referring to the Public Works Department Estimates—and I think the most important item in the Budget is this question of roads.

As all roads lead to Kitale I should like to draw attention to the fact that there is no provision for taking that road beyond Kitale—and I would earnestly impress the consideration of an extension of a road from Kitale into Uganda. It would not be any great matter—a distance of twenty-four miles: sixteen miles in Uganda, with a central portion of eight miles in Kenya.

It may be proper to remind the House that Sir William Gowers reminded us when he was at Kitale that "the more we are together the better we shall understand one another" and I hope that when we are honoured by his visit to Nairobi a happy result may come from our meeting.

With regard to the suggestion for a reduction in the cost of living and the provision in the Budget to that end, although I believe that it is most desirable to get a reduction in the cost of living, I do not think that the present moment is a proper one to attempt it—but it might be earmarked for future consideration.

I think we have many problems before us. There has been a drought period for two years—and taking into consideration the usual cycle of events it is very great odds that the third will be a good one. Although the drought menace has passed for the moment there is one menace which still looms largely in my mind and that is the menace of locusts. Experience in South Africa goes to prove that conditions there were identical with those in this country. There was a time when locusts were practically unknown in the greater part of South Africa and I think it was in 1907 that the great infestation from the Kalahari took place.

There were minor infestations prior to that, but the phenomenal infestation was in 1907, as I have great reason to remember. Since then the incidence of locusts in South Africa has been more or less a permanent one and that is what I wish to impress on everybody dealing with this subject—not to take it too lightly and to give it very weighty and due consideration. If we have the same experience as South Africa it would mean the permanent infestation of this country and from experience gained in South Africa I say without hesitation that if money is required to fight the locust menace it should be placed at the disposal of whatever organisation is appointed to deal with it.

His Royal Highness, I think very wisely, before leaving referred to the menace of malaria. This question has two aspects—one that overseas it may create a scare—it possibly

will—and people will probably visualise this country as being unfit for European occupation; of course, that would be untrue, but it is very difficult for people at home—judging from past and recurring events—to visualise conditions here. I should like to point out that wherever you follow the equator you have malaria. It is a question of degree and the question of degree is affected by the question of the measures taken and their application to malaria. And that again, I think, is one of the subjects on which one might say that whatever money is required for fighting the menace, those funds should be forthcoming. I quite agree with the remarks made by the hon. Member for Rift Valley in speaking on this matter.

I would like to support the Hon. Member for Ukamba in his reference on the Public Works Department Estimates to the question of drills—otherwise water boring plant. I believe it is true that there are eight machines at the moment in the country and they are at least six too few for immediate requirements. They are revenue producing and should be self-supporting and there should be no hesitation on the part of Government to allocate whatever funds are required for four extra water boring machines. They will have a very far-reaching effect—bound up with the question of water is the problem of sub-division and it is very difficult at times, even in a well watered district, to sub-divide a farm economically on account of the water question. This also refers to many of the large Crown land farms in the Trans Nzoia which would fetch a much higher price and would certainly reimburse Government in the form of revenue if boring operations were carried out before they were disposed of.

I notice in the Police budget that it is still mounting up and the striking incidence of the increase in expenditure with the increase in crime—how one can justify the other I am not prepared to say.

Education Estimates, as has been pointed out by the Member for Plateau South, are increasing from year to year—but that fact does not to my mind carry very much weight. There is no question that educational facilities in this country have been and still are inadequate to requirements and it is only a matter of supplying a demand—when I think we all agree that Kenya will be the educational centre for the whole of East Africa. There may be details that can and do offer themselves for criticism—but I do not propose to go into details.

It has been said that a large percentage of children are attending private educational institutions. That, I know, is correct—but those are conditions that you will find everywhere. I have some small experience of one educational institution in this country—and that is the Loreto Convent. I do not think

that Government can, either with advantage to the country or in justice to that institution, be other than more generous in its support. It is a matter in which I am in no way concerned—either directly or indirectly, but I am aware that at that school the charges are very reasonable—it is filling a public want—children are taken irrespective of creed—and in many instances it can be demonstrated that children are taken free of charge—and I do not think we could ask any educational institution to do more. I do hope that this question will be duly considered by Government.

In the Estimates of the Forest Department it is stated that £500 is required for the upkeep of forest stations, which seems a very inadequate sum. I would like to say that if afforestation in other parts of the country is to be carried out on the same lines as at Kitale—all I can say is that it is £500 too much. I suggest seriously that the matter needs looking into and if necessary a Committee should be appointed. You cannot create forests by digging holes and putting in trees. If they do grow they are stunted—but usually they do not grow. There is also the factor of grass fires. I can give any information on this point if wanted, outside this House.

Your Excellency alluded at some length to the question that arose in the Mombasa Session of prohibiting the licensing of brothels. It is a most difficult question to deal with and I submit that it is the duty of every Member on both sides of the House to approach this question courageously. It is no use and will be no gain to the country if we simply sit on the fence and shelter behind an assumption of virtue.

I am not advocating for one moment the licensing of such houses but what I do say is that the Church and the Missionary authorities have failed in spite of their Missions to prevent a tremendous mortality amongst the natives of this country due to the prevalence of syphilis. It is a very large number indeed. The percentage is very large in children and the physical unfitness of the male population which is brought about by such incidence is beyond the knowledge of most men in this House. I do feel, whether it is through the Missions, or by other means, this is a question which has to be faced and faced, courageously—and something more than the inadequate endeavour made to date will have to be employed if we are to save the ignorant natives from themselves.

It is not a question of ethics or of religion but I plead for consideration of the subject in its widest aspects of economy and of humanity. Instead of criticising it is up to the critics to suggest a remedy. One has been suggested but has not been admitted; but a way must be found and the critics, if they do not agree, should suggest something better.

Then as regards "Pensions"—I note they have also increased. Your Excellency previously announced that it was the intention of Government to implement conditions that would establish the leave system on something like a four years basis. Without going into details—there is a serious necessity to alter present conditions. I am well aware that the majority of public servants who come under this heading are on contract, and their terms cannot be affected—but apart from any compulsory measures at all there is a question of lightening a certain amount of the burden. I think an optional scheme could be worked out which would be approved by the officers concerned—to accept something in lieu—of advantage to them and of advantage to the Government—who could do without a very large reserve of officers that are now maintained.

I know from experience, especially amongst the married Government officers in this country, that many of them would forego their leave if they could get reasonable consideration—even of deferring their departure for six or twelve months and thereby making the period longer. There must be a way out, and it is to the advantage of all concerned if the period can be extended.

I notice—without reference to the actual figures—that some £3,000 is down for Defence Force purposes. What that sum is for—I have not studied the detail at the moment—but it does seem to me to be an unnecessary amount in the initial stage—and further I regret that owing to a certain question that was asked in Mombasa—which I am sure has created an impression, rightly or wrongly, that the conditions are to be whittled down and the force—it is stated by some—would be practically unservicable through certain suggested alterations. I do hope that Your Excellency will make some comment which will clear up what is probably a misunderstanding among the general public.

In closing, Your Excellency, I congratulate Government on putting up a budget which has taken the kick out of the opposition.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, I am afraid that the excellency of the Colonial Secretary's speech has rather taken the sting out of the tails of the Elected Members. It is almost impossible for those of us who have waited until the afternoon not to cover ground that has already been covered. I want to support everything that has been said with regard to the eradication of malaria, and I hope Government will hand money out with both hands to fight that disease.

With regard to roads, I welcome your intimation that there are Third Supplementary Estimates coming up, because it did seem to us that the amount provided in the Estimates was totally inadequate, and I would like to join with those on this side of the House who have been pressing for an increase in that amount.

I welcome the suggestion about rural telephones, which will greatly assist in bringing the police up to date, and be of immense benefit to the country at large.

Reference was made, Your Excellency, to the sum of £18,000 which was re-voted to the K.A.B. for transport. While admitting that the first line of transport must necessarily be under the military, I am not convinced yet that the remainder of it could not be economically handled by the civil transport, with a consequent saving to the Colony, and I look to Government for an explanation as to why it reverted to the old system after the definite undertaking made last year.

The Education Taxes: I note the Government has not thought fit to remit these. The Government probably has very sound reasons for not doing so, but I must protest most emphatically against what I would call illegitimate revenue. I refer to the double fine imposed on people who may have delayed paying their taxes for twelve hours after the expiration of the time limit. Now Sir, it is within my knowledge that a certain person arrived at Mombasa and was not told that the tax had to be paid within 30 days of arrival, and it is on record that this man, who was in the country for only 33 days, had the double tax imposed upon him. That is absolutely iniquitous, and I hope the Government will take prompt measures to rectify it.

I would like to support my noble lord in protesting against the importation of a Sheep and Wool pest (laughter).

I support the last speaker in his reference to grants in aid to Missions, and I intend bringing this matter up during the sitting of the Select Committee.

I welcome Your Excellency's reference to leave regulations, and I trust Government will carry out these without delay.

Your Excellency, I am not satisfied with the medical facilities, particularly in the Reserves, and I have a note here, which I am going to bring up in Select Committee.

I think, Sir, the country can congratulate itself on the numbers enrolled in the country in regard to the Defence Force.

Lastly, I wish to join the hon. Member for the Lake in requesting a statement from the Director of Agriculture as to his intentions in regard to the coffee plague.

THE HON. T. A. WOOD: Your Excellency, I suppose, following your remarks, I ought to apologise for coming in at the tail end and having to repeat what has been said already. One of the most interesting features of this debate is the volume of sound which I have heard to-day on the subject of leave conditions, knowing that I was once a member of this body for a number of years, and was definitely thrown out by an official caucus for expressing those same views. I do hope that at long last the Government will get a move on and do something in common equity for the rest of the population who have to find the money.

The Hon. Member for the Lake called attention to various printers' errors. I do not think it is the fault of the printer. I went to his office to look into them myself. He referred to some, and I recommend to Government that they look very carefully through them before they are published, because I find we are committed to paying pensions to widows of people I am pretty sure are still alive. In any case, if the original pensioner is dead we have no sanction to pay the widow a pension unless this House move a formal motion on the subject and passes it.

I would like to offer a word or two upon the question of pension reserve, which was also mentioned by the Hon. Member for the Lake. The subject of pension reserve, strangely enough, was, I think, originally advocated by myself in 1910, when the pension amount of the country's budget was about £3,000. I see it is now £112,000, and we have not yet established a pension fund. I do suggest, in spite of the remark of the gentleman who spoke of burying talents in the ground, that a pension fund is a definite obligation. It is a trust fund, and although Government do not seem to believe it, other people, if they did not establish them would be liable to find themselves in jail before very long.

There have also been references to the cost of living in this country, and a reference to the ear-marking of a certain sum to meet a contingency in the future. I understand the amount is to be reserved (without any definite commitment on the part of the Government), pending a conference with the other two partners to the customs agreement which is at all possible between the adjoining territories. I do not think we need worry ourselves at the moment with regard to what we propose to do until the question comes up in some definite form, but I would like to suggest, on behalf of the commercial community, that if there is any proposal to reduce the duty on

any particular commodity the Government will be pleased to remember that there are several thousand pounds worth of those goods in stock, and that the commercial community through reductions, not only in customs duties but in railway rates, are liable to suffer severe losses, and these in turn go on to the overhead charges.

I see the Director of Agriculture smiling. I do not know why. I happen to belong to a firm which lost £500 in one case owing to decreases in railway rates. What happens to the loss? It has to be met somehow. A man cannot carry on business by continuing to lose money. He goes into the bankruptcy court in a very short while.

I am not at all satisfied that the Government have made sufficient provision for their anti-malarial campaign. I understand that last year a sum of £20,000 was voted, of which possibly £4,000 has already been spent. Is the remaining £16,000 to be carried forward and is the £10,000 in addition to it?

With regard to the question of local government generally, I should like to express an opinion that I think the Government is rather optimistic. I see, for example, a refund from the municipality of £5,000. I have referred the point to one or two of my accountant friends and they cannot understand it. I also see the deletion of an item for the cleaning of Crown Lands in Nairobi. I submit to Government that from a municipal point of view the Municipality has got nothing to do with that. What is the name of the plot of ground in the area under their jurisdiction? It does not matter whether King George or Bill Smith owns the land. If there is an obligation on the part of the local authority of Nairobi to clean Crown Lands, because the Crown have very kindly and at long last undertaken to foot their equal share of liability for rates, I am sorry, but on behalf of the Nairobi Corporation I must say "Nothing doing," because we should have to clear other people's land as well, and we should have to charge other people a higher rate.

I regret very much to hear that there is no proposal to reduce the postal rates this year. I thought it was accepted, on both sides of the House that the equivalent of 2½d. was an extraordinarily iniquitous charge for postage on a letter, especially when a large number of letters are merely transferred to other people's private boxes (laughter). I do hope that the Government are going to reconsider this question at a very early stage. Practically 2½d.—it is really iniquitous. It is the old-time postage for foreign countries, and to apply it in large measure to local postage is outrageous, more especially when that particular department is making an extraordinarily

good revenue as far as I know. For some peculiar reason practically everybody I know in this town has a private box and pays Sh. 30 for the privilege of saving the Postal Department from investing money in postmen to deliver the letters.

The Hon. Member for Plateau South referred to the fact that there were several school inspectors who were not inspecting. I am rather afraid the subject of education is one which I have to approach very warily as it is so long since I had any myself, and what I did have was of a poor class. But I do not think then that they spent a lot of money on school inspection. My recollection of it is that it was done by voluntary effort—that was of course in an elementary school in a big city in the old country. But in any case it does not excuse the Government placing people on a job—on a certain job—and making use of them in other directions. Either school inspection is necessary or it is not. If it is not necessary we ought not to engage these people under a camouflage.

Tropical Agriculture: My esteemed friend, the Member for the Coast, advocated this. It may be all right—I do not want to say too much against it—but I would call the Government's attention to the many reports we had over the Government's Mazeras experiment. They must have spent thousands of pounds on it and eventually, after three attempts, I think, it was abolished. I hope that will be kept very carefully in mind, and I also trust, when Government are considering agricultural activities, that they will be very careful to study how far that Department encroaches on another branch of industry in the country; because, after all, while admitting that our finance is growing, the trade of the country enters into it pretty largely. I may say, with all respect to my farming friends—as a matter of fact I am a farmer myself and I am a coffee grower—with reference to this pest Stephanodores, I think perhaps it is preventing a good crop, and I find that up to the present there is a very great danger of one movement being fettered in the interests of suppressing this pest, by which a large volume of business is being side-tracked out of the Colony altogether. I refer to a valuable crop of coffee known locally as "foreign coffee." It comes from somewhere near Bukoba. I understand there is a 6,000 tons crop. I know that the Harbour Advisory Board have recommended to Government a reduction of the free storage period, to come into force probably on 1st January, 1929, and I also know that up to the present it is quite impossible for the mercantile community to have any reasonable storage facilities at Mombasa for this so-called "foreign coffee." I suggest there should not be a deliberate attempt to side-track this coffee. I understand there is an attempt to sidetrack

I do not know what the railway freight on 6,000 tons is. Apparently nothing has been done. The matter is in a very unsatisfactory position to-day in my humble opinion.

Also, in regard to the activities of the Agricultural Department, the question of hides and skins was referred to. Honourable Members of this Council had recently the advantage of getting a pamphlet on the question of hides and skins from the Mombasa Chamber of Commerce. Apparently it contained some very valuable information. I trust that full use will be made of it. That is another branch of trade resulting from production that requires fostering and overhauling to a considerable extent. The Hon. and Gallant Member for Ukamba referred to the employment of private enterprise. I would like to couple with that a question regarding the disposal of surplus balances. I understand £100,000 is unallocated stores. There is plenty of private enterprise in this country. You talk about putting talents in a napkin. What about the £100,000 of stock lying idle at 4½ per cent., or whatever it is, when there is a tremendous amount of local activity prepared to do business at a much lower scale.

The Hon. Member for Nairobi North referred to the question of sinking fund provision. I do not propose to say anything on this suggestion, but I do sincerely hope that the Government will give full consideration to this point. There is a great deal in stability of credit which is firmly established in following the ordinary procedure in regard to borrowing money. I do not wish to say any more at the moment. I shall have an opportunity no doubt in Select Committee.

REV. CANON THE HON. H. LEAKEY: Your Excellency, one or two remarks I would like to make which perhaps were more appropriately made in Select Committee, but I should like to add my congratulations to those who have already congratulated the Director of Medical and Sanitary Services and his staff for the work which they have done in the wonderful campaign in regard to hookworm in the Native Reserves. I do feel that they have worked well and any money which we are able to give to this object is money well spent. Then I would like to say how entirely I am in sympathy with stamping out malaria and doing it as soon as ever we can both amongst Europeans and Africans and I am glad to be able to say that in the Reserves, particularly in the one which I know best, great strides are being made by the teaching of hygiene in schools.

There is one matter, however, Your Excellency, upon which I must speak. At the close of the Session at Mombasa, after I had asked to be excused, the question of the licensing

of brothels came up unexpectedly. I would like, Your Excellency, to take this opportunity of thanking you for the bold and statesmanlike words you uttered in your opening speech in regard to this matter. To my mind the licensing of vice.

THE RT. HON. LORD DELAMERE: Your Excellency, on a point of order, I entirely agree with the hon. gentleman, but what has it got to do with the Budget?

HIS EXCELLENCY: The Noble Lord is in order in making an objection, but I have allowed another hon. member on that side of the House to address himself on the subject and I think I cannot prevent the hon. gentleman now speaking from doing so.

REV. CANON THE HON. H. LEAKEY: I was under the impression, Your Excellency, that the question of carrying out what has been suggested would entail money and so concerns this debate; however, as you kindly give me leave, I will proceed.

HIS EXCELLENCY: I hope the hon. gentleman will be as brief as he can upon the subject. I cannot prevent his speaking because I inadvertently allowed another hon. gentleman to deal very fully with the subject before lunch, but the Noble Lord is quite right in saying that it is not really germane to the Estimates. When one hon. Member is allowed to deal with the subject another hon. Member is also allowed to do so.

REV. CANON THE HON. H. LEAKEY: Your Excellency, to my mind the licensing of brothels is the licensing of vice, of thus condoning it. This would be disastrous. I am perfectly certain it would lower the prestige of the white man in the eyes of the natives. What we want to-day is the teaching of morals by example and precept, and the backing up of the Medical Department in their work of injections to natives.

With regard to the Education Department and the money that they have asked for, I would like to say that although deeply interested in European education, I have no time now to study it, as my own family have grown up; but with regard to the education of Africans, I consider that the Native Industrial Training Depot, and the Jeanes School are both doing really good work. With regard to the money which is being set aside to assist Missions, I honestly believe that the money granted to them is helping us to do really good work in raising and educating the native, and I wish it to be known that we do our very utmost to teach them—to use a much-hackneyed phrase—the dignity of labour; and that we do not

in any way use that money to teach them to have swelled heads and only become clerks, but we do endeavour to cultivate their minds and enlarge their outlook to prepare them for becoming useful citizens when they grow up.

THE HON. A. H. MALIK: Your Excellency, I had made a note of a number of things in this Budget, but the able speeches made by the hon. Members on this side of the House compel me not to repeat them again. I have expressly to endorse and support the views of the Hon. Members for Nairobi South Plateau South and Kenya. I am now left with a few minor points which are very important from the Indian point of view which I would like to bring to the notice of the Government and this honourable House. The first is, Your Excellency, the way justice is meted out to Indians in the Court.

HIS EXCELLENCY: Order, order, do I understand that the hon. Member wishes to discuss the justice given by the Courts of Kenya.

THE HON. A. H. MALIK: No, Your Excellency, it is not that.

HIS EXCELLENCY: What is the subject?

THE HON. A. H. MALIK: I am merely emphasising a point in regard to the way in which interpretation is done in the Courts, Sir. The right of the Indian community to trial by jury has been delayed or denied and, in view of that, the only source of direct justice meted out to the Indian community is through interpretation. It has been my experience that the present staff of interpreters speak a tongue which is not the main tongue of India. The main tongue of India, Your Excellency, is Hindustani and the present staff, at least the senior staff who do the interpretation, do not speak it; it is not their mother tongue and the result is that a witness of the parties concerned is often misinterpreted. Of course interpretation is necessary where a witness, or a plaintiff, or a defendant, or accused is illiterate. Often it is not possible and almost in every case the advocates that are employed on the case are also Europeans and consequently there is no check on the correctness of the interpretation. As an instance, Your Excellency, in one case the judge asked the witness something in these terms: "Did you ask Mr. So and So before you did this act," and the interpreter put this into Hindustani: "Why did you not ask Mr. So and So before you did this act?" (Laughter.) Now, Your Excellency, that sort of error is very common, and the result can be very grave indeed for the parties

concerned, and I would request that provision be made for properly qualified interpreters whose mother tongue is Hindustani and who understand English to a tolerable extent.

