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Description of Document LEGISLATIVE COUNCIL DEBATES VOL. I.

Covering Dates 29th March, 1933 to 26th June, 1933.

Reference No. From Central Government Library.

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CHIEF NATIVE COMMISSIONER.

COLONY AND PROTECTORATE OF KENYA



LEGISLATIVE COUNCIL
DEBATES, 1933

VOLUME I

NAIROBI
PRINTED BY THE GOVERNMENT PRINTER
1933

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List of Members of Legislative Council, 29th March, 1933

President:

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

Ex-officio Members:

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

Nominated Official Members:

HON. T. D. H. BRUCE (Solicitor General).
HON. H. R. MONTGOMERY (Provincial Commissioner, Nyanza).
COL. THE HON. R. WILKINSON, D.S.O. (Officer Commanding Northern
Brigade, K.A.R.).
HON. E. B. HORNE, O.B.E. (Provincial Commissioner, Kikuyu).
MAJOR THE HON. H. H. BRASSEY-EDWARDS (Chief Veterinary Officer).
HON. S. F. DECK (Provincial Commissioner, Naia).
HON. LL. A. FRILD-JONES (Provincial Commissioner, Coast).
HON. H. M. GARDNER (Conservator of Forests, (a)).
HON. H. E. WELBY (Provincial Commissioner, Rift Valley) (Acting). (b)

European Elected Members:

	<i>Electorate Area</i>
CAPT. THE HON. H. E. SCHWARTZ	Nairobi South.
HON. CONWAY HARVEY	Lake.
HON. T. J. O'SHEA	Plateau South.
MAJOR THE HON. R. W. B. ROBERTSON-ELSTACE, D.S.O.	Coast.
LT.-COL. THE HON. C. G. DEWHAM, D.S.O.	Kikuyu.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.	Plateau North.
CAPT. THE HON. H. F. WARD	Nairobi North.
HON. F. A. BEMISTER	Mombasa.
CAPT. THE HON. J. L. COTTER, M.C.	Kenya.
MAJOR THE HON. SIR ROBERT SHAW, BART., M.C. (Acting) (c)	A'kamba.
HON. E. H. WRIGHT (Acting) (d)	Rift Valley.

(a) Temporary Member, in place of Mr. T. Fitzgerald, O.B.E.
(b) " " " Lt.-Col. D. F. Wainina, C.B.E., D.S.O.
(c) " " " Major J. O. K. Delp
(d) " " " Lt.-Col. Lord Francis Scott, D.S.O.

LIST OF MEMBERS OF LEGISLATIVE COUNCIL—(Contd.)

Indian Elected Members:

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

Arab Elected Member:

HON. SHERIFF ABDULLA BIN SALIM.

Nominated Member Representing the Interests of the African Community:

REV. CANON THE HON. G. BURNS, O.B.E.

Acting Clerk of the Legislative Council:

MR. H. E. BADER.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS

29th March, 1933.

HON. T. D. H. BRUCE.
HON. LL. A. FEILD-JONES.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

30th March, 1933.

CAPT. THE HON. H. E. SCHWARTZ.
HON. E. H. WRIGHT.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

31st March, 1933.

HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

3rd April, 1933.

HON. DIRECTOR OF PUBLIC WORKS.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

4th April, 1933.

HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

5th April, 1933.

HON. TREASURER.
HON. E. B. HORNE, O.B.E.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

10th April, 1933.

MAJOR THE HON. H. H. BRASSEY-EDWARDS.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

11th April, 1933.

HON. DIRECTOR OF AGRICULTURE.
MAJOR THE HON. H. H. BRASSEY-EDWARDS.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

12th April, 1933.

HON. DIRECTOR OF PUBLIC WORKS.
MAJOR THE HON. H. H. BRASSEY-EDWARDS.
CAPT. THE HON. H. E. SCHWARTZ.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

ABSENTEES FROM LEGISLATIVE COUNCIL MEETINGS—(Contd.)

13th April, 1933.

HON. DIRECTOR OF AGRICULTURE.
HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.
HON. DIRECTOR OF PUBLIC WORKS.
MAJOR THE HON. H. H. BRASSEY-EDWARDS.
HON. S. F. DECK.
HON. H. E. WELBY.
CAPT. THE HON. H. E. SCHWARTZ.
HON. CONWAY HARVEY.
LT.-COL. THE HON. C. G. DURHAM, D.S.O.
LT.-COL. THE HON. J. G. KIRKWOOD, C.M.G., D.S.O.
HON. E. H. WRIGHT.
MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE, D.S.O.
CAPT. THE HON. H. F. WARD.
HON. F. A. HEMISTER.
CAPT. THE HON. J. I. COTTER, M.C.
MAJOR THE HON. SIR ROBERT SHAW, BT., M.C.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

24th April, 1933.

HON. GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS.
HON. COMMISSIONER OF CUSTOMS.
HON. H. R. MONTGOMERY,
HON. E. B. HORNE, O.B.E.
HON. LL. A. FEILD-JONES.
HON. S. F. DECK.
HON. H. E. WELBY.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

3rd May, 1933.

HON. DIRECTOR OF EDUCATION.
HON. COMMISSIONER OF CUSTOMS.
HON. LL. A. FEILD-JONES.
CAPT. THE HON. H. E. SCHWARTZ.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.

8th May, 1933.

HON. H. R. MONTGOMERY.
HON. E. B. HORNE, O.B.E.
HON. DHANWANT SINGH.
HON. C. M. PATEL.
HON. SHERIFF ABDULLA BIN SALIM.

9th May, 1933.

HON. H. R. MONTGOMERY.
HON. DHANWANT SINGH.
HON. C. M. PATEL.
HON. SHERIFF ABDULLA BIN SALIM.

ABSENTEES FROM LEGISLATIVE COUNCIL
MEETINGS—(Contd.)

10th May, 1933.

HON. COMMISSIONER OF CUSTOMS.
HON. H. R. MONTGOMERY.
HON. DHANWANT SINGH.
HON. DR. A. U. SHETH.
HON. C. M. PATEL.
HON. SHERIFF ABDULLA BIN SALIH.

26th June, 1933.

HON. DIRECTOR OF PUBLIC WORKS.
COL. THE HON. R. WILKINSON, D.S.O.
HON. H. R. MONTGOMERY.
HON. S. F. DELK.
HON. H. F. WELBY.
HON. E. H. WRIGHT.
HON. DR. A. U. SHETH.
HON. SHERIFF ABDULLA BIN SALIH.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES
1933

FIRST SESSION

WEDNESDAY, 29th MARCH, 1933

The Council assembled at 11 a.m., at the Memorial Hall, Nairobi, on Wednesday, 29th March, 1933, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning the Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

EX-OFFICIO MEMBER:

ALBERT RUTHERFORD PATERSON, Acting Director of Medical and Sanitary Services.

TEMPORARY NOMINATED OFFICIAL MEMBERS:

HAROLD MENCE GARDNER, Conservator of Forests.

HUGH ROBERT EVERARD EARLE WELBY, Acting Provincial Commissioner, Rift Valley.

EUROPEAN ELECTED MEMBER (ACTING):

ERNEST HAY WRIGHT, Member for Rift Valley.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF LEGISLATIVE COUNCIL.

In view of the period which has elapsed since we last met, I take this opportunity of giving you the latest information available as to the present financial position of the Colony. The general position is clearly set out in the Report of the Expenditure Advisory Committee and I should here like once again to express the thanks and appreciation of Government to Mr. Rushton and his colleagues, who have undoubtedly rendered a very great service to the Colony. But since their Report was published the actual accounts of the year 1932 have been closed, and it is therefore possible for me to indicate the manner in which the actual cash position differs from that estimated in Appendix II of the Report.

You will recollect that the draft Estimates presented in December last provided for an estimated deficit in the year 1932 of £220,000. This estimate was based on the advice of the Standing Finance Committee in November last, which considered £220,000 to be a conservative figure at which to place the deficit. As a result of the report of a meeting of the Standing Finance Committee held on the twenty-fourth of this month at which the actual figures of revenue and expenditure for the year 1932 were laid before them by the Treasurer, they have informed me that the actual deficit on the year's working is £109,000—some £110,000 better than was originally supposed. This deficit is the lowest recorded since the year 1928, the last year in which a surplus on the year's working was shown, and that this result should have been arrived at in times such as the present will, I hope, be regarded as no small achievement. The difference of £110,000 between the actual deficit and the estimated deficit is accounted for as follows:—

Savings in general expenditure	£52,602
Appreciation in the value of Post Office Securities	29,925
General revenue increases	27,964
	<hr/>
	£110,401

On the expenditure side, the original Estimates of expenditure for 1932 provided for £3,246,477, and the total expenditure for the year amounted to £3,119,740. In addition to the original expenditure estimate referred to above, supplementary provision had to be met during the year for expenditure of £109,958. On this basis, and taking into account the under expenditure of £31,815 resulting from the levy on official salaries, the total savings realized during the year amounted to the very considerable figure of £290,510.

On the revenue side, a detailed inspection of revenue items has revealed that the revised revenue estimates have been very near the mark, and that the increase of £27,964 is made up, generally speaking, of small increases spread over all the items of revenue. The figure of £29,925 is due to the appreciation in the value of Post Office securities and, owing to the fluctuation of stocks last year, it was clearly not susceptible of closer estimation.

During the past year the relationship between imports and exports (what is generally known as the Balance of Trade) has undergone a marked change. The Kenya and Uganda trade figures for 1932 disclose a favourable balance of 25.90 per cent as against 8.12 per cent for 1931. These calculations do not take into account Government importations; but, if they did, the trade figures for 1932 would still show a favourable balance of 20.4 per cent as against an adverse balance of 4.2 per cent in the previous year. I am informed that the value of exports of Kenya and Uganda produce during last year was approximately the same as in 1931 but there was a heavy decline in the value of import traffic, a healthy sign indicating that traders and consumers are operating prudently but one which has a disastrous effect on the Customs revenue, the net yield to Kenya from this source in 1932 being £307,316 as compared with £698,571 in 1931 and £349,721 in 1929 when a record figure was reached.

To turn to the revenue prospects for 1933, the Standing Finance Committee has advised me that as a result of an examination of the revenue returns for the first two months of the present year they see no reason to recommend to Government any modification in the revenue estimates as at present printed. They desire, however, to put it on record that they regard the Estimates as a whole to be safe estimates and likely to be realized.

Turning to the expenditure estimates for 1933, you are already aware that the Estimates as printed reflect quite a number of the recommendations of the Expenditure Advisory Committee which had been communicated to Government in the form of interim recommendations before the publication of their final Report. In paragraph 439 of the Report the Committee itself recognizes that the effect of such recommendations as have not already been incorporated in the 1933 Budget would have but little effect on the total working of the present year, and such scrutiny as has been possible in the short time between the publication of the Report and the meeting of this Council only serves to confirm this. At the same time, while it is true that the Estimates as at present passed have been cut down to the bone, the magnitude of the savings in expenditure obtained last year, to which I have

just alluded, suggest that a detailed comparison of the actual expenditure of 1933 with the estimated expenditure for 1933 may reveal further avenues of economy, which would go some way to reduce the deficit of £214,167 on the year's working. Time has not permitted of the carrying out of such a comparison, but I have instructed that it should be undertaken as early as possible, and at the same time that the opportunity should be taken of giving effect to such of the recommendations of the Expenditure Advisory Committee as it may be possible to adopt at once in the interests of economy. Many of them, however, it will be recognized, will take time to work out and will require reference to the Secretary of State and in some cases to neighbouring Governments where questions of uniformity are at stake. All this cannot be done immediately and I would therefore ask hon. Members to accept the assurance of Government that during the intervening months before the presentation of the 1934 Budget every effort will be made to undertake the necessary preparatory work so that such recommendations as are finally approved may be incorporated in the 1934 Budget.

While there are many details in the Expenditure Advisory Committee's recommendations which, as I have explained, will obviously require careful examination before the Government can define its attitude upon them, I should like to say at once that Government is in agreement with the general policy of reducing the number of Provinces, and will make an announcement as early as possible on the final form that such Provincial reorganization is to take.

On the question of terms of service, you are already aware from Sessional Paper No. 1 of last year that revised terms of leave and passage regulations are now in operation. It was also possible to obtain substantial agreement at the recent Governors' Conference on the subject of the reduction of initial salaries, extension of age of normal retirement to fifty-five and reduction in the pension constant to 1/800th for future entrants, and this Government is forwarding general recommendations on these lines to the Secretary of State. These recommendations are made without prejudice to further examination of the additional proposals of the Expenditure Advisory Committee as to the reintroduction of the cadre system and the discontinuance of the privilege of free quarters, which are clearly matters requiring a full and comprehensive examination.

The terms of service to be offered to the Local European and Asiatic Services of Kenya are at the moment under consideration by my Executive Council. The Civil Service Board has already examined the terms proposed for the Local European Service and made certain interim recommendations,

but the provision of a suitable form of contributory pension scheme still requires settlement, and must necessarily affect the salary-rates finally to be fixed under both schemes.

Acting Allowances.—While the Government is not prepared to accept the view that in normal times the payment of acting allowances, which has long been an established practice in the Colonial as in other Services, is unsound, it considers that in the present emergency their payment should, except in special cases, which would be the subject of separate representation, be confined to officers acting as Heads of Departments, and that in all cases the rate of acting allowance paid should be carefully scrutinized and should not necessarily be the maximum provided under the existing regulations.

Travelling and Mitige Allowances.—Government has accepted the recommendations contained in paragraphs 94 to 99 of the Expenditure Advisory Committee's Report as a temporary measure.

Allowances to Members of Committees.—Government has accepted the recommendations contained in paragraphs 304, 305 and 307 of the Report for revision of the existing scale of allowances to members of Committees, as a temporary measure.

Special and Duty Allowances.—Broadly speaking, special and duty allowances may be divided into two classes: allowances paid by other administrations to officers for the performance of duties on behalf of the administrations concerned, and allowances paid to officers from the revenues of the Colony on account of the performance by them of duties which are distinct from those attaching to their posts. The principle of the payment of allowances of the first class was discussed at the recent Governors' Conference in connexion with the payment of currency allowances, and the views of the Secretary of State are being sought. A detailed examination has been made of allowances of the second class and it has been found that, as is envisaged in paragraph 91 of the Report of the Expenditure Advisory Committee, in many instances Government is under an obligation to pay existing allowances to the present holders during the continuance of the tenure of their present posts. Owing to the great variety of such allowances each will have to be considered on its merits when there is a change in the holders of the posts concerned, but Government is prepared to accept the recommendation for the discontinuance of such allowances unless strong grounds exist in particular instances for their continuance.

We must now face the problem of balancing the Budget and, what is equally important, of restoring the surplus balance position. I think all men who have the country's

interest at heart agree that we cannot leave things as they are. It is impossible to contemplate a series of unbalanced Budgets and a continually increasing deficit. I may here recall my speech to this Council on the 26th July, 1932, when I stated that "a continuation of unbalanced Budgets would soon prove fatal to the credit of Kenya and it would reduce materially our chances of persuading those with capital—whether it be large or small—to come and invest it in the Colony." In exemplification of this statement I then instanced the reply received from the Secretary of State to a request for further funds for the Land Bank, to the effect that any addition to the loan funds of the Colony would not be justifiable until steps had been taken to ensure not only the balancing of the Budget, but the restoration of a reasonable surplus balance position.

I might at this stage mention that recently I have again made a request for additional funds for this Bank, for a reopening of its activities would be a boon to farmers, especially to those who require assistance to effect a change to a system of mixed farming. In my address to this Council on the 14th December, 1932, I stated that hon. Members and the public at large were entitled to see the final recommendations of the Expenditure Advisory Committee before any proposals for raising additional revenue were laid before them. Some hoped and expected that equilibrium could be completely restored by further curtailment of expenditure. Such expectations have not been realized as will be seen from an examination of paragraph 445 of the Report. There it is stated that even if all the recommendations made by the Committee were allowed for, a deficit ranging from £140,000 in 1934 to £170,000 in 1937 will still have to be faced. There is, I am aware, a sharp difference of opinion as to the way in which these deficits should be met and in our efforts to find out which is the better way I do most earnestly hope that our debates may be free from all bitterness. Each and all of us have the welfare of Kenya at heart.

Now hon. Members will I am sure give Government credit for having been consistent throughout. Consistent in holding that no mere temporary palliative will suffice and that a well tried out and scientific form of direct taxation based on capacity to pay must be linked to our existing system. In my address to this Council in July, 1932, I stated:—

"Whereas, formerly, very considerable revenue was obtained from import duties on such items as sugar, flour and tea, we are now in a position very largely to rely on local products in these directions, so much so that excise duties have had to be introduced as some compensation for the loss in Customs revenue. In other words, our

Customs receipts are increasingly being received from duties on articles either of the luxury class or, if not entirely luxuries, articles of a nature which can be dispensed with in hard times like the present. This means that the old system of relying on indirect taxation through Customs duties is rapidly breaking down, and that the basic principle of taxation, namely, that it should be imposed on all sections of the community as far as possible in accordance with their capacity to pay, no longer applies."

Again, in my reply to a deputation of members of the Nairobi Association and representatives of the Convention of Associations in September, 1932, I stated:—

"I have heard much abuse of Income Tax but I have looked in vain for any alternative constructive suggestion. Some of us think there is no alternative, for even apart from the depression our existing practice of relying almost wholly on indirect taxation is rapidly breaking down chiefly owing to the excellent progress in producing locally our necessities of life. The great advantage of Income Tax to my mind is that it is based on capacity to pay. Why should the poor man have to contribute to the State almost the same amount as the rich man, especially one who desires to live frugally? Also it is the opinion of responsible men who have discussed the matter with me that the time has come when we should gradually reduce or remove as soon as may be financially practicable some of the more onerous Customs duties and in addition reduce or remove taxes such as that imposed on petrol."

Despite the fact that, as I have just shown, the Government have consistently held that additional sources of revenue must be looked for, it was only within the last few weeks that the publication of the Expenditure Advisory Committee's Report has converted the public to the Government's point of view and as a result proposals alternative to Income Tax were quite recently submitted to me by the Nairobi Chamber of Commerce. Accordingly, as you are aware, within three days of the receipt of these alternatives, I appointed a representative Committee to examine them and directed that their report should be furnished on the earliest possible date in view of the meeting of this Council. As regards Income Tax the Government over two months ago published for introduction into Legislative Council a draft Bill with the object of inviting criticisms and suggestions and I may mention that we ourselves have several proposals which will be raised in the Committee stage and which may make the measure less onerous to the poorer man. I do most earnestly join with the Secretary of State in asking hon. Members to give us what

help they can in Committee although some may feel it necessary and consistent to maintain their opposition to the whole principle of Income Tax during the debate on the second reading.

One of the proposals is to double the flat rate of non-native poll tax so that it will be Sh. 60 in every case, of course with the usual power to grant reduction or remission in hard cases. On presentation of poll tax receipts, a pro tanto reduction will be made in the amount of income tax to be paid. The extra revenue thus gained would enable us to amend the rate of tax as set forth in clause 20, and our idea is that the first £350 of chargeable income should be charged at Sh. 1 in the £; the next £350 at Sh. 1/50 in the £; the next £800 at Sh. 2 in the £, and the rates thereafter should remain as in the draft Bill. It is interesting to note that the original scheme of graduated poll tax suggested by the Nairobi Chamber of Commerce may well require a heavier contribution to revenue from a married man with children with an income of between, say, £200 and £500, who makes some provision for life assurance, than would be required under the Bill when modified in this way. Further, in the case of a well-to-do man, with an income of £5,000, the contribution required would be £100 against some £500 under the Income Tax Bill.

It has always been Government's intention, in view of the technical nature of some of the clauses of the Bill, to refer it for examination to a Select Committee, where the implications of many of the details of the Bill can be examined and discussed to much greater advantage than is possible in the more formal atmosphere of a committee of the whole House. Though I understand that certain hon. Members, owing to their opposition to the Bill in principle, would prefer not to serve on any Select Committee but to deal with the matter in Committee of the whole House, I trust that on reconsideration they will agree that such a course would not provide them with the best method of representing to Government the views of their constituents in matters of detail as distinguished from the questions of principle involved. After the Committee stage, I do not propose to proceed with the third reading, but will refer the papers to the Secretary of State, along with the report of the Committee which examined the alternatives. Sir Philip Cunliffe-Lister will thus have before him a complete picture which will enable His Majesty's Government to decide which is the best course to adopt in the permanent interests of Kenya. I use the word "permanent" advisedly, for I can imagine nothing more unsettling than a continuance of this groping for expedients in the way of taxation tolerated only because of the hope that the position will right itself within the next couple of years.

It will be noticed that this procedure is not quite in accordance with the instructions I received from the Secretary of State which were made public on the 23rd March. On that date, however, the Leader of the Elected Members approached me and asked me to endeavour to persuade Sir Philip Cunliffe-Lister to modify his instructions to the extent that the third reading should not be proceeded with until the Bill as amended in Select Committee and the report of the Alternatives Committee had been considered by him and a decision on the main issue arrived at. I am glad to state that my representations have proved successful, but in communicating his decision the Secretary of State wishes it to be made clear that both proposals must be thoroughly examined before submission to him, one by a Select Committee of this Council and the other by the Committee specially appointed to deal with the alternatives.

The agricultural prospects forecasted in my last address to this Council have been well maintained, though in some cases there has been a subsequent fall in the values of certain primary products, notably coffee and butter. The final figures of production for the last season's crop confirm earlier estimates, and it is safe to assume that an increased tonnage of exports, notably of maize, coffee, cotton, wattle bark, potatoes, pulse crops and butter will be realized. The quantity of sisal to be exported in 1933 is likely to be maintained at last year's output, and if prices should improve appreciably it is likely to be materially increased. It may therefore be predicted with a considerable degree of assurance that, in the absence of any serious drop in values, the value of agricultural exports for the present year will exceed that of 1932 by a substantial amount.

The outlook in regard to locusts is distinctly promising. For nearly five years, this pest has invaded the Colony, and a strenuous campaign, in which all sections of the community have participated and co-operated in an admirable manner, has been waged against it. The number of both hopper and flyer swarms now present in the Colony is less than at any period during the last four years, while there are also certain indications of improvement in neighbouring territories. The invasion appears to be on the wane, and there are reasonable grounds for believing that in the absence of an introduction from an unknown and unanticipated source any fresh campaign will be on a smaller scale than hitherto, and it may not be too optimistic to hope that the menace will pass during this year.

Working on the most economical basis of organization possible, a sum of about £26,500 was spent upon locust destruction in 1932. For this year only £300 has been spent, and it would appear that only a small part of the provision of £5,000 made in the 1933 Budget will be required.

The economical position of the more important agricultural industries has not only engaged the attention of the organized bodies dealing with them, but has demanded the sympathetic consideration of Government. Hon. Members will, however, realize that, in a state of financial stringency, Government has not the resources to assist industries financially, even if such a course were considered advisable. Government has under consideration a valuable and constructive report of the Long Term Agricultural Credit Committee of the Board of Agriculture, and, as I have already stated, I have approached the Secretary of State with a view to obtaining an additional advance of £260,000 for the Land Bank.

The Central Agricultural Advances Board continues to administer the funds placed at its disposal, and this facility has undoubtedly been the means of saving a number of worthy farmers. With falling prices and locust destruction, great difficulties have had to be faced, and while everything should be done to safeguard the public interest in respect to the moneys already advanced, it should be noted that the scheme was designed as a temporary measure of relief.

After a close inquiry into the position, Government decided to permit the importation of wheat during 1933 on payment of one-sixth of the basic Customs duty, the suspended duty being cancelled, and the Railway Administration agreed to transport it at the favourable rate previously granted for 1932. This step became necessary in the interests of both growers, millers and consumers, as there is a shortfall of about 65,000 bags to meet the needs of East Africa, due chiefly to damage by locusts and the restriction of the area planted because of the locust menace.

The rates and the conditions applicable to the movement of export maize have again been under review, and were discussed at the last meeting of the Railway Council. I take this opportunity of informing Council and those connected with the maize industry that in the absence of any radical change in general financial and other conditions, there is no intention of increasing the present railway freight rates on maize, and that as regards the allocation of the traffic of low-rated products, involving non-peak conditions, the Railway Administration will undertake that responsibility and operate it fairly in the interests of all concerned. With goodwill and co-operation among all parties, it is hoped that any difficulties which may arise will either be removed or minimized.

Following the passing of the Coffee Industry Bill at the last session, the Coffee Board has been appointed. I have approved of a levy amounting to Cents 30 per cwt. upon

coffee exported, which is estimated to produce a revenue of £5,000 for the remainder of 1933. The Board has already given its attention to proposals for the benefit of the industry, the cost of which will be met from the funds at its disposal.

It may be desirable now to say a few words about the meeting of the Governors' Conference at Entebbe.

With a view to improving the working of the Conference, which is regarded as being in permanent session, and so that it might be able to provide suitable machinery for ensuring the continuous and effective co-operation and co-ordination of all matters of common interest to East Africa as recommended by the Joint Select Committee, we agreed that there should always be a chairman, who would change at appropriate dates between meetings of the Conference and who, though possessing no executive powers, would be in a position to give interpretations regarding the work of a past Conference or suggestions for preliminary work for a forthcoming Conference. We also arranged that the preparation of material for forthcoming meetings should be of a more continuous nature than had been the case hitherto.

At this last meeting of the Conference, the two subjects of most general interest discussed were Mr. Gibb's Report on the Railways of Kenya, Uganda and Tanganyika Territory, and certain Customs questions. Mr. Gibb's Report had been issued so short a time that the Governments had not been able to ascertain public opinion in their territories, and consequently the Conference could do little except decide how the Report should be treated. We agreed that it would be desirable to hold a special meeting about next August to discuss the Report, and that before that date the Governments should ascertain public opinion in their territories and prepare statements of their own views for consideration.

Accordingly, steps have been already taken by my Government to call for the views of public bodies in Kenya, and I desire to emphasize the need for concentrating in the first place on the main issues raised, these questions being questions of control. The General Manager stated in his Budget speech that he did not anticipate making any drastic changes in rates during a period of depression such as exists at present, and before such changes could be made much preliminary investigation must be carried out, while it will also be necessary to know whether any major change is to be made in the main organization of the Administration.

The question of control is therefore of the greatest importance, and the present organization Mr. Gibb has not considered to be satisfactory. In so far as this Government is concerned, provided that efficient transport facilities adequate

for the agricultural and industrial development of the Colony are made available, one of the chief desiderata is that it should not be called upon to meet its guarantees in connexion with Loan Charges, which would be the case if the Railway Administration failed to earn sufficient revenue to cover them. This danger has been averted for the time being owing to the drastic steps taken by the Administration during the last two years, but it has not been altogether removed, and the form of control has a vital bearing on it. Another question of major importance is the relationship and the degree of assimilation which should exist between this Administration and the Tanganyika Railways, and in connexion with this two specific matters are referred to by Mr. Gibb, namely, the division of traffic from the Kilimanjaro area and also from Lake Victoria. The two General Managers have been working in close touch for some years, and are now examining the degree of assimilation which appears most suitable from the technical point of view.

Harbour control is another major question, and the Port of Kilindini, though a Kenya asset, is of vital interest to Uganda. As hon. Members know, the Port is working at a large deficit, this being met by Railway funds, and so shared by both territories of Kenya and Uganda, an arrangement which in the circumstances seems to be a fair one.

There is one point in Mr. Gibb's Report which the Conference noted with much satisfaction, and that is that Mr. Gibb did not consider that there was any racial discrimination in railway policy or rates in this Administration, this being a matter on which the Joint Select Committee were not satisfied.

In connexion with the general question of Customs policy, regarding which there has recently been considerable discussion particularly with regard to the amount of unification which is desirable between the three territories, the Conference was convinced that a continuance of the present Customs arrangement would be to the advantage of all three territories, and they deprecated any step which would disturb the existing position.

The recommendations of the Arncliffe-Smith Report, bearing on the treatment of inter-territorial traffic passing between Kenya, Uganda and Tanganyika Territory, were carefully considered. Complete acceptance of these recommendations would have resulted in the imposition of the full duties chargeable under the tariff on all local products passing between Kenya, Uganda and Tanganyika Territory, and would thus have involved a profound modification of the Customs agreements which are generally admitted to have been of considerable mutual benefit to all three territories. A temporary arrangement to adjust the position with regard to sugar

was agreed to whereby in Tanganyika Territory the suspended duty on sugar will be reduced from six shillings to three shillings per hundred pounds and a consumption tax of three shillings per hundred pounds on all sugar consumed in Tanganyika will be levied in that Territory. This will be reconsidered again when it has been seen what improvement occurs in the budgetary position of Tanganyika Territory and how the sugar industry is affected.

With a view to controlling the economic production of sugar within the area covered by the Customs agreements, a question which had been raised in the first place by the East African sugar manufacturers with the Government of Uganda, the Conference agreed to recommend that the introduction of sugar machinery should be controlled by the exercise of the powers of restriction of importation provided in the Customs laws. This recommendation has since been implemented in all three territories.

Several other matters of common interest to East Africa, including questions affecting native policy, were discussed, and the free exchange of views which took place will be of considerable value to the Governments concerned.

Hon. Members, in conclusion, I do most earnestly trust that, with the help of Almighty God, our deliberations at this important sitting may tend to the further peace, prosperity and welfare of the Colony of Kenya.

MINUTES.

The minutes of the meeting of the 21st December, 1932, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

By THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOORE)—

Report of the Expenditure Advisory Committee, 1933.

Statement under the Electric Power Ordinance in respect of the year ended 31st December, 1932.

By THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACNEON, K.C.)—

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

Rules of Court (Advocates' Remuneration and Taxation of Costs Amendment) No. 7 of 1932.

Civil Procedure (Amendment No. 1) Rules, 1933.

By THE HON. THE TREASURER (Mr. H. H. RUSHTON)—
Schedule of Additional Provision, No. 4 of 1932: 1st
October to 31st December, 1932.

By THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERN-
MENT, LANDS AND SETTLEMENT (Mr. W. M.
Logan)—

Annual Report of the Commissioner for Local Govern-
ment, Lands and Settlement, 1931.

Report of Select Committee on the Trading in Unwrought
Precious Metals Bill.

Report of Committee on Mining Regulations, 1932.

Report of Select Committee on "Change of User" of
Agricultural Land, 1933.

Statement of Land Grants, etc., under the Crown Lands
Ordinance: 1st October to 31st December, 1932.

NOTICE OF MOTION.

CAPT. THE HON. J. L. COTTER: Your Excellency, I beg
to give notice of the following motion:—

"In the opinion of this Council, the time has now
come when the control of the Colony's finances should be
vested in the Elected Representatives of the people as at
present constituted."

BILLS.

FIRST READINGS.

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

The Currency Loan Bill,

The Income Tax Bill,

The Juvenile Offenders Bill,

The Penal Code (Amendment) Bill,

The Architects and Quantity Surveyors Bill,

The Stock and Produce Theft (Levy of Fines) Bill,

The Civil Procedure (Amendment) Bill,

The Nursing Sisters (Retiring Allowances) (Amend-
ment) Bill,

The Land and Agricultural Bank (Amendment) Bill,

The Agricultural Advances (Amendment) Bill,

The Public Travel and Access Roads (Amendment)
Bill,

The Prisons (Amendment) Bill,

The Vagrancy (Amendment) Bill,
The Dangerous Petroleum Tax (Amendment) Bill,
The Employment of Women, Young Persons and
Children Bill,

The Tribal Police (Amendment) Bill,
The Arms and Ammunition (Amendment) Bill,

The Marriage (Amendment) Bill.

The Registration of Patents Bill.

The Registration of Designs Bill.

Notice was given that the second reading of each of these
Bills would be moved at a later stage of the session.

The Council adjourned till 10 a.m. on Thursday,
30th March, 1933.

THURSDAY, 30th MARCH, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, the 30th March, 1933, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 29th March, 1933, were confirmed.