The second point is about the medical treatment of Indians. There has been a talk for some time regarding a central general hospital but that has not materialised. The present treatment of Indians is most undesirable. Indians are allowed a certain amount of accommodation in the Native Hospital and although the accommodation is a bit better than what it used to be, the treatment I understand, is most unsatisfactory. The point was raised in one of the local papers and it appears that to do away with that grievance, Indian nurses would be required and I do trust that the Hon. Director of Medical and Sanitary Services will take that into consideration.

Regarding Indian education, Your Excellency, especially in country schools as apart from the Nairobi and Mombasa schools, I can say in the strictest sense of the word that the principals are not fit to give education or manage a school in a district. The suggestion in this respect I wish to make, Your Excellency, is that in all these other schools whether large or small the principals should be trained teachers. Apart from the education that is imparted to pupils, there is the treatment of the children and the staff which is such that it calls for some immediate steps to check it.

In regard to the roads. Roads in Kisumu in the agricultural area are almost impassable and I hope that when the next programme of roads comes before the Council or in Committee a certain amount will be allocated to these roads.

THE HON. THE DIRECTOR OF AGRICULTURE (MR. HOLL): It has not been customary in past years for members on this side of the House to speak at length on the Budget debate, but so many references have been made to the services of the Department which falls under my control that it is perhaps not inappropriate that I should deal with them. In fact, members have made a special request that I should deal with particular points. I cannot complain of the strength of the criticism in view of the very controversial nature of the subjects with which my Department has to deal daily, in fact, sometimes hourly.

Sir, I would, firstly, refer to the case of native agriculture, to which reference was made by Your Excellency in your Budget speech. It was also referred to by my friend the Colonial Secretary and the Hon. Member for Plateau South, who asked "what were the agricultural officers in the native reserves going to do." Members will recall that Government

adopted a definite policy in respect of the development of native agriculture in 1922. Since that year provision has been steadily strengthened by Government, and with, I submit, satisfactory results. If one may measure it, judged by the exports of native agricultural produce, they are satisfactory. In 1922 the value of native agricultural exports was £187,000; in 1927 the value of the same products was £500,000. That is not, in my opinion, a true index of the progress made in native agriculture, because, as Members must be well aware, a very large proportion of the crops grown by natives in this country is used for local consumption, and that local consumption is itself increasing year by year.

This progress in Native Reserves is, in my opinion, due to several factors. There are, first, the civilising and other influences that have been brought about, first through contact with Europeans, and again through administration and missionary effort. Progress of this sort was brought to the notice of the Labour Commission which sat at the beginning of last year. The Commission was very much impressed with the great change which was coming about among these people and their increased "will to work." That "will to work" is undoubtedly again due to those influences to which I have referred. No better example of the change in the position of these native reserves could be seen than at the recent Kavirondo Show. In 1925, when the first show was held, not less than 75 per cent. of the natives attending that show were in an unclothed state. At the Kavirondo Show held two or three weeks ago the proportion of natives in an unclothed state did not exceed 10 per cent. That is a very remarkable change which has been brought about, and it is partly and to a very large extent due to these influences and to the progress of native agriculture.

Progress is again due to the improvement of transport facilities—the improvement of roads and the increase of railway services. Again, it is undoubtedly due to the improvement of trading and marketing facilities and to commercial enterprise. Lastly, I would refer to the efforts of the administrative officers in stimulating and encouraging production in native reserves, efforts which have been backed up by technical agricultural services. For the progress made in these directions I submit that several departments of Government, as well as private effort, have played their part, but the greatest share and the greatest responsibility falls upon the administration. Without the direction, the control, and the assistance of the administrative officers these other efforts would be of little avail.

With regard to the aspect of the matter put to me by the Hon. Member for Plateau South, it would occupy the time of this House too much if I dealt with the matter at length.

As shortly as I can put it I would explain that the agricultural officers in the native reserves are concerned chiefly with the improvement in methods of cultivation, the improvement of seed (both bringing about greater yields), the introduction of new crops and varieties, and last but not least, agricultural education, primarily of an elementary kind, to selected native pupils, trained to occupy posts as native agricultural instructors and native teachers in village schools.

To efforts of that kind the local native councils in the reserves have themselves made a considerable contribution, and the success of the effort is, I think, seen by the demands made by administrative officers in the reserves for agricultural services. It is work which is being carried out on a considerable scale. Though I admit that it should be carried out on a more extensive scale—and that is the reason why additional provision is made in the Estimates now before this House—I would mention in this connection that there are no less than 100 demonstration plots under the direct charge of these native agricultural instructors throughout the Colony. Seeds of great variety and of great quantity have been distributed right throughout the native reserves. Part of it has been purchased under votes authorised by this Council, and the remainder from monies provided by local native councils.

Then again, in regard to the educational side of the work, a number of pupils have been trained at the two native agricultural schools at Bukura and the Scott Agricultural Laboratories. Last year nine boys left Bukura after training, and they were all employed by local native councils. In 1926, out of 28 boys who left the Scott Laboratories after training, 14 were appointed as instructors, three as teachers in mission schools, four engaged themselves in trading, and seven were employed in other occupations. Of the ten boys who left the Scott Laboratories in 1925 eight have been appointed as instructors. I think I have said sufficient with regard to native agriculture as such to justify hon. Members in supporting the increase in the vote.

Under the same heading there appears the appointment of an additional agricultural officer designated for work at the Coast, and the intention is that the Appointments Branch of the Colonial Office should be requested to appoint a man who has had experience and training in tropical agriculture. It is not the intention, as an hon. Member suggested this morning, that the whole coastal work should be done by one officer. The intention, if this vote be passed, is that there should be two, and I hope circumstances will allow the services of two officers to be maintained permanently.

With regard to "tropical agriculture," I believe it is Your Excellency's intention to make representations to the effect that to the staff of the Amami Agricultural Institute there should be added an officer of wide training and experience in this direction, and I believe that you, Sir, agree with the opinion that the services of this officer should be of great value, not only to Kenya but to the neighbouring territories.

The remarks made by my friend the Hon. Member for the Lake raises an important question. Again it would occupy more time than I have at my disposal if I went into it fully. He referred to the need for highly trained scientific officers. That need has been fully realised by the Secretary of State for a number of years past. As far back as 1924 the Secretary of State appointed Lord Milner as chairman of a committee to deal with the organisation and training of scientific officers for agricultural departments. No less than three years were occupied in completing that committee's report, latterly under the chairmanship of Lord Lovat. The committee emphasised the need for making better provision in respect of salaries and for the training of scientific officers for the Crown Colonies and Dependencies. In time, undoubtedly, as a result of the adoption of the recommendations of that committee—to begin with, the provision of colonial agricultural scholarships, followed up by the organisation which appears in the recent report—the difficulties which at present exist in regard to obtaining the services of fully competent, well-trained scientific officers for agricultural departments should pass.

Members have raised several questions to which I will refer as briefly as possible. A grouping was made of locusts and stephanodores. Last year the maize stalk borer and the coffee mealy bug were grouped together. I only hope that next year we shall not have the grouping of two more pests which are not giving trouble at the present time. I wish to assure hon. Members on both sides of the House that, in regard to locusts—the seriousness of the menace and the steps taken for their destruction—Government has left no stone unturned to deal with the position adequately and efficiently. Government has from time to time voted sums of money hurriedly for the purpose of conducting a locust destruction campaign, and with my knowledge of campaigns of this kind I have no hesitation in saying that if any inquiry were made it would be found that the campaign conducted in this Colony during the past months was efficiently carried out. No locust destruction campaign in any part of the world has ever been carried out to the satisfaction of the unfortunate people who have suffered from the depredations of locusts. We have passed through the first phase of the locust campaign in this

country, and I regret to say that recent indications, particularly during the past week, point to our having to undertake a second campaign on a much more serious scale. This matter has received earnest consideration during the last few days, and Government is determined to set up the best organisation possible for the purpose and of voting the sum of money necessary to carry out this second campaign, which is apparently ahead of us, energetically. Your Excellency referred to suggestions which might be made by hon. Members in Select Committee on this matter. May I say on behalf of my Department that I shall welcome any suggestions which are made.

With regard to "Stephanodores" or the "coffee bean borer," the position has been closely examined by inspectors during the last few months. I regret to inform the House that it has been definitely determined in several coffee plantations during the last week or two in the Ruiru, the Kyambu and the Sotik districts. Both on the trade side and the agricultural side the matter has received the attention and consideration of the Chamber of Commerce and of the Coffee Planter's Union, and, as far as Government is concerned, we have given the matter a great deal of close attention. The framework of the organisation is ready to submit to the Coffee Consulting Committee, and I hope before long that proper control measures will be exercised.

I very much regret, Sir, to see opposition, in certain quarters on the other side of the House, to my suggestion that the Government should authorise the appointment of a Sheep and Wool Officer for twelve months. I am not surprised at the opposition of the right hon. Member for the Rift Valley, but that will not alter my opinion; and if you, Sir, should decide that the vote should be deleted, because of the opinions expressed, it will not alter my opinion in the slightest; for the reason that I have been connected with work of this kind for a number of years. I have seen the value of such work in one of the Dominions, and in my judgment it is just at this stage of development that advice of this kind is needed; and I feel sure that the sheep breeders would save very large sums of money if they had such advice. The industry would generally benefit, it would be directed along proper channels; serious mistakes would be avoided.

I notice with interest and gratitude the complimentary reference made by two hon. Members to the work of the Plant Breeder. I recall that it is not very long ago since some people in this country did not hold the same opinion, and it is chiefly due to the backing which this officer received from his own department that he is here to-day in the Colony, doing the valuable work which has been referred to.

The hon. Member for the Lake asked me to state the position of this and other officers similarly placed. I would say the Government has recently been considering the matter of making this and other appointments pensionable.

A good deal has been said about hides and skins. I would like to inform hon. Members that a good deal of work has also been done by the Agricultural and Veterinary Departments in connection with the better preparation of hides and skins in the native reserves. Instruction is being given in no less than eight native reserves—Kavirondo, Buk, Ukamba, Masai, Kamasia, Nandi, Kisii and Digo Reserves—but the case for the better marketing and preparation of hides and skins, and of acquiring a higher value—as mentioned by hon. Members—does not end there. The difficulty is really one on the trade side. There will be no difficulty in getting natives to prepare their hides and skins properly if thereby they can secure better prices. The present conditions are fundamentally wrong. That has been pointed out to those interested in Mombasa and elsewhere from time to time, and they have suggested the introduction of legislation. In my opinion it is not so much a question of legislation as the better organisation of trade, whereby the native who has prepared his hides in the better way may go to a proper selling centre and obtain a higher price for his hides than he could otherwise get. In fact, to-day the native is not encouraged to use better methods, because he is not always rewarded by a better price. I suggest that while Government will help, the trade should also assist in removing the difficulty.

The Hon. Member for Nairobi South referred to the case of Bukoba coffee, and "foreign" coffee as a whole, and the restrictions which the Department imposes upon its movement at the Coast. I am very glad to be able to inform the House that I had a telegram from London yesterday in regard to this matter, stating that there is no reason to fear the danger which was apprehended. Regulations in draft were submitted this morning to the Railway Administration, and I hope they will be placed before the Port Advisory Board on Saturday next; and I hope and believe that the difficulties feared by the trade and other interests will now be removed.

Sir, I regret very much to hear the remarks made by the hon. Member for Plateau South, to the effect that, at least in some respects, the Agricultural Department had not the confidence of the people of the country. I should be very sorry to remain the Head of any Department which had not the confidence of the people of this country, or in any other country, but I do not think this is the case. I do know that in his own constituency certain people have had reason to make certain complaints, but these have been fully inquired into,

and I hope that they will in future get satisfaction. The position of a Department of Agriculture is very difficult in a young colony in which the industry has not yet got into its stride, especially in a colony which has many pressing problems and difficulties. The mentality of the farmer settlers of this country is such that they expect the officers of the Agricultural Department to have a ready-made solution of any difficulty or problem which they may have to face at any given moment. Other agricultural departments, which have been in existence from 25 to 50 years, still have problems and difficulties to deal with. They are still doing research work, and they are still carrying out investigations and experiments. I suggest, Sir, and I have no hesitation in saying it, that if an attempt were made, either by documentary evidence or otherwise, to show whether this department has been doing its duty to the country or not, the Department would come out on the right side. I do think, that in comparison with departments of agriculture in other Crown colonies or dominions, and having regard to the expenditure incurred in this Colony, and the staff resources, that the Colony is getting full value for the money spent. With regard to that, it might interest hon. Members if I give an analysis of the vote, showing how the money is spent.

The net expenditure of the Veterinary Department (Executive Division) is £46,760; the net expenditure of the Veterinary Research Department is £14,594. Combining these two, the net expenditure of the Veterinary Services is £61,354. The net expenditure on Agricultural, other than Veterinary Services, is £51,582, and of that, no less than £3,150 is spent outside the Colony, on contributions to the Amani Institute, the Imperial Bureau of Mycology and Entomology, Colonial Agricultural Scholarships, etc., and £500 is contributed towards the Agricultural Society. In addition, of course, there is a provision of £3,350 extraordinary expenditure, of which £1,000 is recovered in revenue. I am not putting these figures forward to institute any comparison between one and the other—that is not my intention, but I do believe that when attempts are made to belittle the services rendered to the Colony by the Department, there is an impression that the Department is spending a great deal more money than is actually the case. The same hon. Member suggested that the Department was dissipating its energies. The difficulty in this Colony is that agriculture is represented by so many different activities and branches of the industry that it would not be right that Government should single out a few for assistance, through research work or otherwise, and neglect the others. Government, through the Department, is at the same time concentrating upon the most important branches of the agricultural industry.

Sir, with these observations I will close, by expressing the hope that hon. Members will make useful suggestions when the vote is in Select Committee. I shall welcome and gladly consider any suggestions they may put forward for the better utilisation of the provision at the disposal of the Department.

THE HON. THE DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. GILKS): With your permission, Your Excellency, I should like to refer briefly to one important matter raised by hon. Members opposite.

The hon. Member for Plateau South referred to the statement of policy made by Your Excellency in your opening address, on the subject of the Government's attitude towards the proposal for the regulation of brothels.

I think, if I remember rightly, Sir, the hon. Member stigmatised Government's attitude as being cowardly and hypocritical. The attitude which Your Excellency expressed is the attitude which is adopted with regard to this matter in many civilised countries and it is being increasingly adopted day by day.

If I may, I would refer to one or two facts. In 1913 there was in England a very large and important Commission appointed to go into the question of the incidence of venereal disease. That Committee in its report unanimously rejected any system of control and concentrated on the adoption of methods of treatment and of education. It might perhaps be suggested that that was an opinion not backed by medical opinion—but medical opinion was fully consulted in the matter.

France was the first country that entertained measures of control. In the last few months, the Minister of Health in France has contemplated the introduction of a measure to do away with the existing legislation.

A very important Medical Conference was held in Paris in 1921—the Western European Regional Medical Conference—and it was held under the auspices of the League of Red Cross Societies. That Conference passed the following Resolution:—

“That regulation of prostitution does not play the prophylactic rôle that has been attributed to it—the modern methods of prophylactics of an educational and therapeutic nature can replace it with advantage.”

The League of Nations during the last few months has published a report announcing the agreement of 56 nations to the principle of the abolition of any form of control.

A few years ago, it was proposed, Your Excellency institute control in Singapore. The matter was referred to a very strong committee in England, who turned it down. I also advocated methods of education and treatment and of the most important of their recommendations dealt with general social conditions. It was advocated especially that housing is fundamentally one of the most important elements in the whole question—this was relative to Singapore in particular—all efforts to cope with housing difficulties should be vigorously pursued. That, Your Excellency, can very well apply to this country.

I am not quite sure as to which particular passage in the Medical Report the hon. Member for Plateau South refers when he talked about the incidence of syphilis amongst natives. He dilated on the importance of the problem—I entirely agree with him—but, Your Excellency, the one thing that is absolutely essential if we are to deal with this question is that we should have public opinion behind us. We cannot deal with thousands of cases amongst natives by penal methods. We must have the opinion behind us.

The Local Native Councils in Kavirondo have passed a resolution making it obligatory for sufferers from venereal disease to get treatment. That has brought in many cases for treatment—I think Your Excellency that shows how far we are along the educational road—we have not gone far enough yet. Our great difficulty has been in getting natives who do come in to continue the treatment. We are going on, but slowly.

As Your Excellency's medical adviser I could not honestly recommend to Your Excellency on medical grounds such a step as the control of brothels or that registration should be instituted in this connection.

THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. LOGAN): There are three points that have been raised in the course of this debate on which I may perhaps make some remarks. With regard to Local Government, the hon. and gallant Member for Kenya seemed to think that undue optimism has been shown in the provision of road grants, because it has been assumed that District Councils would be set up in 1930 in all the seven areas in which the Local Government Commission recommended the establishment of local government. It is true that optimism has been shown and that that assumption has been made. The Local Government (District Councils) Ordinance, 1928 has now been brought into operation, but, before the establishment of a District Council in any area can be declared by Your Excellency, an inquiry has to be made and a report submitted

by me, through the Standing Committee, as to the advisability of such establishment. That inquiry I hope to undertake during December, but it cannot be completed this year. In the meantime, however, we have evidence from six of the seven areas affected that they are in favour of the establishment of local government in their districts. In regard to the seventh, which concerns the hon. Member, I have recently held a meeting in the Laikipia part of that area, and I think I may say that the current of opinion seems to be definitely setting towards the establishment of a District Council there. A meeting has been arranged in North Nyeri in the first week of next month, and, in view of the measure of support given to the District Councils' Bill by the hon. Member when it was passed through this House in August last, I suppose I may assume that the first voice to be raised in favour of the establishment of a District Council in his area will be his.

The Hon. Member for Nairobi South, in his collaboration with the Government Printer, I think, missed one printer's error, which had reference to a contribution of £5,000 in lieu of rates. That contribution will not be made by the Nairobi Municipal Council, and he may set his mind at rest on that point. An error in spacing out the type has occurred, but when this is rectified it will be seen that the contribution in question is expected from the same source as the 13 items which precede it in Revenue Head IV.

The Hon. Member for Plateau South asked for a statement as to what the position was in regard to the Government's land alienation proposals. In order not to take up the time of this House unduly, it will be sufficient, I suggest, to state that I am prepared, with Your Excellency's permission, to lay on the table of the House during the course of the session Government's definite proposals in this regard.

THE HON. THE ACTING COLONIAL SECRETARY (MR. MARTIN): Your Excellency, I should like first of all to thank hon. Members for the assumption they have made—at least, with one exception—that the intention of Government in regard to this Budget is an honest one. I do not think I need go further into that, but I will now pass on to various points of detail which have arisen and which have not yet been answered.

Now, Sir, the whole question of terms of service is, as has been stated, under review—but I should like to inform hon. Members that considerable progress has been made during this past year in getting some agreement and in coming to some decision.

As regards leave conditions, the position to date is as follows: the report of the Committee has been discussed— as a result of that discussion it has been redrafted and the redraft is now ready for final approval by the Committee on Terms of Service. It is to be hoped therefore that some definite agreement will be arrived at immediately.

Then, Sir, the whole question of surplus balances is *sub judice*. Here again, we have circulated a report but, as has been stated already from the other side of the House, full agreement among themselves has not yet been reached and it is suggested for the consideration of the House that this Committee, which includes all the Elected Members, should proceed with the discussion and reach finality, if they can, first thing to-morrow morning.

As regards expenditure on roads—I will not enter into any long explanation of the various headings under which money is provided for roads in this Budget, or in connection with the Budget for next year. It is sufficient to say that it provides for at least as much for next year as has been provided for this year. I would also remind hon. Members that we have just started with the expending of the £100,000 which comes, of course, from a different source, namely, from Loan Funds.

It is suggested that a small alteration should be made in the form of the Budget, that is to say, that an extra column in relation to column 3 should be provided, to give a running commentary on the position. I am sure, Sir, that no one would suggest that that would be at all difficult and if it can be done in connection with this Budget it will, of course, be done. There is, however, the question of reprinting to be considered.

Then, Sir, I do not wish to enter again into the controversy on pensions. The policy of creating a pensions fund is not by any means so easy a business as perhaps it may seem. It is fraught with all sorts of difficulties and here again Government has received an interim report from the Pensions Committee, which is considering its attitude in the matter.

Abyssinia has been referred to as being a thorn in the flesh. I have only this much to say—that, of course, the troubles created in the Northern Frontier District are not backed in any way by the Abyssinian Government. Those parts—I suppose some of the most lawless places in the world—are the haunts of marauders who are, generally speaking, outside the control of any government.

The question of the presentation of Supplementary Estimates has been raised, I think quite unnecessarily. To the best of my recollection the agreement entered into by

Government on the principle of Supplementary Estimates was that the money should not be spent before it was voted and, secondly, that they should, so far as possible, be a means of utilising money found to be available as soon as the estimates of expenditure were passed. That, Sir, is a matter which will undoubtedly have to be gone into in considerable detail in Select Committee.

Then there is the question of forests—we have the Forest Adviser, who has come on a definite two years visit. He has already begun to report, but I doubt whether it would serve the full purpose to publish any interim report. It is advisable to await the final report, in which he will survey the whole subject.

As regards water boring—Government is in full sympathy with the proposal to go ahead as fast as possible with this most important operation. It is, however, a question which Your Excellency has personally investigated, and it is a question whether we might not, in addition to the Government organisation, add this to the list of services to be undertaken, with advantage, by private enterprise. The matter is even now engaging expert attention.

I do not think the question of death duties has been raised hitherto. It is obviously a matter on which Government could not be expected to express an opinion except to say that during the ensuing year it will examine the whole position.

The road to Uganda across the big shoulder of Mount Elgon, suggested by the hon. Member for Plateau North, is, I agree, a road which we should do well to construct. I should like to say here that the enterprise shown by the local inhabitants of that corner of the Trans Nzoia in co-operation with their neighbours over the border in all matters affecting the district generally is a most encouraging sign—and I should like to pay public tribute to the spirit in that part of the country.

As regards the Defence Force, Government hopes to make a statement later in the session which, I trust, will remove any misapprehension in the public mind as to Government's intentions in regard to the Force.

The hon. Member for Nairobi South referred to the item of £75,000, to be devoted to the relief of taxation. He was right in assuming that before we come to any decision we shall, of course, have to consult neighbouring territories—and in that regard I may remind hon. Members of the statement made by Government during the August session at Mombasa in regard to the Inter-Colonial Conference. He is right in his assumption also that the £20,000 made available by Government last year for anti-malarial works will, of course, be available for next year.

Finally, Sir, in regard to Court interpreters. If the hon. Member will look on page 9 of the Budget Committee's report of last year he will see that attention was given to this item and two new appointments were provided for. I am informed that they have been filled, but in any case his remarks will be brought to the notice of His Honour the Chief Justice.

HIS EXCELLENCY: The question is that the word "approve" at the end of the motion be deleted and the words "referred to a Select Committee" be substituted therefor.

The question was put and carried.

HIS EXCELLENCY: The Select Committee, as usual, will consist of:—

The Colonial Secretary.

The Treasurer.

The Chief Native Commissioner.

The Commissioner for Local Government, Lands and Settlement,

and all Unofficial Members of Council.

I understand it will be convenient to meet at 10 o'clock to-morrow to deal first with the surplus balances—at the Conference Room, Government House.

The Council adjourned.

MONDAY, 3rd DECEMBER, 1928.

The Council assembled at 10 a.m. on the 3rd December, 1928, His Excellency the Acting Governor (Sir JACOB WILLIAM BARTH, Knight, C.B.E.), presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

JOHN EDWARD SIBOFRID MERRICK, Nominated Official Member.

MINUTES.

The minutes of the meeting of the 15th November, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

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

Civil Procedure (Amendment) Rules, 1928.

BY THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (MR. C. M. DOBBS):

Native Affairs Departmental Annual Report for 1927.

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

Statement of Land Alienation.

Report of the Select Committee on Public Health (Division of Lands) Bill.

BY THE HON. THE ACTING DIRECTOR OF EDUCATION (MR. E. E. BISS):

Education Department Annual Report for 1927.

BY THE HON. J. E. S. MERRICK (in the absence of the Hon. the Acting General Manager, Kenya and Uganda Railways and Harbours):

First Supplementary (Railway) Estimates, 1928.

Report of the Select Committee on the Harbours Regulation Bill.

NOTICE OF MOTION

THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): I beg to give notice of the following motion—

"That this Council do approve the Report of the Select Committee appointed to consider the Public Health (Division of Lands) Bill, subject to the insertion on page 3 of the Report, after the word 'shops' in the 11th line, of the words 'after deducting the net proceeds of the sale of the materials which the Board may sell by auction'."

BILLS.

FIRST READINGS.

THE SUBORDINATE COURTS (SEPARATION AND MAINTENANCE) BILL.

On the motion of the Hon. the Acting Attorney General the Subordinate Courts (Separation and Maintenance) Bill was read a first time.

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

TRADING WITH THE ENEMY (REPEAL) BILL.

On the motion of the Hon. the Acting Attorney General the Trading with the Enemy (Repeal) Bill was read a first time.

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

WIDOWS AND ORPHANS (AMENDMENT) BILL.

On the motion of the Hon. the Acting Attorney General the Widows and Orphans (Amendment) Bill was read a first time.

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

ASIATIC WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

On the motion of the Hon. the Acting Attorney General the Asiatics Widows' and Orphans' Pensions (Amendment) Bill was read a first time.

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

BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL.

On the motion of the Hon. the Acting Attorney General the British and Colonial Probates (Amendment) Bill was read a first time.

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

DEPARTMENTAL OFFENCES BILL.

On the motion of the Hon. J. E. S. Merrick the Departmental Offences Bill was read a first time.

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

FENCING BILL.

On the motion of the Hon. the Director of Agriculture the Fencing Bill was read a first time.

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

CATTLE CLEANSING BILL.

On the motion of the Hon. the Director of Agriculture the Cattle Cleansing Bill was read a first time.

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

BUSINESS OF COUNCIL.

HIS EXCELLENCY: That, hon. Members, completes the business of this morning's sitting. The next thing I should like to deal with is the programme of future business. This is not Council work, of course, but I think it will be better for me to deal with it now.

The first thing is the continuance of the Select Committee on Estimates. That I propose to continue to-morrow morning at 10 o'clock at Government House.

The next thing to deal with is—and this is mainly concerned with the consent of Elected Members—whether we shall meet again later on this week, because it will not be possible to take the Budget in Council until about the 17th. The Select Committee has not reported, and I am quite sure hon. Members would like to look through that report and make themselves acquainted with its proposals. The question is, shall we meet on Thursday or Friday, or adjourn until the 17th?

THE HON. CONWAY HARVEY: Your Excellency, the general impression was that it would be mutually advantageous, both to Government and Elected Members, if it was found possible to deal this week with the Traffic Bill and the Water Bill. These, Sir, are items which have been under discussion for a large number of years, and for various reasons it is very important, Sir, that their passage now should be accelerated to the fullest possible extent, more especially as in the case of the Traffic Bill, Sir, there are financial considerations which will make a big difference.

THE HON. THE TREASURER (MR. R. C. GRANNUM): Your Excellency, may I just draw attention to one small point about which I think there is possibly some small doubt. The arrangement was, not that this Council should adjourn till the 17th December, but that the Select Committee should meet on the 17th and should continue the consideration of its report; and then meet at some subsequent date—on the 18th or 19th December.

HIS EXCELLENCY: But is not the Select Committee going on with the Budget until it has finished its report?

THE HON. CONWAY HARVEY: Yes, quite so. It has merely to consider the question of certain schedules. Then the suggestion was that it should adjourn, that the report would be in its hands on the 17th, and that Council should meet and consider it, if necessary, on the 18th or 19th.

HIS EXCELLENCY: Will Thursday meet the requirements of the special committees on the Water and Traffic Bills.

THE HON. CONWAY HARVEY: The Hon. the Director of Public Works can tell Your Excellency better.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES): Both these reports have been referred back to the Select Committees and it is impossible to say at the moment when the further examination of these reports will be taken. I hope to hold a meeting of the Select Committee on the Traffic Bill to-day, and the Water Bill possibly to-morrow. The result of the further consideration of the report will have to be considered first by Government before the reports are laid on the table.

HIS EXCELLENCY: Then I think I had better say Friday for the consideration of these Bills in Council. Meanwhile the Select Committee on Estimates will carry on its work and will meet to-morrow morning.

The Council adjourned till 10 a.m., Friday, 7th December, 1928.

FRIDAY, 7th DECEMBER, 1928.

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on the 7th December, 1928, His Excellency the Acting Governor (SIR JACOB WILLIAM BARTH, Knight, C.B.E.), presiding.

His Excellency opened the Council with prayer.

The minutes of the meeting of 3rd December, 1928, were confirmed.

PAPERS LAID ON THE TABLE.

By THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. H. L. SIKES):

Report of the Select Committee on the Traffic Bill.

By THE HON. J. E. S. MERRICK:

Game Department Annual Report, 1927.

CAPT. THE HON. E. M. V. KENEALY: Your Excellency, on a point of order, we were assured that a report of the Water Bill Committee would be laid on the table to-day. Has it been laid, Sir?

HIS EXCELLENCY: With regard to the Water Bill, the report of the Select Committee came before the Executive Council for discussion yesterday. It was considered necessary to ask the Select Committee to consider one or two further points before laying the report on the table.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, has the report been signed and submitted?

HIS EXCELLENCY: Perhaps the Hon. the Director of Public Works will answer that question.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, it is the case that the report has been signed and has been submitted to Government. As it is necessary in this case that the Government should examine the report in the first instance, to ascertain what action it proposes to take, the report has not yet been laid.

THE HON. CONWAY HARVEY: Your Excellency, on a point of order, may we be told whether the Government intends to institute a new constitutional procedure in such matters? A

Select Committee has been appointed by this body, and submit, with all respect, that it is to this body that the Committee should report, and, with all respect, not to the Executive Council.

HIS EXCELLENCY: I will take notice of your statement.

ORAL ANSWERS TO QUESTIONS.

VOTERS' ROLL.

THE HON. CONWAY HARVEY:

"Will Government be pleased to explain why the names of a large number of duly qualified voters resident in the Kipkarren portion of the Lake Electoral Area were omitted from the Voters' Roll published on December 20th, 1927?"

THE HON. J. E. S. MERRICK: The names of a number of qualified voters resident in the Kipkarren portion of the Lake Electoral Area were omitted from the Voters' Roll published in December, 1927, owing to a misapprehension on the part of the Registering Officer that the area affected, having been included in the Usain Gishu District by Proclamation No. 54 of the 25th February, 1924, had thereby been excluded from the Lake Electoral Area which is defined as being bounded "by the general westerly boundaries of the Usain Gishu and Trans Nzoia farms."

Instructions have been issued that immediate steps are to be taken to rectify the matter.

THE HON. CONWAY HARVEY: Arising out of that answer will Government make amends to the extent of sending a franked envelope and an application form to all eligible voters in the Kipkarren area?

HIS EXCELLENCY: I think that might be done.

ENTOMOLOGICAL SERVICES.

THE HON. CONWAY HARVEY:

1. What is the present position in regard to the Entomological Services approved in the Agricultural Department Estimates for the current year?

2. What steps are being taken by Government to arrest the spread of *Stephanodores*?

THE HON. J. E. S. MERRICK (in the absence of the Hon. the Director of Agriculture):

1. The two additional posts specially sanctioned in 1927 were filled during that year.

One Entomologist was transferred on promotion in July of this year. The Secretary of State is endeavouring to fill the vacancy so created.

One Entomologist is now on leave, two are now on duty in the Colony.

2. On the discovery of the presence of "*Stephanodores*", steps were immediately taken to investigate its distribution and the incidence of the pest.

The Coffee Planters' Union, the Chamber of Commerce and the Department of Agriculture have had control measures under consideration. The rules proposed to be introduced and the organisation to be set up for controlling the pest will shortly be discussed with the Coffee Consulting Committee.

A Departmental Bulletin has been published, giving particulars of the pest and indicating control measures which should be exercised.

WATER BORING.

THE HON. CONWAY HARVEY:

1. How many water boring units are in the possession of the Government?

2. On what date did they arrive in Kenya?

3. How have they been employed since arrival?

4. How many orders for boring are still unsatisfied?

THE HON. THE DIRECTOR OF PUBLIC WORKS:

1. Eight water boring units are in the possession of Government.

2. Four machines ordered last year had arrived complete with equipment by July, 1927. Four machines ordered this year arrived in May, but their equipment has not yet all arrived.

3. The units have been employed as follows:—

Plant 1. One borehole at Nairobi then on alienated land in Nairobi District.

Plant 1. One borehole at Nairobi then on alienated in Masai Reserve.

Plant 3. One borehole near Nairobi then at Kilifi.

Plant 4. In Kyambu District then in Machakos District.

Plant 5. Kiu Station for Railway Administration.

Plant 6. Kabete Laboratory and site for Kabete School. Two machines have not yet been put in operation.

4. The following orders for boring are still unsatisfied, 24 for farmers, 1 for Government Departments, 1 for Railway Administration. This does not include work in native reserves, for which four of the present machines are allocated.

THE HON. CONWAY HARVEY: Your Excellency, is it a fact that these machines have been lying idle because it has been found impossible to procure men to work them?

HIS EXCELLENCY: Perhaps the Hon. the Director of Public Works will answer that question.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, that is the case as far as two machines are concerned. We have had the greatest difficulty in procuring men from South Africa at the salary provided in the Estimates for this year, but with the new provision made in the Estimates for next year it is hoped the men will be forthcoming.

LT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, arising out of that reply, has the Hon. the Director of Public Works thought of trying any other parts of the world where he might get people for this work, such as Persia—I should say Iraq?

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, we have not tried Persia, though I am aware there are certain boring engineers and foremen who are likely to be discharged from Persia in the near future; but it seems desirable to get men from South Africa, because the machines we are using and the conditions under which we are boring are similar to those in South Africa. Furthermore, the rates there seem to be very much less than they are in other parts of the world.

THE HON. CONWAY HARVEY: Arising out of that answer may I inquire with whom rests the blame for the non-arrival of the equipment for a boring machine which was ordered.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I should require notice of that question, Your Excellency.

THE HON. CONWAY HARVEY: May this be taken as notice, Your Excellency, and may I have an answer in due course for publication?

HIS EXCELLENCY: Yes.

FILM CENSORSHIP.

THE HON. CONWAY HARVEY:

"When will the Report of the Select Committee appointed at Mombasa to report on Film Censorship be laid on the table?"

THE HON. THE ACTING CHIEF NATIVE COMMISSIONER (Mr. C. M. DOBBS): The Chief Native Commissioner, who was Chairman of the Committee, was unable to arrange a meeting before he went on leave. A meeting has now been held and the investigation will proceed as expeditiously as possible, though it is impossible to state at the present stage when the Report will be laid on the table.

DOMESTIC SERVANTS' REGISTRATION BILL.

LIBUT.-COL. THE HON. C. G. DURHAM:

"Will Government state when the Domestic Servants' Registration Bill is to come into force?"

THE HON. J. E. S. MERRICK: It is not possible at the present time to say when the Domestic Servants' Registration Ordinance will come into force: the Ordinance was reserved for the signification of His Majesty's pleasure.

LIBUT.-COL. THE HON. C. G. DURHAM: Arising out of that answer, Sir, is the Bill being held up definitely from Home?

THE HON. J. E. S. MERRICK: Yes, Your Excellency; it has been referred to the India Office.

CAPT. THE HON. E. M. V. KENNELLY: Your Excellency, may we ask why?

HIS EXCELLENCY (to the Attorney General): Can you answer that question?

THE HON. THE ACTING ATTORNEY GENERAL (Mr. T. D. H. BRUCE): I can only say that the Bill has been referred for the signification of His Majesty's pleasure, and we have not heard anything further so far.

HIS EXCELLENCY: But how does the India Office come into it?

THE HON. THE ACTING ATTORNEY GENERAL: I understand, Your Excellency, that the Bill has been referred to the India Office by the Imperial Government.

COLONIAL AUDIT REPORT.

LIEUT.-COL. THE HON. C. G. DURHAM: Your Excellency, before asking the second question standing in my name, may I point out a slight error in the last word of the question, where it suggests that I am asking the question six months hence: I hope the Government does not intend holding up the reply for six months. (Laughter).

"Will Government state the reason for the delay in submitting the Colonial Audit Report, as promised some six months since?"

THE HON. J. E. S. MERRICK: The Report is addressed to the Director of Colonial Audit, not to the Colonial Government, and it is not usual to publish it in the Colony concerned. There are objections to publishing any document in which the Head of one Department deals with other Heads of Departments in matters of small public concern; but the Government recognises that the Unofficial Members of this Council have an interest in the general bearing of the Report on the conduct of the finances of the Colony, and will, therefore, be glad to lay it confidentially before the members of the Select Committee on the Estimates.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, arising out of that answer, does it mean that the confidential element will be maintained and that the Elected Members will not be given an opportunity of analysing the contents of that Report?

HIS EXCELLENCY: There will be no objection; I take it, to those Elected Members to whom the confidential report is given considering its contents.

COAST FISHING INQUIRY—DR. VON BONDE'S VISIT.

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

"Re Coast Fishing Inquiry.

- (a) What has been the cost of Dr. von Bonde's visit?
- (b) What arrangements were made for Dr. von Bonde to carry out operations?
- (c) What instructions were given him, and by whom?
- (d) What facilities were offered him and was previous information obtained as to what his requirements were likely to be and, if so, was he informed whether these could be supplied or not?"

THE HON. J. E. S. MERRICK:

- (a) The cost cannot yet be given as the investigation upon which Dr. von Bonde is engaged is not yet completed, but it is expected that the share to be borne by this Colony will not exceed the provision of £700 made.
- (b) With regard to the remaining parts of the question, a report upon his fishing survey of the Kenya Coast has just been received from Dr. von Bonde. It is proposed to lay it on the table of this House shortly and that report, it is hoped, will furnish the hon. and gallant member with the information desired.

MEMBERSHIP OF SELECT COMMITTEE.

FILM CENSORSHIP.

HIS EXCELLENCY: Before going on to the next item on the Order of the Day there is a communication which I ought to have made earlier. It is in relation to the Select Committee on Film Censorship.

At the August session of Legislative Council a Select Committee was appointed to go into the proposed rules in regard to censorship. The Committee included the Member for Nairobi North (Mr. T. A. Wood).

Since that date Mr. T. A. Wood has ceased to be Member for Nairobi North and has replaced Captain Schwartz as Member for Nairobi South, and Major Ward has taken his place as Member for Nairobi North.

At a preliminary meeting yesterday, doubts were expressed as to whether Mr. Wood, having changed his constituency, was still a member of the Committee, but as he proposed the motion in Legislative Council in August it is obvious that he should be.

It was also apparent that the general consensus of opinion was that Major Ward, who had been on the previous Censorship Committee, but who was absent from the country during the August session, should also be included.

It is proposed therefore that both Members for Nairobi should be definitely stated to be members of the Committee, and this is hereby done.

BILLS.

PUBLIC HEALTH (DIVISION OF LANDS) BILL.

REPORT OF SELECT COMMITTEE.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I beg to move that this Council do approve

the Report of the Select Committee appointed to consider the Public Health (Division of Lands) Bill, subject to the insertion on page 3 of the Report, after the word "Shops" in the 11th line, of the words "after deducting the net proceeds of the sale of the materials which the Board may sell by auction."

The Report of the Select Committee, Sir, is a short document and may be briefly explained. It proposes to make an amendment in Clause 4 in the representation of the constitution of the Board by eliminating the Municipal and Town Planning Engineer and by putting on to the Board the Director of Public Works. The Committee felt that the Municipal and Town Planning Engineer, being the technical officer who would deal with these applications made under this Bill and advise the Board, should remain in that advisory capacity and should not be a member of the Board. The Director of Public Works has been a statutory member of the old Public Health Board, and his re-inclusion is recommended.

The second amendment proposed is in Clause 6 of the Bill by way of simplification. There will be many plans put up to the Board which deal with minor and very simple sub-divisions of land, and it was felt that the statutory requirements laid down in the Bill regarding the details which were required to be submitted to the Board should be made as simple as possible. It is always possible under Clause 6, subclause (3), for the Board to require any further information of any description from applicants who put in for major sub-divisions.

Members will remember, Sir, that when the Bill was discussed on second reading the point was made by the Hon. Members for Plateau North and Plateau South that Clause 13 might be capable of evasion. That clause was drafted and included in the Bill in order to relieve persons who desired to make *bona-fide* sub-divisions for agricultural purposes and avoid further compliance with this ordinance on receiving a certificate from the Board that it was satisfied that their proposals were purely for agricultural purposes.

The Committee went into that point with some care and they have recommended that that clause should be deleted. The effect of deletion merely means, of course, that applications for sub-division for agricultural purposes will have to follow the same routine and procedure as other applications, but not, of course, that there will be any more likelihood of such applications being refused.

The penalty clause in the Bill has been strengthened. As drafted, the Bill only contained a penalty for a continued offence—a fine not exceeding £5 for every day or part of a day

during which such contravention or non-compliance continues. The Committee have recommended that in addition to that penalty there should be some definite penalty for the actual commission of the offence, and they recommend that that penalty should be a fine not exceeding £100, and, in addition, that the previous provision in the clause should stand; and that for every day during which the offence continues a fine not exceeding £5 may be imposed. A further amendment in that clause gives the Board power, in the recommendations of the Committee, to demolish buildings which have been constructed in defiance of the provisions of this Ordinance, and to recover the cost of the demolition from the offender. Subsequent to the signing of the report of the Committee one member recommended the inclusion of a paragraph giving the Board power to sell the materials of the demolished building and to set off the cost obtained on such sale against the cost of demolition which would be recovered from the offender. That further amendment brings this Bill into line with similar provisions which obtain in other Public Health Ordinances.