ORAL ANSWERS TO QUESTIONS.

KAKAMEGA AERODROME.

No. 4. THE HON. CONWAY HARVEY asked:

What steps have been taken by Government for the provision of a serviceable aerodrome in the Kakamega area?

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): A site has been selected within the boundaries of Kakamega Township which, after the preparation of two runways will, in the opinion of the Air Ministry Representative stationed at Kisumu, provide a satisfactory landing ground for light and medium sized aircraft.

£100 has recently been allocated to the District Commissioner concerned from the amount provided in the current Estimates for Civil Aviation, with which to prepare the landing ground.

THE HON. CONWAY HARVEY: Your Excellency, arising out of that, could the hon. gentleman give us some idea as to when the landing ground will be available for use?

THE HON. THE COLONIAL SECRETARY: My information is, Sir, that the work is now well in hand and should be finished in a week or ten days.

THE HON. CONWAY HARVEY: Thank you, Sir.

COTTON AND COTTON SEED.

No. 6. LT.-COL. THE HON. J. G. KIRKWOOD asked:

Will the hon. the General Manager, Kenya and Uganda Railways and Harbours, state the profit or loss to the Railway on cotton for the years 1930, 1931 and 1932, and on cotton seed for the years 1930, 1931 and 1932?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES): The information is not available, nor is there any known method by which it can be obtained.

THE HON. T. J. O'SHEA: Your Excellency, in view of that answer, may I ask how it has come about that the hon. the General Manager is in a position to state so very definitely that there was such a very heavy loss on the carriage of maize?

LT.-COL. THE HON. J. G. KIRKWOOD: As a result of that answer, Sir, may I ask the hon. the General Manager how it was he was able to publish in 1930 his figures for 1929?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, the figures that I have published in my Annual Report and in other papers referred to average costs. The use to which those figures were put was very carefully explained in the memoranda concerned and it was very clearly pointed out that they could not in any way represent the actual costs of the individual commodities. They were used to develop an argument and were definitely stated to be indicative of the position, and for that purpose they were entirely satisfactory, but they are not satisfactory to answer a question such as that which I have in front of me this morning.

LT.-COL. THE HON. J. G. KIRKWOOD: Further to that answer, Sir, may I ask how it is that in Mr. Gibb's Report it is stated that cotton seed and maize are carried at un-renumerate rates? How did he arrive at that conclusion without figures?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Am I called upon to answer questions upon Mr. Gibb's Report, Sir?

HIS EXCELLENCY: I am afraid that is not a proper supplementary question.

THE HON. T. J. O'SHEA: Arising out of that answer, Your Excellency, may I ask the hon. the General Manager whether he is not in a position to give this Council some information as to whether there is a profit or loss on the carriage of these crops? Cannot he give the House some information as to what the profit or loss is approximately?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I was called upon to answer a question as it was drafted. I cannot answer the hon. Member's supplementary question.

THE HON. T. J. O'SHEA: Arising out of that answer, Your Excellency, may I ask for your ruling as to whether in the event of an officer of Government being unable to give a precise answer to a precise question he should not endeavour to supply the House with the nearest approximate information that is available?

HIS EXCELLENCY: This does not arise out of this question. A supplementary question must not be used to introduce matter not included in the original question. If the hon. Member has any further question to ask perhaps he will give notice of it.

THE HON. T. J. O'SHEA: Thank you, Sir.

INTERNAL MOVEMENT OF MAIZE.

NO. 7. LT.-COL. THE HON. J. G. KIRKWOOD asked:

Will the hon. the General Manager, Kenya and Uganda Railways and Harbours, state the profit or loss on the internal movement of maize for the years 1930, 1931 and 1932?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: The information is not available, nor is there any known method by which it can be obtained.

In that connexion, I would like to explain that I have never at any time withheld any information that I have at my disposal, and if the hon. and gallant Member will come and see me in my office I shall be only too glad to give him everything that we have.

THE HON. T. J. O'SHEA: Arising out of that, Sir, may I ask whether I am right in understanding that the hon. the General Manager is not in a position to state that there has been any loss on the movement of maize during the years mentioned?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: I am not in a position to make that statement. There has been a loss. What I have said is that I am unable to give him the exact figures of profit or loss asked for in this question.

WIDOWS' AND ORPHANS' PENSION FUND.

No. 8. CAPT. THE HON. H. F. WARD asked :

(a) What is the total amount that has been contributed by Civil Servants to the Widows' and Orphans' Fund since its inception?

Is that money invested, if so how?

If not, is it a fact that that money is used as general revenue?

(b) What was the total contributed for the year 1932, and what amount is estimated as the total contribution for 1933?

THE HON. THE COLONIAL SECRETARY: (a) The total amount contributed to the European Widows' and Orphans' Pensions Scheme since its inception up to 31st December, 1932, is £208,369 5s. 10d. This amount has been credited to general revenue.

(b) The amount contributed in 1932 was £24,411 3s. 8d. and the estimate of the amount which will be contributed during 1933 is £23,500.

LT.-COL. THE HON. C. G. DURHAM: Arising out of that answer, Your Excellency, as Government makes use of that money as revenue, does it credit the fund with any interest on the money so used, and if so, what is the amount?

THE HON. THE TREASURER (MR. H. H. ROBERTSON): It is not a fund, Sir, and there is no interest credited to it.

LT.-COL. THE HON. J. G. KIRKWOOD: Arising out of that answer, Sir, may I ask whether Government is prepared to consider the advisability of creating a fund out of this money that is paid in?

THE HON. THE COLONIAL SECRETARY: Special attention has been drawn in the Report of the Expenditure Advisory Committee, paragraph 77, to the question of the Widows' and Orphans' Pension Scheme, and the points made by that Committee will be borne in mind by Government.

INCOME TAX.

No. 9. CAPT. THE HON. H. F. WARD asked :

What was the amount paid or deducted from Civil Servants' salaries for Income Tax when that form of taxation was last applied to the Colony?

THE HON. THE COLONIAL SECRETARY: The amount actually collected on the last occasion an Income Tax was imposed was £95,073. It is regretted that it is not possible to state from extant Government records what proportion of this total was contributed by the Civil Servants of this Colony.

ADVISORY COUNCIL ON EUROPEAN EDUCATION.

No. 14. LT.-COL. THE HON. J. G. KIRKWOOD asked :

1. How many meetings of the Central School Committee have been held during the past two years?

2. What was the date of the last meeting?

3. Is it a Committee appointed by law to advise Government on European education?

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): There is no such body as that mentioned by the hon. and gallant Member. It is assumed that he refers to the Advisory Council on European Education.

The answer to the question is based on that assumption and is as follows:—

1. One meeting.

2. 1st March, 1932.

3. The Council was constituted in 1932 in terms of section 6 of the Education Ordinance, 1931, which empowers the Governor to appoint advisory councils.

LT.-COL. THE HON. J. G. KIRKWOOD: Arising out of that answer, Sir, may I ask when the Central School Committee ceased to exist?

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, that seems to be a question involving a knowledge of constitutional law, in which I am not sufficiently versed. The Ordinance came into operation in 1931; perhaps the hon. and gallant Member can form his own conclusions.

MOTION.

REPORT OF SELECT COMMITTEE ON THE BROKERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR): Your Excellency, I beg to move:—

“That the Report of the Select Committee on the Brokers (Amendment) Bill be adopted.”

Hon. Members will doubtless recollect that this very short Bill was referred to a Select Committee for one purpose and one purpose only, to consider the scale of fees proposed in the schedule. On examination in Select Committee it became apparent that the fees in the schedule were based on a misapprehension, on the misapprehension that a goldsmith or silversmith who, in addition to carrying on the work of his craft, sold articles of gold or silver was under no obligation to take out a licence under the Traders Licensing Ordinance. That, Sir, is not the case, and therefore amendment of the schedule was obviously necessary. The Select Committee, Sir, have recommended two changes in the schedule: firstly, that the licence for a money-changer, which in the schedule was £2, be increased to £5, and secondly, that the licence for a goldsmith or silversmith be £5, with the proviso that if any under the Traders Licensing Ordinance no further fee should be paid for a licence under the Brokers Ordinance. That suggested amendment, Sir, will give effect to what was the wish underlying the original provisional legislation, and will put a goldsmith or silversmith in exactly the same position as anyone else carrying on business of a comparable nature.

I beg, Sir, to move that the Report be adopted.

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

The question was put and carried.

BILL.

THIRD READING.

THE BROKERS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Brokers (Amendment) Bill be read a third time and passed.

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

HIS EXCELLENCY: The question is that the Brokers (Amendment) Bill be read a third time and passed.

THE HON. T. J. O'SHEA: On a point of order, may I ask whether it is the intention of Government to move this third reading? It is not on to-day's Order Paper.

THE HON. THE ATTORNEY GENERAL: I submit, Sir, there is no necessity. If the hon. Member will refer to Standing Rules and Orders he will see that a third reading does not require special notice. Standing Rule and Order No. 82 reads:—

“Where a Bill is reported from a Committee of the whole Council, with or without amendment, or is reported to the Council by a Select Committee and the Report has been adopted as provided in Rule 80, the question may be put, either forthwith or at a subsequent time, that the Bill be read a third time and passed.”

HIS EXCELLENCY: The question is that the Brokers (Amendment) Bill be read a third time and passed.

The question was put and carried.

The Bill was read a third time and passed.

MOTIONS.

PENSIONS.

ASSISTANT INSPECTOR H. BLACKWELL.

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

“That this Council approves the payment of a reduced pension of £88 7s. 1d. per annum, together with a gratuity of £294 10s. 10d. in lieu of an unreduced pension of £117 16s. 2d. per annum to Assistant Inspector H. Blackwell, who is being retrenched from the Service on the 30th April, 1933.”

This motion, and the next one on the Order Paper, Sir, relates—as appears from the motion—to the pension privileges of retrenched officers. On the 15th December last a similar motion was moved in this Council and adopted. I explained at the time that the object of these motions was to ease the passage of retrenched officers from the active list to the retired list.

The Ordinance and the Regulations do not permit of the revocation of an option either to commute or not to commute once that option has been exercised, and the object of this motion is to allow officers who had opted to reverse their option, in order, as I say, to make their passage out of the Service a little easier. I trust that, in view of the fact that the Council has already approved the principle underlying this motion, it is unnecessary for me to give any further explanation and also that it will not be necessary for me to explain the next motion, the principle of which is exactly the same but in which the option is reversed.

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

The question was put and carried.

MR. A. G. STEVENS.

THE HON. THE TREASURER: I move:—

"That this Council approves the payment of an un-reduced pension of £112 5s. 6d. per annum to Mr. A. G. Stevens, who was retrenched from the Service on the 12th February, 1933, in lieu of a reduced pension of £84 4s. 2d. per annum and a gratuity of £260 13s. 4d."

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

The question was put and carried.

EXTENSION OF ENTERTAINMENTS TAX ORDINANCE.

THE HON. THE TREASURER: Your Excellency, I move:—

"That the Entertainments Tax Ordinance, 1931, shall remain in force until the 31st day of December, 1933."

The original Entertainments Tax Ordinance imposed a tax for one year, but provided that it may be re-imposed in subsequent years with the approval of this Council.

It will be remembered that on the 21st December last year I moved a motion exactly in the same words and on the words "31st December" were deleted and the words "31st June" substituted. The object of that was to—it was the full picture before them and would be in a better position to judge whether it was necessary to retain this tax or not. The approval of Council to extend it for the remainder of the year is now sought.

The taxation machinery is now working quite smoothly and the tax for last year amounted to £1,555. I suggest this revenue cannot be surrendered at the present time. I therefore move this motion.

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

LT.-COL. THE HON. C. G. DURHAM: When this was brought up last year, Sir, I drew Government's attention to the fact that there are a tremendous number of entertainments going on where a charge of 99 cents is imposed, instead of a shilling. Government, I understood promised to look into the matter.

THE HON. THE TREASURER: Your Excellency, Government has gone into the matter and a Bill has been drafted, but final consideration has not yet been given to it.

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

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE TRADING IN UNWROUGHT PRECIOUS METALS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: (MR. W. M. LOGAN): Your Excellency, I beg to move:—

"That the Report of the Select Committee on the Trading in Unwrought Precious Metals Bill be adopted."

That Report recommends one amendment only to the Bill and that is in the definition of the word "banker", the object of the amendment being to make clear that a bank, as contemplated in the Bill, is a bank which falls within the provisions of the Bank Ordinance. I beg to move.

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

The question was put and carried.

BILL

THIRD READING.

THE TRADING IN UNWROUGHT PRECIOUS METALS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Trading in Unwrought Precious Metals Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

REPORT OF SELECT COMMITTEE ON "CHANGE OF USER" OF AGRICULTURAL LAND.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move:—

"That the Report of the Select Committee on 'Change of User' of Agricultural Land be adopted."

Members may recall, Sir, that in May of last year a debate took place in this House on the question of "Change of User" of agricultural land, which arose out of the practice introduced by Government in the previous year whereby farmers who wished to establish shops on their farms were required to take out permits under the Crown Lands Ordinance on the payment of a fee. The ground for the institution of that practice was called in question in certain quarters and as a result of the debate in the House Your Excellency appointed a Select Committee to examine the position in regard to residential, commercial and industrial development on land leased from the Crown for grazing and/or agricultural purposes and the alleged "Change of User" incidental to such development and to furnish a report.

The Report, Sir, I am glad to say, is a unanimous one, save in the one particular to which attention is drawn in paragraph 5, that is upon the legal aspect of the position. The whole Committee was satisfied that under the Crown Lands Ordinances, 1902 and 1915, a "Change of User" does in fact technically take place when land leased for agricultural purposes is put to any other use, but a minority of the Committee were not satisfied that that technical "Change of User" did occur where, in the actual title of the farmer, a specific reference to Article 16 of the Crown Lands Ordinance, 1902, was not included in the actual lease granted under that Ordinance. That being the legal position, Sir, the policy which the Committee recommended should be adopted was that the whenever applied for provided that the health and the amenities of the areas surrounding the farm in respect of which an application was made would not be adversely affected thereby.

Questions of application for "Change of User" commonly fall under three heads and I will deal first with the more common application for a change of user to enable the establishment of a shop. After considering that question, Sir, or in the early stages of consideration, it was made clear that the existing policy was not applicable except to farms which were held on leasehold. That position is itself was not really a satisfactory one because if any control was to be exercised at normally lie in the hands of the local authorities, it was eminently desirable that they should be able to exercise control over all shops and that certain farms in their districts should be exempt from their control merely because the title of the farm was on freehold. The Committee therefore recommended that no action in future should be taken along the lines of existing practice of endorsing consent on titles, but rather that a new Bill should be introduced to deal with this subject. The Bill has been circulated to Members as a part of this

Report. Its main purpose is to provide for control of all shops on farms where no transfer of ownership of the land is concerned, to provide for the issue of annual licences by an officer and it provides for a scale of fees. I understand that, with the consent of Your Excellency and Members opposite, it is proposed, after the debate on this motion is finished, to move the suspension of Standing Orders to enable this Bill to be read a first time. In the second reading of the Bill the principle of the Bill will be further discussed and I need not at this stage deal further with it.

The second type of application deals with applications to sub-divide for residential purposes. No change is recommended by the Committee in existing practice here, Sir, except that the minimum fee should be reduced from Sh. 72 to Sh. 10.

As regards the third type of application, applications for sub-division for factory and industrial plots, again very little change in existing practice is recommended. Where an area of land, or a piece of a farm is to be used for factory purposes and the ownership of that piece of land passes out of the hands of the original owner of the farm, then it is recommended that the change, on the grant of approval, should be at the rate of one per cent on the unimproved value of the land, subject to a minimum of Sh. 10. Where a piece of a farm is used for factory purposes and that portion does not pass out of the ownership of the farmer, no change of user is to be deemed to have occurred, but we have endeavoured here, Sir, to formulate a formula and to cover certain cases where, although no change of user may occur, it is quite clear that the factory will not be used solely for dealing with the products of that farm. The formula will be found on the third page of the Report and it reads:—

"Where, however, the conversion of agricultural produce involves a manufacturing process in which the finished product contains a substantial amount of non-agricultural ingredients, and in which it undergoes marked change in appearance arising from the process of manufacture, then the activity should be regarded as constituting a "change of user."

Furthermore, in regard to the tenure to be granted where a change of user is to be approved, the Committee recommends that, where land is held under 999 years lease originally, the parcel in respect of which a "change of user" is applied for should be held under a similar tenure.

The last few paragraphs of the Report, Sir, deal with questions which do not fall actually within the terms of reference of the Committee. They are questions of a minor nature, except possibly the last one on page 4 dealing with the question

of sub-division of township plots where no "change of user" is required, in which we recommend that possibly—as it was represented that the existing practice was definitely discouraging the division of township plots, an object which is, of course, highly desirable in itself—some action was necessary, and therefore, a further formula was devised, the efficacy of which can only be tested by time and practice. The formula reads: "That the annual rental on sub-divisions of township plots where no 'change of user' is granted be either (a) proportions to the rental reserved in the head-lease, or (b) at the rate of Sh. 72 per acre, provided that no such rental shall be less than Sh. 70 or more than Sh. 72 per plot, whichever of (a) or (b) is the greater."

Government, Sir, are prepared to accept the recommendations of this Committee, and I recommend them to the favourable consideration of the House.

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

The question was put and carried.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: As indicated in the speech of my hon. friend a few minutes ago, I beg, Sir, to move that Standing Rules and Orders be suspended to the extent necessary to enable a Bill to Regulate and Control the Use of Shops in Rural Areas to be read a first time.

The necessity for that, Your Excellency, arises from the fact that as this Bill was merely an appendix to a Select Committee's Report, and as Government was not entitled to assume the acceptance of that Select Committee's Report by this Council, it would have been, in Government's view, improper to publish that Bill as a separate entity for introduction into this Council. At the same time, it is quite impossible to give real effect to the Report of the Select Committee which has just been adopted unanimously by this Council unless this Bill stands on. Members will agree to the suspension of Standing Orders for the first reading only to-day.

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

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended for the purpose named.

THE HON. CONWAY HANVEY: Your Excellency, I feel sure this will be agreed to, more especially as the Report of the Select Committee has been in the hands of hon. Members for a great many weeks, and they have all had full and ample opportunity of studying its provisions.

The question was put and carried.

BILL.

FIRST READING.

THE SHOPS IN RURAL AREAS BILL.

On motion of the hon. the Attorney General the Shops in Rural Areas Bill was read a first time.

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

MOTION.

INDIAN GIRLS' SCHOOL, MOMBASA.

THE HON. THE DIRECTOR OF EDUCATION: Your Excellency, I beg to move the resolution standing in my name; I think perhaps I ought to read it, though I recognize it is somewhat long, in order to make it clear:—

"Whereas a piece of land situated in Mombasa has been reserved for the purpose of Indian Education;

And whereas there is no immediate prospect of public funds being available for the erection of buildings thereon;

And whereas a limited liability company has been or is about to be formed and registered for the purpose of erecting a school for Indian girls in Mombasa;

And whereas His Excellency the Governor is prepared to grant a lease of the land required for this purpose out of the land reserved for Indian Education in Mombasa to the aforesaid company for a period of ten years at a pre-arranged rent subject to the approval of the Legislative Council to this Resolution;

Now, therefore, be it resolved that on the erection by the aforesaid company to the satisfaction of the Director of Education and the Director of Public Works of a building for the purpose of an Indian Girls' School in Mombasa on the land reserved, Government be and is hereby authorized to lease such building at a monthly rental of Sh. 700 for a period of ten years from the date on which the said building is taken over by Government; and that at the expiry of the said term of ten years the buildings be purchased by Government at a valuation to be fixed by mutual agreement between the Government and the company aforesaid."

Your Excellency, this resolution has a two-fold purpose; firstly, to authorize Government to enter into a lease and a building to be erected, and secondly, to authorize Government on the expiry of that lease to acquire the building by purchase. I think perhaps it is desirable that I should explain as shortly as I can the circumstances under which this resolution is put before the House. The position of the Indian Girls' School in Mombasa has for many years been most unsatisfactory. In 1929, the first year I was in this Colony, the Medical Officer of Health in Mombasa wrote a report on the conditions at the school, which was a most serious document. In that report he said, "I should like to emphasize as strongly as I possibly can the unsuitability of the present building for a school. Education under the conditions existing cannot be efficient and is associated with grave risks to the health of the children attending." In the following year the Indian Association wrote a letter couched in terms which I think were not entirely undeserved, but couched at any rate in very strong terms, in regard to the unsuitability and unsatisfactory nature of the building in which the girls in Mombasa were receiving education. Government did what they possibly could in the matter at the time. Provision for a new building was actually placed on the schedule to a loan which, alas, has never been realized, and the money required for this essential—I think possibly the most essential—service in the Colony at the present moment from an educational point of view has never been available. What were we to do? We were faced on the one hand with the occupation of buildings which were extremely unsatisfactory from every point of view, and we were faced with the impossibility of securing additional funds with which to remedy the position. And so matters remained as they were until the beginning of 1932 when the lease of the buildings occupied by the school fell in. That was in June. The transfer of the school to a new and thoroughly suitable building from an educational point of view was recommended in May by the statutory body appointed by Your Excellency to advise in regard to matters of education in Mombasa in connexion with the Girls' School, and that body recommended that we should enter into a lease for this building and abandon the existing unsatisfactory buildings. That transfer was approved by Government; the recommendation was accepted, but it was at once opposed by members of the Indian community on account of the disservice the matter bore the Old Town. In consequence the educational authorities on the one hand and the Indian Association on the other hand, and the Indian have adopted in this matter has always been the same. We have said we will not go back to the old buildings; find another building nearer the Old Town and we will do what we can to

cancel the lease of the new building and take that more suitable building if we can find one. It has not been possible to find a more suitable building nearer the Old Town. As a consequence, a most unhappy situation has existed in Mombasa since about the middle of last year. The Government school has gone on in the most satisfactory and efficient buildings at a distance of rather more than three-quarters of a mile from the Old Town. The Indians in large numbers have sent their children to the old buildings and have conducted a private school. Now that must have been a severe strain on them and has, of course, divided the Indian community into two sections. I must take full responsibility for having advised Your Excellency in this matter, and I take that responsibility quite openly because it is a point that comes to everyone of us that we may have to make a recommendation which runs counter to the wishes of the majority of the people in regard to matters, particularly of health. I have always maintained that at the earliest possible moment I was going to get out of this situation which we were in up to the middle of June, 1932, and that on no account would I recommend to the Government a return to those conditions. I may have been wrong: no one is infallible, but I still maintain that I was right in putting the health of the girls of Mombasa above all other considerations. The majority of the Indians in Mombasa have not shared that view. They have felt that the distance and the inconvenience caused by that distance was such as to justify them in going on in the unsatisfactory conditions at the old school. I make no criticism whatever of that attitude. I should like to say that as far as I can see in this controversy the Indians, with whom I have been associated generally in a hostile spirit, have always behaved with the greatest courtesy and consideration in arguing the matter; in fact, the controversy, as far as I can see, has been carried on with extreme good temper, certainly on my side, and I am quite confident on the side of the Indians too. Well, one result, one happy result of this unhappy controversy is this resolution. Some of the Indians have set about looking for this alternative building which I said Government would be willing to use, and I should like to pay a special tribute to one prominent Indian in Mombasa, and that is Dr. Karve. Dr. Karve, during all those months, has done nothing except try to find some solution of this difficulty so as to get the Indian girls in Mombasa back into one united school, and it is largely owing to his efforts that this proposal is now before the Council. This proposal is, in effect, that on the Government site a building should be erected by a private company of Indians and that Government should take the building which they erect at a rental of £420 a year. I may say, in passing, that the rental of the two impossible buildings which we occupied up to June, 1930, was £370 a year. That building will

be erected to the satisfaction of the Education Department and to the satisfaction of my hon. friend the Director of Public Works. It will be erected on plans and specifications approved by us, and during the course of the construction the Director of Public Works will be entitled to go and see that the erection is being carried on satisfactorily. The accommodation to be provided will be for some 300 children. It is estimated, though, of course, on that we cannot be precise, that the building will cost between £30,000 and £10,000. As a consequence, if this resolution is approved, we are asking Members of this Council to commit the Legislative Council to voting £20 a year for a period of ten years, and then a lump sum which will be arrived at by valuation at the expiry of the lease. I may point out that the resolution terminates by saying: "at a valuation to be fixed by mutual agreement." Provision will, of course, be made in that agreement for any difference of opinion and the appointment of an arbitrator in the unfortunate and, I hope, improbable event of a price not being agreed upon by the two parties.

I hope this resolution will be accepted by all Members of this Council. It terminates a controversy which, as I say, has been conducted fairly and squarely on both sides; it terminates a controversy which ought to be terminated at the earliest possible date in the interests of Indian education in Mombasa.

I want to add in conclusion, Sir, that I hope I have said nothing to indicate that I have any quarrel whatever with any member of the Indian community in Mombasa who has been in opposition to our attitude. I am sure the Indian community recognizes that Government acted throughout in what I consider to be the real and best interests of the girls in Mombasa and I certainly, on my side, readily admit that they are quite entitled to the view which they have held, and I certainly admire and respect them for the tenacity with which they have held it.

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

HIS EXCELLENCY: The question is in the terms of the motion.

THE HON. P. A. BEMISTER: Your Excellency, when I saw this motion on the Order Paper I felt inclined to ask certain questions on these negotiations, but with the lucid and very happy explanation by the hon. the Director of Education I would ask leave to congratulate him and Government most heartily on the very satisfactory conclusion to one of the most unhappy controversies that has disgraced Mombasa.

THE HON. HAKIM SINGH: Your Excellency, I beg to support this motion.

THE HON. ABDUL WAHID: I agree with the previous speaker.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I only rise to congratulate Government on getting such cheap money.

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

The question was put and carried.

ORDER OF BUSINESS.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, I think it would make for general convenience if Government could possibly furnish the Press with a full copy of each day's Order Paper. I notice the Order Paper before us to-day is not very closely allied to the "Standard" this morning. It is very important that Members should know what business is coming on so that they can bring the relevant papers with them and such ammunition as is necessary.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I will readily undertake to assist the hon. Member in the manner he suggests, but during these two days there has been some difficulty in arranging the order of business because there has been some uncertainty as to the motions which hon. Members opposite desired to put up and as to what they wished in regard to the priority of treatment.

THE HON. THE ATTORNEY GENERAL: May I, Sir, before I pass to the other items on the Order Paper, say something which I hope will help my hon. friend opposite. That is, that I would ask the indulgence of the House in moving the Bills now on the Order Paper to follow the order in which these Bills appeared on the Order of the Day which appeared in the Press this morning. As my hon. friend has pointed out, that order has now been materially departed from and I should, for personal reasons, Sir, prefer to take the Bills in the order in which they have been published in the Press this morning and in the Order Paper circulated late yesterday afternoon. I feel certain the House will grant me that indulgence, Sir.

BILLS.

SECOND READINGS.

THE NURSING SISTERS (RETIRING ALLOWANCES) (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg, Sir, to move that the Nursing Sisters (Retiring Allowances) (Amendment) Bill be read a second time.

When this legislation was passed rather under two years ago, Sir, it was never contemplated in the circumstances prevailing in this Colony that there might at some time arise the necessity for employing nursing sisters of other than European origin and descent. But, Sir, that necessity has arisen in other parts of the Empire and I suggest to hon. Members that it will may and very probably will arise in this Colony, for instance, in the hospitals which are developing rapidly in Native Reserves. Should that necessity ever arise, Sir, then I submit to hon. Members that it is by no means necessary that the provisions of this legislation, which provide for retiring allowances to nursing sisters of an amount considered reasonable for Europeans, should be extended to non-Europeans; and the proposal in this amending legislation is to limit the privilege of retiring allowances at existing rates to European nursing sisters only. Similar action I may say, Sir, has been taken in Ceylon and in other parts of the Eastern Empire where the difficulty actually has arisen, so that this amendment is not entirely without precedent.

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

The question was put and carried.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Land and Agricultural Bank (Amendment) Bill be read a second time.

This Bill, Sir, deals with three points and the first of these three points is intimately linked up with the subject matter of the next Bill on the Order Paper, the Agricultural Advances (Amendment) Bill.

The business of the Land Bank has been entrusted to a Land Bank Board and necessarily in the performance of their duties that Board has acquired some considerable knowledge of agricultural conditions and of the individual requirements and potentialities of persons engaged in agriculture. Side by side with that Board, discharging rather analogous functions, there is the Agricultural Advances Board, and Government has formed the opinion that, in the interests of economy and of efficiency, it would be well that the same body of persons should discharge both those functions. As the Land Bank is now constituted, Sir, it is impossible for the Board to undertake any such duties and that is the justification, Sir, in the view of Government, for the first amendment proposed. I would repeat, Sir, that by itself it does not effect the object

which Government has in view. It must be read with the parallel provisions of the Bill to Amend the Agricultural Advances Ordinance.

Acceptance of the principle embodied in this Bill will necessitate acceptance of the next Bill on the Order Paper. The effect of the acceptance of both of these Bills will be that the Land Bank Board, as from a date to be fixed by Your Excellency, after agreement with the Board and the existing Agricultural Advances Board, will be able to take over the administration of the Agricultural Advances Scheme—not necessarily the Land Bank Board alone, Sir, because the next item on the Order Paper does make what I am sure hon. Members will agree is a wise and salutary provision, a provision for adding to the Land Bank Board when it is transacting the business of agricultural advances any gentlemen who from their particular knowledge and experience of the subject may be of material help to the members of the Land Bank Board. But, Sir, by and large, Government feel that the acceptance of this amendment will definitely promote efficiency and economy.

The second point, Sir, is a very different one and a much less important one. The Land Bank Ordinance provides for allowances to Unofficial Members of the Land Bank Board at a stated rate. It makes no provision whatsoever for mileage rates, travelling to and from the Bank on the business of the Bank, except in so far as such travelling necessarily involves another day away from a place of residence. If I may take a concrete case, Sir, if Mr. "A" is summoned to a meeting of the Bank on Tuesday, he may travel in on Monday, attend the Bank on Tuesday and travel back on Wednesday. He is then entitled to draw three days' remuneration at the statutory rate. If, on the other hand, he says: "No, it is obviously more economical for everyone that I should go there early on Tuesday morning—in fact, transact the business of the Bank and motor back that night"; he is then entitled to only one day's remuneration. The actual practical administration of the provisions of the Ordinance has been reasonable. Mileage allowances have been approved, but the Auditor has pointed out that such approval, however reasonable, is illegal, and so, Sir, the third clause of the Bill seeks to remove that illegality and make it possible for us to make the grant of motor mileage allowances statutorily possible; and in order to make that fully effective, Sir, it is proposed to ante-date that particular clause to the date on which the parent Ordinance came into operation and the Land Bank Board began its work.

Now, Sir, I pass to Clause 4, which make special provision for the Board of the Land Bank to foreclose, in the event of necessity for such action arising, in a simple way without

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having to have recourse to the Courts of Justice. The practical difficulty that may arise, Sir—it has not yet arisen I am happy to say, but hon. Members will realize it may arise—is that some of the borrowers of funds from the Land Bank are absentee landlords and, in the event of foreclosure becoming necessary in such cases, enormous delay is inevitably necessitated in service, not only of the original writ, but of every interlocutory step which is taken. In the meantime, as hon. Members will appreciate, the security which the Land Bank must look to ultimately, is deteriorating, and no one is a whit better off. The provisions of Clause 4 of this Bill, Sir, and those which are in force, and have for some considerable time been in force, both in the Union of South Africa and in Southern Rhodesia—where Land and Agricultural Banks have been functioning satisfactorily for a very much longer time than this Colony has experience of—have been found necessary there, where conditions are, I suggest, by no means dissimilar; and—in case any hon. Members oppose think these powers arbitrary and excessive—I would draw particular attention, Sir, to the provisions, firstly of the first sub-clause of the clause that three months' notice has to be given, not only to the debtor but to every subsequent mortgagee of the property; and secondly, that no sale may take place, as hon. Members will see by reference to sub-clause (3), until there has been thirty days' notice, both in the "Gazette" and in a newspaper circulating in the district. Those, Sir, I suggest, are adequate and ample safeguards in the interests of those who may have some direct interest in the property in question. With those safeguards, Sir, I submit that it is not unreasonable that the Land Bank Board, which is administering public funds, should be able, speedily, cheaply, and with a due regard to the conservation of the basic security on which advances have been made, to deal with cases where foreclosure may prove unhappily necessary.