I beg leave to move the motion.

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

HIS EXCELLENCY: The question is that this Council do approve the Report of the Select Committee appointed to consider the Public Health (Division of Lands) Bill, subject to the insertion on page 3 of the Report, after the word "Shops" in the 11th line, of the words "after deducting the net proceeds of the sale of materials which the Board may sell by auction."

In the absence of any debate I now put that question.

The question was put and carried.

SUSPENSION OF STANDING ORDERS.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that the Standing Rules and Orders be suspended in order to enable the adoption of the Report of the Select Committee on the Traffic Bill to be taken.

The reason, Your Excellency, for the suspension of Standing Orders in this case is that this Bill if enacted will have an effect on revenue next year. The revenue will come in from taxation of vehicles on a new basis, and furthermore, when the Ordinance has been enacted the rules have still to be published. It is therefore important that the Bill should be enacted without delay. It is unfortunate that the Report could not be in the hands of hon. Members earlier,

but that was quite impossible, and I understand Your Excellency is willing to give members the opportunity during the day to study this Bill before the motion for the adoption of the circulated report is taken.

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

LIBUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, a number of Members on this side of the House are prepared to agree to the suspension of Standing Orders provided that No. 80, section 3, is also included, as this will enable the Council to go into Committee of the whole House and discuss the Bill in detail.

THE HON. CONWAY HARVEY: Your Excellency, I beg leave to support the motion. I consider the mover has produced a most cogent reason for that course to be adopted, more especially as all the principles of this measure were agreed to at the second reading at Mombasa in August, after they had been published and thoroughly debated since the year 1925, when they were first introduced. I am perfectly satisfied with the procedure, and I think that other Members should be satisfied also. I think it is highly improper to suggest that the Nairobi speed limit has been exceeded in this connection, but I do think it would be better for all and sundry if the Government did on occasion make a practice of stepping on the gas.

THE RIGHT HON. LORD DELAMERE: Your Excellency, I must disagree with everything the hon. Member has said, although I am going to support the motion. This Traffic Bill has, apparently, had its principles agreed to by the Legislature on the second reading. As a principle I think it is an extremely bad one that an important Bill—that has been before the country for years—should suddenly have to be brought up before this hon. Council under a certificate of emergency. It seems to me to show an entire lack of efficiency in dealing with the business of this hon. House, in some way or other. But I am going to support it because I think the principles of this Bill have been agreed to; and provided it is read clause by clause I think that probably we shall be able to see enough of it to enable us to pass it. It is a Bill that is not altogether constitutional, and it can, if necessary, be amended later. With regard to something said by the mover of the Bill with regard to Your Excellency being willing to give an opportunity to Members to come back this afternoon, I am not sure

HIS EXCELLENCY: I do not think it was the intention to allow hon. Members to depart; but there is other business on the Order Paper to be dealt with this morning, and if it is

the wish of this House that the motion for accepting the Report of the Select Committee be deferred until later on in the day I am quite willing to agree to that.

THE RIGHT HON. LORD DELAMERE: I think Members on this side of the House are perfectly willing to take it now, but I think they would rather have the actual Bill read clause by clause.

HIS EXCELLENCY: That question will arise on the motion for the adoption of the report of the Select Committee.

CAPTAIN THE HON. H. F. WARD: I take it, Your Excellency, that the object of the suspension of standing orders is purely to meet the convenience of hon. Members of this Council; otherwise it would mean calling them back tomorrow or early next week.

CAPTAIN THE HON. E. M. V. KENEALY: We have agreed on this side of the House to allow the suspension of standing orders because we cannot stop the suspension. But, Sir, it is utterly wrong that the convenience of members of this hon. Council should be studied so that the work of the country and the legislation required is prejudiced. We find the report of the Select Committee on Water Legislation has not been submitted. That is a matter of domestic legislation which is required, and it is entirely wrong for the Government of the country to consider the convenience of Members before the business of Government and the necessary business of legislation.

HIS EXCELLENCY: The main reason for the motion is that as the Bill contains new taxation, and as it should come into operation on the 1st January, next, it is expedient that the measure should be passed as soon as possible. That is the main reason for the suspension of Standing Orders.

LIBUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, it is not clear whether we are going to be given an opportunity to discuss this Bill in detail. It is a very important matter. Members have not had any opportunity whatever of considering it, and I beg to suggest that there will be a great deal of disagreement on this side of the House if the suspension of standing orders means that we are not going to be given that opportunity.

HIS EXCELLENCY: I think I am right in saying that the suspension of standing orders does not prevent any hon. Member from moving any motion which he thinks fit on the substantive motion when it comes up.

THE HON. T. A. WOOD: On a point of explanation, the hon. Member who has just spoken desires, I think, to get this report considered by a Committee of the whole Council without going round and securing the necessary ten members.

HIS EXCELLENCY: I was just about to refer the hon. Member to Section 80 (3) of the Standing Rules and Orders.

THE HON. T. A. WOOD: On a further point of explanation, the hon. Member has asked whether, if it is agreed to suspend standing orders, the Government will also agree to the suspension of that particular rule, and he has not yet had an answer.

HIS EXCELLENCY: The suspension of standing orders is mainly for the purpose of enabling this Bill and the report of the Select Committee, as laid on the table, to be taken to-day. It has already been laid on the table: the motion will be that it be either adopted or rejected.

THE HON. T. A. WOOD: Your Excellency, is it impossible to get the guarantee that if we agree to the suspension of Standing Orders the Bill will, when put forward, go to a Committee of the whole House. It is very necessary because under the other rule, as you know, Sir, ten Members must rise simultaneously. It is very doubtful if we can get that number. The hon. Member for the Lake has already said that he is perfectly satisfied, and that the other Members ought to be satisfied in his opinion. I submit, with respect, I am not satisfied that when the Bill was put up there was anything to indicate in it that taxation of motor vehicles was going to be raised in the manner proposed. It was not disclosed until it came before the Select Committee, when actual data was presumably given. The details could not be disclosed on the debate on the Bill for the reason that you are not allowed to say anything except on principles, and I doubt very much whether it was a principle—the raising of the rate. That involves an important point, Sir.

HIS EXCELLENCY: I am not prepared to give any guarantee that is not covered by the provisions of Standing Orders and the Rules of this House.

THE RT. HON. LORD DELAMERE: Your Excellency, in that case I am afraid I must withdraw my support of this motion for the suspension of standing orders. It does appear to me that if this sort of suspension of standing orders takes place purely for the convenience of Government because they want to get a Bill through before the end of the year, then

if they are going to take a very peculiar course of putting the Bill through before people have read that Bill, it is quite childish for the two Members who have been on this Committee to say they are satisfied. What has that got to do with it? Nothing whatever. The question is, is the House satisfied and will Members take the responsibility of passing the Bill as it stands? They feel that the only way by which they can pass the report would be to take the Bill and read it clause by clause and give their opinions on it.

THE HON. CONWAY HARVEY: Your Excellency, I have never expressed unqualified satisfaction with every detail in the measure, but I did support and continue to support the motion for the suspension of standing orders for the reasons given. And, Sir, I shall also support with all my power the proposal that the measure be considered clause by clause, line by line and word by word. I do refute the suggestion of the Noble Lord, and the Member for Nairobi North—or South—with whose geographical gymnastics I am unable to compete—that I am quite unreasonable in my attitude.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: I beg to move an amendment to the motion before the House—that No. 80, section 3, be also suspended.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: On a point of order, Sir, if standing orders are suspended, is not that order suspended with all the other standing Orders?

HIS EXCELLENCY: That appears to be the result, but the motion is that standing orders be suspended for the purpose of enabling the Bill to be proceeded with without the usual interval between laying the report of the Select Committee on the table and considering it in Council.

THE RT. HON. LORD DELAMERE: Sir, I am going to second the amendment moved by the hon. Member, which is simply an addition to the motion before this House. The amendment says that if you are going to do that, Clause 80, sub-section (3) of standing orders should also be suspended, in order that without ten Members having to rise in their places this Bill should be read before this hon. House clause by clause. It is a peculiar action—and one that I do not think any Government can force on a minority—to make people break the rules of this House in order to read a Bill when the Select Committee's report has not even been read. I should suggest, Your Excellency, it would be unwise of Government to force an issue of that sort.

HIS EXCELLENCY: You observe that the motion in the Standing Rules and Orders be suspended in order to take the report without notice, and the amendment is that the motion applies also to No. 80, subsection 3.

THE RT. HON. LORD DELAMERE: That is so, and to enable this Bill to be read clause by clause to this House without the necessity for ten Members having to rise in their places.

HIS EXCELLENCY: Has that been seconded?

THE RT. HON. LORD DELAMERE: Yes, I was seconding it. I think it was put forward in the first instance by the Hon. Member for Trans Nzoia, and I would say, Sir, that it is very easy to see there is one hon. Member of this House, who has rather, perhaps, occasionally nauseated me with his principles; but the first time it is a matter of convenience to Members, apparently these principles go by the board. So far as I am concerned I think this House should be absolutely responsible for what it passes. It cannot be responsible if it passes this Bill without having read it at all. It seems to me an astounding position. I am perfectly willing to do it provided it is done in such a way that this House has a chance of going into things and seeing what they are.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, might I suggest that the simplest matter would be for Government to instruct a certain number of its Members to stand up in their places and make the necessary amendments?

THE HON. THE DIRECTOR OF PUBLIC WORKS: I think we shall all be agreed that it is desirable to consider the Bill clause by clause.

THE RT. HON. LORD DELAMERE: Sir, on a point of order, I do think it is desirable that the course of business should be fixed. The object of bringing this Bill forward at this moment was so that the taxation should be brought in at the beginning of the year. I understand if we go away to-day that we meet in Select Committee on the Estimates on the 17th to discuss the report of the Budget Committee for as long as that takes, which may be two or three days, and after that we go into Council and the Estimates are then passed; that we then do the Railway Estimates, and then, as far as I know it—it is getting very near Christmas—that we were to go away until something like the middle of January. That is what I understand the business to be, and I think that was agreed to. It seems to me that if this is to be put off for discussion in some

way the Bill will not be read in time to be put through before the end of the year. Our proposal is that if Government suspends standing orders for one purpose, we should also be able to suspend standing orders to enable a Bill to be properly read. I do think agreement in these matters is worth having. It cannot matter to Government that standing orders are suspended in two different ways instead of one, provided there is only a technical objection to it.

HIS EXCELLENCY: I would refer the hon. and Noble Lord to the fact that he rose on a point of order, having already spoken once on the motion.

THE RT. HON. LORD DELAMERE: I beg your pardon. I must withdraw, but I should like confirmation from the Government as to the course of business, and also, if this Bill is going to be put off, how it is to be put off, and when.

HIS EXCELLENCY: It is not proposed to put off the reading of this Bill at all.

THE RT. HON. LORD DELAMERE: Then why does the Director of Public Works keep on saying so, if I understand what he says at all.

HIS EXCELLENCY: The question is—

“That the Standing Rules and Orders as contained in Section 80, subsection 3, be suspended.”

The question was put and carried.

HIS EXCELLENCY: The original motion—

“That Standing Rules and Orders be suspended in order that the Report of the Select Committee on the Traffic Bill be adopted.”

The question was put and carried.

THE TRAFFIC BILL.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that the Report of the Select Committee on the Bill to Provide for Control of Traffic on Roads and for the Licensing and Taxation of Vehicles be adopted.

Your Excellency, there are a large number of amendments proposed by the Select Committee, but the majority of these amendments are purely verbal or designed to give clearer expression to the intention. There are, however, a few amendments of some importance, to which I will briefly refer.

In clause 5 it is proposed that the limit of weight of a vehicle which may be licensed without the consent of the Road Authority should be four and a half tons instead of seven tons as at present. In Uganda it is three and a half tons, and it seems necessary, in view of the fact that the bridges are not very strong in this country that the Road Authority should have greater power in this matter.

In clause 7 provision is made for a Central Registrar of Licences and for certain notifications regarding licences to be made to the Central Registrar instead of to the Licensing Officers. The establishment of a Central Registry is independent of this Bill.

In clause 17 the proposed offence of driving a motor vehicle whilst efficiency as a driver is impaired by drink is proposed to be extended to include the case of a person driving whilst his efficiency is impaired by drugs.

In clause 35 provision is proposed for obedience by a driver to all reasonable police signals and instructions.

Perhaps the most important alteration which is proposed is that to Part 2 of the Schedule, where it is recommended that the fees for vehicles, other than motor vehicles, should be reduced by half. This reduction conforms with the expressed views of the Nakuru District Road Board, the Trans Nzoia Farmers' Association and the Solai Farmers' Association, which have recommended it.

The fees payable for such vehicles will then approximate to those payable now in certain townships, and will not be greatly different from those of South Africa.

It is considered that bearing in mind the facts that such vehicles traverse only a small mileage per annum on public roads in comparison with motor vehicles that they do not require for their use as good a type of track or road as a motor vehicle; that the road destruction caused by them is mostly confined to the wet seasons of the year, whilst motor vehicles cause considerable destruction in the dry seasons; there is no departure involved thereby from the principle that the taxation of road vehicles should be roughly proportional to their destructive effect on roads.

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

HIS EXCELLENCY: The question is—

That the report of the Select Committee of this Council be adopted.

CAPTAIN THE HON. E. M. V. KEMALY: Your Excellency, on a point of order, I thought it was that the report be referred to a Select Committee of the whole House.

HIS EXCELLENCY: The question is—

That the Bill be referred to a committee of the whole House.

The question was put and carried.

HIS EXCELLENCY: Before proceeding with the committee stage of the Traffic Bill I think it would be, perhaps, convenient to take the second readings of other Bills on the paper.

SUBORDINATE COURTS (SEPARATION AND MAINTENANCE) BILL.

THE HON. THE ACTING ATTORNEY GENERAL (MR. BRUCE): Your Excellency, I beg to move the second reading of a Bill to confer jurisdiction on certain magistrates in reference to married women.

The object of this Bill, Sir, is to enable maintenance orders to be made and enforced in the Colony and will supply a want which is daily becoming more urgent. The Maintenance Orders Enforcement Ordinance (Chapter 169 of the Revised Edition) was enacted to provide for the enforcement in the Colony of maintenance orders made by magistrates in Great Britain and in British possessions to which such legislation has been applied, but at present there is no power to make and enforce orders in the Colony, and this Bill will fill the gap.

The Bill, Sir, is based very largely upon the Summary Jurisdiction (Married Women) Act, 1896, and the Summary Jurisdiction (Separation and Maintenance) Act, 1926, and generally the provisions of this Bill are similar to the law in force at the present time in England. The Bill provides that a woman may apply to a subordinate court of the first class for an order under the Bill on certain grounds, the most noteworthy of which are the following, namely:—

- That her husband has been convicted of any offence involving violence against her;
- that her husband has deserted her;
- that her husband has been guilty of persistent cruelty to her or her children or of wilful neglect to provide reasonable maintenance for her or her children;
- and that her husband is a habitual drunkard or habitual drug taker.

On an application being made to it by a married woman under this Bill, a court has power to make an order or orders containing all or any of the following provisions, namely:—

- (a) A provision that the applicant shall be no longer bound to cohabit with her husband;
- (b) a provision that the legal custody of any children of the marriage between the applicant and her husband while under the age of sixteen years be committed to the applicant;
- (c) a provision that the husband shall pay to the applicant such monthly sum not exceeding £20 as the court shall, in all the circumstances of the case, consider reasonable; and
- (d) a provision for payment by the applicant or the husband or both of them of the costs of the application.

No order can be made under this Bill on the application of a married woman if it shall be proved that she has committed an act of adultery.

The court may vary or discharge an order from time to time as it sees fit, and no order made under this Bill shall be enforceable if the parties continue to reside together. Clause 11 provides that any sum ordered to be paid under this Bill shall be a civil debt recoverable summarily under the Civil Debts (Summary Recovery) Ordinance (Chapter 6 of the Revised Edition), which means that a person against whom an order has been made may be sentenced to imprisonment not exceeding six weeks for failure to pay the sum ordered to be paid.

The Chief Justice may make Rules of Court:—

- (a) Prescribing the forms to be used and the fees to be paid in proceedings under this Bill;
- (b) prescribing the procedure to be followed on applications under this Bill; and
- (c) generally for the carrying out of the provisions of this Bill.

I am informed that the Registrar of the Supreme Court has, during the last year or so, had a number of applications from deserted wives seeking maintenance, whom he has had to advise that nothing can be done for them. It is also a fact that the burden upon several charitable leagues and institutions is made much greater by the lack of some such ordinance as this, because, when a deserted wife comes to one of these leagues or institutions and asks for help, for very humanity's sake the league has very often to support her,

whereas, when this Bill has become law, a woman will be able to make an application to the Court and force her husband to support her. Seeing that this Bill is a lengthy one and contains a considerable number of provisions, it has been suggested that it might usefully be referred to a Select Committee of this hon. Council, in order to make certain that it entirely suits local conditions in this country. I do not think it would take long and I think it would be desirable to see that it does entirely suit our conditions here.

The principles are carried out in England, and it is for that reason that I have Your Excellency's authority to say that you are prepared to refer this Bill to a Select Committee of this Council, when the provisions of the Bill may be gone into in detail. I beg, therefore, to move the second reading of this Bill.

THE HON. THE ACTING SOLICITOR GENERAL (MR. MCCARTHY): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Subordinate Courts (Separation and Maintenance) Bill be read a second time.

THE RT. HON. LORD DELANEER: Your Excellency, I must congratulate Government on having at last taken this step in providing legislation for this purpose.

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

The question was put and carried.

HIS EXCELLENCY: I propose to appoint the following Members as members of a Select Committee to consider the provisions of this Bill:—

The Hon. the Acting Attorney General (Chairman).

The Hon. the Postmaster General.

The Hon. Member for Kikuyu.

The Hon. Member for the Coast.

The Hon. Member representing Native interests.

TRADING WITH THE ENEMY ORDINANCES

(REPEAL) BILL

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to provide for the repeal of the Trading with the Enemy Ordinances. Your Excellency, this Bill provides for the repeal of three Ordinances, namely:—

The Trading with the Enemy Ordinance, 1915.

The Trading with the Enemy (Amendment) Ordinance, 1916.

The Trading with the Enemy (Restriction of Banking) Ordinance, 1920.

Sir, although the Armistice was signed more than two years ago, yet we still have these three Ordinances on the Statute Book of the Colony. The Trading with the Enemy Acts in England were repealed some time ago and it is thought high time that these Ordinances were repealed here. Mr. Baldwin, in his speech at the Mansion House on November 9th, talking of our relations with Germany since the war, said amongst other things :—

"Commercial treaties have been concluded between Germany and this country. Her relations with her former enemies, are, in fact, restored to a position of mutual good feeling and understanding. She stands to-day as a great country alongside equals."

This being England's attitude, Sir, towards Germany, it is, as I have said, meet that we should follow England's lead and repeal the Trading with the Enemy Ordinances, which in war imposed restrictions upon enemy trading. I beg, therefore, to move the second reading of this Bill.

THE HON. THE ACTING SOLICITOR GENERAL: I beg, Your Excellency, to second that.

HIS EXCELLENCY: The question is that the Trading with the Enemy Ordinances (Repeal) Bill be read a second time.

THE HON. CAPT. VAUGHAN KENEALY: Your Excellency, I question the desirability of repealing these Ordinances. If we are not at war then we have no enemies. If we are at war we shall have very much more important matters to deal with than the repeal of legislation of this nature. I should like to see the retention of these Ordinances on the Statute Book, so that in time of war or emergency they can be applied. Since we have no enemies these Ordinances cannot injure people.

THE RT. HON. LORD DELANER: Speaking for myself alone, Your Excellency, I beg to support the Bill in principle as put forward by the Hon. Attorney General.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I would only say in reply to the hon. Member for Kenya, I would like to quote that old proverb "Sufficient unto the day is the evil thereof."

HIS EXCELLENCY: The question is :—

"That the Trading with the Enemy Ordinances (Repeal) Bill be read a second time."

The question was put and carried.

WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Widows' and Orphans' Pensions Ordinance. Your Excellency, this Bill has been prepared in accordance with the desire of the Secretary of State, and it has already been passed in all the other territories to which the Widows' and Orphans' Pensions Ordinance applies. It has, I think, already been passed in Uganda. I saw it the other day in the Gazette.

Your Excellency, there are only two points that this Bill achieves. The first is that Northern Rhodesia is added to the definition of East African Service, as the scheme is now being applied to that territory, and, therefore, it is desirable to bring it into the scheme. Clause 3 of the Bill provides that a widow, after the death of any married contributor, shall notify her own remarriage or bankruptcy to the Crown Agents in writing within three months from the date of the event. I might make the matter clearer by quoting the clause as it at present stands.

The proposed amendment will be (c) :—

"4. After the death of any married contributor, the widow of such contributor shall notify to the Crown Agents in writing within three months from the date of the event:

- (a) The date of the death of the contributor if he was not at the time in the East African Service.
- (b) The birth of any posthumous child born to such contributor.
- (c) The marriage of any female child of such contributor under the age of twenty-one years.
- (d) The death of any child of such contributor while of pensionable age."

It is now proposed to add the following paragraph :—

"(e) Her own remarriage or bankruptcy."

YOUR EXCELLENCY, I therefore beg to move the second reading of this Bill.

THE HON. THE TREASURER (MR. GRANNUM): Your Excellency, I beg to second.

HIS EXCELLENCY: The question is:—

"That the Widows' and Orphans' Pensions (Amendment) Bill be read a second time."

The question was put and carried.

ASIATIC WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to amend the Asiatic Widows' and Orphans' Pensions Ordinance. Your Excellency, in the Principal Ordinance which was passed last year, an Asiatic officer who was eligible, and desired to participate in the scheme, was required to certify by written notice to the Secretary of the Board, his intention to become a contributor and such written notice was to be received by the Secretary before the 1st April, 1928. Well, Sir, certain officers did not at first appreciate the advantages of the scheme, and when they did it was too late. These officers now desire to become contributors. Certain other officers did not receive sufficient notification of the introduction of the scheme to allow of their notices being received by the Secretary within the prescribed time, and they also are desirous of being admitted as contributors. It is considered desirable that every officer who desires to participate in the scheme should be allowed to do so, and Government has decided to extend the time, and this course has been approved by the Secretary of State.

Clause 3 of the Bill extends the time limit to 8th December, 1928, and notice of the provisions of the Bill were published on the 8th October, and circulated to all officers concerned. If the Bill becomes law, those officers who become contributors thereunder will be required to pay a lump sum equal to the amount they would have contributed had they started contributing on the 1st April, and interest will be payable on such lump sum at six per cent. The amendments to the other sections of the Ordinance are purely verbal. I therefore beg to move the second reading of this Bill.

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

HIS EXCELLENCY: The question is:—

"That the Asiatic Widows' and Orphans' Pensions (Amendment) Bill be read a second time."

THE RT. HON. LORD DELAMERE: Your Excellency, it has not been explained by the Hon. Attorney General whether these failures to put in applications in the ordinary way for this purpose were deliberate and intentional or a mistake. I am not going to oppose this Bill, but I must say that, so far as I personally am concerned, I am getting rather tired of having continuously to extend things of different sorts; in order to meet quite childish objections of the Asiatic population to certain proposals which are made. If their objections were made in a deliberate way, then I should like to see the original date stuck to, and if certain people have lost something that they might have got it is their own fault—I think we go too far in these things. After all, it does not appear to be necessary to have these continuous extensions of things for the other communities in this country and, when the Bill has gone a further stage, I shall ask how far it was deliberately done or not.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, in reply to the Noble Lord, the Hon. Member for Rift Valley, I have no information personally further than that which I gave the House in my speech. I think there were two grounds; that in some instances the persons concerned did not appreciate the advantages of the scheme, and the fact that they had to apply, but I have no information at all that they did not apply out of ill-will and then afterwards alter their minds. Although I cannot speak for certain, I feel quite sure that this is not so, because in drafting this Bill I consulted the officers of the Treasury. If I may, I will repeat what I said in my speech—that certain officers did not at first appreciate the advantages of the scheme, and, when they did, it was too late, and that these officers did not receive notification in sufficient time. But, so far as my information goes, there is no question of refusal and then afterwards of a change of mind.

THE RT. HON. LORD DELAMERE: Your Excellency, I am very glad to hear that said. So far as I am concerned, I am quite willing to withdraw anything I have said.

The question was put and carried.

LIEUT. COL. THE HON. J. G. KIMWOOD: On a point of order, Your Excellency, might I suggest that the old-time custom of a short adjournment be proceeded with.

HIS EXCELLENCY: I was going to suggest that after the next item and then we will resume in Committee.

BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to amend the British and Colonial Probates Ordinance be read a second time. This Bill becomes necessary to carry into effect the wishes of the Government of Tanganyika Territory in respect of the reciprocal recognition of probates and letters of administration granted in Kenya and Tanganyika Territory, respectively. Chapter 12 of the Revised Edition, section 8, provides that the Governor may, by order, direct that the Ordinance shall apply to any British possession or protectorate, making adequate provision for the recognition of probates and letters of administration granted by the Supreme Court of Kenya, but the term "British possession or British protectorate" does not include territory administered under a mandate.

RT. HON. LORD DELAMERE: We are not a mandate.

THE HON. THE ACTING ATTORNEY GENERAL: In order to enable section 3 of this Ordinance to apply to Tanganyika Territory, the definition of "British protectorate" has been added to the original Ordinance, to bring mandated territories within the scope of the Ordinance. We shall then be able to apply this Ordinance as is desired by the Government of Tanganyika Territory. I therefore beg to move the second reading of this Bill.

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

HIS EXCELLENCY: The question is—

"That a Bill to amend the British and Colonial Probates Ordinance be read a second time."

THE RT. HON. LORD DELAMERE: Your Excellency, I beg to support this Bill.

The question was put and carried.

HIS EXCELLENCY: The House will now adjourn and will resume in Committee.

TRAFFIC BILL.

THE HON. THE DIRECTOR OF PUBLIC WORKS (MR. SIKES): Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council for the purpose of considering the report of the Select Committee on the Traffic Bill.

7th December, 1928

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

THE HON. CAPT. H. F. WARD: Your Excellency, on a point of order, I think it will help business on this side of the House if the hon. Mover of the motion will outline the number of times and the manner in which this subject has been before the House in the past.

HIS EXCELLENCY: I have no objection to that.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, in 1924 the question of traffic law and the taxation of vehicles was referred to the Roads and Traffic Committee, which was formed to advise Government. They reported to Government in 1925, and the report was laid on the table of Legislative Council. That report dealt with the question of taxation of vehicles, and its recommendations were based on Transvaal law in respect of the taxation of motor vehicles. The matter was held in abeyance until 1927, when another Committee was appointed, namely, a Select Committee of this Council to report on the taxation of heavy vehicles. The report of that Committee was laid on the table of Legislative Council towards the end of 1927. That Committee agreed generally with the recommendations of the Roads and Traffic Committee, except that they recommended that the taxation of vehicles—of motor vehicles—should be based on weight alone, and not partially on weight and partially on horsepower as was recommended by the Roads and Traffic Committee based on Transvaal law. The recommendations of the Select Committee were based on and were in accordance with the laws of Natal, Cape Colony and the West Coast of Africa. This report was referred to the Roads and Traffic Committee in 1928 for the purpose of drafting a Bill on the lines of the report of the Select Committee on the taxation of vehicles. That report, together with the Bill, was laid on the table of Legislative Council during this year; it was considered by this Council and, during the second reading, was referred to a Select Committee.

THE RT. HON. LORD DELAMERE: Your Excellency, I am very glad that the hon. Mover has put forward this explanation, because, so far as I am concerned—having been away from the country until recently—I am not opposing one of the principles laid down in this Bill, with which I entirely disagree, because the Bill has passed its second reading through this hon. Council, and I do not think it is right that one should raise questions afterwards, if only for the fact that it is laid down in Standing Orders of this hon. House that, once the principles of a Bill have been agreed to in second reading,

it is impossible to reopen them in Committee of this hon. House except, presumably, as arguments on detail. I personally disagree with what is supposed to be an axiom, namely, that principle that the owner of a vehicle should pay in taxation an amount commensurate with the amount of damage he does to the roads. This seems to me very clumsy, very irritating and a bad method of collecting money. I think the owner is already doing so when you have—as you have in this country—a very heavy tax on petrol, because exactly according to the mileage he goes and exactly according to the way he goes and exactly according to the amount of road he uses, he pays. I suggest, Your Excellency, that the hon. Member who spoke just now was reiterating the principles.

HIS EXCELLENCY: He was asked to give the history of the Bill.

THE RT. HON. LORD DELAMERE: He reiterated, Sir, the principles on which the Bill was based, so I thought.

HIS EXCELLENCY: It is proposed and seconded that this House resolves itself into a Committee of the whole House to discuss the provisions of the Traffic Bill.

The question was put and carried.

In Committee.

The Bill was considered clause by clause.

Clause 1.—Title.

HIS EXCELLENCY: The question is that Clause 1 stand part of the Bill.

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, I think the title of the Bill requires amending.

HIS EXCELLENCY: That comes later.

The question was put and carried.

Clause 2.—Definition.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the deletion of the last six definitions and the substitution of the following definitions therefor:—

“Tare weight” means the weight of a vehicle when unladen computed as provided for by section 9 of this Ordinance.

“Taxi-cab” means a public service vehicle licensed to carry not more than six passengers whether it is fitted with a taximeter or not.

“Tractor” means a motor vehicle designed for towing one or more trailers.

“Traffic” includes pedestrians.

“Trailer” means a vehicle attached to and drawn by a motor vehicle whether its weight is partly supported by the motor vehicle or otherwise, but does not include a side-car attached to a motor cycle.

“Vehicle” includes motor vehicle and carriage.

THE RIGHT HON. LORD DELAMERE: Your Excellency, it is thought the ingenuity of the Hon. Member, or some of his assistants, could have found another word, rather than calling a taxi something which is not a taxi. A taxicab means a thing with a taximeter on it. I understand that the definition he proposes is that a taxi should not be a taxi but anything else.

HIS EXCELLENCY: It might be better, I think, if “taxi” were left out.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I think “taxicab” is better. “Cab” has reference to the old hackney carriages. “Taxicab” is a well-known word. What we want to ensure is that it should be regarded as a public service vehicle, whether it is fitted with a taximeter or not.

HIS EXCELLENCY: The Noble Lord says that a taxicab is a cab with a taximeter.

THE HON. T. A. WOOD: Your Excellency, I think it is most important that we should have a definition of a taxi. We have already had innumerable discussions as to the advisability of applying taximeters in this country. I gather it is quite hopeless and impossible in the present state of development, and I am rather afraid we do not put in a definition of “taxicab” that we shall have to insist on taxicabs being fitted with taximeters to conform to the Act.

THE RIGHT HON. LORD DELAMERE: Your Excellency, I do not want to waste the time of this honourable House, but I think it is a pity to call something by a name which means something different.

HIS EXCELLENCY: Does anyone more than the word “taxicab” be altered? I think “taxicab” is a universal word and it would be a pity to alter it.

THE REV. CANON THE HON. H. LEAKEY: Your Excellency, could not the word “taximeter” be altered to “speedimeter” or something like that?

THE HON. THE ACTING SOLICITOR GENERAL: They are defined as “hackney carriages” in English Law.

THE RIGHT HON. LORD DELAMERE: Hackney carriages?

HIS EXCELLENCY: The amendment is no more than a rearrangement of a definition in the Bill, and I do not think it is very important.

THE RIGHT HON. LORD DELAMERE: It does not matter so far as this honourable House is concerned. The original definitions have not yet been passed.

HIS EXCELLENCY: I understand that the Hon. Member for Rift Valley proposes that the word “taxicab” should be altered to “taxi-cab or motor cab”.

The question was put and lost.

HIS EXCELLENCY: The motion is that Clause 2, as rearranged by the amendments proposed by the Hon. the Director of Public Works, stand as part of the Bill.

The question was put and carried.

Clause 3.—Licenses.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the insertion of the following words between the word “vehicle” and the word “which” which occur in line 13:—

“not being a bicycle, tricycle, or such other vehicle as the Governor may exempt by notice in the Gazette”

and by the insertion of the following words between the word “road” and the word “without” which occur in line 14:—

“other than a road of access granted under the provisions of the Public Travel and Access Roads Ordinance” (CAp. 113.)

THE HON. T. A. WOOD: Your Excellency, in regard to the first amendment, would it not be more correct to place the word "except" at the end of the sentence: "the Governor may by notice in the Gazette exempt?"

THE HON. THE ACTING ATTORNEY GENERAL: I think it is purely formal. It is perfectly clear.

HIS EXCELLENCY: I should think, if I may say so, that the manner of putting the amendment into the clause as suggested by the hon. Member for Nairobi South is preferable.

THE HON. THE ACTING SOLICITOR GENERAL: May I suggest, Sir, that it be put in the form of a further proviso: "Provided that the provisions of this section shall not apply," etc.

The question was put and carried.

HIS EXCELLENCY: The question is that the other amendments proposed by the Hon. the Director of Public Works be inserted in Clause 3.

The question was put and carried.

Clause 5.—Vehicles licensed only with consent of Road Authority.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the deletion of the word "seven" which occurs in line 32, and the substitution of the following words therefor:—
"four and one half"

THE RIGHT HON. LORD DELAMERE: Your Excellency, why is it necessary to put in a special clause in regard to this, because at the present moment some of our bridges are not what they should be. The Board is not forced to grant a license—they can say we will not. Is it necessary to put in a special clause to deal with a temporary trouble?

THE HON. THE DIRECTOR OF PUBLIC WORKS: There is a special clause, and the limit is seven tons. The amendment proposed is that it should be reduced to four-and-a-half tons.

THE RIGHT HON. LORD DELAMERE: My point, Sir, is why is it necessary to put in a special clause, cutting out what is evidently the most economical form of transport, which is the large tractor. After all, if the bridges will not carry the tractor, licenses would not be given in any case.

HIS EXCELLENCY: May I refer the Noble Lord to the fact that it refers to tare weight.

THE RIGHT HON. LORD DELAMERE: I understand that, but my point is that it is part of the powers of the Board that licenses can be refused. My point is that the original weight put down is apparently to be altered because some of the bridges will not carry that weight. If that is so it seems wrong to refuse a license to go on certain roads because of the state of some of the bridges on it.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I do not think a licensing officer could refuse to license vehicles for whatever the limit may be unless provision of this kind is made. It is important because there are many roads in this country on which the bridges are not sufficiently strong to carry these heavy vehicles. Consequently, it might mean that if the vehicle were too heavy the Road Authority on being referred to might say, yes, we will grant a license for that vehicle for use on such and such roads. That is the object of this section. A similar section exists in the present Motor Traffic Ordinance. It occurs in the same form in Uganda, except that there the limit is three and a half tons. We recognised the importance of bringing down this limit simply because we have to control the roads; and it will be inserted in the license for those who wish to travel on certain roads.

THE HON. T. A. WOOD: I should like to support the contention raised by the Noble Lord. I think the question of the strength of

the bridges should not be dealt with in a motor traffic and Licensing ordinance. The bridges should be protected—as I understand they always have been—by a notice to the effect that the maximum is so and so, whatever it might be. I am in agreement that we should encourage large forms of transport as being the most economical, and not restrict their use merely because certain of our bridges are not erected up to modern strength requirements. It is rather holding back the development of the country in my opinion.

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, surely we legislate for actualities and not ideals. Because we have one bridge which will not stand a seven-ton load is it necessary to protect all the other bridges. If we put up a notice to prevent people from using bridges they would probably take the bridges too, but I think it is absolutely essential to have these 4½ ton notices up, and say it is a tare weight and not a load weight.

THE HON. CONWAY HARVEY: It is perfectly true and it sometimes happens that notices disappear. Cases have occurred in recent years in which very heavy lorries have travelled on the Sotik Road, smashing practically every culvert on that important arterial road, and preventing others from transporting their produce until the bridges have been repaired, very often over a period of many weeks.

THE RIGHT HON. LORD DELAMERE: It appears to be quite an unnecessary amendment, for in Clause 7 it says that the license shall be in the form prescribed by Rules made under section 40. I have no objection to Rules being made often and altered often, and in Clause 40 it is provided that Rules may be made for prohibiting or restricting the driving of any vehicles on any specified road or part of a road. That absolutely covers it, surely. Those are the Rules made under this Ordinance so why put in a special prohibition.

HIS EXCELLENCY: If no other hon. Member wishes to speak I will now put the question—that is, that seven tons be altered to four and one-half tons.

The question was put and carried.

Clause 6.—Power to refuse license in certain cases.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that Clause 6, sub-clause (2) be amended by the deletion of the words:—

"a person to whom a license has been refused"
which occur in line 41, and the substitution of the following words therefor:—

"a person whose application for a licence has been refused"

THE RIGHT HON. LORD DELAMERE: I can only repeat what I said on the last clause.

The question was put and carried.

Clause 7.—Appointment of Central Registrar of Licences.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that a new sub-clause (to be numbered (1)) be inserted to read as follows:—

"(1) The Governor shall by notice in the Gazette appoint a Central Registrar of Licences issued under this Ordinance and that the remaining sub-clauses be renumbered accordingly.

Clause 7. Old sub-clause (2).

That this sub-clause be deleted.

Clause 7 (3).

That this sub-clause be deleted and the following sub-clause substituted therefor:—

"(3) Every person who shall transfer the ownership of any vehicle in the Colony and every person to whom such ownership is transferred shall immediately notify in writing such transfer to the Central Registrar"

Clause 7 (4).

That this sub-clause be amended by the deletion of the words "licensing officer by whom the licence in respect of such vehicle was issued" which occur in lines 20 and 21, and the substitution of the following words therefor:—

"Central Registrar".

Clause 7 (5).

That this sub-clause be deleted and the following sub-clause substituted therefor:—

"(5) In the event of any licensee losing his licence he shall apply forthwith to the licensing officer or to the Central Registrar for a duplicate licence and a fee of Sh. 2 shall be charged for the issue of such duplicate licence."

THE RIGHT HON. LORD DELAMERE: Your Excellency, I am not speaking in regard to the amendment—most of which I did not hear—but with regard to the original section. I would like to know whether in this Bill—as, after all, one has not had an opportunity of reading the Bill any more than one has read the report—but I should like to know where in this Bill is the power given for dealing with lorries and cars which compete with the State Railway of this country. There has been the greatest amount of rubbish talked about this, as usual, and it has been said in the Press and elsewhere that if the Railway cannot compete with these things railway rates should come down. That, of course, is pure rubbish. The Railway has to carry all kinds of goods under its Charter. It has got to carry the cheapest as well as the expensive goods. It is quite natural that if any motor service comes along and begins to take all the cream of the traffic—things on which the Railway has to charge high in order to charge low on other articles—it is quite certain that a motor service carrying these things can compete with and beat in competition a railway that has to carry every class of goods under its Charter. I would like to know, Sir—because that was the thing above all others in which I was most interested in this Traffic Ordinance, and which the Committee was appointed—what measures are to be taken to deal with this particular question. Is it dealt with in rules drawn up under section 49?

HIS EXCELLENCY: I do not think that the question asked by the Noble Lord arises on this clause.

THE RIGHT HON. LORD DELAMERE: If it does not arise under this clause, where does it arise, because it was undoubtedly chief reason why the Committee was asked to sit?

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, the question of competition between road and railway was raised on the second reading of this Bill by several Members, and I will repeat what I then said—it is not dealt with in this Bill at all.

"With regard to the question of competition between roads and railway, which was raised by two hon. Members, that matter has been under discussion with the Hon. the General Manager, and in accordance with his wishes we are not hurrying action unduly. It is a very difficult matter, and we have now got the laws of several other countries which have dealt with this particular issue, and we are carefully studying them. I think in view of the importance of the matter it will probably have to be dealt with in a separate Bill."

Your Excellency, the matter was referred to the Roads and Traffic Committee, and their report on the question of competition between roads and railway, and proposed methods for dealing with it, is in the hands of Government.

THE HON. T. A. WOOD: Your Excellency, there is another point I would like to raise in reference to the clause under discussion. I think there is an old standing agreement in this House—at any

rate there has been a standing agreement for a number of years—that in any proposals which entail expenditure the probable expenditure should be clearly stated. Here is the appointment of an entirely new person and we have not heard anything as yet regarding the cost. I think, in accordance with the procedure agreed upon, it is necessary.

THE RIGHT HON. LORD DELAMERE: It was passed by resolution of this honourable Council. I think, Sir, it is only right, and Government accepted it.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I think I am right in saying that the hon. Member is speaking on this clause and not on the general principle. May I mention that when I was speaking on the motion for the adoption of the report of the Select Committee I said this officer would be appointed whether this Bill was passed or not, and that this appointment was entirely independent of the enactment of this Bill. As a matter of fact I understand that the appointment does not involve any additional expense to Government.

THE RIGHT HON. LORD DELAMERE: Then, Sir, we have the undertaking of the hon. Member who has just spoken that there is no extra expense to the Colony involved by this Bill.

HIS EXCELLENCY: That is so.

THE RIGHT HON. LORD DELAMERE: Then, Sir, the collection of the taxation is to be done by the present staff entirely.