I beg, Sir, to move that the Bill be read a second time.

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

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

The question was put and carried.

THE AGRICULTURAL ADVANCES (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Agricultural Advances Ordinance, 1930, be read a second time.

I have already, Sir, on the last Bill which has just passed its second reading, fully covered the ground of this Bill, and I shall therefore content myself by formally moving.

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

The question was put and carried.

The Council adjourned for the usual interval.

On Resuming.

HIS EXCELLENCY: Hon. Members, before we resume work on the Order Paper I should like to make an announcement. In view of the fact that the second reading of the Income Tax Bill will be taken to-morrow I should like to take this opportunity of informing hon. Members of the procedure which it is proposed to adopt. When the Bill has been read a second time it will be referred to a Select Committee, for the reasons stated in my communication from the chair yesterday. I appreciate, however, the considerations which, in the opinion of the European Elected Members, may make it impossible for them to serve on such a Committee, and I have therefore decided that on the laying of the Select Committee's Report the Bill will be referred to a Committee of the whole Council. It would greatly assist the consideration of the Bill in Committee of the whole House if hon. Members would table any amendments early which they propose to move in the Committee stage as early as possible.

THE PRISONS (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Prisons Ordinance, 1930, be read a second time.

Officers of the Prison service under the Prisons Ordinance are entitled, in common with the rank and file of the King's African Rifles, the rank and file of the Police and Forest Guards, to exemption from hut and poll tax for life on their discharge after nine years' continuous good service. As hon. Members are aware, there has recently been a departure from that old principle, which is now embodied in the King's African Rifles Ordinance. That departure takes the form of abolishing the exemption from the payment of hut and poll tax and the substitution thereof of a lump sum gratuity to which the officer is entitled, assuming that his service has been continuous and satisfactory, for nine years or twelve years as the case may be. That policy having been adopted for the King's African Rifles naturally has equal application to those members

of the other forces in the Colony who have hitherto been accorded corresponding exemption, and this, Sir, is the first of the parallel legislative Acts which have been taken. Corresponding legislation is contemplated for the Police and is in fact already in draft in a new amending Police Ordinance; and in the case of the Forest Guards similar action will also be taken, Sir. It is part of the comprehensive scheme for doing away with the far from satisfactory system of exemption from the payment of hut and poll tax and substituting therefor a lump sum gratuity, which will mean that after discharge a discharged man will be treated exactly the same as any other African in the country. I hope, Sir, that as the principle has been accepted in the case of the King's African Rifles it will be equally accepted in the form of this Bill.

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

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

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, it is quite obvious that the Prisons have got to be brought into line with the King's African Rifles and the Police, but I should still like to lodge my emphatic protest because I believe the Government is entirely wrong in this matter.

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

The question was put and carried.

THE VAGRANCY (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Vagrancy Ordinance be read a second time.

Little, if any, explanation of this very short measure is, I feel confident, required. When a native for an offence against the Vagrancy Ordinance is ordered to be repatriated to his Reserve he finds that before he can get employment outside his Reserve it is necessary for him to pay a visit to his Provincial Commissioner, a visit which may involve considerable distance and considerable delay, and get from that Provincial Commissioner a written permit to leave the Reserve. Obviously, Sir, that puts a premium on idleness, and it is therefore proposed in such circumstances in order to take up employment should be given not only to the Provincial Commissioner but also to

any District Commissioner within the Province in which the Reserve is situated. That, Sir, is the sole object of this short measure.

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

The question was put and carried.

THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Dangerous Petroleum Tax Ordinance be read a second time.

In 1930 this Council gave its approval to the principle of the exemption from the provisions of the Dangerous Petroleum Tax Ordinance of the aircraft belonging to Imperial Airways Limited in so far as dangerous petroleum taken on board within this Colony was used on journeys outside the confines of the Colony. That principle, Sir, was unanimously accepted but it was limited to the craft of Imperial Airways Limited. There are, as hon. Members are aware, other companies operating within the territory, operating in co-operation with, and possibly even at times in competition with, Imperial Airways Limited, and in the view of Government there is no reason why Imperial Airways Limited should be put in this obviously privileged position. It is therefore proposed, Sir, to repeal the legislation of 1930 and to re-enact the same principle with the important difference that the principle is extended to cover all companies commercially operating for the carriage of passengers or goods in this Colony and in adjacent territories. The acceptance of this Bill will mean that other companies will be on exactly the same footing as Imperial Airways Limited; that they also will be entitled to claim a refund in respect of petrol taken on board within the Colony and used for parts of their journeys which lie outside the Colony. There will no longer be preferential treatment extended to Imperial Airways Limited.

There will be a loss of revenue, Sir, but it is estimated by the Treasury at approximately £100 per annum, a very small sum, Sir, even in these days of financial stress, and I am sure hon. Members will be in agreement with me when I suggest that it is infinitely better that something tangible should be done to encourage air services within the East African Territories at a cost so extremely small as £100.

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

The question was put and carried.

THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN
BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to carry out Certain Conventions relating to the Employment of Women, Young Persons and Children be read a second time.

The Objects and Reasons annexed to this Bill, Sir, are commendably brief and refer hon. Members to the preamble to the Bill, and I feel, Sir, that I might well adopt the same course. The facts of the case can be stated very shortly, Sir. There have been adopted between the years 1919 and 1921 by the International Labour Organization, four Conventions relating to various aspects of the problem of the employment of women, young persons and children. In accordance with the terms of the Peace Treaty this Government, in common with the Governments of the Dominions and other parts of the Crown Colony Empire, are in honour bound to implement such Conventions. There is, however, in one of the Conventions which we are considering, Sir, a by no means unimportant provision, which hon. Members will find in the fourth paragraph of the preamble. Power is given under the Conventions to modify the terms of any such Convention in their application to Colonies, Protectorates and Possessions which are not fully self-governing for the purpose of making the same applicable to local conditions. That, I suggest, Sir, is an extremely important provision indeed and advantage of that provision has been taken in, for instance, sub-clauses (2) and (3) of clause 3 of the Bill which exempt from the scope and purview of the Conventions the members of a family engaged in a family industrial undertaking, members of the same family engaged in shipping, children and young persons who are lawfully engaged in industrial undertakings at the time of the commencement of this legislation; and again in the proviso to sub-clause (1) of clause 4, children serving on native vessels under the care of a relative; and again in sub-clause (4) exemption is given to male young persons engaged in industrial undertakings. It may be, Sir, that further modification is advisable.

There is one extremely important modification, much more important even than those I have already mentioned, which I think calls for separate mention, and that is in sub-clause (2) of clause 4—and sub-clause (1)—where the age at which children can engage in industrial undertakings is reduced from fourteen to twelve, except where such employment involves attendance on machinery. That, Sir, will

enable children, as I understand they are now doing, to assist in "dollyng" and other operations in the goldfields, and any other similar industrial undertakings which do not involve any essential and inherent danger to the child.

I repeat, Sir, that there may be still further modifications advisable in the interests of the children and of industry in the Colony, and I understand, Sir, that it is the wish of hon. Members opposite that this Bill should be referred to a small Select Committee for examination primarily from that point of view, Sir, and I have Your Excellency's authority for saying that when the motion for the second reading of the Bill has been accepted that course will be followed.

THE HON. T. D. H. BURCE: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is that the Employment of Women, Young Persons and Children Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, I intend to vote for this motion on the understanding, as the learned Member has indicated, that it will be given still further consideration by a Select Committee. I suggest, Sir, that those distinguished authorities who meet at Washington, Genoa and Geneva and introduce social measures for application to the whole world are not necessarily sufficiently familiar with African conditions and I am very glad that that degree of elasticity mentioned by the learned mover exists in the Conventions under which this is promulgated. I suggest, Sir, that the Select Committee should give still further consideration to the minimum age of employment which appears in clause 4. There is no doubt whatever that in the agricultural industry hundreds and thousands of children under the age of twelve can very very profitably be employed in types of labour suited to that age of childhood, more especially in connexion with tea and coffee, Your Excellency, and I suggest that it is very much in the interests of these children that they should be so employed under Kenya conditions.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I will not detain the House by many words, but I would like to refer to the age limit but from an entirely different point of view from that taken by the hon. Member for the Lake. For myself I think the limit of twelve years is too low: I think that children of fourteen years should be the limit. I say so because of the provision for the education of such

children throughout the Reserves. If the age limit is reduced to twelve the possibilities are that such children will not be able to attend school and receive the instruction or the education which will enable and fit them for a position in the Colony in their more mature years.—That is the only point that I should like to draw the attention of the House to. I hope the Select Committee will report upon it from that point of view.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, how does one tell the age of a native child?

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I had no intention of speaking at all, but the reverend gentleman compels me to get on one's feet. After all, you have only to walk two miles out into the Kikuyu Reserve and you will find that the hardest worked people of the whole "bally" neighbourhood are probably youngsters of seven years of age . . .

THE HON. THE COLONIAL SECRETARY: Order, order.

LT.-COL. THE HON. C. G. DURHAM: I say, yes, looking after his father's sheep and cattle, carrying another youngster on his back . . .

THE HON. THE COLONIAL SECRETARY: On a point of explanation, Your Excellency, I was referring to the unparliamentary remarks of the hon. Member.

THE HON. THE ATTORNEY GENERAL: I think, Sir, there are two points with which I might profitably deal at this stage. Before I do so, Sir, I shall I hope sufficiently dispose of the other points by reminding hon. Members that they are essentially committee points, which would in any case and must now be dealt with in Select Committee. But there were two specific points raised by the hon. Member for the Lake. My answer to the first Sir, which was that the age of twelve was too high for agricultural pursuits, is that agriculture under this Bill is not an industrial undertaking.

"Industrial undertaking" is defined by reference to Part I of the Bill, and the hon. Member will find that agricultural pursuits are definitely exempted; so that nothing in this legislation whatsoever will affect the further pursuit of agriculture by children, even of the age to which the hon. Member Sir, I would refer the hon. Member to Clause 8 of the Bill, which provides that whenever a charge of employing a child under age is made, the child shall be presumed to be under that age until the contrary is proved.

HIS EXCELLENCY: The question is that the Employment of Women, Young Persons and Children Bill be read a second time.

The question was put and carried.

THE TRIBAL POLICE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Tribal Police (Amendment) Bill be read a second time.

This new force, Sir, has been in being for nearly four years now and is proving as time passes to be of distinct and real value to the purely native areas of the Colony. It very rightly and properly was started on an unambitious and simple scale, but as it gains in experience and prestige it becomes more than ever necessary that it should be given the same opportunities for evolving in the ordinary course that are given to more old-established and perhaps rather better disciplined forces. That, Sir, is the primary object of this legislation.

The first object is to treat this force in exactly the same way in which the Colony's Police Force is treated in respect of the Rewards and Fines Fund. Hon. Members are aware that in a number of events—for instance, fines imposed on members of the force and fines imposed on other persons for assaults on members of the force—the proceeds of such fines go to a Police Rewards and Fines Fund, which is operated for the direct benefit of the force and no real reason is seen why a similar provision should not be made in respect of the Tribal Police Force. That is the first object of this legislation.

The second important point, Sir, is I feel confident equally acceptable to this House. There are unfortunately areas of this Colony, native areas, where certain forms of organized crimes are perhaps unduly prevalent. There are native areas in which it proves in practice to be extremely difficult to deal with such things as stock thefts. In the Police Ordinance there is a provision for the employment of, I think, police officers by proclamation of Your Excellency as a Levy Force and the cost of that Levy Force has all to be borne by the inhabitants of the area whose misdeeds have led to the raising of that force. Because of the provisions of the legislation it is a cumbersome and a slow form of action and it is now proposed in this legislation, Sir, to introduce a very much simpler provision for the employment in such areas and in such eventualities of additional Tribal Police. There will not be the necessity, Sir, for a formal proclamation. Your

Excellency, on being satisfied that the misconduct of the inhabitants of any area is so grave as to justify the employment of additional police will not have to proclaim that area but merely to authorize the employment of such police. The cost of the whole of that additional force of Tribal Police will, as is now the case under the Police Ordinance, fall upon the inhabitants of the area concerned. There is no time limit imposed, as under the Police Ordinance; they can be removed when their work is done. Equally they can be kept there until the Government is satisfied that their presence there is no longer necessary. It is, I suggest to hon. Members, a salutary and valuable provision to have in the Tribal Police Ordinance for the very reason that it has proved its value in the Police Ordinance.

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

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

The question was put and carried.

THE ARMS AND AMMUNITION (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Arms and Ammunition (Amendment) Bill be read a second time.

Licences are required for private arsenals or private establishments to repair arms and for private warehouses, but under the Ordinance of 1925 any one of those buildings, once licensed, is licensed for ever. It has been represented by the police, on whose shoulders falls the burden of administering this legislation, that in the interests of control and proper inspection it would be preferable to make such licences annual instead of perpetual. That explains the genesis of this legislation. It proposes to make such licences annual and imposes a small annual licence fee; but it contains the proviso, which is only equitable in my submission, that those buildings which are already licensed under the existing law, while it will still be necessary to take out an annual licence for them, should in future be licensed without payment of any fee.

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

The question was put and carried.

THE MARRIAGE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Marriage (Amendment) Bill be read a second time.

This is a far from unimportant subject, Sir, and no hon. Member of this House I am sure desires to be a party to anything which is likely to be of any hindrance in the way of the solemnization of matrimony and still less to do anything which may tend to invalidate any marriage which has been entered into in good faith.

As the law now stands, Sir, there is a very distinct risk by reason of the fact that section 23 of the Ordinance provides that marriages can only be celebrated in a church or other place of worship by a duly recognized minister of the religion of that denomination to which the church or place of worship belongs. In the circumstances which prevail in large parts of this Colony, Sir, it is, if the law is to be strictly enforced, almost impossible for some people to be married. There are many areas in the Colony in which persons, whose one desire is to be married in accordance with the principles of the faith to which they belong, cannot find a building belonging to that faith. They either have to travel very long distances in order to be married or else they have to take the risk, as many of them are now doing, Sir, and be married in a building which belongs to another denomination.

A further argument in favour of this Bill, Sir, is to be found in the rapidly coming, I hope, union of the churches. It is frequently urged upon me, as Your Excellency's legal adviser, that parties to a marriage are anxious that they should be married in a church belonging to one denomination, by a minister belonging to their own faith who does not belong to the denomination to which the church belongs. That, Sir, equally will be possible under this legislation. It can, I suggest, create no hardships, there are no risks involved in giving effect to it and it may and perhaps will in years to come be a very real boon to those who desire to marry.

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

The question was put and carried.

THE REGISTRATION OF PATENTS BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Registration of Patents Bill be read a second time.

This Bill, and the one which immediately follows it on the Order Paper, a Bill to Provide for the Registration of

Designs, are so manifestly technical and dull that I am sure no hon. Member would desire me to be more than as brief as possible on the subject.

In 1925 a committee was appointed in England to consider the question of the registration of patents and designs. That committee duly reported, its report was adopted by the Board of Trade and by His Majesty's Government and the necessary amending legislation was passed. At the same time, Sir, a recommendation was made throughout the Crown Colony Empire, as well as in the Dominions, that similar legislation should be enacted throughout the Empire in the interests of British industry and British commerce as a whole. That is the justification for these two Bills. They will bring legislation in this Colony into line with corresponding legislation in the United Kingdom, and incidentally into line with legislation which has been upon the Statute Book of Tanganyika Territory for more than a year. The legislation is strongly supported by the Association of Chambers of Commerce for Eastern Africa as well as by individual Chambers.

It is, from another point of view, Sir, still one more step forward in the direction of complete unification of up-to-date commercial legislation throughout Eastern Africa, for we understand that corresponding legislation is contemplated in the near future in the Protectorate of Uganda. The necessity for corresponding modern legislation in respect of patents and designs, I suggest, immediately apparent when one bears in mind that in a Colony such as this where there is no highly qualified technical officer to advise on the issuance of any registered patent the only course which can be properly adopted is to restrict the registration within the Colony to patents and designs which have already been registered in the United Kingdom. Any other course would have one of two consequences, immediate and obvious: either it would saddle the Colony with the expense of a large, highly qualified and completely under-worked staff of patent experts, or the legislation would be fore-doomed to failure—no patent that was ever submitted would pass the test because there would be nobody here to try it out—and so, Sir, we have very wisely, in this as in other matters, hitched our wagon to the United Kingdom star. And it is not, I suggest, unwise for us to go one step further and bring our legislation into line exactly with modern legislation prevailing in the United Kingdom. That, Sir, is the sole object of this and the succeeding Bill.

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

The question was put and carried.

THE REGISTRATION OF DESIGNS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to provide for the Registration of Designs be read a second time.

The arguments in favour of this legislation are exactly *mutatis mutandis* those that I have just advanced on the last measure, and therefore I shall content myself with formally moving.

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

The question was put and carried.

THE PENAL CODE (AMENDMENT) BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Amend the Penal Code be read a second time.

Section 27 (3) of the Penal Code provides that in the case of a juvenile person under the age of sixteen a sentence of corporal punishment may be imposed on conviction for any offence in respect of which a sentence of imprisonment may be imposed. I think that all hon. Members of this Council at the time that the Penal Code was passed here had considered, and not unreasonably had considered, that the provisions of that sub-section were sufficiently explicit, but practical experience has shown that they are not so explicit. Certain magistrates, in fact, have so read that sub-section as to feel that it empowers them to award a sentence of corporal punishment in default of payment of a fine. Clearly, Sir, that was never the intention of the legislation. It is not, on the construction given to the legislation by the Supreme Court, the correct interpretation of the section, but it has in fact been the practical interpretation, Sir, and therefore it is necessary, in order that magistrates may not exceed their powers, to be a little more definite. So it is proposed to dot the i's and cross the t's and state expressly that no sentence of corporal punishment may be imposed in default of payment of a fine. The Bill makes no change in the present legal position; it is merely invoked in order to clear up what has been a doubt in the minds of magistrates as to the correct interpretation of the existing statutory provision.

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

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Council resolve itself into a Committee of the whole Council to consider clause by clause the following Bills:—

The Nursing Sisters (Retiring Allowances) (Amendment) Bill.

The Land and Agricultural Bank (Amendment) Bill.

The Agricultural Advances (Amendment) Bill.

The Prisons (Amendment) Bill.

The Vagrancy (Amendment) Bill.

The Dangerous Petroleum Tax (Amendment) Bill.

The Tribal Police (Amendment) Bill.

The Arms and Ammunition (Amendment) Bill.

The Marriage (Amendment) Bill.

The Registration of Patents Bill.

The Registration of Designs Bill.

The Penal Code (Amendment) Bill.

THE HON. T. D. H. BURCE: Your Excellency, I beg to second.

The question was put and carried.

The Council went into Committee.

In Committee:

THE NURSING SISTERS (RETIRING ALLOWANCES) (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE LAND AND AGRICULTURAL BANK (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 3.—Amendment of section 11 of the Principal Ordinance.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in the first sub-clause of the second sub-clause I beg to move that the word "come" be substituted for the word "home".

The question was put and carried.

THE AGRICULTURAL ADVANCES (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE PRISONS (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 2.—Exemption from poll or hut tax and gratuities in New thereof.

THE HON. THE ATTORNEY GENERAL: Your Excellency, in this clause I beg to move the following amendments:—

that in the second line of paragraph (a) of the proviso to sub-clause (1) the word "a" be deleted;

that in the second line of paragraph (b) of the proviso to sub-clause (1) the word "a" be deleted;

that in sub-clause (2), in the fourth line on the second page of the Bill, the words "a gratuity" be substituted for the word "gratuities";

that in the second line of paragraph (a) of the proviso to sub-clause (2) the word "a" be deleted;

that in the second line of paragraph (b) of the proviso to sub-clause (2) the word "a" be deleted.

The question was put and carried.

THE VAGRANCY (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE DANGEROUS PETROLEUM TAX (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE TRIBAL POLICE (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE ARMS AND AMMUNITION (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE MARRIAGE (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE REGISTRATION OF PATENTS BILL.

CAPT. THE HON. H. F. WARD: Your Excellency, I want to know whether it would be very inconvenient for Government for the Committee Stage of this Bill and the next one to be postponed until later and be taken when other Bills that have not yet got into the Committee Stage are also taken. The point is that the Nairobi Chamber of Commerce have raised a point on both these Bills, and I have been so excessively busy that I have not been able to get the details in order to make proper representations.

Progress was reported on the Bill.

THE REGISTRATION OF DESIGNS BILL.

Progress was reported on the Bill.

THE PENAL CODE (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 1.—Short Title.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that this clause be amended by the deletion of the figures "1933" and the substitution therefor of the figures "1932".

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that progress be reported on the Registration of Patents Bill and the Registration of Designs Bill; that the Land and Agricultural Bank (Amendment) Bill, the Prisons (Amendment) Bill, and the Penal Code (Amendment) Bill be reported to Council with amendment; and that the Nursing Sisters (Retiring Allowances) (Amendment) Bill, the Agricultural Advances (Amendment) Bill, the Vagrancy (Amendment) Bill, the Dangerous Petroleum Tax (Amendment) Bill, the Tribal Police (Amendment) Bill, the Arms and Ammunition (Amendment) Bill, and the Marriage (Amendment) Bill be reported to Council without amendment.

The question was put and carried.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency did I understand the hon. the Attorney General to say that he was reporting progress on the Registration of Patents Bill and the Registration of Designs Bill?

THE HON. THE ATTORNEY GENERAL: I did so, Sir. I asked leave, Sir, to report progress in order to give effect to the suggestion made by the hon. Member for Nairobi North.

CARR. THE HON. H. F. WARD: Thank you, Sir.
The Council resumed its sitting.

On resuming:

HIS EXCELLENCY: I have to inform the Council that progress has been reported on the following Bills:—

The Registration of Patents Bill;
The Registration of Designs Bill;

that the following Bills have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment:—

The Land and Agricultural Bank (Amendment) Bill;
The Prisons (Amendment) Bill;
The Penal Code (Amendment) Bill;

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

The Nursing Sisters (Retiring Allowances) (Amendment) Bill.

The Agricultural Advances (Amendment) Bill.

The Vagrancy (Amendment) Bill.

The Dangerous Petroleum Tax (Amendment) Bill.

The Tribal Police (Amendment) Bill.

The Arms and Ammunition (Amendment) Bill.

The Marriage (Amendment) Bill.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the following Bills be read a third time and passed:—

The Nursing Sisters (Retiring Allowances) (Amendment) Bill.

The Land and Agricultural Bank (Amendment) Bill.

The Agricultural Advances (Amendment) Bill.

The Prisons (Amendment) Bill.

The Vagrancy (Amendment) Bill.

The Dangerous Petroleum Tax (Amendment) Bill.

The Tribal Police (Amendment) Bill.

The Arms and Ammunition (Amendment) Bill.

The Marriage (Amendment) Bill.

The Penal Code (Amendment) Bill.

THE HON. T. D. H. BURKE: Your Excellency, I beg to second.

The question was put and carried.

The Bills were each read a third time and passed.

*The Council adjourned till 10 a.m. on Friday,
the 31st March, 1933.*

FRIDAY, 31st MARCH, 1933

The Council assembled at 10 a.m. on Friday, 31st March, 1933, at the Memorial Hall, Nairobi, HIS EXCELLENCY THE GOVERNOR (BUGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The Minutes of the meeting of the 30th March, 1933, were confirmed.

BILL.

SECOND READING.

THE INCOME TAX BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move that a Bill to Impose a Tax upon Incomes and to Regulate the Collection thereof be read a second time.

If hon. Members will refer to the Report of the Expenditure Advisory Committee, paragraph 145, they will find that, after very long and exhaustive examination, that Committee was satisfied that, not only for the current year—in which the Colony has budgeted for a deficit of £214,000—but for the four succeeding years, there is an estimated deficit varying from £140,000 to £171,000 in each year. I mention that at the outset, Sir, as the primary justification of Government for the introduction of a measure such as that which we are discussing.

It is gratifying to all of us, Sir, to realize that in the past few weeks there has been a general appreciation of the paramount necessity for balancing the Colony's Budget, and, as soon as possible, for building up surplus balances. On that point, Sir, with possibly very few exceptions, every hon. Member of this House is in entire agreement. The one matter of difference between hon. Members opposite and the Government is as to the proper and appropriate method of bridging that gap and ultimately placing the Colony on a sound financial basis.

The Bill to Impose a Tax upon Incomes was published in the Gazette for public information as far back as January last and recently, Sir, alternative proposals for raising the sum of money which the Colony so direly needs have been submitted to Government and those proposals, together with a large number of others which have been submitted by representative bodies and by individuals in the Colony, are at the moment under examination by a committee appointed by

Your Excellency. That committee has not yet reported, Sir. It would be both premature and improper for me to hazard any suggestion as to the form which its report will ultimately take and I trust that hon. Members will acquit me of any desire to do so if any inadvertent remark which I may make is capable of conveying the impression that these proposals have been decided upon in any way by Government.

I repeat, Sir, that money has to be found and that it is generally realized by the public that money must be found, and the public have made a most gratifying response so soon as a full realization of the facts of the case was brought home to them. The way in which Government suggests that money should be found is by means of a tax upon incomes, and in coming to that conclusion, Sir, Government was actuated primarily, though, of course, not entirely, by two major considerations. The first of these, Sir, is that the existing fiscal fabric of the Colony, a fabric which relies for the revenue which the Colony requires for its ordinary annual commitments on indirect revenue, mainly through Customs duties, is breaking down. Such a breakdown, Sir, is, I suggest, in the circumstances of this Colony, almost inevitable. A system of high tariffs, coupled with the full acceptance of the principle of internal protection, must, sooner or later, defeat its own end, so far as that end is the production of revenue. In a Colony with fertility such as Kenya has, in a Colony with initiative on the part of those engaged in primary production as this Colony fortunately has, protection must ultimately, so far as revenue is concerned, amount to practical prohibition.

Let me remind hon. Members of what the Financial Commissioner, Lord Moyne, wrote on this subject in his Report. I will refer hon. Members first to paragraph 111 of that Report:

"Indirect taxation shows no present sign of recovery and there is strong evidence that the recent increases in the tariff and the encouragement which they have given to the development of Kenya industries must lead to diminishing returns. The protective effect that is already shown by some of the duties imposed can be gauged from the following examples."

Lord Moyne then, Sir, sets out figures showing conclusively the diminishing yield in respect of those articles to the local production of which a measure of protection has been designedly extended.

"It will be seen from the above," Lord Moyne goes on, "that Kenya producers and manufacturers are making good use of their opportunities and although this development is of excellent promise from the point of view of

internal production, it cannot fail to have an increasing adverse effect upon the yield of the tariff. A consideration of the revenue derived from certain luxury duties also suggests that they are now so high as to check consumption and that more revenue might be secured by a lower rate of duty."

So far as that last statement goes, Sir, unfortunately recent figures tend to show that Lord Moyne was only too true a prophet and that the yield, even from luxury imports such as wines and spirits, is decreasing.

That, Sir, is Government's first argument in support of income tax. But, Sir, there is another and a stronger one. Coupled with the indirect form of taxation which has hitherto prevailed in the Colony, there is a measure of direct taxation. So far as the non-native population is concerned, that has taken the rough and ready form of a flat-rate poll tax and an education cess, a form which makes no differentiation between rich and poor, makes no distinction between the man with family obligations and the bachelor, who, unfortunately, has none; makes no distinction whatsoever between any two members of any of the non-native races. It is unscientific; it must inevitably press hard upon the poorer ranks of the community. That, Sir, has been our only attempt in the Colony to initiate a system of direct taxation. Surely, Sir, the time has come when we might confess our sins openly in that regard, when we might accept the very simple and rudimentary proposition that, as indirect taxation will no longer produce the yield which the Colony requires, the only avenue of taxation which we can properly pursue is a scientific, graduated form of direct taxation. Of these, Sir, there is only one. Such a system is embodied in the Bill which it is now my duty to present for the consideration of hon. Members.

What are the arguments against income tax, Sir? For the balance of this morning, and possibly for the greater part of the next occasion on which this Council will meet, I imagine that we shall hear all the arguments which hon. Members opposite have mustered against us. It will, therefore, be quite unnecessary for me, Sir, to attempt to anticipate such a debate. Opportunity will offer at a later stage to speakers on this side of the House to deal with the arguments which are advanced, but there are, I think, two, Sir, of which we have heard and read so much, that I can properly deal with them very shortly at this stage. These arguments, Sir, are, firstly, that an income tax is unsuitable for a Colony of mixed races, inasmuch as it becomes, from that very fact, unfair in its incidence.

31st March, 1953

In support of that argument, Sir, hon. Members will doubtless quote from the Report of Sir Alan Pin on the finances of Zanzibar. As against that, Sir, I would remind hon. Members that a system of income tax is in force and for many years has been in force in other parts of the Crown Colony Empire, where conditions are by no means dissimilar in so far as mixture of races is concerned from those which we find in Kenya. Income tax has been in force in India for a very large number of years, in the West Indies, in both Trinidad, Jamaica and British Guiana, where the population is very much more heterogeneous than anything we find in Kenya. It has been working for years, working smoothly and working well enough, so far as I personally am aware, after service in one of those Colonies; and in one of those Colonies it has not been seriously argued or contended by any one that income tax has introduced inequities or racial unfairness or discrimination. In that particular Colony the problem is still further accentuated by the presence of a large Chinese population, as well as an Indian, European and negro population. In the other two Colonies that I have referred to in the West Indies the problem is almost entirely similar. Further, Sir, the Colony is again great, income tax has been introduced and is reported to be working smoothly and satisfactorily, and only a month or two ago the neighbouring Colony of Mauritius also introduced a tax on incomes.

Can it then, Sir, seriously be contended that the introduction of income tax here, a tax which is based on income, on capacity to pay, a tax which takes as its primary and only standard the ordinary monetary standard in which we all live, is going to press inequitably on any section of the community? It is far from me, Sir, to desire to belittle anything that such an eminent authority as Sir Alan Pin has said about Zanzibar, but I do maintain, Sir, that I am equally entitled to my own opinion and that Government is by no means bound to follow Sir Alan Pin slavishly in this or in any other matter. There is ample precedent throughout the Empire for the imposition of such a tax on Colonies where conditions in no material regard differ from those which prevail in this Colony. It is on that fact, Sir, that I take my stand. That is my argument in favour of the imposition of a tax of this nature in so far as that particular counter-argument is concerned.