THE HON. THE DIRECTOR OF PUBLIC WORKS: No additional expense is involved by this clause, Sir.

THE RIGHT HON. LORD DELAMERE: Well, after all, this question has been raised on the general principle. The Hon. Member for Nairobi South brought it up on the question of the whole principle as to why no statement had been made in producing this Bill.

HIS EXCELLENCY: I think it would be better to raise that principle in cases where incidents appear to occur as we go through the Bill; because, so far as this clause is concerned, the question does not arise, as there is no extra cost.

CAPTAIN THE HON. E. M. V. KENYALY: May I suggest a small amendment, Sir, in regard to the amending clause? I suggest that the word "to" be deleted.

HIS EXCELLENCY: Are you referring to the new clause?

CAPTAIN THE HON. E. M. V. KENYALY: Yes, Sir. I suggest it should read "shall in writing notify the Central Registrar," instead of "notify to the Central Registrar."

HIS EXCELLENCY: Will you accept that amendment?

THE HON. THE DIRECTOR OF PUBLIC WORKS: I cannot see the necessity for it, Sir. It is perfectly good English.

THE RIGHT HON. LORD DELAMERE: Your Excellency, might I suggest that the Hon. Director addresses the Chair, and not some place under his armpit? (Laughter.)

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, the amendment reads "notify to." That is not English. I suggest, as an amendment, "notify of" (laughter): "Notify the Central Registrar of."

HIS EXCELLENCY: Will those Members in favour of the amendment proposed by the Hon. Member for Kenya say "Aye."

The amendment was carried.

THE HON. T. A. WOOD: In regard to these proposed amendments, Your Excellency (those proposed by the Hon. the Director of Public Works) I trust that there will be a printed instruction on the licences regarding these notifications, so that people will not, at a later stage, incur a penalty when being able to make a bona fide excuse, because I understand ignorance is not an excuse in law.

HIS EXCELLENCY: The question is that the amendments proposed by the Hon. the Director of Public Works, as amended, form part of the Bill.

The question was carried.

Clause 8.—Duration of Licence.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the insertion of the word "next" before the word "following", which occurs in lines 28, 32 and 33.

The question was put and carried.

Clause 11.—Penalty for not fixing identification marks.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that Clause 11, sub-clause (2) be amended by the deletion of the word "then" which occurs in line 20.

Clause 11 (4).

That this sub-clause be amended by the insertion of the words "of assembly" between the word "completion" and the word "or" which occur in line 31.

The question was put and carried.

Clause 12. Drivers to be certified as competent.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that Clause 12, sub-clause (3) be amended by the deletion of the words "except that in the case of a motor bicycle a certificate may be granted to a person who has reached the age of 14 years" which occur in lines 5, 6 and 7.

Clause 12 (4).

That this sub-clause be deleted and the following sub-clause substituted therefor:—

"(4) There shall be paid for a certificate of competency the sum of thirty shillings"

and that a new sub-clause to be numbered (5) be inserted after sub-clause (4) to read as follows:—

"(5) In the event of any person losing his certificate of competency he shall apply to the Central Registrar for the issue of a duplicate certificate and a fee of two shillings shall be charged by the Central Registrar for the issue of such duplicate certificate"

and that the remaining sub-clauses be renumbered accordingly.

Old sub-clause (6); New sub-clause (7).

That this sub-clause be amended by the deletion of the word "shall" which occurs in line 24.

Old sub-clause (6); New sub-clause (10).

That this sub-clause be deleted and the following sub-clause substituted therefor:—

"(10) Any person who shall drive a motor vehicle upon any road without having upon his person or in the motor vehicle at the time a valid certificate of competency as required by this Ordinance, except as provided in sub-section (1) of this section shall be guilty of an offence against this Ordinance"

New sub-clause 11.

That a new sub-clause to be numbered (11) be inserted after new sub-clause 10 to read as follows:—

"(11) A certificate of competency issued under the Motor Traffic Ordinance shall be a valid certificate of competency under this Ordinance"

CAPTAIN THE HON. H. F. WARD: Your Excellency, I think even as a member of the Committee, I am entitled to oppose this new sub-clause 11. I think that the hon. Member of the Motion will remember that I brought up this point myself after the report was drafted and I do think that we should consider particularly the actual wording. As it stands at present there is no certificate of competency in the Motor Traffic Ordinance, but you do get a certain test and you obtain a licence, and that licence is, in effect, a certificate of competency. I should have thought that the wording ought to be "a licence issued under the Motor Traffic Ordinance shall be a certificate of competency under this Ordinance"

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I think the hon. Member is mistaken. There is a certificate of competency in the Motor Traffic Ordinance.

THE HON. LIEUT.-COL. DURHAM: I suggest, Sir, that the hon. Member be put through his paces. (Laughter.)

THE HON. THE DIRECTOR OF PUBLIC WORKS: Section 11 (1) of the Motor Traffic Ordinance reads as follows:—

"A person shall not drive a motor car on any public thoroughfare unless he shall hold a certificate of competency to drive such motor car, or a motor car of similar type, to be issued by such officer or person as the Governor may appoint for the purpose."

THE HON. THE ACTING SOLICITOR GENERAL: Your Excellency, from a reading of sub-clause (1) it would appear that a vehicle is to be issued by the certifying officer instead of a licence. I would suggest that a semi-colon be inserted after the word "type"; and then "such licence shall be issued by," etc.

HIS EXCELLENCY: If the hon. Member will read the clause.

THE HON. THE ACTING SOLICITOR GENERAL: "A person shall not drive a motor vehicle on any road unless he shall hold a certificate of competency to drive such motor vehicle or one of similar type to be issued by such . . ."

THE HON. THE DIRECTOR OF PUBLIC WORKS: It is merely copied from the Motor Traffic Ordinance, Sir.

THE HON. THE ACTING SOLICITOR GENERAL: I suggest that a semi-colon be inserted after the word "type" and a new sentence: "Such certificate to be issued by such officer"

HIS EXCELLENCY: I propose to put the motion which is suggested by the Hon. Solicitor General that Clause 12 (1) be amended by the insertion of a semi-colon after the word "type"; and the insertion of the words "such certificate" between the word "type" and the word "to"

The question was put and carried.

HIS EXCELLENCY: Now I will put the amendments proposed by the Hon. the Director of Public Works.

The question was put and carried.

Clause 13.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that Clause 13 (a) be amended by the deletion of the

word "or" which occurs in line 49 and the substitution thereof of the word "and" and by the insertion of the words "on level ground" after the word "hour" which occurs in line 51.

Clause 13 (e).
That this paragraph be amended by the insertion of the word "also" between the word "shall" and the word "by" which occur in line 7.

The question was put and carried.

Clause 17.—Drunkenness while driving a motor vehicle.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that Clause 17, sub-clause (1) be amended by the insertion of the words "or drugs" after the word "drink" which occurs in line 45.

Clause 17 (2).

That this sub-clause be amended by the insertion of the words "a fine not exceeding one hundred pounds and to" after the words "liable to" which occur in line 51.

The question was put and carried.

Clause 18.—Directions for management of motor vehicles on roads.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that sub-clause (1) of Clause 18 be deleted and the following sub-clause substituted therefor:—

"(1) Every motor vehicle shall carry an efficient hooter or other suitable appliance for giving audible warning and every driver of a motor vehicle shall, whenever it is prudent for the purposes of giving audible warning of his approach, clearly sound such hooter or appliance."

Clause 18 (2).

That this sub-clause be amended by the deletion of the word "horn" which occurs in lines 6, 7 and 9, and substitution thereof of the word "hooter".

Clause 18 (4).

That this sub-clause be deleted and the remaining sub-clauses be renumbered accordingly.

Old sub-clause (5); New sub-clause (4).

That this sub-clause be amended by the insertion of the word "vehicle" after the word "motor" which occurs in line 16.

Old sub-clause (6); New sub-clause (5).

That this sub-clause be amended by the deletion of the words "no person driving a motor-vehicle shall" which occur in line 18, and the substitution thereof of the following words:—

"No person driving or being in charge of a motor vehicle shall"

Old sub-clause (6) (a); New sub-clause (5) (a).

That this paragraph be deleted and the following paragraph substituted therefor:—

"(a) When in the motor vehicle be in such a position that he cannot control the same, or that he cannot obtain a full view of the road and traffic in the direction of his travel"

Old sub-clause 6 (c); New sub-clause 5 (c).

That this paragraph be amended by the deletion of the words "stand so as to" which occur in line 26.

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, in the last amendment should not the word "to" be left in?

HIS EXCELLENCY: The motion is that the amendments proposed by the Hon. the Director of Public Works stand part of Clause 18.

The question was carried.

Clause 22.—Vehicle to be safe and suitable.

THE HON. THE ACTING SOLICITOR GENERAL: Your Excellency, who is going to be the judge of whether a car is unsafe? Is it to be the opinion of any police officer?

HIS EXCELLENCY: Is any particular provision being made for that?

THE HON. THE DIRECTOR OF PUBLIC WORKS: I do not think so, Sir. I think it will be left to the courts to decide.

HIS EXCELLENCY: The question is that Clause 22 stand part of the Bill.

The question was carried.

Clause 27.—Stands and stopping places.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the deletion of the words "a licensing officer" which occur in line 10 and the substitution thereof of the words "The Commissioner of Police" and by the addition thereto of the following proviso:—

"Provided that if the stand would be situated within the boundaries of any Municipality established under the Local Government (Municipalities) Ordinance, 1928, the notice shall be subject to the approval of the Municipal Council or Board of the Municipality"

The question was put and carried.

Clause 31.—Lights on carriages.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the deletion thereof and the substitution thereof of the following clause:—

"31. Every driver or person in charge of a motor vehicle or carriage on a road between the hours of 6.45 p.m. and 6.15 a.m. shall provide and maintain such motor vehicle or carriage with a lamp or lamps in proper working order to be fixed or carried and lighted in such manner as may be prescribed by Rules made under section 49 of this Ordinance"

The question was put and carried.

Clause 32.—Driving carriage to common danger.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the insertion of the word "rides" between the word "who" and the word "drives" which occur in line 25 and by the insertion of the word "leads" between the word "drives" and the word "or" in the same line, and by the insertion of the word "ridden" between the word "be" and the word "driven" which occur in lines 25 and 26, and by the insertion of the word "led" between the word "driven" and the word "or" which occur in line 26.

The question was put and carried.

Clause 34.—Brakes.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that sub-clause (3) be amended by the insertion of the following words between the word "carriage" and the word "shall" which occurs in line 52:—

"except such as may be exempted by the Governor by notice in the Gazette"

THE HON. T. A. WOOD: Your Excellency, I confess I do not quite follow Clause 34, sub-clause (3), which calls for the provision of efficient brakes. Surely not even the Governor is going to exempt vehicles without brakes.

HIS EXCELLENCY: Perhaps the Hon. the Director of Public Works will explain the reason underlying this.

THE HON. THE DIRECTOR OF PUBLIC WORKS: It really depends on the definition of the word "carriage", which includes such things as rickshaws. Rickshaws need not necessarily have brakes.

THE RIGHT HON. LORD DELAMERE: It is a very curious sentence, is it not, altogether?

THE HON. T. A. WOOD: Well, Sir, if we look at the definition of "carriage" we see that the necessary exempted vehicles are already exempt, and unless I misunderstand it, we are giving a further reason for exemption of vehicles, which should not be exempted by anybody in any circumstances so far as the application of brakes is concerned.

THE HON. THE DIRECTOR OF PUBLIC WORKS: It is the case, Sir, that in the definition of "carriage" the Governor has power to exempt certain vehicles from inclusion under that definition, which applies to the whole Ordinance, but it has been necessary also to make provision specifically for power to exempt certain other vehicles from the clause relating to brakes.

THE RIGHT HON. LORD DELAMERE: Would the hon. Member give an instance or two, because it is rather difficult to understand what particular vehicles should be exempt from carrying brakes.

THE HON. CONWAY HARVEY: I suggest an invalid carriage.

CAPTAIN THE HON. H. F. WARD: I suggest a ricksha.

HIS EXCELLENCY: If I might make a suggestion I would suggest that before and after "such" . . .

THE HON. CONWAY HARVEY: Your Excellency, may we hark back to Clause 33 for one moment? Should not the words "or drugs" be inserted after the word "drink", in order to make it harmonise with Clause 17?

HIS EXCELLENCY: I think that is a very sound suggestion, if I may say so. Will you move the necessary amendment?

THE HON. CONWAY HARVEY: I will certainly, Sir, formally, with your permission.

HIS EXCELLENCY: "Any person who is drunk or whose efficiency as a driver is impaired by drink or drugs while driving a carriage shall be guilty of an offence against this Ordinance."

THE HON. CONWAY HARVEY: That meets the case admirably. I move it formally.

The amendment was put and carried.

THE HON. THE ACTING SOLICITOR GENERAL: Your Excellency, Clause 34 (3)—I suggest that the following words be added after the last word "rotate"—"when the vehicle is in motion"

HIS EXCELLENCY: I take it the question is that after the word "rotate" the words "when the vehicle is in motion" should be inserted. Will those in favour of that amendment please say "Aye."

THE HON. THE ACTING SOLICITOR GENERAL: It should be "carriage", Sir.

HIS EXCELLENCY: Have you got your motion right yet?

THE HON. THE ACTING SOLICITOR GENERAL: It should be "when the carriage is in motion", Your Excellency.

The question was put and carried.

HIS EXCELLENCY: I now put the amendment proposed by the Hon. the Director of Public Works.

The question was put and carried.

Clause 35.—Obedience to signals.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that sub-clause (3) be amended by the deletion of the word "by" which occurs in line 14 and the substitution thereof of the word "through" and that a new sub-clause to be numbered (6) be inserted between sub-clauses (5) and (6) to read as follows:—

"(6) Every driver or person in charge of a vehicle shall obey all reasonable signals or instructions given to him by any member of the police force";

and the remaining sub-clauses be renumbered accordingly.

Old sub-clause (6); New sub-clause (7).

That this sub-clause be deleted and the following sub-clause be substituted therefor:—

"(7) The driver or person in charge of a vehicle shall on the request or signal of any person in charge of a horse, camel, mule or donkey, immediately bring such vehicle to a standstill and keep it stationary as long as may be reasonably necessary";

THE HON. COL. R. WILKINSON: Your Excellency, in regard to 35 (6), I suggest the words "as soon as possible" be substituted for the word "immediately".

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Do not the words "as soon as possible" leave too much open?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. LOGAN): Sir, may I suggest that after the word "immediately" the words "proceed to" be inserted.

THE RIGHT HON. LORD DELAMERE: Why cannot you immediately bring a car to a standstill? You don't put it to a standstill, but you bring it to a standstill as soon as possible.

HIS EXCELLENCY: I think it is a little ambiguous as it stands.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I think the phrase "with all reasonable speed" might be inserted.

THE RIGHT HON. LORD DELAMERE: How do you bring a thing to a standstill with all reasonable speed?

THE HON. CONWAY HARVEY: May I suggest "with reasonable expedition"?

CAPTAIN THE HON. E. M. V. KENNELLY: Your Excellency, might I suggest that it is all right as it is, because bringing a thing to a standstill is a progressive action. (Hear, hear.)

HIS EXCELLENCY: Has anyone got any amendment to make?

THE HON. THE OFFICER COMMANDING TROOPS: Your Excellency, may I suggest the words "with all despatch" to take the place of the word "immediately".

HIS EXCELLENCY: It has been moved that the words "with all despatch" be substituted for the word "immediately".

The question was put and lost.

HIS EXCELLENCY: I will now put the amendments proposed by the Hon. the Director of Public Works.

The question was put and carried.

The Schedule.

THE RIGHT HON. LORD DELAMERE: Your Excellency, on a point of order, I wonder if it would be possible—some of us have to go away after lunch—whether it would be possible to take the Schedule now, as there does not appear to be anything very controversial in the rest of the Bill—which we have read through during intervals in these exchanges of language.

HIS EXCELLENCY: Is that in accordance with Standing Orders?

THE RIGHT HON. LORD DELAMERE: I really do not know at all, Sir; but clause by clause—does that necessarily mean consecutively, Sir?

HIS EXCELLENCY: Well, I will put your proposal, if I may. The Hon. Member for Rift Valley proposes that the Schedule be now taken.

The question was put and carried.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendments to the Schedule.

Paragraph I (1) (d).
That this paragraph be amended by the insertion of the words "or part thereof" between the word "lbs." and the word "up".

Paragraph I (2), (a).
That this paragraph be amended by the deletion of the word "they" in the second line of the paragraph and the substitution therefor of the word "it".

Paragraph I (3).
That this paragraph be deleted and the following paragraph substituted therefor:—

"(3). In addition to the rates specified in paragraphs (1) and (2) above a licence of ten shillings per passenger for each passenger which the vehicle is licensed to carry shall be paid by the owner of a public service vehicle."

Paragraph II (a).
That this paragraph be amended by the deletion of the figures "Sh. 2" and the substitution therefor of the figures "Sh. 1".

Paragraph II (b).
That this paragraph be amended by the deletion of the figures "Sh. 3" and the substitution therefor of the figures "Sh. 1/50".

Paragraph II (c).
That this paragraph be amended by the deletion of the figures "Sh. 3" and the substitution therefor of the figures "Sh. 1/50".

THE RIGHT HON. LORD DELAMERE: Now, Sir, I am not dealing with the amendments—which I could not hear—but with the original mover of the Bill, and I should like to ask the hon. Member, the down—and which everybody says has been agreed to—is put into practice in this Schedule. The principle was that the owner of a vehicle should be taxed according to the amount of damage his vehicle did to the roads. What I want to understand is this: was the sum of that taxation to pay for the damage done to the roads, or was it simply something towards it? It was to be something towards it, I understand, by the hon. Member shaking his head. If that is so, and if it is to be only something towards it, and the different taxes are to be adjusted in ratio to each other, what is the object at the present time, when we are trying to cut down the cost of living, of raising taxation on motor vehicles? It seems to me a great pity that when we are trying to cut down taxation in other ways we should add to this sort of taxation. There are two chief objects, presumably, in regard to lorries and charr-a-bancs

running either for the carriage of goods or people. One is the damage done to the roads, and the other, or might be, to prevent competition with the Railway. I understand that the method of dealing with that competition with the Railway is not going to be this at all. It will be something like this: that on any particular road on which anybody wants to run transport of goods for payment they will have to get a licence for that purpose, and it will be in the powers of the Board to prevent that licence being given if it is against the public interest by creating competition with the State Railway of the country.

With regard to the other thing, as it is not meant that money given by these charr-a-bancs or other vehicles should pay for the damage to the roads in any way—it is only to be a portion—what is the particular object of putting it up to this very high rate?

I do not myself see the object of putting anything more than a nominal tax on wagons in order to keep track of what wagons there are, so that you can get farther taxation on the narrow tyre, which, I understand, is one of the objects of the Bill, and which has, I understand, in principle been agreed to.

But I should like to know why it is necessary to raise taxation on the motor industry at the present time. I should have said myself that it was one of the chief reasons of the high cost of living in this country. The one thing which I have always found is higher in proportion than in any other country—in any comparison with salaries, and so on—is the cost of transport. You have no public utility services in transport at all—you cannot get into a bus and pay a penny—and it seems to me, Sir, that, considering that we already receive large sums of money from the motor industry, it is a great pity at the present time, when it is Government's avowed object—because they have said they are going to try and lower taxation in other directions to bring down the cost of living—to add to it by this sort of taxation.

Another thing, if at any time the Local Authorities want to add to their taxation, they can, presumably, keep the same ratio. Now with regard to vehicles doing more damage to the roads than others and so on, and in regard to light wagons, it seems to me that if you impose taxation without restriction—if you have carried out the principle laid down by the actual agreement on the second reading of the Bill—the lower it is at the present time the better, because if it is a negligible amount people will pay it readily, and you will have no difficulty in collecting it and you will have a list of these wagons, and you will be able to deal with this question of narrow tyres. I think everybody will agree. It sounds an easy thing, but in fact it is very difficult. I know lots of people—at least I used to—who do not pay their poll tax and other taxes of that sort. I see my hon. Friend the Treasurer shaking his head; he evidently thinks it is part of my business to report that; but I do not consider it is a part of my business. I think it is a scandalous fact, personally, Sir; I would like to appeal to the Government that these taxes in regard to motor vehicles should not be put up; that they should be put in ratio according to the damage done to the roads, so that we have a figure to work one when they are raised; and that, in the case of the ordinary vehicles, the registration fee should be quite a nominal one, so that a proper list can be kept of all the wagons in this country. I hope Government will further consider this question.

LIEUT.-COL. THE HON. LORD FRANCIS SCOTT: Your Excellency, while I agree with the principle of taxation of motor vehicles being in proportion to their weight, I do think that, at the same time, there should be a reduction in the petrol tax. When the petrol tax was first put on it was put on because it was considered that the best way of getting tax on oil was by taxing the motor public was by a flat-rate licence and by a flat-rate on petrol. Now, Sir, we have departed from that flat-rate principle, we have added on to the rate of licences, and have given no relief on the petrol tax.

I did bring this up at the second reading, that we have departed from the principle of taxation on motor vehicles that we agreed to in this country and without dealing with it from the aspects.

With regard to the taxation of wagons and so forth, I am very glad that the Select Committee have agreed to reduce the rates by half, but I think they are still on the high side. As the money for this is going to the District Councils, I should have thought it would be left to District Councils to put the taxation on. It has been pointed out, however, that, if that was done there would be loopholes by which certain carts and vehicles which we want to tax would escape, so that after all this is probably the wisest way of doing it.

LIEUT. COLONEL THE HON. J. O. KIRKWOOD: Your Excellency, in moving the suspension of Rule 80, subsection 3, I had in my mind the Schedule in this Bill. Like most things it is contained in the tail, and I think there can be no question that the Schedule is altogether out of proportion. What is lacking to my mind in the report of the Select Committee is a memorandum showing how they arrived at the basis of the charges which they are basing on weight. There is no relationship at all to the tyre and the weight, which to my mind is the crux of taxation on motor vehicles, and I submit that a three-inch tyre does a great deal more damage than a five-inch tyre on a much heavier vehicle.

Apart from these details, we have departed from what I thought was a principle and an idea. We proposed, probably through the Customs, to give the people relief at an early date, and yet we propose in this particular Bill to increase the taxation on motor vehicles quite out of proportion to our requirements for the finances of Nairobi.

I suggest that it would save a great deal of time if the Schedule were referred back to the Select Committee. I have asked members of the Committee this morning, what is the weight of different vehicles and they could not give me an answer.

In the last section of the Schedule, I asked them what was the weight of a sixteen-foot wagon. They did not know, and I fail to see how they could possibly arrive at a rate of taxation for that wagon, if they did not know the weight of the wagon itself. A great deal of information is required on that point to help Members who have been asked to discuss the Schedule and this Bill at five minutes' notice. The first time I saw it was when I entered this House this morning.

In view of the promise given by His Excellency not long ago that reports of this nature would be in the possession of Members at an early date and not laid on the Table when Council is sitting, I suggest that the Schedule be referred back to the Committee.

THE RIGHT HON. LORD DELAMERE: May I put a definite resolution to the Committee, or rather, an amendment to the original Bill, that we have already one amendment before this honourable Committee—that is the one put forward by the Committee themselves, who are apparently quite willing to alter their own judgment by a half. Well Sir, I propose a further alteration, which may be taken with just as much seriousness, and that is that the licence fees for motor vehicles in the aggregate of the different classes should not be more than they are to-day. This is not exactly an amendment to the Bill, Sir, because after all it is impossible for me now to work out exactly what those things are, and if Government accepts that—or if it is carried by vote—it is quite an easy thing to do. I have no objection personally to a Committee of Council altering the rate so as to provide for the licence to be calculated in a proper ratio to the damage done, provided that the aggregate collected by taxation in this manner is not increased.

In regard to the other vehicles, as we have been told by the hon. Mover of the Bill that no further cost in collection is placed on the Government by this Bill, I suggest that the licence fees should

be quite nominal—should be 25 cents in the first case, and 50 cents in the other two—simply a nominal fee for taking out a licence. We have been assured by the hon. Mover of the Bill that any extra expenditure on a Bill must be given in the introduction of that Bill. We have been assured that no extra expense will be incurred.

THE HON. DIRECTOR OF PUBLIC WORKS: On a point of explanation, Your Excellency, I said that no extra expense would be incurred on account of Clause 7 of the Bill.

THE RIGHT HON. LORD DELAMERE: Then I would like to bring up a question as to where—if there is any further expense—it has been announced, as has been laid down by resolution of this honourable Council.

HIS EXCELLENCY: What extra expense is incurred?

THE HON. THE DIRECTOR OF PUBLIC WORKS: There is one extra expense and that is the provision of a sum of £700 for a weighbridge which will be included in the Schedule for the Third Supplementary Estimates.

THE RIGHT HON. LORD DELAMERE: That is only one thing. I am bringing it up on the Schedule. Is there or is there not in the opinion of this Committee any extra expense involved in the collection of this extra taxation or not? I presume there is not as no statement has been made to that effect, Sir.

HIS EXCELLENCY: I did not quite catch your last remark.

THE RIGHT HON. LORD DELAMERE: Sir, I said I presumed there was not as no statement had been made to the effect under the rules of this honourable Council. I suggest, Sir, that if the hon. Member proposes to bring forward a Bill for which there is further expenditure involved then the suspension of Standing Orders has got to be moved. But before moving it a statement should be made as to the amount of the expense that the Bill is going to be to the Colony. It is in the Standing Rules and Orders of this House. You see, it is impossible to base an argument on anything. I want to base my argument for a nominal fee for collection on the fact that the hon. Gentleman has made no announcement whatever that there is to be extra expense involved in this Bill. If that is so, then a nominal figure is sufficient for the registration of these farm vehicles. But if that is not so—if the rules of this honourable House have been broken—then all we have been doing this morning *in ultra vires*, so far as I can see it is against the Standing Rules and Orders of this honourable House and does not count for anything. After all, Sir, these things are put in for a purpose, and I can take it as right that no further expense is intended by this Bill as no announcement to that effect has been made.

THE HON. T. A. WOON: Your Excellency, one point which has not been raised in the debate which I think most probably requires to be explained is that this particular section which refers to wagons—and I think also motor vehicles—is intended to consolidate the collection of taxes over the whole area, whether under state administration or under the administration of a local authority, and it is presumably intended to return to local authorities a reasonable proportion of the taxation which is derived from their areas. There is not any further expense as far as I understand it except refunds from revenue to be derived from these taxes to the various local authorities. On the principle of establishing this and consolidating it as a State tax I am in entire agreement. We have had a considerable amount of trouble for instance in Nairobi owing to the contention on the part of a number of people that as their vehicles came from outside they were not therefore under the jurisdiction of the local authority. I think it is an excellent move in the right direction to consolidate this in a State tax and to see that the local authorities get their fair share of this money. There is one point on which I should disagree

with the Noble Lord in what he said. I am not in agreement that the taxation of wagons and things of that description should be reduced to a nominal amount. I do not think that is feasible. A body like the Nairobi Corporation would have to continue to do damage on the roads in their areas.

THE RIGHT HON. LORD DELAMERE: On a point of order, Sir, I did not say that the taxation of motor vehicles should be brought down to a nominal figure. I said it should not be increased in the aggregate over what it is to-day.

HIS EXCELLENCY: I think the Hon. Member for Nairobi South is dealing with Part 2 of the Schedule.

THE HON. T. A. WOOD: I referred definitely to vehicles, not motor vehicles. I had previously said that I was mainly in agreement with his arguments, and I understand one of his arguments in regard to motor vehicles was that the taxation should remain at the present-day schedule, in view of the fact that the flat rate was introduced in the Colony and an additional tax on petrol. As a matter of fact, I happened to be the Member of Legislative Council who introduced the motion at the time it was introduced on behalf of the community generally, and my strong objection to this Schedule is that there is a proposal to increase the taxation on the private motor vehicle when, as has been said on numerous occasions, motor vehicles are not luxuries in this country in the absence of any form of public utility transport. At any rate you must have a motor cycle. You cannot expect that people will continue to use push-bikes under a tropical sun. A motor cycle is the least you have to provide for yourself, and I now say with reference to the motor cycle and the extent of damage it does to the roads that I cannot appreciate the proposal to charge Sh. 30 a year for a motor cycle.

How the Schedule can be dealt with at this stage I do not know. I quite realise that the Government wish to get this Bill through in order to collect taxes for next year, but at the same time it is after one o'clock. (Laughter.) I am afraid, Sir, it does seem to me that an adjournment . . .

THE RIGHT HON. LORD DELAMERE: Your Excellency, may I make a proposal, that as we are going to meet immediately after the Select Committee on the Budget is finished, the Government should reconsider the Schedule—unless they are going to push it through at the moment as it is—and bring it up on the 19th or 20th, or whenever it is the Council meets.

CAPT. THE HON. H. F. WARD: Your Excellency, I should like to hear how hon. Members expect a Committee of this hon. Council most unfortunately has not been there as often as he would have liked. What the Committee had to go on is this, that in 1927 this Schedule was before this honourable Council. That was eighteen months ago. In 1928 the Bill, early this year, was published, with the Schedule which is attached to the Bill. The Bill passed through its first and second reading and no objection was taken to that Schedule.

THE RIGHT HON. LORD DELAMERE: Question!

HIS EXCELLENCY: Order, please.

CAPT. THE HON. H. F. WARD: The next thing which happened was that the Select Committee referred this question to all the District Councils throughout the country—especially the question in regard to wagons—and the only alteration in the Schedule is in fact a reduction in the case of wagons, which was at the suggestion of District Councils. I do submit, Sir, that it is quite impossible for a Select Committee to operate at all if new ideas are put out after full publicity.

THE RIGHT HON. LORD DELAMERE: I entirely agree that after Council has passed the second reading that the main principles of the Bill would by that means become more or less fixed. But nothing would make me agree that the Bill after the second reading is thereby made absolute—by the passing of the second reading.

LIEUT.-COLONEL THE HON. LORD FRANCIS SCOTT: As far as I am concerned I raised the same points on second reading that I have raised to-day.

HIS EXCELLENCY: It seems to me that the question of whether motor licenses should be put on a flat rate does go to the principle of the Bill, but I have allowed a certain amount of discussion to take place on it.

THE RIGHT HON. LORD DELAMERE: On a point of explanation, Sir, might I say that I never proposed a flat rate. I proposed that the ratio should remain the same as it is in this Bill but that the aggregate amount should not be more than it is to-day.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I do not think it can be held by hon. Members that the question of the raising of taxation on motor vehicles has not received full ventilation in the House. The third report of the Roads and Traffic Committee was laid on the Table of Legislative Council at the August Session, and the Bill which was recommended to Government was also introduced at that Session. The Committee's report distinctly said that the scale of fees for motor vehicles therein proposed was practically the same as that in force in Natal, and corresponded closely with those in force in the Cape Province and in Nigeria.

Then again the matter was dealt with in debates on the second reading. I stated myself, when moving the motion for second reading, that the basis of taxation for motor vehicles was based on tare weight instead of horse-power and that the general effect would be that the fees payable on the heavier vehicles would be considerably increased and that lighter vehicles would be slightly increased. That was referred to on several occasions during the debate.

Of course, it is a matter of opinion as to what the rates should be on these vehicles, but what I do maintain is that the proposals in this respect were before the public for a long time and the Select Committee received no criticisms whatever regarding the scale of fees which was proposed for motor vehicles. If I may I will quote from the speech of the Hon. Member for Plateau South during the debate on the second reading. I quote as follows:—

"I think it is essential, Sir, that to provide the money that is necessary to an increasing extent for a road policy we should not alone alter the taxation but that we should also retain the petrol tax. I say that in the full knowledge of its unpopularity."

Also, in another part of his speech, he again defended the increased taxation of motor vehicles.

With regard to the question raised by the Noble Lord, the Member for Rift Valley, subject to Your Excellency's ruling, I think the Standing Order which relates to this matter—which relates to the submission to the Council of a statement of the cost which will be involved by the administration of a particular Bill—relates to direct cost. It is not proposed to appoint any new officers for the purpose of administering this Bill. I have cited one case which will involve additional expenditure. No other direct expenditure is likely to be incurred, but, as in the case of all Ordinances, the time of certain officers of Government will be taken up to a greater extent. But I cannot see that it is the intention of Standing Orders that a statement to cover that is wanted.

HIS EXCELLENCY: Might I ask the Hon. Director for Public Works whether the tare weights of motor vehicles are known.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Yes, Sir, I have been the average tare weights of these vehicles.

HIS EXCELLENCY: So that the supply of a weighbridge is only required occasionally.

THE HON. THE DIRECTOR OF PUBLIC WORKS: It is only required for cars of exceptional type, Sir. In consequence we propose putting this weighbridge near the Central Registry.

HIS EXCELLENCY: The first motion I have to deal with is that of the Hon. Member for Trans Nzoia—that the Schedule be referred back to a Select Committee. The Select Committee have dealt with it very fully. They have had two opportunities of reading the Bill and they still remain of the opinion that it should remain as it is. The question was put and lost.

HIS EXCELLENCY: The next motion stands in the name of the Noble Lord, the Member for Rift Valley, but it is in such an inchoate form that it is rather difficult to deal with it. The motion put by the Noble Lord is that the licence fees on motor vehicles in the aggregate of different classes should not be more than they are to-day. I will put that motion as it stands.

The question was put and lost.

HIS EXCELLENCY: The next motion moved by the Noble Lord is that the licence fees on vehicles, other than motor vehicles, shall be nominal only, viz.: 25 Cents on Class A, and 50 Cents on Classes B and C.

The question was put and lost.

HIS EXCELLENCY: The next motion I have to put is that the amendments proposed by the Hon. the Director of Public Works form part of the Bill.

The question was put and carried.

The Council adjourned till 3 p.m.

AFTERNOON SESSION.

Clause 36.—Power to regulate traffic.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the deletion of the words: "The Governor in Council may by Rules," which occur in line 37, and the substitution thereof of the following words: "The Governor may by Order."

THE HON. T. A. WOOD: Your Excellency, may I point out that before the adjournment we passed the Schedule, but there is one definite consequential amendment necessary in section 1, sub-section (d). At a previous stage we altered the tare weight of the vehicle and therefore that must be altered to come into line with it.

HIS EXCELLENCY: That was Clause 5, and the consequential amendment is in (d). Clause 5 now reads:—

"No licence shall, except with the consent in writing of the road authority and subject to such conditions, if any, as the road authority may impose, be granted to any vehicle the tare weight whereof exceed four-and-one-half tons or which has metal tyres fitted with spuds, angle irons, spikes, or any similar device."

THE HON. T. A. WOOD: That is 10,080 lbs., and the Schedule stands at 15,080 lbs.

HIS EXCELLENCY: The motion is that Clause 1 (d) in the first part of the Schedule be amended by the substitution of 10,080 lbs. for 15,080 lbs.

LIEUT.-COLONEL THE HON. J. G. KIRKWOOD: On a point of order—we are dealing with the Schedule—may I move that it be referred back to the Committee?

HIS EXCELLENCY: I am afraid that is out of order. The Schedule has now been passed.

LIEUT.-COLONEL THE HON. J. G. KIRKWOOD: I understand we are considering one section of the Schedule.

HIS EXCELLENCY: We are considering one consequential amendment of the Schedule, that is all.

The motion is that Clause 1 (d) in the first part of the Schedule be amended by the substitution of 10,080 lbs. for 15,080 lbs.

The question was carried.

HIS EXCELLENCY: The motion is that the amendment proposed by the Hon. the Director of Public Works be adopted.

The question was carried.

Clause 37.—Power of police to detain vehicles.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I beg to move that this clause be amended by the deletion of the words "is found using" which occur in line 40, and the substitution of the word "uses" therefor.

THE HON. T. A. WOOD: Your Excellency, I did not have the advantage of discussing this clause, not being a member of the Select Committee, but I would like to point out what I see may happen in practice. I should not have thought it was the intention of Government to cause every vehicle that happens to contravene the regulations in any way to be taken to the police station and the person driving the vehicle to have his time wasted. I should have thought that only in exceptional cases should such a clause as this be required. I do not like its general application in the form in which it is in the Bill myself. I would suggest for reconsideration some modification. It rather indicates that every vehicle must be taken to a police station, whereas one can take the name in many cases of the person driving the vehicle.

HIS EXCELLENCY: I think it is permissive. It is not mandatory so far as I understand it.

THE HON. T. A. WOOD: Well, Sir, I shall bow to your ruling in the matter. You know more about it than I do. If it is merely permissive perhaps we are more harmless than I thought.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, the clause here is now almost the same as in section 19 of the Motor Traffic Ordinance, and I am not aware that this gave rise to any trouble.

HIS EXCELLENCY: Perhaps you will read section 19.

THE HON. THE DIRECTOR OF PUBLIC WORKS (reading):—

"Where any person is found using any motor car in contravention of any of the provisions of this Ordinance, or of any Rule made thereunder, it shall be lawful for any member of the police force to take the motor car and any carriage attached thereto, or cause the same to be taken to any police station or other place of safety, there to be detained until the motor car and its driver can be identified."

HIS EXCELLENCY: I do not think in practice that the provision has given rise to any inconvenience.

LIEUT.-COLONEL THE HON. C. G. DURHAM: It seems to be a good thing in the case of a native who cannot tell his master's name.

THE HON. T. A. WOOD: If I may say so, the reading of the original clause clearly shows the difference between the two. It indicates that this practice is to be followed for the purpose of identification. This does not—it is quite open.

HIS EXCELLENCY: The end of this clause is "until such enquiries have been made by the police as they may think necessary in the circumstances of the case". Do you propose any amendment?

THE HON. T. A. WOOD: No, Sir.

HIS EXCELLENCY: The question is that the amendment proposed by the Hon. the Director of Public Works be adopted.

The question was carried.

Clause 40.—Obstruction and damage to roads.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendments:—

Paragraph (a): That this paragraph be amended by the deletion of the words "planting any tree or shrub thereon", which occur in line 20, and the substitution thereof of the following: "by digging thereon, or by planting or sowing any tree, shrub or seeds thereon".

Paragraph (d): That this paragraph be amended by the insertion of the word "wilfully" before the word "fills", which occurs in line 23.

Paragraph (e): That this paragraph be amended by the deletion of the words "water, tailings, or", which occur in line 32.

Paragraph (h): That a new paragraph (to be lettered (h)) be inserted after paragraph 40 (g) to read as follows: "(h) Pitches any tent, booth or stall".

HIS EXCELLENCY: The question is that the amendments proposed by the Hon. the Director of Public Works be inserted.

The question was carried.

Clause 41.—Nuisance on roads.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendments to this clause:—

Paragraph (a): That this paragraph be amended by the deletion of the word "or", which occurs in line 48 and that the words "or lead" be inserted between the word "drive" and the word "any" which occur in the same line.

Paragraph (c): That this paragraph be deleted and the remaining paragraphs be re-lettered accordingly.

Old paragraph 41 (f); New paragraph 41 (e): That this paragraph be amended by the deletion of the word "full" which occurs in line 7 and the substitution thereof of the word "reasonable".

HIS EXCELLENCY: The motion is that the amendments proposed by the Hon. the Director of Public Works be inserted.

The motion was carried.

Clause 42.—Duty in case of breakdown.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendment:—

Paragraph (c): That this paragraph be amended by the insertion of the words "or lights visible to the drivers of vehicles approaching" "shall" which occur in line 44, and the words "the hours of 6.15 p.m. and 5.45 a.m." which occur in line 45, and the substitution thereof of the words "the hours of 6.45 p.m. and 6.15 a.m."

LIEUT.-COLONEL THE HON. C. G. DURHAM: Your Excellency, I should like to move a small amendment to this. It seems to me that you might have a small breakdown some miles away when you cannot get a light. You might have an amendment to read: "or take such other precaution for safeguarding any other traffic." A man might find himself in a position of not being able to place any light on his vehicle.

THE HON. CONWAY HARVEY: Sir, is it not a fact that the Courts would take into consideration any abnormal factor, and would not it be well to lay this down as the general procedure to be followed?

THE HON. T. A. WOOD: Your Excellency, unless I am misreading it, I do not agree with the interpretation put on it by the Hon. Member for Kiambu. It should be read that if it is not possible to remove the vehicle it should be placed on the side of the road. I think the road means the travelled portion of the road. If you remove the vehicle to the side, off the travelled portion, you do not need a light.

HIS EXCELLENCY: Does not that rather imply that it is part of the road, and not off the road.

LIEUT.-COLONEL THE HON. C. G. DURHAM: I would like to point out that a man might get caught out in a culvert where he cannot get off the road. The width is only 10 feet, and unless you can lift your vehicle 9 feet you cannot get from that bit of the road.

CAPT. THE HON. E. M. V. KENYALY: May I suggest a minor amendment in Clause 42 (a): "coming from the opposite direction" instead of "coming in the opposite direction"?

THE HON. THE DIRECTOR OF PUBLIC WORKS: That amendment is desirable, Your Excellency.

HIS EXCELLENCY: Are there any more amendments proposed? Does anyone wish to move an amendment with regard to the last part of sub-clause (c)?

Then I put the amendment proposed by the Hon. Member for Kenya, that for the word "in" we substitute the word "from" in sub-clause (a).

The question was carried.

HIS EXCELLENCY: I put the further question, that the amendment proposed by the Hon. the Director of Public Works be inserted in the clause.

The question was carried.

Clause 43.—Suspension of certificate of competency.