The second argument, Sir, is that nothing is more likely to deter the flow of capital into the Colony, nothing is more likely to drive capital out of the Colony, than the imposition of an income tax. That argument we have all heard from many sources in the last few months. That argument, I

suggest, Sir, is based on a complete fallacy. If there is anything which will deter the flow of capital into this Colony, I suggest that it is a continuously unbalanced Budget or, if not that, Sir, a fiscal system which consists, if I may quote from Your Excellency's communication from the Chair, in "groping for expedients," a financial system which is based on no sound progressive policy. Surely, Sir, it is axiomatic that the flow of capital depends and always must depend on two things: on security and on yield. So far as yield is concerned, there can be few more attractive parts of the world than Kenya. When one thinks of the masses of capital which are tied up in Great Britain, capital which can earn at best only a very small return indeed, can any one seriously argue that it is not an extremely attractive proposition for the capitalist to think that he can invest in this Colony where rates of interest are still high? So far as security is concerned, Sir, can it be said that the imposition of an income tax is diminishing the security for the investment of capital? Surely the argument is the very opposite. A secure fiscal foundation for the Colony, such as income tax, will provide a security, such as balanced budgets and gradually increasing surplus balances necessarily indicate, and inevitably must attract capital. That is the only effect that it can have. That, Sir, I suggest is one of the strong arguments in favour of a tax upon incomes. We have been losing money progressively for years. The present system is no longer adequate to meet our needs so long as Government quite properly fosters the principle of protection. We must, in order to get the capital which the Colony requires, have security. The yield is here; there is no question of the attractiveness of investment in this Colony so far as yield is concerned. When we turn to security, Sir, it is by income tax and in no other way, in no slipshod, unscientific manner, that we will get that security, and so, Sir, I very gladly turn that weapon upon those who have hitherto wielded it. I am very glad indeed to take that argument *in toto* as an argument in favour of income tax, that it cannot possibly, when one comes to consider it, be regarded seriously as an argument against it.

Those, Sir, are the two main arguments on which Government has based its decision to submit income tax to this Colony.

Now what, Sir, are the principles on which Government proposes to impose this tax? Income tax by itself means little or nothing. No one can possibly say whether an income tax is a good or a bad tax until one has seen exactly what the implications of the particular form of income tax are. And so, Sir, I would ask hon. Members to turn with me to the provisions of the Bill and allow me to make further drafts upon their time and patience to explain very briefly what the

main provisions are. I do not conceive, Sir, that it will be necessary for me to do more than that because, as Your Excellency announced yesterday, this Bill, after having been examined in detail by a Select Committee, will be referred to a Committee of the whole House when, in ordinary course, the examination will turn from principle to detail.

The first question, Sir, that naturally arises is what is income? Hon. Members will find that dealt with in clause 6 of the Bill, reading with clause 5 clauses 10 and 11. An income tax is not a tax on gross income. Apparently in certain quarters in the Colony that idea has been erroneously held. I have been quite unable to place any other interpretation upon certain letters which have appeared in the public press but that they have read into income tax a threat to tax the aggregate of a man's earnings. That is not so, Sir. The tax is a tax on chargeable income, and chargeable income is arrived at by taking the definition of income in clause 5 of the Bill and deducting from such income expenditure necessarily incurred in the earning of the income, the deductions allowed in clause 10 of the Bill, always being scrupulously careful not to include in the return any of the deductions which, by clause 11, are not allowed in arriving at chargeable income. If I may put it in another way, Sir, the potential taxpayer says, "I have earned so much; I have spent so much; of that expenditure how much am I allowed to deduct? I deduct everything which is necessarily expended in the earning of the income. I turn to clause 10—everything that is in there I am entitled to deduct. I then check it by reading clause 11 which tells me what I may not deduct." That, Sir, is another. That question, if I may, Sir, I shall return to from another point of view when I come to consider clause 20 which deals with the rate of tax. That, Sir, is the first point that arises from this legislation. It is a tax upon chargeable income.

It is a tax which is imposed in one year on the chargeable income of the preceding year. Thus, in the year 1933 tax will be payable in respect of the chargeable income earned in the year 1932. Provision is made in clause 7 for the cases of those businesses which normally work to a year other than a calendar year. In such cases, by arrangement with the Commissioner, returns will be accepted in respect of the working year, allowance of course being made for a return in respect of any period by which that working year or part of that working year falls short of the particular calendar year that we have under consideration.

Having arrived at the chargeable income, Sir, the next question is on what does one pay tax? That brings us, Sir, to the next part of the Bill, "Ascertainment of Chargeable Income," and the incidence of tax upon chargeable income.

That part begins, Sir, with clause 14 of the Bill and extends to clause 19. Having arrived at chargeable income a potential taxpayer says then, "I have earned this income and I am therefore entitled to a deduction in respect of earned income." The Bill provides for such a deduction at the rate of one-tenth of this earned income, with a maximum of £200.—In other words, everyone who earns £2,000 a year or under is entitled, for the reason that the income is the result of his own exertions, to deduct from the sum so arrived at one-tenth as a legitimate allowance in respect of earned income. Then we have a personal allowance: £150 in respect of every taxpayer. It may be argued that that allowance is unduly low. That is, of course, primarily a Committee point, Sir, a point which inevitably will be taken in Committee, and I might well leave it until we come to the Committee stage, but perhaps hon. Members will allow me to say here and now that in the circumstances which exist in this Colony it has been felt that it is not inequitable to place the allowance at as low a figure as £150. It will involve the payment of tax by a larger number of people. The further concessions which Your Excellency indicated in respect of the rate of tax in clause 20 and the set-off of poll tax will go far, Sir, to make the tax more equably distributed over the whole non-native population than it perhaps would have been had the provisions of this Bill stood unamended.

A personal allowance, I repeat, is given of £150 a year and in the next clause there is an allowance in respect of a wife of £50. Similarly, in the next clause a deduction is permitted in respect of children—the sum of £40 in respect of the first child and £30 for each succeeding child, with a maximum of £100. "Child" in that connection is defined as a child under the age of 16 years, or a child over the age of 16 years who is receiving full time instruction at a school or other educational establishment. So that, in so far as education is concerned, the age of 16 is not operative. "Child" also, Sir, includes a step-child, but not an illegitimate or an adopted child.

In the next clause, Sir, we have a further deduction in respect of life assurance premia, whether that be by means of a Widows' and Orphans' Pensions Scheme contribution, a State Railway Provident Fund contribution, or any analogous scheme, of which several are in operation in the Colony, or by means of straight insurance on the life of the taxpayer or the taxpayer's wife—in all these cases, Sir, a deduction of the premium paid is allowed, to a maximum again of £100.

Before I pass to the next part, Sir, I would ask your leave to go back for a moment to illustrate a point which I inadvertently omitted; that is, an allowance in the case of

businesses and industries, for wear and tear, which hon. Members will find in clause 12, and the important allowance in clause 13 of a set-off in respect of trade losses. Trade losses in previous years, beginning with the year 1931, may be set-off against the income of the next five years. That loss is not entirely-cumulative as a loss in 1931 can be carried forward to 1936, a loss in 1932 can be carried forward to 1937, and so on. That, Sir, I am sure hon. Members will agree, is a substantial concession to give, a concession which ought to be extremely valuable and valued by many who are engaged in industry in the Colony.

Now, Sir, we come to the rate of tax in clause 20, and, as Your Excellency intimated when Council opened on Wednesday, Government proposes at a later stage to move an amendment to that particular clause fixing a rate of tax on the first £350 of chargeable income of Sh. 1 in the £. On the next £350 the rate will be Sh. 1/50 in the £; on the next £800 Sh. 2 in the £, and thereafter as in the printed Bill. Coupled with that will go an amendment to clause 75 providing for a doubled poll tax of Sh. 60 on all non-natives, the whole of which will be a permissible set-off against the income tax due. The effect of that, Sir, if I may take certain specific cases, is that, making no allowance whatever for any possible deduction for life insurance, a bachelor will not begin to pay tax until he is earning £234 a year. A married man without children is liable to tax when his income exceeds £260 a year, and a married man with three children is exempt until he is earning more than £400 a year.

In passing, it may be of interest if I draw the attention of hon. Members to the fact that until we came to an income of £350 a year the proposals of this Bill for a married man with three or more children are considerably lighter than the proposals for a graduated poll tax put forward by the Nairobi Chamber of Commerce. On the other hand, a wealthy bachelor with an income of £2,000 a year will, I am afraid, be compelled to pay £326 a year instead of the £100 suggested by the Nairobi Chamber of Commerce. It is, I suggest, inequitable that the burden should be distributed according to the ability to pay and that the rich man, of whom there are some in this Colony, should at least be called upon to contribute something approximating to his capacity towards the revenues of the Colony in which he enjoys so many privileges and advantages. The poor man, the man on a small income will be better off—will be infinitely better off under this scheme of income tax than he would be under any scheme of graduated poll tax. The scheme is a scientific one; it is so graduated as to give relief where relief is really required.

While I am on that subject, Sir, it may perhaps be not inappropriate if I turn to the case of the farmer. I do so particularly, Sir, because I have gathered from what I have read in the last month or two that there is very considerable misapprehension on this subject throughout the country. A farmer, of course, pays on his income, if he has any, but unlike persons in other walks of life, a farmer does, under clause 5 (c) of this Bill, get a very substantial relief. That clause, Sir, deals with the valuation of the house for the purpose of ascertaining the chargeable income. The actual provisions, Sir, are that income includes the annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit, such annual value being deemed to be 6 per centum of the capital value of such land and improvements. The words to which I particularly desire to draw attention in this connexion are "and not for the purpose of gain or profit". When we take the concrete instance of the farmer who is living in a house on his own land, that house, Sir, will be treated, and will properly be treated administratively as being occupied for the purpose of gain or profit and will not be subject to tax in any way. It is only in the rare case where a farm house is so large and so luxurious that a part of it cannot be said to be occupied for the purpose of gain or profit—where that part is obviously occupied for the purpose of residence and enjoyment—that any addition to the income of a farmer will be made in respect of a house. Even in that comparatively rare case, Sir, the addition will only be based on 5 per centum of the annual value of that part of the house which is not necessary for the purpose of carrying on the farm. I do wish to stress that point, Sir, for the reason that I was quite seriously told the other day that under this Bill every farm house was to be valued at £100. Where those ideas originate, from what source they emanate, I am not going to attempt to decide, Sir, but that is an idea which I have heard voiced. For all I know, it may be an idea that is prevalent in certain districts of this Colony. For any such idea there is no foundation whatsoever. The incidence of the tax on farm property, on farm houses, is exactly what I have stated it to be and no more. If a house is not unreasonably large and luxurious for the purpose of carrying on the farm, then it does not form part of income at all, Sir.

I have dealt, Sir, shortly with the rate of tax on individuals. On companies there is a flat rate of Sh. 2 in the £ and a provision is made for a deduction of that tax from the dividends of the company at source. That, Sir, gives me my first opportunity of dealing with one of the advantages of a system of income tax as opposed to any somewhat analogous

system which may be suggested from other sources. This is not a tax on individuals; it is a tax on incomes of all sorts. It is not a tax on resident individuals; it is a tax on income received by any one no matter where they are resident, if that income is derived from or accrues in the Colony. In that respect, Sir, hon. Members cannot help agreeing with me that the incidence of taxation is spread over an infinitely wider path. It is not, as a poll tax is, a tax gratuitously imposed upon an individual by the mere accident of his residence in the Colony. It is a tax based scientifically on revenue derived from the Colony. It is payable equally by companies, by every shareholder in a company, by every non-resident who receives money from the Colony. Your absentee capitalist who lends money on mortgage here is contributing to the welfare of the Colony which for years has given him an income. Your pensioner, though he many years ago have left Kenya for good, contributes, as equally, pensioners who still remain in the Colony. Surely, Sir, that is an argument in favour of such a tax. The net is spread as wide as we can get it. Everything which is derived from the Colony is taxed and in the case of interest derived from dividends here by companies, that tax is deducted at source. In the case of interest on mortgages due to persons outside the Colony, that tax is deducted at the source. Where a tax on the dividend of a company is payable to a person who is resident in the Colony, provision is made in clause 23 for an adjustment and set-off. There will be no hardship caused to the individual. His tax, which has been deducted at source, will subsequently be so adjusted that he will pay not a penny more than he would have paid had there been no deduction at source, but by virtue of these provisions the Colony is going to get a great deal more money than it would get under any unscientific system of taxation heads in the Colony.

Then, Sir, we come to special cases in Chapter V. The first that I would mention is that of husband and wife. According to the almost universal income tax practice the income of the wife is to be deemed to be part of the income of the husband. They are aggregated for the purpose of arriving at tax and the tax is payable by the husband. There is, however, a proviso that if the husband cannot or will not pay the wife can be called upon to pay her share.

With trustees, agents and others, I do not think that at this stage I need waste the time of Coppel. Sir, but I would like to draw attention to the provisions in clause 26, which are special provisions designed to give a measure of relief to those who are engaged in permanent forms of agriculture, in the cultivation of such crops as tea, coffee, cocoa. There, Sir, the question of developing new areas naturally becomes an important one. It is, I assume, partly from that point of view

that the argument has been advanced that this is not an income tax in fact in Kenya but is a tax on capital. I assume that that argument is based on the idea that the obligation to pay income tax will prevent further new development. Under this clause, Sir, that situation, should it ever be likely to arise, is in part at least alleviated. The clause provides that a person may, up to the extent of 15 per cent of his income, put it back into further development of new areas under any permanent crop.

The shipping provisions which are contained in clause 39, Sir, may at first sight appear to hon. Members to be curious, but they are rendered necessary when read with the provisions of clause 8 (n) by the fact that in the interests of British shipping there is being negotiated, there is approaching completion, an international reciprocal system whereby shipowners are exempt from income tax in all countries. The provision here in clause 39 is that which is found in most Colonial income tax bills but by clause 8 (n) if a foreign company is operating in this territory and that company belongs to a country which extends to British shipping companies in its territory relief from income tax then a corresponding relief will be extended to that foreign company in Kenya. It is, I submit, in the interests of British shipping an extremely wise and salutary provision to make.

Provision is made in clauses 42 and 43 for relief from double taxation. Clause 42 deals with relief from United Kingdom taxation and clause 43 from Dominion and Colonial taxation. These provisions are to a certain extent common form now, Sir. They are obviously extremely valuable provisions to have and they do, I suggest, have a very distinct and a very real bearing on the argument that capital will be deterred from the Colony when income tax comes in. If capital is now invested in the United Kingdom at something like 1½ or 2 per cent, and from the yield of such investment income tax at United Kingdom rates, which are a little higher than in this Bill, is deducted, surely it is not unreasonable to suggest that it is an incentive to a man to put his money into this Colony where the rate of tax is very much lower and where in respect of income tax there is provision for relief from double taxation, whether we are dealing with the United Kingdom or with another Dominion such as South Africa or with another Colony in which income tax is in force. With these provisions at least, Sir, I am emboldened to think that no hon. Member will quarrel.

In Chapter VI we come to the general powers of the Commissioner. The provisions for collecting the tax can, I think, be fairly shortly and simply explained, Sir. It is the duty of the taxpayer to render a return of his income to the

Commissioner. In the case of the first year, Sir, inasmuch as we are now practically in the month of April, special provision is made for the rendition of that return within forty-two days of the commencement of the Ordinance. That may appear an unduly short period, Sir; it is certainly not a very long period, but hon. Members will, I am sure, realize that if revenue is to be derived from this measure in the year 1933, if the Colony is to have the benefit of such revenue in the current year, then no time can be wasted. That is our sole reason, Sir, for providing for what at first sight appears to be the very short time of forty-two days. A return has to be rendered to the Commissioner. If the Commissioner is satisfied with it, well and good—he sends out an assessment notice stating the tax due. If he is not satisfied with it the Ordinance confers on him certain powers and rights. He may call for further information; he may call for books; he may even call upon a taxpayer whose returns are unsatisfactory to keep books in a stated form and in a stated language. Ultimately, Sir, if he is still not satisfied with the returns he has the power of arbitrarily assessing the taxpayer. I use the word "arbitrarily." Sir, because it is an arbitrary power to confer, but it is a power which taxing statutes almost universally have found it essential to confer upon their tax authorities. Cases may arise, I dare say cases will arise, in the early stages of the imposition of such taxation in this or in any other Colony where it will be necessary to use those powers. But hon. Members may rest assured that they will be used and not abused. There is behind it all the safeguard of the courts for there is full power of appeal given by this legislation in a later part of the Bill to which I shall in due course draw attention. Unless some such power is given, Sir, then the equality of sacrifice is gravely endangered; unless some such power is given we are practically putting a premium on dishonesty. It is only against the dishonest man that such powers will have to be invoked, and by the very reason that it is the dishonest man none of us here is going to waste sympathy upon him. That arbitrary power is there—it will not infrequently be needed but it is very necessary to retain such a power. Returns have to be submitted, and in that connexion, Sir, special provision is made in clauses 67 to 69 for special returns of rents received and paid, special returns of lodgers and inmates and special returns by bankers of coupons cashed by them. Having got your returns in, having at last agreed your returns with each taxpayer, we come next to the question of assessment. The actual amount of the assessment is, of course, determined by the appropriate abatements and allowances and by the appropriate rate of tax on the chargeable income which is left. Assessments are sent to each taxpayer and he is called upon to pay the tax. In that connexion the provisions of section 61 relating to service are not unimportant, though they appear in

certain quarters to have been misread and misconstrued. Service is stated in that clause to date from seven days after the date on which in the ordinary course of post a document sent to any address in the country ought to have reached that address. The provision does not shorten the time of service as I have heard it said; it in fact extends the time of service by seven days.—Nothing will run until seven days after that date on which in the ordinary course of post the letter would have reached the addressee. Having been assessed, Sir, the taxpayer is called upon to pay. He may even then challenge the assessment: he may have further material to place before the Commissioner which quite inadvertently he had omitted, and that he may do, Sir, under clause 65. But having been finally assessed he has one of two things to do: he either pays or he appeals, and appeals which lie to the Supreme Court are dealt with in clauses 67 and 68. But subject to an appeal or on the result of an appeal an assessment is final and payment has to be made. Payment has to be made within thirty days of the service on the taxpayer of the notice of assessment, which of course means the final notice of assessment. If an appeal is entered in the meantime, then of course that period is inevitably and necessarily extended. Thirty days is allowed for payment after service of the notice and in default of payment clause 73 provides for an automatic and mandatory penalty of 10 per cent. That may appear to be a harsh provision, Sir, but it only applies to those who do not or will not pay when the tax is due, and it has been found elsewhere to be a provision of extreme value. In India the penalty is 100 per cent, and the Report of the Commissioner for Income Tax for India for the year 1931 states that no other tax in India is collected with anything like the same ease and promptness as income tax. For that the penalty provision is very largely responsible. Here, Sir, we are imposing a penalty of only 10 per cent. It is definitely a provision intended to ensure prompt payment; it is a provision designed to obviate expense to the Colony, to obviate the expense of reiterated attempts to collect. It makes it worth a man's while to pay in time. It is a provision for which there is ample precedent in the Colony, but there is no precedent which is quite so mild as this, which is only 10 per cent. Let me remind hon. Members that if non-native poll tax is not paid on the due date it is doubled; if education cess is not paid on the due date it is doubled; and there is a penalty for late payment of land rents. There is ample precedent here already and the penalty here is only 10 per cent. It is an incentive to a man to pay in time—by paying in time to minimize expense to the Colony and to get the money in in the year and at the time when the Colony essentially requires it.

The other provisions, Sir, I do not think I need take up time with, as in all statutes, particularly statutes of this nature, there is unfortunately a part dealing with offences and penalties. Offences are graded into three categories and the penalties attached to each of those categories of offences are correspondingly graded. For a minor offence, due to inadvertence or negligence, in the first category, the penalty is not a severe one. In the second category, the penalty is not a severely punishing one, obviously the penalty is much higher and, on top of any penalty in the form of imprisonment or fine, there is a further provision for payment of double the tax due in addition to the tax itself; and for the third and most serious category, offences committed with intent to defraud, the penalty is again increased to three times the amount, together with substantial imprisonment and a heavy fine. With those provisions, Sir, no hon. Member I am sure will cavil.

That, Sir, is, I am afraid, a quite unduly lengthy and laborious attempt to explain the principal and salient provisions of this Bill. Opportunity will occur later, Sir, to go into greater detail.

Before I conclude, Sir, and formally move . . .

THE HON. T. J. O'SHEA: Your Excellency, may I, on a point of order, interrupt the speaker at this stage to point out that he has made no reference to an important principle of speech which would be incomplete without reference to that portion of the Bill.

THE HON. THE ATTORNEY GENERAL: If I may say so, Sir, I am indebted to my hon. friend. The clause to which he refers is that dealing with the Colony's debts, Sir, and the recommendations in a model ordinance which were committed to me which reported to Parliament which was prepared by the Attorney General, Sir, that by proclamation in the Gazette, Your Excellency may provide that the interest payable on any loan from taxation, either generally or only in respect of interest payable to persons not resident in the Colony.

The way in which the interesting and difficult problem of the local taxation of interest on Colonial loans is dealt with in different parts of the Colonial Empire varies considerably. So far as my researches entitle me to make any general assertion on the subject, I can say this, that in no part of the Crown Colony Empire is the interest on Colony loans subject to income tax. In many parts the interest is definitely stated not to be subject to income tax; in other cases, as in the provision now before us, Sir, a permissive power is given to Your Excellency

to decide in each event. I repeat that nowhere is such interest by and large subject to local colonial conditions. In many cases it is impossible without amendment of legislation to make interest on any loans so liable. In others, as here, it may be declared in respect of any loan that the interest is so chargeable, and that declaration may be either in respect of all interest due to people under that loan or only in respect of such part of that interest on any particular loan as is payable to non-resident persons. This clause, Sir, if I may put the matter in another way, goes as far in the way of making it possible to tax any Colony loan as the corresponding provisions in any Colonial legislation that I have seen or heard of. That, Sir, I hope, will elucidate at least, I think, when we come to detail on the Bill, the question which the hon. Member for Plateau South has raised.

Now, Sir, before I resume my seat, there is but one other matter about which I will say a word. The last paragraph of the Objects and Reasons states that an expenditure of approximately £8,000 will be involved. That figure I have seen laughed at, pilloried, as quite impossible. I can only repeat, Sir, that that was the estimate given to Your Excellency by Your Excellency's advisers and that up to date and in the light of what, so far as we can envisage it, we imagine the future can bring, that estimate will not be far out. It is impossible to make a firm estimate. Much must depend on the cost of collection. If we are to see in Kenya what occurred in Great Britain in the early months of last year, a willing and most earnest desire to pay, then costs come down. That is a point of view that every taxpayer must, I think, bear in mind. Those costs are reasonable costs of administration. If collection were to be made more difficult than it otherwise might be, then those costs might go up. But against that we have invoked clause 73 and we get our 10 per cent penalties, which I hope will be sufficient to discharge any excess over £8,000 which that, I trust, remote possibility might involve.

I cannot, I feel, Sir, adopt my usual course when presenting a measure to this House and submit it for the favourable consideration of hon. Members opposite. But I am going to ask them only one thing, Sir. I have endeavoured to explain the major provisions of the Bill. I want them to believe this, that—however unpalatable a pill it may prove to any hon. Member—I shall be personally only too happy to endeavour to explain, and possibly even explain away, any difficulties that may appear to obtrude on any of the other provisions, Sir. If hon. Members feel that I can help in that direction, or that any of my hon. friends on this side can be of any assistance, Sir, I can assure them that they have only to ask and we will all do our utmost to assist.

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

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

Council adjourned for the usual interval.

On resuming:

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, before I commence in general terms what I have to say, may I be allowed to refer very briefly and also in general terms, to the speech which we have just listened to from the hon. the Attorney General; and I should like, if I may, to divide that speech into two parts—first of all, that part which I may call his exposition of the provisions, the detailed provisions of the Bill; and the other part, his arguments put forward in support of income tax. I should like, so far as his exposition of the details of the Bill were concerned, to congratulate him on his usual very great clarity in exposition. I would like also to condole with him most heartily on his singularly unconvincing arguments put forward at the commencement of his speech in support of this obnoxious Bill.

It is at least encouraging to those of us who believe just as deeply—I am sure he will give us credit for that—that this Bill would be bad and disastrous to the Colony as to him, who believes that it would be advantageous, to know that that gentleman on the Government benches who, without being in the least derogatory to any other hon. Member on those benches, will be universally acclaimed as the best orator and the best speaker—it is, I say, a great encouragement to us to know that even he could not make out a more convincing case for the Bill which he asks this Council to pass.

Now, Your Excellency, it will be necessary before I come to the actual principle of the Bill, to refer—because it is all bound up with this Bill and the opposition to this Bill—to what has happened recently. It was not until yesterday that we were aware, when Your Excellency made a communication from the Chair, that the Secretary of State had agreed that this Bill should not be forced through all its three readings at this session of Council and that he would agree to consider alternative proposals before coming to any final conclusion with regard to the fate of this Bill. Elected Members, who met on Monday and Tuesday, had to consider, and to consider they would be compelled to do with earnestness, what course had not accepted the recommendation of Your Excellency that this Bill should go no further than the Committee stage, and I think it only right that Your Excellency and the country generally should know that they had decided that if that were

the case they would have had no alternative but to refuse to discuss this Bill in detail or in principle but would have had to content themselves with one of their number protesting on the constitutional issue and then leaving this Chamber. I am glad to say that, owing to the action taken now by the Secretary of State, that course is at all events for the moment obviated.

Your Excellency yesterday in a communication from the Chair after the adjournment stated that you appreciated the reasons why Elected Members felt themselves unable to take any part in the Select Committee stage, and I am glad that Your Excellency does appreciate our position because it must be perfectly clear that if we, or any one of us, allowed ourselves to be nominated on a Select Committee to consider the details of this Bill, it would have been taken—or at all events might have been taken, not only by people in this country but certainly by people at home, as some tacit admission or belief that, with careful combing and amendment, the Bill might be made workable, which we do not believe is the case. That being so, I have to inform Your Excellency officially that no European Elected Member—and I have the authority of the hon. Member for Plateau South for including him with us—can agree to sit on the Select Committee.

What happens when the Bill comes to a Committee at the whole House is a matter for discussion and decision, but at all events one advantage of a Committee of the whole House is that we believe we can show that the Bill as at present drafted, even with any amendments that may be proposed by the Government representatives on the Select Committee, cannot be made workable, and that a debate on the Committee stage will show that to the public assembled here and the public who read the reports of the debate on the Committee stage. It will be for individual members of the public to make up their own minds as to whether they should approach the Select Committee and make any suggestions for amendment. That is a matter in which it must be left to each individual to act as he thinks best. That is no concern of Elected Members on this side of the House.

Now, Your Excellency, I must again refer to a remark which you made in your communication from the chair on Wednesday last, when you expressed the hope that the discussion and debate on this Bill could be conducted not only here but throughout the country without bitterness. Now, I am afraid, Your Excellency, that that is asking a very great deal. It must be apparent to Government, and have been apparent for several months past, that there is a feeling of very intense bitterness from north to south and from east to west in connexion with the introduction and proposed passing of this Bill, and I think that Government will themselves, if they are fair,

admit that that bitterness is not without cause. I would like briefly to explain what has happened and remind Your Excellency of the history of the whole of this question. Over two years ago, Elected Members besought Government to appoint a proper Finance Committee to deal with both revenue and expenditure and to have complete and wide terms of reference to go into the whole matter, to view the whole picture, and to report. That was categorically refused. Again requests were made: again they were refused. It was not until, I think, about the middle of last year that Government agreed to appoint the Expenditure Advisory Committee, and I submit that Government were forced into the position of having to appoint that Committee which hitherto they had refused to appoint. When that Committee was appointed, representations were made to Government as strongly as we could possibly make them that that Committee should be able to deal not only with expenditure but also with revenue, and again that was refused, although almost a few weeks before an exactly similar Committee had been asked for in Northern Rhodesia and had been appointed to deal with both revenue and expenditure and with a large unofficial majority. The next thing that happened was—and perhaps in that case this Government was not to blame—the terms of reference of the Expenditure Advisory Committee were so enucleated that five of the largest heads of governmental expenditure were excluded from their purview. I would respectfully agree with Your Excellency that the whole Colony owes a very deep debt of gratitude to the members, both official and unofficial, of that Expenditure Advisory Committee for the enormous amount of time that they devoted to their work and the unflagging interest that they showed in their task, but there can be no doubt that the advantage that the Colony has gained from their report would have been very much greater had the terms of reference not been as enucleated as they were. Now, despite the fact that Government refused and refused consistently to appoint a Committee which could deal with the revenue question, again at the last moment a Committee has been appointed, called the Alternative Revenue Proposals Committee, which in effect is a revenue committee, because it considers all possible alternative forms of revenue which may be put before it. Now I suggest, Your Excellency, that it would have been very much better—I know it is easy to be wise after the event—but I have been very much better if, when the request was first made two years ago, that one committee dealing with revenue and expenditure and with the whole matter of finance connected with the Colony, had been appointed. I do not believe then that there would have been one-tenth of the bitterness aroused, and matters could have been dealt with in consultation between

Government and the people and a genuine attempt made to find a reasonable method of raising any new taxation that was required, and it could have been raised with the goodwill of the people instead of in the teeth of their opposition. The country feels, Sir, that right up to the eleventh hour Government—to use a colloquialism—have been sticking their toes in and refusing to budge until the pressure was so great they had to retreat. They have had to retreat; we have in effect got what we wanted, but how much better it would have been if it had been granted when we asked in the first instance, instead of making us fight for two years for an object which we were determined to get. Then, Sir, things are not helped by a motion suddenly appearing on the Order Paper at a recent Council for the appointment of an income tax adviser. That motion, which made the country feel that the whole issue had been prejudged, was pushed through with the Government majority and against the united votes of all Members on this side of the House, and the department was actually set up before the present Bill was even published for information. I would ask Your Excellency and members of your Government to try and place yourselves in the position of a member of the public who knows all these things and who sees all these things, and perhaps it will not be surprising if there is the bitterness rife in this country which does exist to-day. The last straw, so to speak, was the announcement—which stood, as I say, until last Wednesday—that this Bill was to be passed through all its three readings. And so the position was, I repeat again, up to the eleventh hour. Now, I am quite willing to admit that at the eleventh hour we have been met to a greater extent than at any time during the past two years. Your Excellency recommended that the Secretary of State should agree that the Bill should not go through its third reading, and that has been accepted. I see in the paper this morning—I interpret the answer of the Secretary of State to a question asked in the House of Commons—that he does propose to consider the final draft of the Income Tax Bill as amended in Committee and the alternative proposals which will then be published in an impartial manner, and to come to a decision without having prejudged the matter. That interpretation which I place on the answer which I see in this morning's paper is strengthened by the assurance that Your Excellency gave me on behalf of Elected Members yesterday that the Secretary of State would deal with this matter in an impartial manner, and that this Government did not propose in any way to load the dice against one alternative or the other from this end. The bitterness to which I have referred will no doubt have been softened and allayed by what has taken place since last Wednesday but I think it only fair to

say that I honestly believe that it will be a long time before this Colony forgets the way that, so far as the finances of this Colony are concerned, they have been treated during the last two years.

Now, Sir, I come to the general opposition—that this country has to this Bill, and before detailing that opposition and the causes from which it arises I would like to refer to the reasons given by my hon. friend the Attorney General for the introduction of a new and permanent form of taxation. He stated first that one of the two main reasons was the financial position of the Colony and the deficit which had to be met, and while he was saying that I was wondering what his *ris-d-ris*, the Attorney General of Uganda, is going to say when he introduces the Income Tax Bill into that Legislative Council, where they have a million pounds of surplus balances. At least he will not be able to use that argument. The Attorney General also said an even stronger argument was that our system of indirect taxation has broken down, and that we could no longer look in the future for sufficient revenue to be derived from our present system of indirect taxation—Customs duties and so forth. With the greatest respect, I deny that most emphatically. If we have any belief in the future of the world, if we have any belief that things are going to right themselves, that the prices of primary products are going to increase and that our country is going to join in what I am certain in my own mind must be the inevitable return to prosperity; if we believe that, then we cannot for one minute admit that our financial system has broken down, that we are never going to return to days of prosperity and largely increased revenue from Customs duties. I quite agree that naturally, with the development of local products and therefore the lesser necessity of importing those products from abroad, there will be a less amount of Customs duty from imports into this Colony, but if we return to prosperity is it not a truism that the exports are reflected in the imports and that if the producer, instead of losing money as at present, is selling his produce at reasonable rates and making a profit, the inevitable repercussion must be that more imports will come into this Colony? The Attorney General said how true it was what Lord Moyne said that even luxuries could no longer be considered in the future as bringing in the revenue that they did in the past; how true a prophet he is, said the Attorney General, because it is seen now this year and last year that the Customs duty on luxuries is sadly declining. Your Excellency, how can it be possible that the import of luxuries into this Colony should not be reduced at a time which has not been known almost in the history of the world? Does the Attorney General really believe that with a return to prosperity the imports of luxuries will not again rise? Is it

fair to say the fiscal system has broken down and that the import of luxuries cannot be brought back to its proper level when we are going through times like the present? Surely it is no criterion to take the bottom of the biggest slump in history and try to base comparative figures of imports between these times and times of great prosperity, such as existed seven or eight years ago.