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, with regard to 43 (2), should not proof of having received the certificate, in the event of failure to produce such certificate, be accepted?

HIS EXCELLENCY: I do not quite follow you.

CAPT. THE HON. E. M. V. KENYALY: In the second line, the person convicted, if he holds a certificate of competence, and if he has not that certificate, would not it be sufficient if he produced to the Court proof of having received it?

THE HON. CONWAY HARVEY: I think that provision exists earlier in the Bill by which duplicates can be obtained on payment of Sh. 2. I think if a man loses a certificate he ought to get a duplicate.

THE HON. T. A. WOOD: Your Excellency, I think there is another point involved. If the certificate itself is not produced, how can you endorse it?

HIS EXCELLENCY: Do you wish to press that?

THE HON. T. A. WOOD: If I may say so, the reading of the original clause clearly shows the difference between the two. It indicates that this practice is to be followed for the purpose of identification. This does not—it is quite open.

HIS EXCELLENCY: The end of this clause is: "until such enquiries have been made by the police as they may think necessary in the circumstances of the case". Do you propose any amendment?

THE HON. T. A. WOOD: No, Sir.

HIS EXCELLENCY: The question is that the amendment proposed by the Hon. the Director of Public Works be adopted.

The question was carried.

Clause 40.—Obstruction and damage to roads.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendments:—

Paragraph (a): That this paragraph be amended by the deletion of the words "planting any tree or shrub thereon", which occur in line 20, and the substitution thereof of the following: "by digging thereon, or by planting or sowing any tree, shrub or seeds thereon".

Paragraph (d): That this paragraph be amended by the insertion of the word "wilfully" before the word "fills," which occurs in line 28.

Paragraph (e): That this paragraph be amended by the deletion of the words "water, tailings, or," which occur in line 32.

Paragraph (A): That a new paragraph (to be lettered (A)) be inserted after paragraph 40 (g) to read as follows: "(A) Pitches any tent, booth or stall".

HIS EXCELLENCY: The question is that the amendments proposed by the Hon. the Director of Public Works be inserted.

The question was carried.

Clause 41.—Nuisance on roads.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendments to this clause:—

Paragraph (a): That this paragraph be amended by the deletion of the word "or" which occurs in line 48 and that the words "or load" be inserted between the word "drive" and the word "any" which occur in the same line.

Paragraph (c): That this paragraph be deleted and the remaining paragraphs be re-lettered accordingly.

Old paragraph 41 (f); New paragraph 41 (e): That this paragraph be amended by the deletion of the word "full" which occurs in line 7 and the substitution thereof of the word "reasonable".

HIS EXCELLENCY: The motion is that the amendments proposed by the Hon. the Director of Public Works be inserted.

The motion was carried.

Clause 42.—Duty in case of breakdown.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the following amendment:—

Paragraph (c): That this paragraph be amended by the insertion of the words "or lights visible to the drivers of vehicles approaching from either direction" between the word "lights" and the word "shall" which occur in line 44, and by the deletion of the words "the hours of 6.15 p.m. and 5.45 a.m." which occur in line 45, and the substitution thereof of the words "the hours of 6.45 p.m. and 6.15 a.m."

LIEUT.-COLONEL THE HON. C. G. DURHAM: Your Excellency, I should like to move a small amendment to this. It seems to me that you might have a small breakdown some miles away. It may when you cannot get a light. You might have an amendment to read: "or take such other precaution for safeguarding any other traffic". A man might find himself in a position of not being able to place any light on his vehicle.

THE HON. CONWAY HARVEY: Sir, is it not a fact that the Courts would take into consideration any abnormal factor, and would not it be well to lay this down as the general procedure to be followed?

THE HON. T. A. WOOD: Your Excellency, unless I am misreading it, I do not agree with the interpretation put on it by the Hon. Member for Kiambu. It should be read that if it is not possible to remove the vehicle it should be placed on the side of the road. I think the road means the travelled portion of the road. If you remove the vehicle to the side, off the travelled portion, you do not need a light.

HIS EXCELLENCY: Does not that rather imply that it is part of the road, and not off the road.

LIEUT.-COLONEL THE HON. C. G. DURHAM: I would like to point out that a man might get caught out in a culvert where he cannot get off the road. The width is only 10 feet, and unless you can lift your vehicle 9 feet you cannot get from that bit of the road.

CAPT. THE HON. E. M. V. KENEALY: May I suggest a minor amendment in Clause 42 (a): "coming from the opposite direction" instead of "coming in the opposite direction".

THE HON. THE DIRECTOR OF PUBLIC WORKS: That amendment is desirable, Your Excellency.

HIS EXCELLENCY: Are there any more amendments proposed? Does anyone wish to move an amendment with regard to the last part of sub-clause (c)?

Then I put the amendment proposed by the Hon. Member for Kenya, that for the word "in" we substitute the word "from" in sub-clause (a).

The question was carried.

HIS EXCELLENCY: I put the further question, that the amendment proposed by the Hon. the Director of Public Works be inserted in the clause.

The question was carried.

Clause 45.—Suspension of certificate of competency.

CAPTAIN THE HON. E. M. V. KENEALY: Your Excellency, with regard to 45 (2), should not proof of having received the certificate, in the event of failure to produce such certificate, be accepted.

HIS EXCELLENCY: I do not quite follow you.

CAPT. THE HON. E. M. V. KENEALY: In the second line, the person convicted, if he holds a certificate of competency, and if he has not that certificate, would not it be sufficient if he produced to the Court proof of having received it?

THE HON. CONWAY HARVEY: I think that provision exists earlier in the Bill by which duplicates can be obtained on payment of Sh. 2. I think if a man loses a certificate he ought to get a duplicate.

THE HON. T. A. WOOD: Your Excellency, I think there is another point involved. If the certificate itself is not produced, how can you endorse it?

HIS EXCELLENCY: Do you wish to press that?

7th December, 1928

CAPT. THE HON. E. M. V. KENYALY: No, Sir.

HIS EXCELLENCY: The question is that Clause 45 stand part of the Bill.
Carried.

Clause 47.—Jurisdiction of Courts.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this Clause be amended by the deletion of the word "triable" which occurs in line 26, and the substitution thereof of the word "tried".

The question was put and carried.

Clause 48.—Power to make Rules.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move:—

Paragraph (A): That this paragraph be amended by the insertion of the words "or use" between the word "driving" and the word "of" which occur in line 18.

Paragraph (G): That this paragraph be amended by the deletion of the words "for certificates of competency and" which occur in lines 24 and 25.

Paragraph (H): That this paragraph be amended by the insertion of the words "or used" between the word "driven" and the word "either" which occur in lines 31 and 32.

Paragraph (O): That this paragraph be amended by the insertion of the words "method and circumstances of use" between the word "nature" and the word "and" which occur in line 40.

Paragraph (r): That this paragraph be deleted and the following paragraph substituted therefor:—

"(r) Prohibiting any practice which may lead to the obstruction of or damage to roads."

Paragraph (t): That this paragraph be amended by the deletion of the words "neighbouring territories" which occur in line 53 and the substitution thereof of the words "other territories in Africa."

Paragraph (y): That this paragraph be amended by the insertion of the words "and of trailers" between the word "vehicles" and the word "on" which occur in line 13.

CAPTAIN THE HON. E. M. V. KENYALY: Your Excellency, may I suggest another minor amendment in the 11th line in (b)—the substitution of the word "in" for the word "on".

THE HON. CONWAY HARVEY: Your Excellency, there is one other general amendment on which I should welcome an expression of opinion from the Hon. Director of Public Works, and that is, whether, Sir, in the first line of Clause 49 you should not introduce the words "The Governor in Council after reference to the Central Road and Traffic Board". I know that was discussed at one of the earlier meetings, Your Excellency, but I think that if a Central Road and Traffic Board is to be set up that body should be consulted in regard to any Rules under this legislation.

THE HON. THE DIRECTOR OF PUBLIC WORKS: The position is that the Central Road and Traffic Board has not yet been established. There is a draft of a Bill which has been recommended by the Roads and Traffic Committee in connection with the subject of competition between road and railway, and that involves the setting up of a Board. It seems to me that it is improper in this Bill—which is now recommended to be passed—to make provision for the submission of any particular point to a Board which is not actually in existence, and it is thought that the Government will consider the position when the Board does come into existence.

THE HON. CONWAY HARVEY: Of course my hon. Friend, as usual, is perfectly right. I was again exceeding the speed limit.

HIS EXCELLENCY: I take it you withdraw your amendment?

THE HON. CONWAY HARVEY: I do, Sir.

HIS EXCELLENCY: I take the amendment of the Hon. Member for Kenya, the substitution of the word "in" for "on" in sub-clause (b). The question was put and carried.

HIS EXCELLENCY: The question is that the amendments proposed by the Hon. the Director of Public Works be inserted in the clause. The question was carried.

Clause 50.—Repeal of Motor Traffic Ordinance.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that this clause be amended by the insertion of the word "or" between the word "orders" and the word "notices" which occur in line 22, and by the deletion of the words "or licences" which occur in the same line, and by the insertion of the words "orders or notices" between the word "Rules" and the word "made" which occur in line 23.

The question was put and carried.

Title.

HIS EXCELLENCY: Title.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I beg to move that the title be amended by the addition of the words "used thereon". The question was put and carried.

THE HON. THE DIRECTOR OF PUBLIC WORKS: I beg to move, Your Excellency, that the Bill, as amended, be reported to Council.

HIS EXCELLENCY: The motion is that the Bill, as amended, be reported to the Council.

The motion was carried.

Council resumed its sitting.

THIRD READING.

HIS EXCELLENCY: I have to report to Council that the report of the Select Committee on the Traffic Bill has been considered in Committee of the whole Council and has been returned with certain amendments.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move the adoption of the report as amended of the Select Committee appointed to consider and report upon the provisions of the Traffic Bill.

HIS EXCELLENCY: The motion is that proposed by the Hon. the Director of Public Works.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I beg to move the rejection of the motion.

HIS EXCELLENCY: I do not think it is necessary to move the rejection, is it?

LIEUT.-COL. THE HON. J. G. KIRKWOOD: I am moving the rejection of this Bill on its third reading.

THE HON. CONWAY HARVEY: That comes later.

HIS EXCELLENCY: The motion is as put. Will those in favour say "aye."

The motion was carried.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I beg to move that the Bill to Provide for the Control of Traffic on Roads and for the Licensing and Taxation of Vehicles used thereon be read a third time and passed.

THE HON. J. E. S. MERRICK: I beg to second.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I beg to move the rejection of the Bill. In doing so I just wish to point out that it was at the opening of this session that His Excellency stressed the importance of a reduction in the incidence of taxation in this country, and it is passing strange that the very first Bill that comes before this Council is the direct means of increasing taxation. It also occurs to me that it is a rather peculiar coincidence that Your Excellency is Chairman of a Commission appointed to inquire into the incidence of the cost of living, and this very Bill—the first Bill to be passed with Your Excellency in the Chair of this House—is going to increase that taxation which it is so much desired by everybody should be reduced. Just how Government reconcile these facts it is most difficult for me to understand, and I am perfectly certain that the passing of this Bill will create a situation in this country—or I hope it will—that will compel the whole of the Members on this side of the House to resign. We have been represented by three of our Members, and I have no hesitation in saying that they are to a great extent responsible for the incident which happened here to-day. I have no doubt they will do their best when they meet their constituents at an early date to explain their side of the question, and it will be very interesting to watch the reports of those meetings and the action their constituents will take in this matter. I hope it will be a very decisive one and a lesson for Elected Members. As it happens, the only brake the country has is the voter—those who take the trouble to elect Members to his Council—and I hope the voter will use the constitutional power that he has.

HIS EXCELLENCY: Does anyone support the motion?

LIEUT.-COL. THE HON. C. G. DURHAM: I support the motion. Although I do not feel as scared of the country's opinion as my hon. Friend on my right, Sir, I do submit that Government is wrong when it suggests that it should spend some £75,000 in reducing the cost of living, and that it should immediately, with the other hand, raise it here. I think, Sir, that we might well leave out the private motor vehicles in these taxes. One must admit that without motor vehicles people cannot get about the country, and, as my Noble Lord said to-day, they are an absolute necessity and are in no sense a luxury. To my mind a lot of people, who even now find it very hard to run cars owing to the cost of petrol, will find it harder still to pay these extra taxes. We do not really know to-day—at least I don't—just how much that tax is going to be, but it does seem to me that certain vehicles are going to be raised 50 per cent. I submit, Sir, that Government should reconsider this question of taxing private motor vehicles.

CAPTAIN THE HON. E. M. V. KENEALY: It seems rather strange, Your Excellency, at this stage of the proceedings, having agreed to the principle of the Bill in the second reading, that Members on this side of the House should be permitted to raise fundamental questions of principle underlying this legislation. If Members do not attend to voice their point of view that point of view can hardly be considered now.

LIEUT.-COL. THE HON. C. G. DURHAM: On a point of order, I was not there in time.

CAPTAIN THE HON. E. M. V. KENEALY: On this side of the House we are not concerned with the vagaries which prevent or which enable a Member to attend. If the Member was not there we can only assume that he was not there because he did not desire to be there. But on this side of the House we have already agreed to the allocation and the appropriation of the funds under this scheme, and I suggest it is rather farcical to agree to spend money and then to oppose the methods by which that money is to be raised.

THE HON. T. A. WOOD: Your Excellency, I want to propose an amendment—which I think puts the matter more in order—to this effect: That the Bill be recommitted for the purpose of altering the sum of £4 in the Schedule (paragraph 1, subsection (c)) to £3.

I think, Sir, that if that were agreed to by the House it would do away entirely with the opposition which I know exists in the minds of a large number of people. I am not concerned with the latest statement of the Hon. Member for

Kenya that the money has been already allocated. That is quite impossible, because it can be only a matter of estimate. Neither the Government nor anybody else knows exactly what revenue is going to be derived from this, I am perfectly certain, so I do not value the statement that we must stick to the amount because we have already voted the money. We have voted certain estimates of revenue and certain estimates of expenditure. I am firmly convinced that we have no right to complain on the one hand of the cost of living, and, on the other hand, to deliberately add to that cost of living in this particular direction. The net result of adopting my proposal would be a rough drop of 25 per cent, calculated on the original basis of the tax. It would not affect the extras to be added to it in regard to the increased weight over a certain minimum. A very heavy car would probably pay a little more than it does to-day, and I should imagine an ordinary weight car would pay just about the same. I would beg support for my amendment to that effect. It makes a very straight cut, and puts the thing in a nutshell, in my opinion, and does away with all the criticism that I have heard against this proposal other than the criticism in regard to the ordinary type of road vehicle.

LIEUT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, if I may I would like to withdraw my motion and support the motion put by the Member for Nairobi North. It does seem to me that he has found, partially, at least, a solution of the question, and I submit that if that were accepted as a motion and agreed to by Government we shall have achieved what I think most of us desire—that is, a flat taxation on motor vehicles. Before sitting down I would like to make it clear that I am quite in accord with the principle of taxation. It is a question of detail only.

As regards the hon. Member who spoke previously on the principle of the Bill being accepted, the principle has always been accepted, but not the detail, and it was not, I submit, until this morning that these details have been put before the House for criticism. I hope Your Excellency will be able to accept the motion now before the House.

THE HON. THE DIRECTOR OF PUBLIC WORKS: Your Excellency, I would like to support the amendment which the hon. Member has just moved that this Bill be recommitted on this point, that £4 be reduced to £3 in the Schedule. I think, in view of the criticisms which have recently come forward—at the eleventh hour—it might be desirable to give further consideration to that particular detail.

THE HON. THE TREASURER (MR. R. C. GRANNUM): I would just like to point out to the House that a Committee on the Estimates has taken into consideration an increase of revenue, and if the amendment moved is carried they will have to consider how that Budget is to be balanced by a sum of £9,000.

HIS EXCELLENCY: The question is:—

“That the Bill be recommitted for the purpose of considering an amendment to the Schedule.”

THE HON. THE POSTMASTER GENERAL (MR. T. FITZGERALD): Your Excellency, before the question is put may I ask if there might be a free vote on this matter?

HIS EXCELLENCY: Yes, I think there might be a free vote.

THE HON. CONWAY HARVEY: In that case I sincerely trust that Members will not support the proposal for a recommitment. As has been so clearly stated, the Members of the Select Committee who were charged with the responsibility for this report went most thoroughly into the question. They consulted legislation in other countries and they took evidence from anyone who was prepared to give it. All and sundry had ample opportunity of expressing their views over a period extending for nearly four years, and it was only three months ago, Sir, that the principle was agreed to, the schedule being published at the second reading of the Bill in Mombasa. On the strength of that the Government quite rightly framed its Budget, as my hon. Friend has said, and the money has been expended, on road construction and maintenance very largely. The allocation of this money will be very seriously prejudiced if any interference now at the eleventh hour is made with the estimated revenue. I do suggest, Sir, that the Select Committee can come to no conclusion other than the one they have already arrived at after the most careful possible consideration of every factor influencing the position in any way.

LIEUT.-COL. THE HON. C. G. DURHAM: Can I ask a question, Sir?

HIS EXCELLENCY: You cannot ask questions at this stage.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, as the amendment has been proposed by the Member for Nairobi North I may, perhaps, point out the effect on municipal finance which any change in the tariffs

in this Bill will have. When the Local Government (Municipalities) Bill was first drafted and presented to Council it contained a clause which was founded on one of the recommendations of the Commission, and that was that one-half of the revenue from motor taxation should be handed over to the municipalities on the condition that municipal motor taxes were imposed to realise 50 per cent. of that revenue. When it became apparent that the tariff charges under this Ordinance involved an increase in motor taxation that condition was not in accordance with the Government's consent, and it no longer formed part of that Ordinance. We have therefore provided, not only in the Colony's estimates, but we have also notified the municipalities of Nairobi and Mombasa that they can count, in framing their Budgets, on a contribution from Government equivalent to two-thirds of the revenue derived from the Bill. If these tariff rates are not maintained the contribution automatically decreases, and the balance will have to be made up, presumably, either by an increase of local rates or by an increase in the efficiency of the services.

THE HON. THE POSTMASTER GENERAL: Your Excellency, you have been good enough to allow a free vote on this question. I would appeal to hon. Members to vote against the motion for recommitment. I cannot conceive of any measure having received more careful consideration by various bodies and over a long period than this measure has received. It seems to me that if we cannot at this stage reach finality, it is hardly possible to conceive any set of conditions under which we can reach finality.

HIS EXCELLENCY: The question is —
That the Bill be recommitted.

The question was put and lost.

THE HON. J. G. KIRKWOOD: Divide.

Agree: Col. Durham, Lieut.-Col. Kirkwood, Mr. Sikes, Mr. Wood.

Oppose: Messrs. Baker, Biss, Bruce, Dobbs, Col. Doherty, Dr. O'Shea, Col. Wilkinson, Capt. Kenealy, Messrs. E. Keenly, Grannum, Harvey, Hemstead, Logan, Mr. Kirby, Merrick.

HIS EXCELLENCY: The question is:—

That the Bill be read a third time and passed.

The question was put and carried.

The Bill was read a third time and passed.

COMMITTEE STAGES.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this Council do resolve itself into a Committee of the whole Council for the purpose of considering clause by clause the following Bills:

The Trading with the Enemy Ordinances (Repeal) Bill.

The Widows' and Orphans' Pensions (Amendment) Bill.

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

The British and Colonial Probates (Amendment) Bill.

HIS EXCELLENCY: The question is —

That the Bills be referred to a committee of the whole House.

The question was put and carried.

In Committee.

THE TRADING WITH THE ENEMY ORDINANCES (REPEAL) BILL.
The Bill was considered clause by clause.

THE WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.
The Bill was considered clause by clause.

THE ASIATIC WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT) BILL.
The Bill was considered clause by clause.

THE BRITISH AND COLONIAL PROBATES (AMENDMENT) BILL.
The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: I beg to move that all the above Bills be reported to Council without amendments.

HIS EXCELLENCY: The question is that the Bills be reported to Council without amendments.
The question was carried.

Council resumed its sitting.

HIS EXCELLENCY: The Trading with the Enemy Ordinances (Repeal) Bill; the Widows' and Orphans' Pensions (Amendment) Bill; the Asiatic Widows and Orphans' Pensions (Amendment) Bill; and the British and Colonial Probates (Amendment) Bill have been considered in Committee of the whole House and are reported to Council unamended.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to give notice that at a later stage of this session I shall move the third reading of these Bills.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to give notice that at a later stage of this session I shall move the third reading of the Public Health (Division of Lands) Bill.

The Council adjourned.

KENYA GOVERNMENT ARCHIVES

PHOTOGRAPHIC SERVICE

SECTION 7.

CONTINUED ON

REEL No.

.....**4**.....

KENYA GOVERNMENT ARCHIVES
PHOTOGRAPHIC SERVICE

SECTION 7.

END

OF REEL NO. 3