If I am right, and we can look to our present fiscal system of maintaining the financial position of the Colony, then I think the Attorney General will agree that the whole of his argument falls to the ground.

Now, Sir, what is the opposition to this Bill, and on what is it based? I think I can say that there are probably three schools of thought. The one school is a school which, while I am perfectly prepared to agree it is not completely unanimous, certainly is the view of the very large majority of the citizens of this Colony: that is, that income tax, that the principles of income tax, are incapable of equitable application in this Colony and that income tax for many reasons, some of which I hope to give later, will, so far from helping the Colony, end by being disastrous to it. Another school of thought, and this is completely unanimous, is that, income tax or no income tax as a principle when applied to this Colony, they are not prepared to accept or to hand so an autocratic Government, with complete control of finance, such a dangerous weapon—a tap which can be turned on at will. That is the second school. Even those who favour, those few—I think I can fairly say, those few—who favour the principle of an income tax, nevertheless are not prepared to agree to the imposition of such a tax with the present constitution which obtains in this Colony. The third school—and this embraces the whole of the first two schools and embraces every man and woman in this Colony without exception

the constitutional issue: that they are entitled—the taxpayer is entitled—to be taxed in the way he wishes and that to force taxation on an unwilling community is opposed to the constitutional principles which have existed for centuries in England and the Empire. As far back as, I think, the reign of Edward the First the principle of no taxation without representation has been admitted and never questioned. What does that mean, Sir? Representation does not mean that eleven members are elected by the Europeans of the Colony and sent to a room to talk without any real power of any description. That is not representation. What representation means is that there should be no taxation against the will of the people unless the people have the right to dispossess those who propose to impose that taxation and put in their places other people to represent them and to govern them. That,

briefly—I think the Attorney General will agree—is what “no taxation without representation” means. If the interpretation was that, because you have a permanent minority who are solemnly elected, you have therefore got representation and you therefore must submit to any taxation which the permanent majority chooses to impose on you, I suggest that no political historian from the reign of Edward the First to the present time would ever accept that as a correct interpretation. This country feels—and I am sure I am not exaggerating—it feels its position more strongly than I can say. It feels that it cannot possibly accept taxation forced upon it against its will, more especially when it is prepared to bear the necessary taxation in other ways which it can and will do willingly. I agree, Sir—I always have agreed—that it is of vital importance to balance the Colony's budget; but I would go this far and say, for myself anyhow, that it would be a lesser evil that the Budget should be unbalanced than that British citizens in this Colony should lose the long-established and inherent right which they have held for so many years of no taxation against the will of the people.

Now, Sir, I think I can say that the events of the past few months have shown that the British people of this Colony, no less than their fathers and their grandfathers, have been proud of the right to which I have referred and are as determined to maintain that right at all costs.

Now we come, Sir, to the detailed arguments against the principle of income tax as applied to this Colony. If I were to deal in detail with all the arguments that could be adduced I should take up much more time than I have any intention of doing. I have already tried in other places, to the best of my ability, to give reasons why I believe that income tax will be disastrous to this Colony. I propose therefore now to repeat only some few of them, leaving it to my colleagues to take up the many points which I shall not touch upon, and not touch upon purposely, because it is no good spending days of idle repetition, one Member saying exactly what another Member has said. Moreover, Sir, if I were to stop and deal with all the arguments which could be adduced against income tax, I am certain of one thing—that I should entirely lose my voice, which has already nearly gone.

The first and greatest argument is that it is impossible of equitable application, and here I meet Your Excellency and Your Excellency's Attorney General on their own ground. If I am not mistaken, and the Attorney General twice this morning said the whole advantage and justice of this tax is that it is a tax based on ability to pay. I say without fear of

contradiction that in a country with mixed races and different standards of living it is no such tax, and that no possible amendment of this Bill can make that tax a tax based on ability to pay; and I shall hope to show that in a minute. Now the Attorney General, being an astute lawyer, naturally tried to—I will not say circumvent—but to forestall some of the arguments which would be put up against this Bill, and he dealt with two. One was the argument with regard to the inequitable incidence of such a tax in a country like this. What did he say? He said, “No doubt I shall have quoted on the opposite side of the House the words in the Pim Report to the effect that income tax was unsuitable in Zanzibar for the same reasons that we say that the tax is unsuitable in Kenya”; and he then went on to say: “Although due weight”—or words to that effect—“must be given to such a distinguished gentleman as Sir Alan Pim, I would put up against that the fact that this Bill is in force in Jamaica, Trinidad, Ceylon, Mauritius, India and various other places.”

No one denies that the Bill is in force there, and I do not even mind if the Bill works smoothly there. But does that prove for one minute that the incidences are equitable? He has not dealt with the point: he has begged the question entirely by saying that an income Tax Bill in Jamaica or somewhere else, where there are Chinese, Europeans and negroes, works smoothly. That does not say that these various races are being fairly treated by the provisions of such a Bill. We know not if they are or if they are not; but there is no proof whatever and no argument against the argument put forward by Sir Allan Pim—the argument that the incidence is inequitable and is unsuitable to a Colony such as this. Before I leave Sir Alan Pim, the Attorney General asked: “Why should this Government tie itself blindly to Sir Alan Pim?” Certainly not, Sir. Your Excellency, those may not be the exact words of the hon. Member, but he said practically those words: “Why should this Government blindly follow Sir Alan Pim. Certainly not.” Might I ask him why should this Government blindly follow Lord Moyne?

Now, Sir, let us deal in brief detail with this wonderful slogan of taxation based on ability to pay. Presumably that means that one who, when he has paid his ordinary normal expenses, has a sum of money which he can set aside or spend, as he likes, that that man should rightly be called upon to pay a greater share than the poorer man. But you have to consider the comparative wealth. Will the Attorney General, will any Member of Government dare say that a European earning x pounds a year has the same ability to pay as an Asiatic with x pounds a year; or that an Asiatic with x pounds a year has the same ability to pay as a native with x pounds a year?

The proposition has only to be put forward to be proved ridiculous. You cannot—I said it before, Sir, and I repeat—there is no question here of any cynical superiority of one race over the other—we have to take facts as we find them, and we find in effect that the methods of life of the three communities being so different and their standards of living being so different, that the Asiatic is more able to save and therefore to pay than the European; that with the same income the native is more able to save, and therefore to pay than the Asiatic with the same income. Precisely the same thing applies when you come to allowances in respect of a wife and a child. Can it be suggested for one minute that the cost to one race of the support of a wife and the education of children is the same as the cost of the support of a wife and the education of children of another race?—I shall be interested to hear Members on the other side of the House attempt to answer that question.

The only way in which this Bill can be made equitable in its incidence would be to have a completely different system for the three races, and such a proposition obviously would never be permitted by the Secretary of State and would raise a howl of protest throughout England. As long as you have a Bill which treats all three races in precisely the same manner and ignores their standards of living, as long as that exists, it is beyond the wit of man, even the Attorney General, to produce a Bill which can be equitably applied.

Before I leave this question about the ability to pay, I think it rather shows—what shall I say—the lack of knowledge, perhaps—I say it in no disrespectful spirit—that the Government have got with regard to the people in this Colony, exactly the same words—the Attorney General has used interpreted those words to refer to the Income Tax Bill—that the man with £5,000 a year has to pay £500. Where are those wonderful gentlemen with £5,000 a year? I should very much like to meet them, and I would say this, from a pretty good knowledge, that they can be counted on the fingers of two hands throughout the Colony. I only mention that *en passant*, that huge fortunes are being made in this Colony, which, though it may have been the case five or six years ago, is certainly not the case any longer, and I am afraid will not be for some time to come.

Now might I deal with another point? I understand that it is submitted by the Income Tax Commissioner—I do not know whether he is the Commissioner yet or still the Adviser, but we will call him the Income Tax Commissioner—that any increase in stock does rank as income. Now this Bill applies to natives, and I would ask the Attorney General to explain

in his reply how it is proposed to assess the Masai and other tribes on their increase of stock in any one year. I hear rumours—rumour was ever a lying jade—but I do hear rumours that the way Government propose to get out of it is to say that that is communal wealth, and not individual wealth, and therefore they will not worry about it. They will no doubt worry about the increase of stock belonging to Europeans. If they do not overlook the increase in European-owned stock but let off the Masai on some such flimsy excuse that it is communal wealth, I would ask them whether they think that is one of the best examples of the equitable application of this tax to this Colony.

Now another grave disadvantage of the imposition of income tax at a time like this, Sir, is that it is a cash payment based in very very many cases on paper profits. It will be no surprise when I say that in times like these the outstandings of the merchants and the commercial community generally are enormous, and that what may appear, even after allowing for bad debts, a profit on the year's working, and perhaps is a profit, is at all events for the time being and for a long time merely a paper profit, yet those merchants have to pay a cash tax based on those paper profits. What is going to be the result? There are three courses open: they can either retrench their staff, or they can reduce the pay of their staff, or if they do not do either of those they will increase the prices of the commodities they sell. If they indulge in retrenchment or still further reduction in the pay of their staff, it will naturally mean a less flow of money and less spending power in the Colony; while if they increase their prices, as they may be forced to do, it will inevitably mean a rise in the cost of living. It would be improper for me to make any attempt at comparison between certain alternative proposals and income tax, but I can say this, that there is complete certainty, in my submission, of income tax being passed on to the consumer—a very much greater certainty than there is of certain other alternative proposals being passed on.

—The Attorney General did not deal—he, no doubt, will in his reply—with the question as to whether Government had considered the effect that the imposition of income tax would have on other forms of revenue. I presume that he will admit that it must have that effect. People are not in a position to pay this extra taxation demanded without saving the money in some other way, whether it is by less, we will say, reducing their consumption of spirits or going less to entertainments, or whatever it may be; that will be the inevitable result, and that result must have its repercussions on the revenue derived

from indirect taxation, and I think I can say that the amount that will be lost to indirect revenue through the necessity of saving caused by the imposition of income tax will be much more considerable than Government has ever contemplated.

The Attorney General did deal with the cost of collection, and he is guessing. I shall be guessing, so as this is a debate and not a guessing match, I will not pursue the subject except to say that if the rain come at the end of the financial year and say that this tax has only cost £8,000 to collect I shall be the first to apologize to him, and when it is found to be more like £20,000 I shall expect him to be the first to apologize to me.

With regard to the question as to whether the cost will go up or down according to how certain events shape, this is no time to discuss that, but if it should go up for the reasons that he has stated it may be possible, I can tell him this: if that happens the ten per cent will not cover the extra cost of collection.

Now, Sir, the second argument that the Attorney General dealt with as one that was likely to be put up was the question of the effect that the imposition of a Bill like this would have on capital, and his argument was, so far from this would Tax Bill driving away capital and preventing capital coming in, it would have exactly the opposite effect, because it would balance the Budget, because the credit of the Colony would therefore be restored, and would therefore attract capital. Now we are basing—I am basing my argument on the pre-tax assumption that the Colony's Budget will be balanced, so that that argument does not enter into the discussion at all. Now on capital which we say it will, but after all here we are on sound ground because facts speak for themselves, and we can prove, not only the effect that the threat of this Bill has had that it had when it was last introduced in 1921, but the effect that it had when it was last introduced in 1921. Any examination beyond doubt that upon the introduction of the Income Tax Bill in 1921 there was a definite flow of capital away from this Colony, and that immediately the Income Tax Bill was repealed the flow restarted in the opposite direction and capital came in. I do not suggest that the vast amount of capital solely in the renewal of the Income Tax Bills—a great deal of it was due to the whole question of loan buildings and loan schemes—but I do say that that was the effect in 1921, and that it has already been the effect here. It is, of course, Your Excellency will appreciate, extremely difficult to get actual details of names; people do not like disclosing their names; but we have been able to get some figures which Lord Francis

Scott has taken home to the Secretary of State to place what we say beyond doubt. Facts speak for themselves, Sir, and it is better to have facts than theorize as to what may happen or what may not happen. This country depends and has depended for a long time enormously on the continued inflow of capital into it. The whole future of this country depends on the future of white settlement. No one who knows this country can possibly deny that, and if the effect of this Bill is going to be to prevent capital coming in, as I am sure it is, and to keep out potential settlers, as it is doing at present—and again this can be proved—then I say any paltry sum of money which you may get into your coffers directly will be nothing as compared with the potential wealth which you will lose through erecting a barrier to capital and to settlement coming in.

Now, Sir, there is one point I left out when dealing with a remark of the Attorney General in connexion with the application of income tax in other parts of the Empire. I refer particularly to India, where he said how excellently well it worked, and I would ask him, with the information at his disposal and the means he has of obtaining information, to try and find out—an answer was given in the House of Commons, but I cannot put my hand to it—what percentage of the people in India pay income tax. I believe that it is something quite ridiculous, somewhere in the neighbourhood of five or ten per cent of the total population who pay income tax.

AN HON. MEMBER: A quarter of one.

CAPT. THE HON. H. E. SCHWARTZ: If that is suggested as being a smooth working of the tax in a thoroughly satisfactory way, I cannot agree. If only one per cent or five per cent of the population of this country is going to pay income tax there might be something to be said for it, but I do not suppose the Attorney General envisages that for one minute.

Now, Sir, this equitable tax will fall, I should think, as to ninety per cent of it, on the European community. There will, of course, be a considerable number of our Indian friends who will have to pay this tax, but I think they will be the first to agree—many of them have already agreed—that eighty per cent of the Asiatic population will not pay this tax. Most of them are married; large numbers have three children, and under the present scheme, the present Bill, I think I am right in saying that they pay no tax of any sort, kind or description until they are earning £360 a year. Now there are very few Indians in this country, comparatively few, who are earning £30 a month.

THE HON. THE ATTORNEY GENERAL: On a point of personal explanation, Your Excellency, the figure that I gave was £400, allowing for the set-off of poll tax. A married man with three children pays nothing until he gets over £400.

CAPT. THE HON. H. E. SCHWARTZ: That makes my argument even stronger, and I thank the Attorney-General for his kindness in pointing that out, because, of course, he knew it made it stronger.

Now, Sir, another great disadvantage of income tax in the hands of a Government with a permanent majority—and I am not taking this Government or any other Government in particular—but with income tax on the Statute Book, there is a direct incentive to extravagance and a direct temptation not to effect all the savings that could rightly be effected. That must be so. A Governor might come out here with some pet scheme to try out. The money is not there, but another 3d. or 6d. on the income tax would bring it in. It is human nature, and in that respect at least, if in no other, governments are human.

Your Excellency, in the year 1922 there was a committee, which was known as the "Gildes Committee", which consisted of officials and unofficials, and was presided over by one of the most distinguished Civil Servants who has ever been to this Colony—Sir Charles Dowling. That Committee sat in times not quite comparable to the present slump, but very near it. They went into the whole question—income tax was then on the Statute Book—they went into the whole question in detail, and they reported unanimously that the only way to get this Colony out of its trouble—one of the chief ways was to repeal the Income Tax Bill already on the Statute Book, as it was a direct brake on production and was completely unsuited to a Colony like this. There we have an Income Tax Bill on the Statute Book—only just on, just a year—and this Committee reported that it should be repealed, and the Governor accepted that advice and repealed it. The next time we come to a slump, there is no Bill on the Statute Book, but, incredible as it may appear, Government suggests going into thoroughly ten years ago. In what way has the position changed? If the tax was unsuitable, if it was a brake on production then and had to come off in order to help to get prosperity back, how can it be argued that things have so changed that now it has got to be put on in order to get a balanced Budget, entirely ignoring the effect it will have on production and in other directions, some of which I have attempted to describe this morning?

Your Excellency, on Wednesday, said you considered the time had come for some permanent change in the fiscal system, or words to that effect at all events. Your Excellency stressed the question of permanent as against temporary measures. With the greatest respect, Your Excellency, that is precisely where Members on this side of the House differ from Your Excellency's Government. We have faith in this country, and we believe that these suggested temporary measures, however unscientific they may be, can tide us over what we are certain in our minds is a temporary embarrassment and put the colony on its feet again; and we do not believe that we are justified in completely altering the fiscal system and introducing a permanent and dangerous tax to cover a temporary—what we are certain in our own minds is a temporary—embarrassment, an embarrassment which is being suffered by the whole world.

Your Excellency, can there by any doubt that there is still room for careful pruning of Government departments? I am not going in detail into that question now, but has anybody any real doubt in his own mind that Government departments—I do not say all of them, but most of them—are still overstaffed? Is that not one of the secrets of the remedy that has to be found? I do not even suggest that it can be settled this year, but it will have to be done. This country cannot afford to carry on a machine out of all proportion to the ability of the Colony to pay for it. This business of levies on salaries is distasteful, is painful, and it was only instituted because of the vast growth of the snowball over the last four or five years. What we want is not to go picking about, cutting salaries here and cutting salaries there. What we want as a permanency is to get the machine reduced to proper proportions, with the personnel of that machine each with his own job and each with a full-time job—do away with overlapping and let those people who are left to carry on the machine be contented, be paid a decent salary on a consolidated basis, and I believe half, if not all, our troubles will be over.

Your Excellency, I have taken up considerably more time than I meant to. I must apologize. In conclusion, I would make an appeal to Your Excellency and also directly to Sir Philip Cunliffe-Lister. Is it not better to raise the taxation that is required with the goodwill of the people and with amity reigning, rather than in the teeth of the most violent opposition it is possible to imagine, an opposition, Sir, which, if this Bill becomes law, will not falter and will not cease until it is repealed and expunged from the Statute Book of this Colony?

THE HON. CONWAY HARVIEY: On a point of order, Sir, has the motion been seconded and put from the Chair?

*His EXCELLENCY: Yes, it has been seconded, and I have put the question from the Chair.

THE HON. CONWAY HARVEY: Your Excellency, I should like to associate myself to the utmost possible extent with all that has been so well and truly said by my learned colleague.

The learned mover, Sir, confirmed my suspicion that the recommendation of this income tax was the bright idea of Lord Moyne after a very brief and cursory examination of the Colony's conditions and institutions. He appears, Sir, to have become obsessed by the fact that the European contribution to direct taxation was not what in his opinion it should be. But one gleam from his Report, Your Excellency, that the European contribution to revenue *per capita* amounts to no less than 150 times the native contribution to the Colony's revenue.

Now, Sir, the learned mover suggested that the fiscal fabric of the Colony is breaking down. As everyone knows, Sir, the fiscal policy of Kenya all these years has been based on indirect taxation. I suggest, Sir, that the fact that it may be bending at the moment is due in no degree to any inherent defect in the system. It is due, quite obviously, Sir, to other factors outside the control of this Colony. The chief of these factors, Sir, as everyone knows, is the universal collapse of produce prices. Secondly, Sir, and thirdly, this Colony has been called upon to bear a burden not shared by many other countries in the form of a most appalling locust devastation and three very difficult seasons from the farming point of view. Fourthly, Your Excellency, and I think this is important, our unfortunate financial position is greatly aggravated by unjustifiable Government extravagance.

Now, Sir, I suggest that the income tax, any Income Tax Bill, and more especially this one in its present form, constitutes a threat, a dangerous threat, to agricultural development which must be fought with vigour by everyone who is concerned with the permanent welfare of the Colony.

Now, Sir, those of us who have lived in other countries which have income tax, such as England and South Africa, know full well that this form of taxation as applied to the agriculturalists in those countries has proved a dismal failure, and so it will here, Sir—and we have nothing but agriculturalists in Kenya, or in any case everything in this Colony is entirely dependent on agriculture—European, native and Indian.

Now, Sir, agricultural finance in Kenya has always been somewhat precarious in the absence of any long-term credit facilities, which are such an indispensable feature of agricultural development in most colonies and most countries. Agriculture, Sir, is indebted to lenders to no less an extent than

between £4,000,000 and £5,000,000, and I suggest that the confidence of these lenders will be shaken to the core if they are to be deprived of a portion of the interest to which they are fully entitled and to which hitherto they have been accustomed, and I should like the learned mover, Sir, when he replies to the debate, to indicate whether a lender resident outside the Colony who has, say, twenty mortgages, and only two or three of his debtors pay their interest, will be able to set off against the two or three who do pay the losses he sustains by reason of the fact that seventeen or eighteen do not pay?

There can be no doubt whatever, Sir, that the security of mortgagors and bondholders will be very seriously depreciated by the introduction of income tax, which I suggest is a thoroughly bad thing for a Colony which is so dependent on outside capital to develop its resources. It may not be fully realized, Your Excellency, but very many farmers, probably the majority of farmers in Kenya, have exhausted their capital resources in experimental work and finding out what crops can be grown profitably, and they are now, Sir, dependent on the credit facilities to which I have already alluded, and I think it would be a dreadful thing, Sir, if when these people, who have sustained losses year after year, do succeed in making a small profit, the bulk of that profit should have to go into the pockets of the Income Tax Commissioner, and lost to increased production, which is one of the most crying needs of Kenya to-day. I suggest, Sir, it is quite impossible to assess farmers on any equitable basis, whether Europeans, Indians or natives. My learned colleague mentioned the difficulties of making provision for the theoretical increases of income derived from mere stock increases. I should like to know precisely how the increase of stock is to be taken into consideration in making the assessment in the case of European farmers, having regard to pure-bred stock, various grades of grade stock, native stock, and all the different and complicated values attaching to each of these.

Now, Sir, I suggest that the right policy for Government to adopt under existing conditions is to do everything that is humanly possible to stimulate and cheapen production. Whatever Lolgorien and Kakamega and other mineral areas, which are being so well exploited by people interested in that line of activity, may have in store, I would urge Government to pay the utmost heed to those who have invested their all in Kenya, who are honestly and sincerely concerned with the permanent welfare of the Colony, and for once to disregard the advice of theorists who are unfamiliar with the facts of the situation.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I should like to draw the attention of this House to a reported cable published by the *East African Standard* on the 29th March, 1933. It has reference to Sir Philip Cunliffe-Lister's reply to a question in the House of Commons:—

"During the course of the answer to Captain A. J. K. Todd on March 22nd, the Secretary of State said that the object of the income tax was to assist the Colony to balance its Budget. When that result was effected, it would be possible to consider a reduction of other taxation, in which case it would be the policy to reduce first the taxes which bear worst on productivity. He referred Captain Todd to Lord Moyne's Report, from which it would be seen, he said, that non-native direct taxation in Kenya is comparatively light."

I should like to ask whether Government has taken any action in reference to that matter. If they have not, I suggest they should take immediate action. I in no way intend to attack the Secretary of State—it is not personal at all—it is the system, and I shall develop that later as I am talking this morning from start to finish with regard to the system of colonial government. It is impossible, I submit, for the Secretary of State to read all the reports we have had on Kenya from start to finish and be conversant with them with the many and multiple duties he has on account of his very high office. I do not think for one moment, in making that reply to the question in the House of Commons, that he in any way deliberately tried to shelve the issue, but in effect it has had that effect. Direct taxation in this Colony is admittedly light, but the Colony basis of taxation is indirect taxation, and that is very heavy indeed. According to Lord Moyne's Report, it is £36-10-0 a head on the European population of Kenya—some 17,000 men, women and babies in arms. I submit that Sir Philip Cunliffe-Lister's attention should be drawn to his answer and that a request should be forwarded that it should be amplified in order to make it clear that the indirect taxation is very heavy indeed—£38-10-0 in Kenya as against £15-10-0 in England.

The hon. the Attorney General is to be congratulated on his exposition of the Income Tax Bill. I understood him to say that it was based on the ability to pay and equality—to say that the burden should be distributed according to the ability to pay. I should like to draw the hon. the Attorney General's attention to paragraph 8 (a) in the Income Tax Bill, and ask him, when replying, how does he reconcile the incidence as detailed there with the statement he has made in the House this morning.

This Bill, as we all know, is the result of Lord Moyne's Report. It may be a good Report—it may be a bad Report: I am not going to debate that—I should love to on another occasion—but I will accept the Report for the purpose of this debate this morning. On page 24, paragraph 44, under "Balance of Contributions and Services," you will find at the bottom, after giving the details of the contributions, Lord Moyne goes on to say:—

"Europeans, by far the smallest community, are thus paying the largest contribution of any of the three groups towards the cost of common services."

"The matter, however, cannot be judged merely on a community basis. Although owing to differences between the levels of European, Asiatic and native civilizations, the various communities must be taxed by different methods. . . ."

I should like to ask again how you can bring that statement of Lord Moyne's into line with what has been said here this morning that this Bill is to be applied without differentiation between races. Lord Moyne has definitely stated that it cannot be so applied, and with that conclusion I agree—it is impossible to apply income tax equitably between a European standard of living, which might be put down as a fair standard, and the native standard of living, which is a *pusho* standard.

I propose to be as short as possible, and for that purpose I should like to deal with the Bill first of all on the basis of the constitutional issue which has been raised by the introduction of this Bill. I raised that question for debate at the last Council, both on the Income Tax Bill and on the Betterment Fund. The hon. the Colonial Secretary, in reply, did admit that the constitutional principle had been raised on the Betterment Fund. I submit, if those remarks were correct, that they also apply to the introduction of this Bill—the Income Tax Bill—into the House this morning. He said:—

"I am free to admit that it does raise a constitutional principle. I am also free to admit that I think hon. Members opposite are perfectly consistent in their attitude; that being so, that they should take the earliest opportunity of drawing attention to that fact."

I maintain this is also a constitutional issue, so his remarks will still apply.

The situation that Elected Members have been driven into this morning has been built up by Government action over a number of years. We did ask for an Economic and Finance Committee, with the widest terms of reference, to be appointed approximately two years ago. Our request was not acceded to. The finances have drifted from day to day until

Government concluded that it was necessary to introduce an Income Tax Bill. I maintain that it is not our fault, at least the Members on this side of the House, that the country has got to face a deficit of £109,000 for 1932. Had we been taken into the confidence of Government, had the advice and knowledge of men on this side of the House been accepted, there was every possibility that we should have had a balanced Budget to-day.

The Bill also, from my point of view, is a very dangerous Bill under the present so-called constitution, the constitution that exists here to-day of a Crown Colony. I submit that once it goes on the Statute Book it will be permanent legislation and permanent taxation, and it does give an autocratic government under our very unsuitable system of government the right to impose their wish without taking into consideration the views of either the Elected Members or the people they represent. I also suggest that as our difficulties are temporary ones—a matter of twelve months—I should say by the end of 1931 we can balance the Budget of this Colony without income tax and without a great deal of trouble—there will be a great deal of sacrifice, but the Colony is prepared to make that sacrifice.

I endeavoured to make my position clear some time back by announcing that I was prepared to help to balance the Budget by income tax or by any other form of taxation found necessary, provided Elected Members as constituted in this House were given control of finance. That is a position that has been taken up wholeheartedly by the colonists to-day. At the last Convention, a resolution on these lines was unanimously passed, and Government will be failing in their duty if they do not realize the opposition throughout the Colony to further taxation without control.

It is also taxation on agriculture. Agriculture is the one and only industry in this Colony that supports the Colony. We are entirely dependent on the results of agriculture, and to-day those who wish to see will realize that agriculture is to all intents and purposes down and out. Last year—speaking from memory—the Kenya Farmers' Association pool was Sh. 6/50; for many months now the export price of maize has been in the region of Sh. 1 on the farm. At the present time, maize . . .

HIS EXCELLENCY: Is not the hon. Member getting a little bit away from the Income Tax Bill?

LT.-COL. THE HON. J. G. KIRKWOOD: I do not think so, Sir. My submission is that these people are going to be taxed, and I simply want to point out the utterly hopeless financial position they are in to bear the form of taxation it is proposed to put on them.

That is the position with regard to the maize farmer. There are over £00 of them, and it is absolutely impossible for the farmer to submit to any form of taxation in his present condition. Having regard to this particular type of legislation it seems that books have got to be kept and audited; that statements have got to be drawn up; and everybody has not got the ability even to draw up an income tax return. It is for that reason that accountants throughout the Colony are looking forward to a trip home in the near future. Although farmers and others will not have any income to assess, they will be compelled to go to the expense of proving that they have not got an income, and I submit a great many of them, a very large number of them, have not the money to pay to have their books brought up-to-date, to pay accountancy fees for their returns to be made out; and their position then is that they have got to find money they have not got to prove that they have not got it.

I do hope Your Excellency will listen, and I may say candidly, in my own opinion, I do not think you will load the dice against us—that alternative taxation proposals will be later sent home with the Income Tax Bill for the consideration of the Secretary of State before any other further action is taken. But I do wish Government to realize that the country as a whole is determined to balance the Budget, but they are equally determined that it should be balanced by measures and methods to be approved of by their representatives.

CAPT. THE HON. H. F. WARD: On a point of order, Your Excellency, may I ask if Government would be kind enough to state how many on that side of the House intend to speak, and when they intend to speak. I see a number of them taking notes, and, while it is open to us of course to find out for ourselves by other methods, it would help Members on this side of the House who have not yet spoken if they could be told who is to speak on the Government side and when.

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): As far as I am aware, Sir, Government have not come here with any settled plan of campaign, with forwards, halves and three-quarters. The hon. Members referred to are taking notes in order to be able to answer points on specific questions as they arise. I understand any Member of this House may get up at any time and speak.

CAPT. THE HON. H. E. SCHWARTZ: It is of course competent for any Member to get up when he thinks fit, and it does not matter on ordinary occasions. But there is a growing system by which we all speak on this side of the House first, and then two or three people reply on the Government side.

That is not a very satisfactory system, and I would suggest, out of consideration to the country and this House, that some kind of arrangement could be made—as is made at home with leading speakers in the House of Commons, by arrangement with the Speaker—so that we do not all speak on one side and then all on the other side. Perhaps Your Excellency would consider adjourning the debate now so that we might perhaps come to some conclusion on this matter in another place.

*The Council adjourned till 10 p.m. on Monday,
3rd April, 1933.*

MONDAY, 3rd APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Monday, the 3rd April, 1933, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 31st March, 1933, were confirmed.

ORAL ANSWERS TO QUESTIONS.

PROSPECTING LICENCES.

No. 19. CAPT. THE HON. H. F. WARD asked:

Will Government please state its intentions in regard to areas Nos. 1, 2, 3, 4 and 5 under the Report by Sir Albert Kitson?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): The answer is in the negative. Representations have, however, been made to the Secretary of State as to the desirability of an early announcement of the policy which he may decide to adopt as a result of Sir Albert Kitson's Report.

THE HON. T. J. O'SHEA: Arising out of that answer, Your Excellency, in view of the fact that Sir Albert Kitson's Report is dated last November, may I ask Government whether undue delay has not already taken place in this matter?

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): The matter, as the hon. Member is aware, is before the Secretary of State. Representations have been made to him, but in this matter he is the final arbiter.

KASIGAO TRIBE.

No. 20. MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE asked:

What are the intentions of Government regarding the members of the Kasigao tribe who were removed from their own country during and after the war? What is the reason for their not being allowed back?

Is it not a fact that these people are living on alienated land and not on Crown lands?

THE HON. LL. A. FIELD-JONES (Provincial Commissioner, Coast): Government is awaiting the recommendations of the Carter Land Commission, to whom the question of the disposal of the Kasigao has been referred.

Approximately 400 of these people, out of a total population of about 1,000, are at present living on alienated land.

BILL.

SECOND READING.

THE INCOME TAX BILL.

CAPT. THE HON. J. L. COTTRELL: Your Excellency, in opposing the Income Tax Bill I would first of all like to criticise somewhat a remark made by the hon. the Attorney General. He stated, in his opening address, that the Budget must be balanced and extra money must be found. In my opinion, Sir, I think that if it is considered that the Budget must be balanced—and I do not admit it is so because in my opinion the Budget should be balanced over a period of years—then I say the Budget should be balanced by savings and not by extra taxation. I took the greatest pains in going through my constituency when this subject was raised during the last two months and in the whole constituency I discovered there was one man and one man only in favour of an income tax, and that happened to be my opponent in the last election. Of those who are in favour of possible alternative taxation—I regret to say that in this particular point I am not in complete agreement with the hon. Member for Nairobi South—in that whole constituency only six were in favour of any further taxation whatever, and that was a very well attended meeting. So my position in the matter is bound by my orders from my constituents. In my opinion the country is in such a state—I do not myself have any conception of Nairobi nor the Government itself has any conception of what state the country is in. I am talking of the agricultural population. This country requires relief from taxation and not further taxation of any sort or description. It might be said that it has been agreed that the Budget must be balanced: very well, Sir, if it is agreed, then I say we might take a leaf out of the policy of the United States of America where, as noted in Saturday's paper, a fifteen per cent cut throughout the entire Government service was made—this was on top of other cuts that had happened before. I suggest to you, Sir, that that is the correct procedure to take here.

The hon. the Attorney General mentioned that the revenue derived from the customs duties on luxuries was considerably down. How that can be used as a reason for placing extra taxation on the Colony I cannot imagine for if people cannot buy luxuries it is the best proof of all of the poverty that is there, the poverty of the inhabitants.

Your Excellency, the hon. the Attorney General also used various analogies of other countries, and I made a note of two—one, Ceylon, and the other, England. I would like to explore the analogy of Ceylon because Ceylon happens to have an elected majority. It is one of those polyglot constitutions made up on the mischievous principle that Government can maintain control by setting off one community against the other. Nothing more disastrous than that type of government can be imagined, but there is the fact that it enables Government to push through measures whenever they like. Incidentally, Cyprus is another country that has that type of constitution. Then again, Your Excellency, he used the argument about England. Now I would submit, Sir, the people of England, by their representatives in Parliament put on an income tax. If that has anything to do with Kenya I cannot see it because if you ask the people here whether they would voluntarily accept income tax, even the hon. the Attorney General, in his opening remarks, admitted that they would not, as he practically apologized for bringing this Bill before us.

Again, we have always heard about the effect on the farmers. On listening to the hon. the Attorney General's remarks one would imagine that income tax would solve all our ills, or a stranger would if he were listening to it. Apparently it is going to cure east coast fever, rinderpest, measles bug, and so on. I also notice the Nairobi Chamber of Commerce always tells the farmer what is for his benefit. I would say to all present here that, believe me, Sir, the farmer knows his own business. We all realize that every penny in this country comes from the land, from the farmers—native or European. Every stone in the building we are in to-day is on that principle. It is not quite so easy to bluff the farmers as to what is to their advantage. We know perfectly well our advantage. We know perfectly well that this Income Tax Bill is one of the worst things that can happen to us and that it is meant to tax one section of the community without taxing the others. If anybody doubts that he might consult Adam Smith, Baghot, Bastiat, or any of the other recognized authorities on political economy, and he will find it is impossible to tax one section of the community without making another section feel it.

Firmly, Sir, I would ask for what purpose is this taxation required? Here we have in this country an agricultural population which is financially practically bankrupt, as well as in its spirits, by the most overwhelming catastrophes that almost any community has had to put up with. It is utterly heart-broken, and this is the time that a callous Government has met us with this proposition that we have to balance our

Budget and therefore we must put on extra taxation. I would say, Sir, finally, that this taxation is put on, is placed on the unofficial population here so that the official population of Kenya may retain the monstrous scale of salaries and conditions of these nauseating—at least, nauseating to me—terms of increments and emoluments, that it may retain those benefits at the expense of a bleeding community—that and nothing else. If the hon. the Attorney General would like analogies, I could give him very much better analogies than any of those he gave us: the Kenya Government is to be compared with a woman who would starve her children and over-feed her pampered lap-dog.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I wish to oppose this vicious measure that has been put upon the country. This measure, Sir, I believe is calculated to alienate any possible sympathy that Government has ever had in the country towards itself. The method of its introduction has antagonized any of its friends. Once again, Sir, the Government has taken upon itself to introduce a Bill without considering anybody at all in the matter. Sir, after the sound exposition which was put up by my hon. and learned colleague on the right (the hon. Member for Nairobi South) I should have thought Government would have taken the opportunity of withdrawing the Bill and saved the time of the House. I would like to congratulate the learned mover on his gallant effort to save a little bit of the income: if he knew the country as we do, he would have assisted to assassinate the little beast.

Your Excellency, I honestly believe that if you gave the Members on the other side of the House the opportunity of a free vote—probably Government cannot do it, Sir—but I believe had you been able to do it this Bill would have been thrown out on its first reading. Sir, your officials throughout the country are going to be harder hit as a section than anybody else. The reasons are obvious: you have got them in the palm of your hand, they cannot get away from it. You simply deduct any income tax from their salaries and that is the end of it. How can they stand for it? How can they support a Bill such as that? It reminds me, Sir, of a flock of little lambs which, having been thoroughly fleeced by their owners are then, because there is no more grass to be eaten in the country, driven into a corner where they have got to stand and beat for their own destruction.

Your Excellency, it is only after the most strenuous opposition that Government has made a veiled admission of the fact that they themselves think that the schedule, as produced is an entirely wrong one. With reference to the allowances for children, Sir—£100 for the first three; after that nothing

at all. Surely, Sir, a man with ordinary common sense would suggest that if there were more than three children there should be more allowance. Government itself admitted not so long ago that the cost of education of one child was £91 a year. Why then allow £30 as the total amount for that child? Sir, I wonder if this is just another stroke of genius on the part of Government to clear the way for the importation of yet another expert. With bated breath, Sir, might I suggest a name in the minds of Government to-day—Maria Stopes. Your Excellency, what the country has gone through and the opinion it has expressed during the last few months is something which I hope Your Excellency will bear in mind and I beg of you not to apply the match that may lead to disaster.

THE HON. THE COLONIAL SECRETARY: Your Excellency, after listening to the remarks made by the last two hon. Members, I have been more than ever impressed, if I may say so from the Government point of view, with what I believe is the very great difficulty that the Government has in this matter, in realizing exactly what is public opinion in this country and what hon. Members opposite—what views hon. Members opposite represent. I heard with complete astonishment when the hon. Member for Kenya informed this House that he had a mandate from his constituents to the effect that no steps whatsoever were to be taken by Government to raise additional revenue to meet our present position. I am well aware that the hon. Member for Plateau South, who has not yet spoken, in an independent capacity, has at least in the public Press advocated that view. I may be wrong, but it was my impression that the whole basis on which this recent committee for the consideration of alternative proposals was appointed—appointed to consider proposals which had been put up spontaneously in the first instance by the Nairobi Chamber of Commerce—was based on the fact that, as a result of the Report of the Expenditure Advisory Committee, the Colony as a whole was at long last converted to the view which the Government has consistently maintained throughout the last eighteen months that, much as we regret it, some form of additional taxation was required if we were to put our financial house in order. That, Sir, is the assumption that we, as a Government, have been proceeding upon. Anyone who has studied the recent correspondence columns of the Press has a lively idea of the variety of views which have been expressed over this controversy; but there was one thing at least on which we understood we had at last reached common ground. In fact, we understood that it was on that basis that the Noble Lord, who has gone home, was largely going to put the case for the Colony before the Secretary of State. And that I think I have some reason for holding that view, I would

refer hon. Members to the terms of the Income Tax Petition which is now being so widely distributed and, according to the Press, so generously subscribed to. The last paragraph of that petition, after reciting in detail the grounds on which the principle of income tax is opposed by persons in this Colony, goes on to say:—

“And that, as adequate and economical alternative methods of raising revenue, as successfully applied in other countries; to bridge what is rightly regarded as a temporary embarrassment can be attained by the acceptance of recommendations which have been prepared and being submitted in order to assist Government in balancing the Budget.”

That, as I understand it, Sir, was the case against income tax to be presented to the Secretary of State; my only comment being that, to ask members of the public to sign a petition in which they give their support to alternative proposals the final form of which has not yet been decided upon and which have not reached the form of submission to Government, suggests an engaging naivety which, it seems to me, is one of the most charming features of the present political scene in Kenya. Members of this House can take no exception if, in making any remarks which I have to make, I confine myself largely to endeavouring to deal with some of the remarks made by the hon. and gallant Member for Nairobi South, who, as the deputy and the acting leader of Elected Members, may I presume be regarded, in the Government view, as correctly interpreting the policy in which hon. Members opposite wish to adopt.

Now, Sir, I will leave it to my hon. friend the Attorney General to deal in detail with many of the points which the hon. Member for Nairobi South raised in which he endeavoured to show that the application of such a Bill as the Income Tax Bill to Kenya would be unfair in its incidence. My own opinion, for what it is worth, is that the principle of income tax is essentially a fair one and that, so far from its being contrary to the best interests of the white community here, and particularly of the farming community, to have such a tax on the Statute Book I would suggest that, both on economic and political grounds, if they would but pause to think, it would be in their own interests to bring every possible pressure upon this Government to introduce income tax at the earliest possible date. The economic argument has, in my submission, not yet been seriously met though it has been enunciated in general terms. Whether the present system of indirect taxation is breaking down altogether or, as hon. Members suggest, it is only temporarily bent is in our

sense, in my view, but begging the question. No colony which has deliberately embarked upon a policy of high protective duties for the express purpose of stimulating internal development and industry can hope to rely indefinitely on a revenue mainly derived from indirect taxation. Such a hope would, in my submission be a tacit admission of disbelief in the results of the policy upon which you have embarked. Income tax would I should have thought been welcomed by the farmer for the very reason that at present he is going through such dreadfully hard times. His present precarious position is due as we all know to the collapse in world prices. The rise and fall of world prices are matters beyond his control. All he can do—and he has already done very much and remarkably well in this direction—is to reduce as much as he can the cost of production. In my submission, Sir, if the burden of taxation is shifted from an indirect form to a direct form, that should be of a definite assistance to the farmers in reducing those costs, while on the other hand it should be always remembered that, under the Bill, if he has made no profit, he does not pay.

The political reasons why I believe that it is in the Europeans' own interests to consider carefully their attitude towards the principle of income tax I will develop later when I come to deal with the constitutional aspect of the question which the hon. and gallant Member enunciated, but before I do so, Sir, I would ask the same indulgence from Your Excellency in following the hon. Member in his remarks that you gave to him on the last occasion. What I would like to do if I may is to review briefly the causes which have given rise to the present intense feeling which this measure has evoked throughout the country. The hon. and gallant Member referred to this Bill as obnoxious. In my opinion, Sir, whether it was by chance or design that he used that expression, I believe in the use of that expression really lies the answer to the whole controversy. The problem is, I believe, largely if not entirely psychological. There is an instinctive prejudice against the words “income tax” and all that the words are supposed to connote. A feeling which has lain dormant but perhaps smouldering in this Colony since the earlier history of the tax, has been deliberately fanned to a white heat by all the arts of Press propaganda and declamation throughout the country by those who no doubt quite honestly believe that the introduction of income tax to this Colony would be a dire disaster. At the moment therefore, Sir, any dispassionate examination of its merits or demerits is almost impossible. To illustrate my point, I have often heard it said that much of the opposition to the tax would have been allayed had we been willing to change its name to a graduated poll tax. It will, I hope, be some satisfaction at least to our

local Press, which in January of last year characterized the Tanganyika Poll Tax as a "fiscal bastard" and enjoined on the East African community the desirability of at least trying to be honest in their public finance, if I assure them that the Government never had any serious temptation to succumb to those blandishments. In stressing this psychological aspect I appreciate that I am exposing myself to a flank attack from the hon. Member for Plateau South, for the hon. Member will no doubt remember that in July last when we were debating the question of income tax and an income tax adviser, he used the following words:—

"As the hon. member the seconder of the motion has reminded us, we cannot fool all the people all the time, and you cannot expect all the people of this country to go on permanently being bluffed by the terrors of income tax; and so, feeling sure it will benefit the country in every way if time is given to the people to study the question and if time is taken by Government to consider all the implications of the change, I strongly urge upon Government the advisability of accepting the motion."

The Government did not accept that motion, Sir, and I am sure I can rely upon the hon. Member, for whose debating powers I have the very greatest respect, to take the very fullest opportunity of the opening that I have given him. My only consolation is that even if I had not reminded him I have no doubt that his memory is a good one. I should, however, like briefly to review the considerations which actuated the Government in defining their attitude on that motion and declining to accept it. I do not propose to go over again the oft-repeated tale of the Government's alleged pigheadedness over the question of the appointment of a committee to hold a general financial and economic inquiry. It is, however, I suggest, only fair to the Government, that it should be stated that the original divergence of view was principally concerned with the question of the manner in which such an inquiry should be undertaken. The Government did its best to obtain the services of someone with financial standing whose qualifications would command respect both here and at home, someone who could take a comprehensive survey of our whole fiscal and of our railway rating systems. Unfortunately our attempts were unsuccessful, and as a result, arising out of the Report of the Joint Select Committee at home, particular aspects of our different problems have been examined independently instead of, as we hoped, in a comprehensive manner. I have no hesitation in giving my personal view that I think our original proposal was the better one and that these piecemeal inquiries have not been as successful as a more comprehensive

inquiry would have been. That, Sir, was the position. Whoever was to conduct those inquiries from home was not forthcoming. Every effort, therefore, was made by the Government during the long and protracted Estimates Session on the 1933 Budget—at which I was not present myself—and on every subsequent occasion on which this Council has met to give the Council and the public the fullest possible information as to the state of our finances, and the Government has consistently held the view that whatever economies were made additional revenue was required. Hon. Members, on their side, have as consistently declined to consider any proposals for raising increased taxation on their merits. They have declined to face the facts writ large across Lord Moyne's Report because the picture was not before them in its complete and final form, and more particularly because that picture had not been prepared in the one and only manner on which they insisted as a condition precedent to its acceptance. If there has been pigheadedness on the part of Government, may I suggest that the Government is not alone in the possession of this porcine quality. Placed in such a position, what was any responsible Government to do? I submit we had no alternative but, side by side with a policy of the most rigid economy in public expenditure, which we were already pursuing, to explore all reasonable means of legitimately adding to our revenue resources. Everyone is now happy at the better results of the working of the year 1933 than was at one time contemplated, and indeed, I have even heard it said in certain quarters that that result disposes of the case for any permanent form of additional taxation, but I have not heard it said, I have seen no acknowledgment whatever of the fact that this happy result was due in part at least to the Government's action on its own responsibility in introducing additional temporary taxation, or any recognition of the fact that they were admittedly temporary emergency measures which would fall to be reconsidered when a more scientific basis of taxation had been introduced. My justification, Sir, therefore, of Government's action in adopting its present policy is that the Colony could not afford to wait because, if I may say so, with the greatest respect, they could not afford to wait because Elected Members opposite had declined to face the facts for the reason that those facts had not been presented to them in the particular form which they considered they had a right to demand. That the Government's attitude, Sir, in this matter has provoked considerable bitterness in the country must be admitted. No one deploras this more than I do myself or the Official Members of this House; but I should just like to say this: I am fully aware of the anxiety with which your leader and those in agreement with his consistently moderate and constitutional attitude have viewed the course of the agitation which the mere

mention of the words "income tax" in Lord Moyné's Report has aroused. What, in fact, was happening at that time in the country? The battle opened with a Press campaign against the Civil Service and was carried on by meetings throughout the country in which the issues of income tax and alleged Government extravagance were skilfully blended into a popular and palatable dish. If this policy was not in accordance with the official views of hon. Members opposite, what steps did they take to enlighten their bewildered constituents as to what it all really meant? Whatever steps they took, I suggest they appear to have had no tangible results, and the next scene in this amazing-tragi-comedy is that the prime mover of the agitation is sent home by the East African Unofficial Conference with a mandate to threaten the Secretary of State with a policy of general obstruction and non-co-operation.

Capt THE HON. H. E. SCHWARTZ: On a point of order, Your Excellency, I must correct the hon. gentleman when he says a "threat." There was no threat whatever, but a warning.

THE HON. THE COLONIAL SECRETARY: I readily accept the nice legal distinction made by the hon. Member opposite.

... with a mandate, Sir, to warn the Secretary of State of a policy of general obstruction and non-co-operation at the very time that your duly accredited leader was vainly advocating counsels of moderation. We all know the sequel to that astounding episode. Your leader's policy has been amply vindicated, and on his return flight the stormy petrel of Kenya politics assumed the plumage of a turtle dove and arrived with an olive branch, somewhat wilted, dependent from his bill. But, gentlemen, though I have treated this matter jestingly it is not a jesting matter. The trouble has been done. The country, I know it, is in no laughing mood and all serious men who have the welfare of this Colony at heart are wondering where we are drifting. For the hon. Member for Nairobi South has burned his boats; he has assured us in the most solemn and categorical terms of which he is capable that whatever other objections there may be to this taxation, so long as it is opposed to the wishes of the whole body of taxpayers it will be resisted. I do not propose to discuss the legal value of that argument. It raises, as he knows, abstruse questions of constitutional law, with which my hon. friend the Attorney General is far more competent to deal than I am. But accepting that argument at its face value, does he see where it is leading to? There are other communities besides the European affected by this Bill. Is he in any position affirmatively to declare what their attitude on this matter is? If he is not, surely such a statement is a little premature until the proposals

alternative to income tax have at least been examined. Or does he mean that, rather than see income tax introduced, he is prepared to revise all the views that he submitted before the Joint Select Committee and advocate the division of this Colony into white and black areas? Both official and unofficial alike have always held that such would not be in the Colony's best interests. If he means neither of these things, then he can only mean that in a matter of this sort the will of the European community in this Colony must prevail and that, if necessary, the constitution of the Colony must be amended to provide for it. I would then put this question to him—is such a suggestion practical politics? It is only as recently as February, 1931, that the Convention of Associations passed a resolution that "no change in the local constitution be asked for at present." Evidence in conformity with that resolution was given by the settlers' representatives themselves to the Joint Committee, who accepted that view. The ink is hardly dry on the Secretary of State's despatch of the 13th July, 1932, in which he said, "I do not propose that any change should be made in the present arrangement which secures an official majority in Legislative Council." That pronouncement, I should like to emphasize, was made after and not before the publication of Lord Moyné's recommendations both as to income tax and as to the Betterment Fund.

Before I sit down, Sir, I would, therefore, most earnestly—I speak with a very real sense of responsibility—I would most earnestly and in all sincerity ask hon. Members opposite, what I believe to be in the best interests not only of this Colony but of the hon. Members themselves, that they should think once and think twice and think again before complicating an already very complicated situation by undue insistence on the constitutional issue.

One word more, Sir, before I sit down. I have endeavoured as far as I can to express the situation as I see it. The gravity of it I for one do not wish for a moment to minimise. All I would ask is that we should not be rushed, that all of us should take time to make sure that any decision we are taking is not made in the heat of the moment in the month of March, is not based on partisanship or prejudice, but is a decision which can be substantiated before the cold forum of reason. The policy which the Government has adopted has at least, I think, consistency to be said in its favour, if consistency is to be regarded as a virtue in itself. We are faced with a budget deficit. Until quite recently we believed that there was a substantial feeling at long last in the country that if necessary additional sacrifices must be made and additional taxation found. Wo on the Government side have throughout accepted Lord Moyné's proposals that if such

taxation has to be found it should be found in a preponderating degree from the non-native communities; and perhaps I might, just before I close, read this extract from Lord Moyne's letter to *The Times* of the 8th March, in which he explains the reasons again which led him to make that recommendation. He says:—

"In recommending last year that the necessary additional funds required to balance current budgets could be raised chiefly from non-native taxation, I was certainly not guided by the view that the non-natives were rich, but rather by the obvious fact that the native communities were very poor."

He then goes on to say (and it is a substantiation of the view I have just tried to put before hon. Members):—

"A prosperous future for this Colony cannot be achieved by disintegrating the community permanently into native and non-native interests."

Sir, the issues that we have to decide are weighty. My one desire is that this country here should realize fully their importance. The final decision is not with us. All I would say, Sir, is this: "Thou hast appealed unto Caesar; unto Caesar shalt thou go." But at least let us see to it that we go with clean hands and without rancour in our hearts.

THE HON. T. J. O'SHEA: Your Excellency, the introduction of this Bill by Government gives me a certain amount of pleasure and satisfaction. But, Sir, that pleasure and satisfaction does not in any way arise from the fact that the passage of this Bill would add still further to the burden of taxation on this unfortunate country, nor does it arise from the fact that the Bill embodies principles of taxation that I have advocated in this House for some years past. My pleasure and satisfaction arises entirely from the political consequences that have already followed from the publication of this Bill and from the belief that much greater political consequences will follow from the passage of it. Under other circumstances I should have had very great pleasure indeed in supporting the passage of this Bill because of the principles it embodies, but I ask Members on this side of the House as well as the other whether I am not right in saying that when I have advocated the principles of such a Bill I have at all times made it clear that I would regard it as part of a reform of our taxation system which is very much needed. I have urged upon my colleagues as well as upon Government that in the past we have allowed a most unscientific system of taxation to be built up because of our proneness to follow methods of expediency rather than to

study principles that should guide us in building up a taxation system suited to the country's requirements. It is, therefore, Sir, a matter of great regret to me rather than pleasure that Government should be introducing this Bill at the present time because by so doing it compels me to vote against a measure that under other circumstances I should have had much pleasure in supporting; and as I shall endeavour, Sir, to adduce a large number of reasons to justify my opposition to the passing of this Bill, I should like first of all to express a certain measure of dissent from certain arguments against it that have already been advanced from this side of the House. In doing so, Sir, it is not for the purpose of emphasizing my dissent from other members on this side of the House in their attitude towards this Bill, but it is because I believe with them that the passage of the measure under the present circumstances of the country would be a disaster; and I believe that in advancing some of the arguments they do against it they are weakening what is otherwise a very good case. Hence my desire to some extent to correct some of their arguments which seem to me, though good enough possibly for a popular press campaign, are hardly the sort of arguments which will bear examination by men in conclave in a room with walls decorated with portraits of late Chancellors of the British Exchequer.

I do not believe that the principle of income tax would be inequitable in the circumstances of this country. There never has yet been a measure of taxation passed by this or any other country that is absolutely equitable. I have always understood that to get anything approaching equity you have to have a system of taxation that is, to use a ready-made expression "self-balancing". One taxation measure to be approximately equitable has to be interlocked with other measures to secure the effect desired; and that is one of the reasons why I very much regret this effort to bring in income tax at the present time because you must of necessity bring it in as an isolated measure, and by so doing create a certain amount of inequity.

Again, Sir, I should not like to go so far as some of my colleagues in saying that it is impossible to apply it in the circumstances of this Colony. I do, however, agree that its application will be difficult and the more you broaden its basis the greater will be the difficulties of its application, which is one of my reasons for urging amendments that will limit its application.

Again, Sir, I should like to dissociate myself from the argument that the introduction of income tax in this country would frighten away capital. A certain amount of meretricious argument has been adduced in favour of that, but I do

not agree that it is a sound argument. I have made enquiries among people who are at present contemplating the introduction of very large amounts of capital to Kenya and in each and every case I was informed that the imposition of a small income tax here would not frighten them in the least. On the contrary they would think it quite a natural thing if they are to introduce capital into this country that they should pay a tax which they pay elsewhere. But, Sir, when the argument had been more closely examined, I imagine those who put it forward might have corrected their expression of it and gone a step further and said that the addition of income tax at present to the existing burden of taxation would almost certainly make capital hesitate to come into this Colony. And they might have gone a step further and said that the addition of this taxation to our existing burden was entirely due to the absence of a decision on the part of Government to cut down expenditure to the taxable capacity of the country. Then they would have had a very strong case indeed.

I listened with the greatest care to the address with which the hon. and learned Member proposed this motion, and following it carefully I gathered that the case he makes out for Government is threefold: that income tax must be brought in because our present fiscal system is breaking down and has to some extent already broken down; that under our existing system of taxation the non-native peoples of the Colony are not sufficiently taxed by direct methods; that the Budget must be balanced and that we must rebuild our depleted surplus balances.

Now, Sir, while I do agree with the hon. mover that under our existing fiscal system Government has lost a certain amount of revenue during the last three years, I cannot agree with him at all in any statement implying that our fiscal system is breaking down. The amount of revenue derived in the past from taxation in the form of Customs taxes on foodstuffs imported that are now being produced in the country was a comparatively small amount of the total taxation revenue and under anything like normal conditions Government could very well have afforded to go without that revenue and fall back upon the indirect revenue Government would get by these foodstuffs being produced in the country. I should have thought it was self-evident that the difficulties Government is experiencing at the present time are due, not to any breakdown in our fiscal system, but due to a complete breakdown in the purchasing power of the people. By the courtesy of the hon. the Commissioner of Customs I have had an opportunity of examining the figures for 1932. I have made a close study of our trade figures for the last ten years and

I must express my astonishment that it is not equally evident to Government that the trouble to-day is entirely due, not to any breakdown in our fiscal system but to the enormous shrinkage of the purchasing power of the people. It stands out from those trade figures so boldly that I have to try hard to believe that there is no wilfulness on the part of Government in not being able to see it.

I notice the hon. and learned member again repeats an inaccuracy that is commonly held in this country that our methods of taxation are almost entirely indirect as applied to the non-native community. He went so far as to quote the poll tax and the education cess as if they were the only two direct taxes applied to the non-native peoples. Well, Your Excellency, I respectfully submit that a cursory glance through a Report of the Select Committee on the Estimates of any year and through the list of taxes sent out by the hon. the Treasurer every January would disclose that in actual fact there is a very large number of direct taxes operating in this country at the present time, and that the amount of revenue collected by them is not inconsiderable. These, however, are merely secondary arguments in Government's case. Strictly speaking, Government does base its case upon the possibility of balancing the Budget otherwise than by additional taxation. Now, Your Excellency, I do not think I can be accused at any time of having repeated the parrot cry that is almost universal in this country that the Budget must be balanced. I regard that decision on the part of the Government and on the part of the leader on this side of the House and on the part of the people generally following that lead as akin to the attitude of a village community towards the latest unmarried mother. It is not respectable to express a contrary view. I am not particularly concerned about my orthodoxy or my respectability, so I have no hesitation in saying that I entirely dissociate myself from the view that it is absolutely necessary to balance our Budget this year, even though it be by extra taxation or, putting it differently, even if it be necessary to impose extra taxation. If I ask those people, if I ask the Government, if I ask my colleagues here or if I ask the man in the street why is it necessary to balance our Budget this year, the answer I should get would be so as to maintain our credit. Government would not suggest that in the event of a shortage in cash balances it was not possible to obtain temporary accommodation. Therefore the purpose they have in mind apparently is that we must maintain our credit. I believe that in repeating this parrot cry that our Budget must be balanced in order to maintain our credit we are influenced entirely by the campaign that took place in England last year on that issue, and that in following that lead we are entirely indifferent to the different circumstances in

which the two countries are situated. In the case of England, the financial centre of the world, it was essential for the maintenance of her credit that the Budget should be balanced, but I submit, Sir, that the circumstances in this country are so entirely different that it is not in the least essential that we should make this foolish attempt and in doing so inflict greater difficulties on the maintenance of our credit than there would be if we were wise enough to take a different view from what we do. I submit, Sir, that Government, in imposing additional taxation upon the country under our present circumstances for the purpose of balancing the Budget, is inflicting greater difficulties and making it much more difficult indeed to maintain that credit and that it could do various other things in the way of assisting to maintain our agricultural industry and giving hope to the people and to those who are interested in our credit that we would get out of our difficulties; our credit would be very much better maintained if we even went further into debt to do that rather than to push the people further into the mire by imposing additional taxation upon them. On what is the credit of the country based? Is it not upon its natural resources, upon the character of its people, upon their ability to meet their obligations, if not to-day, in the near future? Is there any evidence in the present policy of Government that even if we do submit to the imposition of this additional taxation the Government will then fulfil its obligation to its people of doing something constructive to re-establish them in a prosperous position? Can Government adduce any evidence that it is determined in so far as it can work to do so to restore the prosperity of this country? Is it in a position to refute my statement that its policy for the past three years has been one of undermining the confidence of the people and causing them to doubt whether prosperity will ever come back to this country? I say, Sir, that the credit of this country is suffering more because of the absence of any such policy than it could possibly suffer if we carried over into next year a comparatively small deficit.

Lastly the hon. and learned member urged that for the maintenance of our credit it was also necessary we should submit to this burden with a view to rebuilding our surplus balances. Now, Your Excellency, that is the sort of thing that sounds very well to financiers in the City of London—I suppose it does impress them with the idea that the Government of this country really is pursuing a policy by which it would become possible to rebuild our surplus balances during the course of the next few years—but I suggest that it is talking the most utter cant and that there cannot be any sincerity behind it for nothing is being done by Government to maintain the country even in the position that it is in to-day

or to improve its position in the near future. To talk about rebuilding our surplus balances when it must be common knowledge to Government that four-fifths of the agricultural community in this country are bankrupt, that a very large proportion of the commercial community are vainly struggling against bankruptcy—to talk under such circumstances of imposing further taxation so as to get surplus revenue is, I suggest, the most insincere cant. If it is not, well then it can only mean that the people responsible for the government of this country at the present time are so indifferent to the interests of our country that no matter what the cost they will squeeze us to the last farthing so that their path may be made smooth. To talk of asking people who are struggling as they are to-day to add to their taxation so that you may accumulate surplus balances, while many of them are in a starving condition, can only be cant on the part of the Government or the most heartless indifference to the circumstances of our people.

Your Excellency, in his very able introduction of this motion I noticed with astonishment that the hon. and learned Member was responsible for an omission that I have never noticed in connexion with the introduction of a taxation measure in this House before. He gave the House no idea whatever of the amount of revenue Government expect to get by the passage of this measure, and I wondered whether the hon. the General Manager of the Railways the other day had not introduced a new principle into this House. I wondered whether Government had not decided that it would in future be so careful to quote only figures of meticulous accuracy that it would refrain from quoting any figures whatever unless their accuracy could be guaranteed. Now, Your Excellency, that most certainly would be going to extremes when one reflects upon the figures that have been given to this House from time to time. It may be argued by him, in answer to this challenge of mine, that it was not possible for Government to produce figures of sufficiently close approximation to be of any value. Now, I suggest that that is not anything like a fair answer in the circumstances. The country has been turned upside down by the publication of this measure; it is faced with possibly serious political disturbance if it is passed. That being so, I think it is only right and proper that we should be given some idea as to what Government is going to get out of, or anticipates getting out of, the passage of such a measure. Some months ago this House agreed—or rather I should say the official majority of this House agreed—to the provision of £1,500 for an income tax adviser, and presumably it is out of that sum that this gentleman has been paid during recent months and is being paid, and out of that sum he has had the assistance of an appreciable staff. May I ask whether

they have not up to the present collected sufficient data to enable Government to have some estimate of the revenue it may expect from this Bill? Or would I be right in suggesting that Government has refrained from giving any estimate because it was thinking of clause 9 in the Bill and Government's subsequent action in relation to clause 9?

From the admirable address of the hon. the Colonial Secretary I gathered that his particular task in this debate was to appeal to reasonable people that Government had pursued a reasonable policy, that it had pursued a policy of effecting economies as far as they could be effected, that the deficit had of necessity to be made up by taxation, and that all reasonable people would agree that such a policy was reasonable. Now, Your Excellency, that is a very plausible statement of the case: it is so plausible that it has deceived the popular leaders of the country and has certainly deceived a very large proportion of the rank and file of them, but I suggest, Sir, that its plausibility is entirely due to the very clever manner in which Government has played its cards during the last two years. It has appointed an Expenditure Advisory Committee; it has appointed a Revenue Advisory Committee; it has held numerous departmental enquiries and it has done everything in fact that a quite clever Government could do to bluff the people into the belief that everything possible in the circumstances was being done.

I have endeavoured from time to time in recent months to call that bluff. Unfortunately my point of view was a minority one and I have again to-day, in order to justify my opposition to this Bill, to endeavour to call that bluff. I contend, Sir, that Government was not justified in deciding upon a policy of taxation for the Colony until it had first of all held an enquiry into the economic position of the country and its taxable capacity in present day circumstances. If that had been done Government would have been convinced, I am satisfied, that one policy and one policy only was possible in the circumstances of the past two years, and that was one of cutting down the cost of administering this country to what the country was in a position to pay for. In more old-established countries with very complex trade and commerce it may be a matter of some difficulty to arrive at taxable capacity but in a country of comparatively simple life like ours, where the broad facts can be obtained and brought into vision, it would not have been a very difficult matter to have found out what our economic position really was. For the hon. the Colonial Secretary to suggest that that enquiry was not held because it was found impossible to find a gentleman in England suited to the purpose of advising us is, I suggest, a very weak argument indeed, but put by him in such a way that the weakness is not obvious.

In January of 1931, a very short time after a delegation from this country to England returned, the very strongest possible representations were made to Government that an economic enquiry should be held, that it was essential to enable us to face the situation that was in prospect for the next few years, and it gives me some satisfaction to learn from the Colonial Secretary this morning that he to-day recognizes that that advice was thoroughly sound. Government having taken the responsibility of refusing to listen to our advice subsequently along the same lines, must, I hold, be entirely responsible for the circumstances-in-which we find ourselves to-day, a situation in which it is suggested the only means by which we can carry on is to impose further taxation upon a country that is already sinking under its existing load of taxation.

Your Excellency, I am afraid my speech will take some time longer. Do you wish me to give an opportunity to adjourn?

HIS EXCELLENCY: We will adjourn now for the usual interval.

Council adjourned for the usual interval.

On resuming:

THE HON. T. J. O'SHEA: Your Excellency, I have already gone so far as boldly to challenge the right of the Government to impose extra taxation at the present time, either by way of this Bill or any other taxation measure. It would be hardly fair to the House or to myself that I should content myself with just making a bald charge. I have taken Government severely to task for not having at the outset taken proper steps to ascertain the ability of the country to withstand this economic crisis and I have definitely stated that if Government had done so it would have seen that the only possible way in which the situation could be met was by a reduction of expenditure. I should like to support that, Sir, by asking the House to remember that when the Estimates for 1932 were being introduced towards the end of 1931 I produced a small balance sheet to the House showing our national income and expenditure and that balance sheet disclosed a very very serious deficit and to my mind conclusively proved that our chances of recovery from the economic crisis were slight unless Government instituted a reconstruction policy to reduce the burden of taxation as far as possible. I most certainly do think it proved that any question of additional taxation was not to be thought of. Now, on the basis of the latest figures disclosed by the 1932 return of the hon. the Commissioner of Customs, one can build up similar figures. I give rough and ready figures, Sir, and I invite Government to disprove their implications.

It will no doubt be possible for the hon. the Treasurer to suggest that they are not meticulously accurate, but broadly they do reflect the economic position of the country.

*Our exports for 1932 were of the value of approximately two-and-a-quarter million pounds. I understand that our "invisible exports" are estimated by Government at something in excess of one million pounds. To these two figures I add an amount up to another million-and-a-half to allow for the taxable capacity of money in circulation in the country not represented by either of those two figures. In other words, Your Excellency I am endeavouring to make as large as possible the figure upon which Government could possibly reckon to base taxable capacity and the largest possible figure I can arrive at is five-and-a-quarter million pounds.

Now, against this figure, take the following: We have to export from the country every year something in excess of one million pounds to pay the interest on our national debt, pensions and sundry other commitments. In addition thereto we have to pay not less than £600,000 as interest on private debts contracted by our agricultural industry and our trade and commerce.

In addition thereto we have to pay something in the neighbourhood of two million pounds as the cost of running the Government machine. As against that figure—because it is not a net loss to the country by any means—I have very considerably enlarged on the other side of the balance sheet the figure of our invisible exports. And then, Sir, finally we have to pay for imports to the value of approximately two million pounds.

Now, Your Excellency, on these rough and ready figures there is a deficit of well over one million pounds disclosed. As the hon. the Treasurer has still an opportunity of speaking in this debate, I take it as a matter of course that he will challenge those figures and I am prepared to believe straight away that he will show detailed inaccuracies in them.* But I challenge him to produce any counter set of figures, as closely approximating to the truth of the situation, that will fail to disclose the fact that in order to meet our present commitments this country is steadily going deeper and deeper into debt, and that, though you may by the imposition of a Bill such as this collect additional money from the people for the cost of the Government machine and thereby give the impression that the country is reasonably sound—though that he made to appear so in the eyes of the man in the street, I feel certain, Sir, that, in the eyes of those who are in a better position to judge the economic capacity of this country, it will

*See footnote on page 133.

be obvious that the Government by its policy is steadily putting the country deeper and deeper into debt and making its recovery more and more difficult.

It is because of that firm belief, Sir, that I have taken the strong stand I have on this question of additional taxation. It is because of that belief that I shall have to oppose the passage through this House of any other taxation measures as well as this. And holding that belief I am confident that before very long events will justify the stand I have taken.

I have also, Sir, challenged the policy of Government that expresses itself in the necessity of balancing our Budget this year in order to maintain our credit. In doing so, I should like to make it perfectly clear that I realize just as well as anybody else the advisability and the great desirability of balancing our Budget if it can be done without inflicting greater economic injury on the country, but I contend that that is only one, and not the most essential one, of the things that should be done by Government to meet the present situation, and that so long as Government fails to do the other things that are necessary to the situation, so long is it justifiable for us to resist taxation measures for the purpose of balancing the Budget. To illustrate my argument that the balancing of the Budget is not the essential need of the situation if other things are done, I will just quote from an authoritative journal as to the position in the great and wealthy United States of America: "The national income of the United States has diminished in three years by \$400,000,000,000, or over 50 per cent." I mention that because I think you will find on an analysis of the figures of this country that our income has also depreciated by about 50 per cent in the last three years. The Federal Budget shows an accumulated deficit of \$5,300,000,000 in the two-and-a-half years since July, 1930, and that deficit is being increased at the present time at the rate of \$120,000,000 a month—\$30,000,000 a week, or approximately \$4,000,000 a day—and yet, Your Excellency, nobody suggests that the credit of America is any worse than ours to-day. Why? Because the American Government is pursuing a policy that is concentrated upon maintaining its people upon the land, maintaining the people in industry, maintaining the people in commerce, endeavouring by every means in its power to make it possible for them to return to a period of prosperity, and they are more concerned about these things than they are about balancing their Budget.

Government has relied, as of necessity it must rely, upon the efforts that it has made to curtail expenditure in this crisis. It alleges it has done everything possible to reduce expenditure consistent with maintaining an efficient governmental

machine, and as proof of that it points to the savings that it has made, to the curtailment of Government services that it has reluctantly agreed to. It points out it appointed an Expenditure Advisory Committee, and relies very largely upon the results of the labours of that Committee as the justification for the introduction of this measure. With respect, I challenge the Expenditure Advisory Committee from the beginning to the end. I say that it has done its work of planting public opinion, which was getting restless because of your refusal to agree to an enquiry, but little more than that has it done. Its personnel was so carefully selected that from the very outset its conclusions might have been foretold. Its terms of reference were so narrowly circumscribed that from the outset it was obvious it could not possibly, however conscientiously the members of it worked, arrive at conclusions that met the requirements of the case, and when during the course of its labours Your Excellency went so far as to express in the most open manner public sympathy with the Civil Service in having to submit to certain apparent sacrifices, then, Sir, it became impossible for that Committee to do its work with the thoroughness with which it should have been done. Lastly, when that Committee was delarred from enquiring into the expenditure of four of the largest spending departments in the country, I ask you, Sir, how was it possible for that Committee to do the work that the country expected of it? It was impossible, and I say that even to-day the enquiry has not been made that should have been made into the possibility of cutting down the cost of the government machine. In addition, Sir, I think it is only right that I should point out that in effecting such economies as have been effected the procrastination of Government—in my mind deliberate procrastination—has cost the country tens of thousands of pounds. There were conclusions arrived at by committees set up by Government, very largely composed of your leading advisers, two and nearly three years ago, which conclusions have since been accepted and are only now being put into operation. I say that if there had been any real desire on the part of Government to meet the situation by cutting down the cost of the government machine economies would have been effected much sooner than they were, that consequent savings to the country and greater economies could have been and would have been effected. Even to-day, after nearly three years of this economic depression, after nearly three years of failure to balance our Budget, Government is still talking about enquiries into recommendations that have been made to effect

further savings. With the greatest possible desire to be faithful to Government in this matter, I feel Government has not done its duty by the people and it cannot maintain that expenditure has been cut to the extent that was possible and necessary.

Lastly on that Report I must express my dissent from the conclusion of the Committee in their forecast as to our future financial position. I do that, Sir, because the hon. member has endeavoured to justify the passage of this Bill by pointing to that conclusion. In my opinion this country will either be back on the road to prosperity within the next four years or it will be absolutely and irrevocably "bust". To think that it can possibly carry on as it has been carrying on for the last three years for another four seems to me, the height of absurdity. The members of that Committee, and Your Excellency's Government too, seem to have overlooked this, that during the last three years the people of this country have been suffering from a process of financial attrition—many of them have already been blotted out; a very much larger proportion of them are to-day vainly struggling against economic collapse, and if anything like the existing conditions are to prevail for the next two years or so, how is it possible for any large proportion of the agricultural or trading communities to survive? That being the case, how can that Committee possibly suggest that the situation in four years' time will be more or less as it is to-day?

Now Government, having decided that it is necessary to inflict additional taxation upon this unfortunate country, I should like to examine some of the bigger issues involved in this particular Bill. The constitutional issue has been mired. Now my knowledge of jurisprudence is of the slightest; I make no pretensions whatever to being a jurist, but I do believe that if this question were referred to the competent authorities for comprehensive judgement their lordships' decision would be something on these lines: "That the passage of this Bill does not conflict with certain Acts of Victoria but that, on the other hand, its passage is certainly not in keeping with the spirit of the unwritten British constitution, that its passage against the overwhelming opposition of the people who would be affected by this measure is contrary to the spirit of the British constitution, and is questionable and is probably an invasion of their rights." To the political consequence of the passing of this Bill I was very very pleased indeed to know that the hon. the Colonial Secretary is alive. Already, Sir, we have seen a quickening of political life in this country because of the suggestion that this Bill should be passed. I think it must be obvious to Government and to the people overseas that an inevitable consequence of the

passage of this Bill will be an assertion by the people affected by it of their rights in forms in which those assertions have not been made heretofore. I think it must be obvious to anyone that if the existing burden of taxation on the colonists of this country is increased by the amount by which it will be increased through the passage of this Bill, they will have a right that cannot possibly be denied them to a measure of control over the Government of this country that would not be considered in the absence of that Bill. Believing that, Sir, it gives me great pleasure indeed to notice that the hon. the Colonial Secretary very likely shares that view, and for his opinion on that issue I have the greatest possible respect. From that point of view, Sir, I have derived an immense amount of pleasure and satisfaction from the possibility of Government arbitrarily insisting upon the passage of this Bill. However strongly I am opposed to it, in my heart of hearts I shall feel glad indeed that it has taken a step that will, I hope, arouse the people of this country to a determination to insist upon rights that will not be denied them by the British people and to put an end to a system of government under which the interests of their country are so badly dealt with.

I wonder if it is also obvious to Your Excellency's Government that far-reaching racial consequences will result from the passage of this Bill. It has been described as a non-racial measure, but it will, in fact, by passing it independently of other measures of taxation to readjust the balance, occasion the greatest possible racial discrimination in this Territory.

If we take the figures of Lord Moyne's Report, the colonists of this country are already taxed something in excess of £30 per head. The passage of this Bill in anything like its present form will almost certainly raise that figure to something in the neighbourhood of £40 per head. The taxation on the native population of this country is estimated at something in the neighbourhood of Sh. 12/50, the taxation of other peoples ranging between these two.

Well, Your Excellency, I would ask your advisers, before this Bill is finally dealt with, to consider for a short time what the consequences will be as a result of still further increasing the disparity between the extent to which the natives and other races of this country are responsible for the cost of Government and the extent to which the colonists of the country are overtaxed to maintain that machine.

As there are still members on the other side of the House yet in a position to intervene in the debate on behalf of Government, I wonder whether any of them will give us some indication that Government is considering the economic effects, the likely economic effects of the passing of this Bill. Has Government taken into consideration that a withdrawal of the amount of money represented by this Bill from the channels of trade and industry will still further restrict trade, will still further restrict the existing sources from which taxation revenue is derived? Have they taken into consideration the effect that this Bill will have upon discouraging new settlers and new capital? At an earlier stage in my speech I expressed the opinion that an income tax bill would not in itself discourage new capital, but, Sir, it may be just as well, having done that, to draw this point out. To anybody who makes enquiries into the position of taxation in this country at present it would be obvious that the country is one of the most heavily taxed in the world so far as the colonists are concerned, and surely that will result in our recovery to more prosperous times being made very much more difficult than it would otherwise be. Again, Sir, because of the heavy cost of collecting this tax, the disparity between the amount of money in productive channels and the amount of money going into the unproductive channels of Government costs will be again greatly increased. At the present time one of the most obvious difficulties of the economic situation is this, that such a very large proportion of the money that is won from the efforts of the people goes into maintaining an unproductive Government machine. As this will be a costly tax to collect, it will add considerably to that disproportion and again the economics of the country will be seriously affected by that disparity.

Now, Your Excellency, I think I can best summarise my attitude towards this Bill by saying that I would regard its passage as a crime. In fairness to Government, however, I should add that I should also regard as a crime the passage of any other Bill that inflicted this unfortunate country with additional taxation in existing circumstances. In saying that, I hope I have made my position clear to friend and foe alike, and if I now turn to consider the principles of the Bill in detail it will not be taken as implying in any way my committing myself to the acceptance of this Bill in any form.

The opinion that is held in some quarters is that it is the duty of Elected Members of the people to dissociate themselves completely from the passage of the Bill by retiring from the House when the second reading has been passed. I do not share that view and I do not believe that I am in any

way prejudicing the position of the people and the attitude of the people by tendering my advice with the object of improving on the details of the measure. Recognizing that Government has the power, and apparently means to exercise that power, to pass the Bill despite our opposition, I think it my duty to my constituents to do anything that lies in my power to minimise the evils of the measure; and in so doing I regard myself as being in the position of a doctor who endeavours to assist the dying—he is not I hope in any way responsible for the death.

Your Excellency, I have endeavoured to fore-shorten my speech on this occasion by having published my considered views on this Bill, but unfortunately my views in this controversy have not been any too popular with the local press and an expression of my views has been denied publication. I mention that because it will give some sincerity to my apology for finding it necessary to take up so much of the time of the House.

In my efforts to consider the Bill in detail I have endeavoured to stick to a number of leading principles. The first of them is that this measure of taxation is not a suitable instrument for the purpose of adjusting the taxation burden between races with different standards of living. I lay emphasis on that because I know that many people would like to see it so used and I believe, should Government take that view, it would make the measure even worse than it is. It has a practical significance because, if any such attempt is made, what will inevitably result will be that the people in the lower grades of the higher standard of living will be adversely affected in an effort to get at the people in the higher grades of the lower standard of living. And, Sir, I think that would be disastrous. But, on the other hand, I do hope that the Government recognizes that, in the event of this Bill becoming law, it will be absolutely necessary to make further adjustments in our system of taxation so as to compensate the race with the higher standard of living for the extra penalty which will undoubtedly be inflicted upon it by the passing of this Bill as an isolated measure.

Secondly, Sir, as our existing system, very largely made up of indirect taxation, bears harshly upon those whose incomes are little in excess of the cost of living, I consider it necessary that the Bill as published should be very considerably amended so as not to make the burden on the poorer classes of the people greater than it is. The Bill should also be utilized to adjust the position that at present exists between resident and non-resident income. Under our existing methods those who are domiciled in this

country have to carry the burden of taxation entirely. Those who have invested capital in the country but who are not themselves resident in it bear our taxation burden to a very slight extent indeed, and it seems essential that that should be borne in mind in adjusting the scales as between earned and unearned incomes. I hold also, Sir, that to inaugurate a system of income tax on a very high scale in conditions anything like those at present prevailing will be disastrous and I suggest that Government is entirely wrong in making its comparisons between the rates suggested in this Bill and the rates already in operation in England. The conditions are in no way analogous, the argument cannot in any way justify it and I suggest that Government should consider its rates entirely from the point of view of the circumstances of the people of the country who will be affected.

I have tabled an amendment that Kenya agriculture should be excluded from the operations of the Bill. On all these issues I shall talk at greater length in the Committee stage of the Bill, but I will suggest at this stage that one of the arguments of those who oppose the Income Tax Bill on principle, that its costs of collection are disproportionate to its results, can be very largely based upon what would happen if you insist in applying the tax to the agricultural community. It must be obvious that in anything like present circumstances the cost of endeavouring to collect the tax from the agricultural industry would be out of all proportion to the results and would raise the costs of collection in proportion to the total amount of revenue very considerably.

The most important issue I would like to raise on the Bill is in connexion with Clause 9.

Clause 9, Your Excellency, makes provision for the Government to exclude from the operations of this Bill the interest on our national debt. Now, Sir, as I have always reckoned that the passage of an Income Tax Bill through this House would result in our getting a very appreciable amount of revenue from that source, I am filled with horror to find that Government contemplates excluding that source of revenue. The hon. mover was not in the least clear as to what are the intentions of Government in this matter. I suspect that Government has again no figures as to the likely revenue from this Bill because it hesitates to disclose its intentions under this clause. Now, Sir, the last thing in the world I want to do is to utter anything that could be construed by anyone, even a hypersensitive Secretary of State, into a threat. I wish to refrain from making any statement that could be regarded in any quarter as a threat that in the event of anything being done by Government that I or anybody else is

going to do anything that is not in accordance with the law, but I think it only right and proper in the discharge of my duty if, in this connexion, I stated certain beliefs and certain facts. I believe, Sir, that if this Bill is passed by the arbitrary action of the Secretary of State, with the assistance of the official side of this House, and subsequent to its passing the Secretary of State decides again to instruct the official side of this House to pass a Bill excluding from the operations of this Act the interest on our national debt, that such action will be regarded by the people of this country as a tyranny and that the consequences of that act will be regarded by them as the robbing by force of the exchequer of this country of the amount of money that is denied them. That is a statement of belief. This is a statement of fact—that I personally shall certainly so regard any such action. I shall further regard it as my duty to impress upon my fellow-colonists that that tyranny has been committed and that the depriving of the exchequer of this country of the amount of money to which it is properly entitled out of the interest on our national debt is robbery by force, and that if they maintain the principles upon which their people have built up their present system of democratic government they will not submit to them. I hope, Sir, I have said as much as I should say on that issue and I hope I have not said too much. I think it is only right that before this debate closes Government should honestly say whether it does or does not mean to retain that money for the benefit of this country or whether it means to acquiesce in the decision of the Secretary of State for the Colonies to continue to retain that money for the benefit of the British people. That money is ours by right—if we are deprived of it we are being deprived of it by force, and it is only right that Government, our Government, should disclose to their people whether they mean to acquiesce in a violation of those rights.

Your Excellency in your opening address appealed for the co-operation of the peoples' representatives and you expressed the hope that the debates on this Bill would be conducted without bitterness. Please do not think, Sir, that I have been indifferent to that appeal. If by anything I have said I have inflicted pain upon you or any member of your Government I am exceedingly sorry. While I deplore that Your Excellency and the members of your Government should be unable to see the problems of this country from the point of view of the people of this country, I acknowledge and respect the sincerity of yourself and of your Government when you say that we are working for the same ends—the happiness and prosperity of this Colony and Protectorate. But, Sir, you and your Government see this Bill from the point of view of those

whose path will be smoothed by the passage of this Bill; you see in it a lessening of your difficulties in the arduous task of governing this country under existing circumstances. We, Sir, see it from the point of view of those whose difficulties, already great, will be made greater, if not unbearable, by the passage of this Bill. If, Sir, I have allowed a certain amount of over-emphasis, or even passion, to enter into anything I have said, it is because, as I debate this measure, I have before me the faces of the men and women of this country who have gone through the past two or three difficult years. I can sympathise with them in their difficulties; I cannot for a moment be unconscious of the struggle that they have had to maintain themselves through the difficulties of the past two years, and I cannot be indifferent to the extent to which their troubles will be made greater by the passage of this or any other such measure. If I have been in any way bitter, Sir, it is because I am so conscious whenever I talk in this House on an occasion such as this that no matter how we may appeal to the intelligence of Members on the other side, no matter how we may arouse their sympathies towards our point of view, no matter how we may play upon their emotions, it is all in vain. They are merely straps of a pro-consul who is so far removed from the scene of our joint endeavours that we cannot appeal to his intelligence or arouse his sympathy.

I join with the other elected representatives of the people in opposing this measure. I shall regard its passage as a crime against the people of this country, and if Government should insist on carrying through its arbitrary decision to impose this Bill upon the people I hope that at least one effect of it will be to arouse the people of Kenya to a determination that they will, by the use of every political weapon which the British people allow as legitimate in such circumstances, rid themselves of a form of government that is so inimical to the interests of their country.

MAJOR THE HON. R. W. B. ROBERTSON-EUSTACE: Your Excellency, I have little to add to what has already been said so ably in this House and by others throughout the whole country. I think, Sir, I may safely say that this proposed legislation has neither the sanction nor the approval of the people of this country, and legislation passed without the sanction of the people lacks dignity and permanence and brings the law into contempt. It is, I think, the general opinion that this Bill has been forced on this country by the Home Government. The Secretary of State for the Colonies in the House of Commons stated that it was introduced to assist to balance the Budget, our Budget, yet I am not aware, Sir,

that we ever asked for any such assistance; we are, I think, quite capable of doing our own work. We might as well suggest to the Home Government how to deal with the unemployment question as that they should suggest to us how to balance the Budget. After all, Sir, we are quite prepared to remain as daughters in our mother's house but we do hope to be allowed to be mistress in our own.

It is, I think, a matter for regret that no pronouncement, though it may have been made in private, has been obtained from the official community of this country. After all, they are usually interested in the passing of this measure. It may affect many of them as to their decision on retirement as to whether they settle in this country or retire to the Channel Islands or to the Balearic Islands or some other place. The opinion, Sir, of ex-officials, of whom I have the honour of being one, is unanimous in opposition to this Bill, and I cannot believe that there can be a great diversion of opinion between the officials at present serving this country and those who have retired from the service and settled in this country now.

It is a well-known saying, Sir, that legislation cannot suppress progress, but it can seriously hinder it, and I am convinced that the passing of this measure will have that effect upon this country.

THE HON. ABDEL WAHID: Your Excellency, before I proceed any further I take this opportunity of complimenting the Attorney General on the most excellent manner in which he has expressed the Government's case on behalf of income tax. It could not have been better done. In fact, after very carefully listening to his arguments so ably put forward by him, it appears to me that there remains nothing to be said in the matter. I should have thought that after hearing those most convincing arguments of my learned friend the Attorney General the Income Tax Bill could not have been regarded but as fair to an unprejudiced mind. I am glad, however, that the need for balancing the Budget is realized by the European Elected Members. Your Excellency, I do not altogether agree with the hon. Member for Nairobi South that 90 per cent of the proposed income tax will fall on the European community and that 80 per cent of the Indian population will not have to pay. If a comparatively large number of the Indian community are married and have children one must not forget the numerical strength of the Indian community as against the numerical strength of the European community. I speak on behalf of the Indians generally in support of income tax, and I submit that income tax is the only fair and equitable method of taxation.

Your Excellency, I most respectfully beg to express my disagreement with the proposal to double the flat rate of non-native poll tax, which is to be allowed as a set-off. I believe this will fall very hardly on the poor member of the general public, whether he is Indian or whether he is European, considering the present state of depression prevailing in the Colony.

As I have already said, the hon. the Attorney General has left nothing for me to say, and I do not propose, therefore, to take up much of the time of this Council, but certainly I wholeheartedly am in agreement with income tax.

THE HON. HAFIM SINGH: Your Excellency, under ordinary circumstances, no one would be happier than myself to support the Income Tax Bill now before this Council. You are probably aware, Sir, that the Indian community has for several years asked for an equitable system of taxation such as income tax. But it is regrettable that the Government of the Colony never considered our just demands and that it has thought of imposing an income tax at a time when there are no incomes to tax. The years of surplus budgets are over and in their place have come years of extreme financial depression. It is not only the farming community, European, Asian and African, that is affected, but the commercial section is in a still worse plight. This is one of the reasons which compels me to oppose the Bill before us.

The hon. the Attorney General in introducing the Bill has very rightly extolled the virtues of this system of taxation. I am in complete agreement with Your Excellency's Government about the equity of an income tax. But how can the hon. Member reconcile his defence of the tax when in the same Bill he leaves all other existing indirect taxes intact? Not only this, but Your Excellency's Government even goes to the extent of using at the same time an indirect tax, the Non-native Poll Tax, and doubling it. Your Excellency will forgive me in saying that not only an injury is being inflicted on the poorer section of the non-native communities, especially the Asian, but a deliberate insult is added to that injury through the doubling of the Non-native Poll Tax. Government cannot have it both ways. If income tax is the only tax which is equitable and just, why does Government wish to impose it as an additional taxation? I will probably be told that in the present circumstances Government are only trying to balance the budget and that they are out to obtain the budgeted deficit through income tax. It is my humble submission, Sir, that the balance which Government need this year can as well be obtained by some indirect taxation.

I can see no justification for Government to impose a tax, however equitable in itself, at a time when the change is going to throw the greater portion of the non-native community into an open conflict, I had almost said revolt, with Government.

Your Excellency, the whole of the European community is against this tax. I am not going to join issue with my European elected colleagues in this matter on some of the arguments they have advanced. I repeat that I am in complete agreement with the system of a tax on incomes. But I have also to take into consideration the views of the people for whom I speak here. I refer to the great body of Indian merchants who are unanimously against this tax. The Indian commercial community forms an important section of the Asian community both in vested interests and in numbers. The Federation which represents these interests has declared itself against this tax. And as for the rest of the Asian community, their views were very definitely expressed at a meeting held recently in Nairobi. The principle of income tax was accepted, but with reservations. It was decided that support be given to the Government measure provided that the Poll Tax and Education Cess were abolished. It was also desired that all existing heavy indirect taxes should be revised, so that both the poorer and the richer classes were relieved of indirect taxes before income tax was imposed. Neither of these things has been contemplated by Government, but on the contrary Your Excellency's Government is making the lot of the poorer classes doubly intolerable, and at the same time imposing an undue and unnecessary burden on the richer ones.

Before I close, may I be allowed to dissociate myself from the argument brought forward by some of the European Elected Members against the proposed tax? They have said that the tax would be inequitable because it could not be imposed equitably in a Colony of different races with different standards of living. It has been contended that the European standard of living is higher than that of the Asian and that, therefore, different scales of tax and abatements should be imposed on both. Your Excellency, among all the arguments which have been brought forward against the Bill, this one is the unkindest and unfairst of all. The standard of living of the Asian could be considerably raised if the best land in the Colony were thrown open equally to members of my race as it is to the European, and privileges created to sustain such exclusive occupation. Our standards of life would not fall short of those of other races if the higher grades of the civil, military and other services were made the closed preserve of the Asian. Opportunities afford the means for the sustaining of standards of life. The Indian community is denied such

opportunities. I can assure Your Excellency that the Asian spends within the limits of his earning capacity, which is considerably lower than that of the European. As a matter of fact, I consider that the present standard of living of the colonial Asian is far too high for the earnings which he is allowed to make.

Your Excellency, I am sorry that I am not able to support the measure which your Government have placed before this Council, but I can assure Your Excellency that, granted the removal of the circumstances mentioned by me, Your Excellency's Government can always depend on my support, and I am sure of the entire Asian community in the Colony.

APPOINTMENT OF SELECT COMMITTEE.

HIS EXCELLENCY: Just before I adjourn I should like to announce the personnel of the Select Committee on a Bill to carry out Certain Conventions relating to the Employment of Women, Young Persons and Children:—

The hon. the Attorney General (*Chairman*).

The hon. the Chief Native Commissioner.

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

The hon. Member for Nairobi North.

The hon. Member for Ukamba.

The hon. Member representing Native Interests.

The hon. Hakim Singh.

Council adjourned till 10 a.m. on Tuesday, 4th April, 1933.

TUESDAY, 4th APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 4th April, 1933, His EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 3rd April, 1933, were confirmed.

ORAL ANSWERS TO QUESTIONS.

CARRIAGE OF MAILS.

No. 17. CAPT. THE HON. H. E. SCHWARTZE asked :

Whether, on the night of 12th/13th February the S.S. *Ubena* collected mails at Aden for Mombasa? Whether this steamship was summoned to Aden to collect these mails after the Captain of the S.S. *Llandaff Castle* had been asked to guarantee and had guaranteed arrival at Aden at dawn on the 14th February and at Mombasa at dawn on the 19th February?

Whether the mail so carried by the S.S. *Ubena* was worth about £600 to the steamship line concerned?

Whether it is the policy of the authorities concerned when British ships are available to allow British mails to be carried from one British port to another British port by foreign vessels and whether this policy is consistent with the present general invitation to support British?

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOONE) : The Government has no information regarding the situation described in the first part of the hon. and gallant Member's question, but the known facts are that the S.S. *Ubena* landed a mail at Mombasa on the 17th February and that the S.S. *Llandaff Castle* arrived at Mombasa on the 19th.

As regards the second part of the question, this Government is not responsible for payment for the conveyance of the mails in question and is not aware of the value of their carriage to the steamship company concerned.

The answer to the last part of the question is that the authorities concerned in this matter are the despatching offices and that this Government is not therefore in a position to reply, but if the hon. and gallant Member intended his inquiry to relate to this Government, it is the policy to despatch mails by British ships when no appreciable delay would result.

BILL.

SECOND READING.

INCOME TAX BILL.

HIS EXCELLENCY: We will now continue the debate on the Income Tax Bill.

THE HON. F. A. BEMIST: Your Excellency, I want to endeavour to-day, Sir, to introduce a slightly different note if possible into the debate on this Bill. As you know, I speak entirely for a commercial community, a community which is definitely connected for their livelihood through business on the prosperity of the country, and every move that is made which will affect or might affect that prosperity reflects directly and absolutely on that community, and they have no means whatever of helping themselves either by increasing production or raising prices. They are absolutely dependent upon the production of the primary products of this Colony.

Now, Sir, actually I feel, not bitter but sad, that this Bill has been introduced, because it is an attempt to place upon the people a permanent remedy for a temporary disease. I want, Sir, to refer to one or two remarks of previous speakers which appear to me to be not exactly, we will say, chronologically correct. I joined this House in 1929 and it has been said by speakers that the economy campaign of Elected Members only started two years ago. I can assure you, Sir—and you can refer to the books—the economy campaign of Elected Members started four years ago and I remember a particular occasion when the hon. Member for Nairobi North pleaded with the Government to reorganize the system as long ago as that. That policy has always been in the minds and brains of the electorate at Mombasa and I will tell you, Sir, that two years ago we recognized that our ideas were being given effect to. We recognized that we had come on to a new era. We recognized that expenditure was being strongly and clearly and cleverly examined and it was being reduced in accordance with the interests of the country. We appreciated that and we have always helped in every possible way to assist the Government in their economy campaign. We still think there are further methods of economy—we speak as outsiders, but we do feel candidly that this country has a champagne service and a beer income. That state of affairs we believe, Sir, was recognized—I do not know if I may be allowed to say it, Sir, but when you arrived. That is the date I want to get at. We know that interest in our part of the country has been increased in an immeasurable degree. Can you therefore wonder, Sir, that Mombasa is anxious that the policy which has been followed in the last two years should be continued? Are not we logical? We have

seen the effects of a consideration of the country's problems. We have seen districts which had never been visited before by the officers responsible examined, reported on and an interest taken in them to an extent which has never happened during the eighteen years I have been in the Colony. We also see measures being taken whereby officers in the Government Service—I am speaking of the Coast; I do not know anywhere else—where officers in the Government Service have been engaged to do something which is of interest to the producers of the Coast, and I think bold to say, Sir, that that was never done before. We have a new departure at the Coast in the form of a Development Officer, who is doing a tremendous work. All this, Sir, leads to the fact that the policy of the last two years, whilst on the one hand it is reducing expenditure and on the other hand assisting the population to increase their produce and to increase their activities generally, will, in a very short time, relieve us of all this horrible depression.

Just to come to small items—they are not my figures; they are Government figures. In three years the expenditure of general revenue has been reduced by £504,000 on the Railway—the difference between the 1929 and the 1933 Estimates—and £783,000. There you have, Sir, twelve lakhs of pounds. True, Sir, as you said some time ago, you are getting near the bone. You have got it down to practically the irreducible minimum and I am going to ask you, Sir, not to stop that. I firmly believe carrying on with a careful study of your expenditure, careful study of the possibilities of the activities of your officers, reorganizing here, adjusting there, that you have a solution which not only will it not upset the country but which will make the country stand behind your back as one man. Is it not fair, Sir, then to them—having those ideas in my mind, knowing actually the facts to be true, knowing that my constituents, who are an exceptionally intelligent body of men, knowing that they think these things, knowing that they are out for all the enterprise that it is possible to get—is it not right that their conclusion should be that a temporary expedient should be the remedy suggested for a temporary disablement? I would ask you, Sir, not to throw away in one stroke the great advance we have made in the last two years. The introduction of income tax in the hands of a careless government would be murder to the Colony. You would throw away in one stroke the whole of the policy you have started here. You would throw away at one stroke the hope of everyone who is looking forward to a time of biggest prices at least cost, or, in other words, biggest results with the least expenditure. Sir, we view this in Mombasa with actual terror. We know that under certain conditions policies are started in this House, as I have seen

them started during the last four years, of extravagant carelessness generally. When the prices of things are good it would mean, if we were to get an extravagant and careless Government here, that the possibilities of economy would fade when Government had only a tap to turn on which nobody had any control over. To-day, Sir, under your indirect system, we have a control over taxation. We definitely have. The people of this country can very soon put you in your place if you tax their imports too high. They simply do without them. Where are you then? We have the control. We have not control over expenditure, but the people of this country, under the present system, have in fact a direct and excellent control over your taxation. But with income tax what would be the position? Given a man with large ideas, who wished to build palaces all over the country, who wished to bring university education to the people, who wished all sorts of fantastic schemes to go on, what is there to stop him? We cannot. And, Sir, it would be ten times worse in prosperous times than in bad times. In prosperous times there would be practically no limit. Nobody would query it because everybody would be happy and they would pay. But in bad times the effect of that policy would be folly. I ask you, Sir, to consider this question thoroughly. Do not think to-day we will not find you the money. You know we will. You know every responsible man is ready. Have you had a single refusal to sit on your committee to try and find you alternatives? Not one.

THE HON. T. J. O'SHEA: Yes, one.

THE HON. F. A. BENNETT: I am sorry; I said a man.

Have they not given their time free, gratis and for nothing to you and have not they put before you every possible avenue of thought on this question? But where would the Government be if you simply had to add a shilling or two shillings to income tax? Would you want alternatives? You would not worry about them. At least, I know I should not. If, Sir, you contend, or if the Right Honourable the Secretary of State contends that it is necessary to raise an income tax, with all its bad features for bad times and worse features in prosperous times, in order to bridge a deficit in a Budget which is only twenty per cent of the money you have saved and economised in the last four years—and which is only ten per cent when you add to it the savings you have made in the whole of your service—would it be really right, Sir, for the Secretary of State to force a policy on a country like this? I say, Sir, that it is against the conscience of every thinking man, and hon. Members (laughter), even to think that such a desperate remedy is necessary for a temporary disease. I ask

you, Sir, again, carry on, go straight ahead with this policy which Mombasa anyway admires, which Mombasa appreciates, and which Mombasa will always support, and do not allow even the Right Honourable the Secretary of State to force panic legislation for an accident which we all know will surely fly when world prices alter.

THE HON. SHERIFF ABDULLA BIN SALIH: Your Excellency, rather than sit silent during the discussion on this Bill I feel that I am only doing my duty to the Colony by pointing out the necessity for and the effect of the measures on those whom I represent. The necessity lies in the deficit that is facing us and which has got to be remedied. I will not speak at all on the necessity as the hon. the Attorney General has already in his speech made it very clear. Sir, if the necessity is admitted it is the duty of all of us to seek a remedy. Sir, one point in respect of income tax which appeals to me very much is that it is a graded tax on graded incomes. The redeeming feature is the abolishing of the non-patent poll tax which taxes us with unparadisable blindness for our purses. This feature relieves less well-to-do members of my community from taxation, while it imposes proportionate taxation on the wealthy section of the community. For those reasons, Sir, I feel that I must support the Bill.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, like most other Members on this side of the House I came down here with pockets full of ammunition to discharge at the devoted head of the hon. and learned mover of the Bill, but as a result of the very able manner in which he has been met by the hon. Member for Nairobi South and others, the greater part of that ammunition has already been so discharged, and consequently I have no more than one or two shots left in my locker, but for what they are worth I should like to add them to the barrage.

The first thing I should like to endeavour to do is to dispose, if possible, of this parrot cry used by the hon. mover—as it was inevitable that a protagonist of income tax must use it—that income tax taxes every individual, every citizen, according to his capacity to pay. Well, Sir, although that statement has deluded, you might almost say generations of income tax payers, I am free to admit that as far as comparison between any two given citizens, one with an income of £500 a year and another with an income of £1,000 a year, is concerned, the income tax system does undoubtedly arrange that the richer man should pay more than the poorer man, but there it ends for, after all, who is it states what this capacity to pay is to be in the first place? You have

only got to look at the state of affairs at home to realize what I mean. There you have a small minority of income tax payers taxed grotesquely, fantastically, beyond any conceivable capacity to pay by a government and in a country where there is a House of Commons representing them which is supposed to hold the country's purse-strings—they do not, of course. There all the ancient constitutional safeguards of our democratic system have been swept away, and consequently the unfortunate income tax payer is subjected to a system of extortion beside which the time-honoured methods of King John were a mere picnic. So, having eradicated from one's mind this entirely deceptive statement that income tax taxes everybody according to his capacity; one is not inconsistent in saying that such a system is the last thing we would like in this Colony.

Again, Sir, as regards the amendment to the Bill which the hon. member told us of in his opening address, which I think I am right in remembering was that non-native poll tax was to be raised to Sh. 60 and the basic rate of income tax was to be reduced to Sh. 1 in the £, and that when a man began to pay income tax on his chargeable income the poll tax would be set off against it—I think I am right that that was his explanation—well, Sir, one can hardly restrain a smile when one thinks of this first attempt on the part of Government to amend the Bill, and one realizes that it simply means that as farmers in this country have no income they will all have their poll tax doubled on them straight away. I submit that there are proposals now before the Committee appointed by you that will be somewhat less harsh on the farmer than that.

Now furthermore, Sir, as I expected Government have based their case for introducing this Bill largely on the statement that our present system of taxation has broken down, I myself was wondering whether any experienced officer of Government would have any further evidence to bring to substantiate that statement, anything beyond the thoroughly unimportant discovery of Lord Moyne—I say "unimportant" because any child could have explained the meaning of that discovery. However, no further evidence has been brought to that effect. On the other hand, I am not going to repeat and waste your time by repeating the very strong arguments which have been used—but I should like to remind hon. Members of them—by the hon. Member for Nairobi South and also most vigorously by the hon. Member for District South, which show most clearly that the existing system of taxation has not broken down, and the Government have not got evidence to show that it has. There is, however, something which I think should be remembered and that is

that everybody in this country at present has the most urgent need to buy every sort and kind of imported article, from ploughshares to trousers—and the one is not more important than the other, for I defy anyone to sit on the iron seat of a three-furrow plough which has been heated by the mid-day African sun, without trousers—since through lack of purchasing power they have had to do without them for so long. Everything requires replacement and renewal to-day. That may appear to be a somewhat trivial statement, but I use it advisedly because it shows the extent which our lives and every operation of our lives are bound up by the necessity to buy imported articles and how the system of taxation which we have here will respond instantly to anything that will assist us to buy once more. The slightest sign of recovery and any improvement in the price of primary products—you do not want a big boom—and your revenue will go up straight away. It may be very unscientific, but it is extremely sensitive and will respond to any slight improvement in our conditions.

Again, Sir, I am not going to repeat a lot of the arguments put up on both sides of the House in the course of this debate that an income tax system is generally suitable to this country. I can only conclude, as any impartial listener must also, that the arguments against it are definitely very much stronger than the flimsy arguments put up in support of it by the Government, and therefore, Sir, Government, I submit, have been quite unable to prove either that our present system of taxation has broken down or that they have a better one to substitute for it. If that is the case, there is only one conclusion possible and that is that the Government case for introducing this Bill has completely fallen to the ground.

There is only one more point of view from which to regard the Bill and that is what they believe the value of it may be to us in our present emergency. You have only got to think of the amount of opposition and resentment and fear that it has caused to appreciate the inevitable resultant dislocation of business and upset—I will not say disruption—of our whole system of finance in this country, and a very important point which some people are apt to forget is the adverse effect it will have on our present sources of revenue in the final reduction to vanishing point of any purchasing power we may have left, add to that the enormous task that Government must undertake in assessing and collecting this tax and the cost of that collection and set off against that any hope you may have of collecting a little revenue from the officials' salaries and pensions and things of that sort. I assure you the results obtained will be most disappointing. From that point of view I argue also that this Bill cannot help us in our present emergency. Again the case for its introduction has

broken down. I suggest, Sir, that Government in this situation is in the position of a person who insists that a man should take a dose of castor oil as a cure for toothache. Well, we have got a toothache; we admit it—that is our deficit. We would like to go to the dentist for that—he is represented by the alternative proposals we have submitted to the Committee appointed by you, but Government will persist that we still need this dose of castor oil and we persist in saying we have no stomach-ache. Now curiously enough, I can carry that analogy a little further. At the present moment, despite this insistence on castor oil treatment, Government have realized that there is something else wrong in the body politic, and have very wisely submitted the case for examination by a specialist. The hon. specialist, if I may so describe him, is the Director of Agriculture who, in his capacity as Chairman of the Agricultural Board, has fairly recently submitted to you his diagnosis and his remedy. That really brings me to my real point. Surely it is obvious that no system of taxation whatsoever, whether it is the indirect one used at present or any direct system which Government may propose to substitute for it—or superimpose upon it, rather—no system can possibly be satisfactory as a revenue-producing machine unless it has behind it the one and only basis which any system of taxation must have to be effective, and that is purchasing power, the purchasing power of the people so taxed. That is the only criterion which you can base it upon. Until our purchasing power is back again we are not facing the root of the evil. Instead of these discussions about fiscal systems I submit, Sir, we have got to go to the root of the evil by endeavouring to restore the purchasing power on which you may be able to base a suitable system of taxation some day. The remedy, I submit, Sir, is agricultural finance. As regards that I can use the word "scientific" without fear. The result of agricultural finance now would be two-fold. Firstly, your present system of taxation would immediately respond to that stimulus for the provision of funds would enable us to a certain extent to satisfy this crying need to buy things that I have already spoken of. There would be an immediate beneficial effect upon revenue: if we had additional funds for our Land Bank to-morrow our great importing houses would be starting business again the next day. Now, Sir, surely consideration of this view can only lead to one conclusion and that is in our present situation in this country these discussions about fiscal systems become purely academic. They have no bearing really on the difficulties we have got to face. The Bill before you, Sir, cannot help us in our present emergency and I submit it has clearly been proved it may be possibly disastrous to our future recovery. I ask Your Excellency in the name of common sense and

reason, what is the good of going on with it? I submit, Sir, that no useful purpose whatsoever can be served by continuing with this Bill at present and I submit that has been proved in this House during the last two days. Finally, Sir, I seriously suggest to you that if Government can see its way to withdraw this Bill now, at least until we have the facts before us on which we can judge—if that can be done by Government, Sir, it will be an act of wisdom and statesmanship which will redound to the credit of Your Excellency and your advisers and to the benefit of this Colony for many a long year to come.

CAPT. THE HON. H. F. WARD: Your Excellency, I too rise to oppose this Bill. I think one of the most exceptional things about this debate has been the extremely weak case put up by the Government on the other side. For the whole of the twelve years that I have been privileged to be a Member of this House I have never heard a measure of major importance so weakly supported by those who proposed it and one, Sir, that contains statements that border on the inaccurate, and truths that are only half-truths.

The hon. the Colonial Secretary yesterday, Sir, tried to impress this House with an assumption that the opposition to this Bill was one carefully organized and engineered by a small group of people who for some reason or another wished to see it destroyed. Now, if that is the considered view of Government, it does disclose a hopeless lack of understanding of what the actual position is. Apart from subsidiary incentives to the stirring up of public opinion, such as the appointment of a highly qualified and very expensive authority from England before the Bill is published and before it becomes a matter, or can become a matter for material consideration, the continued propaganda on the part of Government in private speech and public speech on behalf of income tax before the situation is clarified enough, the setting up of an office and dressing up office boys with the initials of the Income Tax Department has not helped to lessen the holocaust. On top of that, when the Bill is published, the public had just begun to realize what Government are asking for and therefore, naturally, their minds travel quickly back over the last two years, and that, Sir—the record of Government during the last few years—is what has created the opposition to this Bill. The general public are with one accord frightened at the mere thought that a completely autocratic government, such as we have, should be given the provisions and the powers that would be given it under this Bill; and it is for that reason too, Sir, that the constitutional issue has been raised, which, after all, is only a business safeguard—an insistence that if we

have to find the large sums of money the Government now ask for, we at least shall have the right of controlling expenditure.

The second point which the hon. the Colonial Secretary more cleverly flirted with but did not touch on in detail for really obvious reasons was the fundamental cause of Government's insistence on this particular tax. Now I want to submit to him what I think is a fair summary of that position. The main reason is, as I see it, that Government have never faced up to the servants of Government in the same way that other employers faced up to their employees in times of crisis. I want to pay the highest tribute I can to the body of Civil Servants of this Colony. In my opinion, from personal contact over a number of years, a no more loyal or patriotic body of citizens exists, and I have every reason to say that if Government had put the position clearly and fairly before them at the start they would have received voluntary suggestions for a restriction of emoluments far exceeding anything they have secured by administrative action. That is the basis as I see it. Government have spent a great deal of this period of depression in telling their own servants and the country at large what we can only call in the light of experience "fair stories." It is only quite a short time ago that we were told that the customs revenue estimates for 1932 would be secured because Great Britain had gone off the gold standard, and it was only in February of last year that Your Excellency told us in your speech at Nakuru that all was well with the world and that the revenue estimates as drafted for 1932 would be secured. On the other hand, Sir, the servants of Government resented the fact that in times of crisis they were not called in to co-operate and allowed to join with Government in some united effort to put the matter right; and because that was not done you now have the whole service of Government left on the pre-depression level in regard to emoluments and the question still remains to be settled. More or less that is so. If you get income tax these difficulties are delightfully smoothed over for you. You can go on uttering all these pleasant clap-trap platitudes in support of the Bill about the poor man paying less than the rich man, and so forth, and it is undoubtedly from the Civil Service point of view—from the point of view of those who wish to administer their own servants—a useful measure for grading down emoluments. But it is disastrous for Kenya. And when you run into the same trouble in 1934 as you have in 1933, you have always got the remedy, as the hon. Member for Mombasa suggested, of another sixpence or another shilling in the pound for income tax. From the Government's point of view it is a most convenient measure and I fully understand their position.

Yesterday the hon. the Colonial Secretary said: "Where is all this leading us," and he then went on to say we have two points of view—a view I cannot accept—of the circumstances which have led up to the introduction of this measure. Now, Sir, my view of that position is that while we have through this depression consistently urged on Your Excellency and on Your Excellency's Government the essential need for a complete inquiry, free of all restriction, into expenditure and into revenue, we have for a large part of the time been refused it, and all we have received is such a small measure that it has been proved by experience to be practically useless. During that time a body of opinion has been growing up in the home country, responsible opinion, opinion in the House of Commons and opinion in public life generally—people who do not think that we are foolish people, rangers, but who think that we are conservative and logical and who believe that we really only want what is best for the country where we have made our homes. That opinion is rapidly growing and all that has happened by Government's refusal here is to make consideration of these vital questions impossible on the spot and has compelled us to seek the help of those in the home country who have offered it to us. So long as Government adopt their present attitude, so long will that tendency continue. I am not referring to the various representations made direct to the Secretary of State; I am referring to that ever-growing body of public opinion in Great Britain. The Colonial Secretary said: "Where is all this leading us to," and I am going to suggest an answer. Sooner or later the Colonial Office will get tired and they will write a despatch in the delightful language in which despatches are clothed which, stripped of all that, will have roughly the following meaning. They will say: the present seems to be a very poor arrangement under which we have to keep an expensive dog in the shape of the executive government of Kenya—an expensive dog in Kenya when more and more we are being called upon to do the barking ourselves. Would it not be possible, as these people do seem to be fairly reasonable and logical—would it not be possible to arrange that a few more of these questions could be settled by the people on the spot? That, Sir, I submit, is where the present position is leading to.

Before I leave that, Sir, I would like to make one submission to the Colonial Secretary on the whole tenor of his speech. After all, we people on this side of the House are quite simple people who have made our homes here and such training as we have had in political debate we have learned in our associations in this House. The hon. gentleman is a trained administrator of considerable experience. Does he really think that a speech such as his yesterday might help

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each side of the line in the settlement of any of these questions with which we are faced? Does it really help to cry and howl and cry and appeal a decision of opinion among hon. Members on the side of the House or opinion of the country? There is one thing which is a help to us from the point of view, but I do not think that it is a help. After all, all that has happened in the House is that, so on this side of the House put in such a loud and strong and determined do not. It has been decided that none of these who have spoken felt at their duty to recede in any way that could the conditions of the discussion they have the power to represent. There is no difference of opinion on the major issues that I know of and I am content the hon. gentleman that the deputy leader has the support of my assistance of public opinion. With that, if I may characterize the hon. Member's speech, I would say that it was not the speech of a servant of the Crown; it was the speech of a political leader fighting a political battle.

The hon. the Attorney General, Sir, put up one or two points in support of the Bill which I should like further to refer to. In the first place he said that capital would not be brought into Kenya; that there was what capital required, a satisfactory return and security; and he suggested that capital and money security. There is, I think, a slight misapprehension of the hon. member that because the capital that is offered in this country comes under two different categories. There is first organized capital, such as that which will develop and be developing our goldfields; and there is private capital, either occupying the individual or invested by the individual. I am quite sure, Sir, that when you refer to organized capital you are speaking by and large, that it is not likely to be frightened by income tax, but I cannot say that the second type of capital or private capital would place any great reliance on the security given it by the Government of Kenya. What actually happens is this, that organized capital feels itself strong enough to deal direct at any time with those who control the Government of this country overseas, and that is the need of security they obtain.

There was another point, Sir—I hope I am going to quote the hon. member right; it was not in the Press and I am quoting from memory—but I think the hon. gentleman said that in regard to absentee investors, that is to say, those non-resident in the country, who hold mortgages in this country or who had purchased shares in companies in this country, that those non-resident investors would obtain relief from Kenya taxation in proportion which had reciprocal arrangements. Have I got the hon. gentleman right? . . . Well, Sir, how far, I would like to ask him, do those reciprocal arrangements run? What reciprocal arrangements are there in existence in respect of what is

called Empire taxation and the Commonwealth of Australia or any State under the Commonwealth with the exception of Tasmania? The data with which we have to work on this side of the House is, of course, scanty, but the information we rely upon is that supplied by the Colonial Office itself. In any case, I am asking a question: is it or is it not a fact that the Commonwealth of Australia gives relief in respect of United Kingdom income tax and not Empire tax? If so, has it not passed through the mind of the hon. Member that we have drawn and always will draw a considerable number of settlers from Australia? Then as regards the Union of South Africa, what are the provisions there for reciprocation in respect of Empire tax? Is it or is it not a fact that reciprocation is limited to United Kingdom tax? If that be so, does that not put those who are based on South Africa in a very difficult position as regards double taxation.

There is one final point before I leave that, Sir, that I am sure must have escaped the attention of Government. This country, in the phase through which it is passing, has a very large proportion of people whose resources are drawn wholly from without the British Empire. They are people who spend very large capital sums in the development of our industries, who circulate considerable sums during the times when they are here, and whilst they will not be classed as the ultimate aim of settlement or anything very great in the form of settlement at the moment they do form a very useful screen behind which development can proceed, and I think that that is one of the principal factors that explains the resistance of this country to depression. Now, Sir, this particular measure will make any of those here and any of those who contemplate coming consider very carefully whether they can afford it.

The final point I wish to take, Sir, is the fact that in order to recommend this Bill to the House the hon. the Attorney General found it necessary to confuse two distinct issues. The first issue is that emergency taxation is required in order to balance the Budget; the second issue that he introduced was that our present system of taxation had broken down and therefore some measure of direct taxation was required. Now, Sir, I submit with the greatest respect that the only case Government can put to this House is the case that emergency taxation is required, and on those grounds and those grounds alone have they to justify income tax. We have heard a request from this side of the House as to the loading of the dice. Now if that second point is taken that our particular form of taxation has broken down, the dice are being loaded against us because, as the hon. Member for Nairobi South pointed out, it is impossible in the middle of a depression to estimate the level to which receipts from indirect

taxation will rise when times again become more prosperous, and therefore, Sir, I would urge that that matter be not part of the Government reasons for introducing this measure.

There is one further point and that is, Sir, the difficulty of being able to tell now what form, if any, of direct taxation is really required for the specific requirements of this country. If you study that question, Sir, as I have tried to, you do find that different countries have different methods according to their special requirements. In this country the only two industries outside agriculture are in their infancy: one is the goldmining industry and the other, which is just beginning, is a certain amount of industrial development. I defy any man to say that the right remedy, the right measure of direct taxation for Kenya to-day is income tax, in view of the experience in other countries, in view of the fact that special treatment has often been required for mining, in view of the fact that countries sometimes find it better to adopt measures such as a dividend tax or a profits tax.

So for those two reasons, Sir, I would most earnestly submit that this is not the time to speak about permanent measures.

Then you come down to the question as to whether income tax is a suitable measure with which to meet the present emergency. I think, Sir, we all carry vividly in our minds the fact that our local Home is burning; it has been smouldering for a very considerable time and at the moment the flames are temporarily out of control. The Budget cannot be balanced: that may not be an important point, as some Members have urged. Surplus balances are exhausted, but time may be allowed, as some Members urge, to build those surplus balances up. But our cash account is severely overdrawn; those resources are not inexhaustible and the drafts on them are considerable. That is the position that must be put right. Well, Sir, income tax, as I see it, unless you can find no other way out, is entirely unsuitable for that particular purpose. Taking the dates, reasonable dates, in connexion with income tax—42 days for notifying the Commissioner that we are liable for tax; a period after that, a reasonable period after that, during which the assessment has to be prepared. Taking into consideration that this is a new Act and we are new to it, and that it is only fair that we should receive some advice, as Government does, and that even if we consult the experts who are not in this country, who are overseas, by air mail and telegram, several months must elapse before many of us are in a position to put that assessment in. And when that has happened, what then will be the position? The Government will undoubtedly find that a large number of people are utterly unable to find any substantial sum of

money in a lump sum payment. What are they going to do then? If they take it to the courts—I am not a lawyer, but I surmise the courts would give reasonable relief and allow payment by instalments. What are they going to do with their own servants? Are they going, as soon as the assessment is through, to take the whole amount of the first month's pay, and in most cases leave the servant with very little? From the point of view of time, Sir, I cannot understand the Government's attitude. Why incur this delay? Why run up against the hostility of a large number of people of this country? Why raise this constitutional issue in its gravest form, graver than it has ever been before? Why do that when you have reasonable alternatives under consideration which will prove, I think, very much better suited to the purpose of producing the cash almost immediately and really helping the Government to do what is required to ease its position in the current year and later years? I would urge, Sir, even at this eleventh hour, that the Government should consider the matter again from that particular point of view, and possibly grant to the people of Kenya, who really after all are only suggesting that which they think is best for Kenya, a very much greater measure of co-operation in the future than they have had in the past.

THE HON. T. J. O'SHEA: On a point of explanation, Your Excellency, I yesterday relied upon memory and misquoted some of the details of my figures, so may I lay on the table a copy of the figures as amended? *

REV. CAXON THE HON. G. BRUNS: Your Excellency, it is rather a late hour—the clock says 11 o'clock—but the words I want to say are not many, at least I will try and make them as few as possible.

I rise, Your Excellency, to support the passing of this Bill through its second reading. I do so with a very great deal of trepidation because of having listened to the arguments of men who have studied the question from the political point of view and not being a politician I am only going to state what appears to me to be a common sense view

*Exports	£250,000
Invisible Exports	£1,000,000
Internal Sources of (surplus) taxable wealth	£2,000,000
	£3,250,000
Interest on National Debt and Pensions	£1,000,000
Interest on private borrowings (7½% on £5,000,000)	£375,000
Government Machine	£2,000,000
Imports	£1,250,000
	£4,650,000
Deficit	£1,400,000

of the situation. The necessity for more revenue is accepted by all sections of the community. The Chambers of Commerce have put in an enormous amount of work and have taken a great deal of trouble with regard to the question—*how to accept the situation that more revenue has to be found.* The Budget has to be balanced and the needs of the country demand that surplus balances be built up again. Since 1923 there has been a gradual eating into the surplus balances that have been built up in this country until to-day there is very little left.

I think, Sir, if I may say so, that I should like to sound a note of praise or give a little clap to Government. It gets claps enough but it does not get very many claps—to give a little clap to Government for the steps which have been taken in regard to the 1933 Budget. When that Budget, having passed before the scrutiny of a Select Committee, the Government, yourself leading the way, Your Excellency, and the officers of the various departments have set to work and reduced that Budget by £200,500. Now, Sir, I think that is something that deserves a little heed of praise from our point of view. The hon. the Member for Mombasa gave that praise to Your Excellency and your Government but in my humble opinion he spoilt it by apparently turning round and asking how could we commit into the hands of a careless Government the funds that have been applied for.

Some might say, Your Excellency: "What has this to do with native affairs or native interests?" I think it has a very great deal to do with native interests. Three years ago, when men in this Colony rightly looked round to see how they could reduce overhead expenses and lessen production costs, they naturally looked round to see where they could begin and I venture to suggest, Sir, that the very first thing that was done at that time was to reduce the salaries of wage-earning Africans by 25 per cent. The African therefore has been paying income tax at the rate of 25 per cent for over three years. Unfortunately—I should not say perhaps unfortunately, but anyhow the money that is paid by the wage-earning African during the last three years has not found its way into the coffers of the Government; it has been looked upon by the employer, perhaps rightly so, as helping him in his difficulties in meeting the expenses necessary for production. But, Sir, the fact nevertheless remains that the African, as such, has been bearing a very heavy burden arising from this very thing. I may be questioned in the statement but, Your Excellency, I am giving facts.

One reason against the introduction and passing of this measure through the legislature of the country is that it will keep future settlers out of the country. I was speaking with

a prominent settler about a fortnight ago, a man who has been in this country quite a long number of years, a man who claims that he has been instrumental in bringing more new settlers to the country than any other man perhaps in the Colony. Whether that be so or not is beside the point, but we were discussing quietly in his home this Income Tax Bill. He said: "I entirely agree that we must have some measure of taxation, some form of taxation, but" he said, "the one great objection to this Bill is that it takes away from us one point of propaganda in the whole country which is going to affect this country very much," and I said: "What is that?" He said: "When we are trying to induce new settlers to come out here and invest their capital in this country, we naturally describe the beauties of the country, the excellences of the climate, the sport, and all that sort of thing—shooting, fishing and everything else like that—and the richness of the soil, but the one thing that appeals to the man at home is this, when you turn round to him and say: 'There is no income tax in Kenya Colony.' That is the point that draws the man and that is the point that very often helps him to decide." Now, Sir, I may be stupid, I do not know, perhaps I am, but to my mind that man made a very serious admission. He, in the face of all that is said about how heavy the present taxation is on certain sections of the community, admitted in saying that, that one of the things that would induce settlers to come was the lightness of the taxation in the country and not the weight of the taxation. At least that is how it appeared to me as I sat and listened to him. Then, Sir, arising out of that the thought came to my mind: "Why should Kenya Colony be made the city of refuge or the country of refuge of men who in the homeland desire not to shoulder their due proportion of the responsibility of taxation in helping to run the Empire? Why should men withdraw their money and come out here merely because there is no taxation worth while, as they are advised by those who introduced this propaganda or who advocate this measure? Why should they come out here, settle down and enjoy all the amenities of a country like this without bearing their due proportion of the burden that is resting on the shoulders of every section of the community here? I do not see how that is in any way just.

I have looked at the papers, Your Excellency, and I have read of alternative proposals that are being put before Your Excellency and your Government for consideration as alternatives to this income tax measure but I must confess to my intelligence, let it be great or small, that I have not yet seen any measure of taxation that will bear as justly on all sections of the community as this Income Tax Bill. Of course, I

understand, Your Excellency, that this Bill will go before a committee, whether of the whole House or a Select Committee matters not, and that you, Sir, and your Government will be quite prepared to listen to any reasonable proposals that are brought forward for the amendment of certain things which may appear to bear heavily upon any one section of the community. That being so, Your Excellency, I submit that the passing of this Bill through its second reading—and I understand it is only to pass the second reading now—deserves our most careful consideration and help in every possible way. You have done a great deal for this country, Sir, and you started immediately you came, saw the difficulty and got down to it at once, and I say, Sir, that the whole House should respond in every way possible to help Your Excellency and your Government over these difficult times: Whether it is for three years, four years or ten years matters not, but that we should have some suitable form of revenue-raising means, in my opinion, goes without saying, and therefore, I shall vote for the passage of the second reading of this Bill through this House.

Council adjourned for the usual interval.

On resuming:

THE HON. THE TREASURER (MR. H. H. RESHOTOS): Your Excellency, the hon. Member for Plateau South yesterday gave certain figures which had for their object I think the presentation to Council of the working account of the Colony, not of the Government but of the full Colony for the year 1932, and I think he invited me to criticize those figures, a matter of some difficulty in so short a time; but I think out of courtesy I should say a few words in regard to this.

I should like to take first, Sir, the debit side. The first item on the debit side is "Interest on National Debt and Pensions, £1,000,000". That I think, Sir, is under-estimated slightly. I think he can put that up to £1,150,000. The next item, Sir, is "Interest on Private Borrowings". I believe that is based on 8 per cent of £8,000,000, and I do not propose to quarrel with that item at all. I do not know if all the interest is being paid or if it is owed out of the Colony or in the Colony, but probably that figure is about correct.

THE HON. T. J. O'SHEA: Seven-and-a-half per cent, Your Excellency.

THE HON. THE TREASURER: Seven-and-a-half per cent? I thought you said 8 per cent. I have not checked it up.

The next item is "Cost of Government Machine", put at £2,000,000. That also is approximately correct, excluding pensions, which have been taken in item 1. We then come to the last item, Sir, "Imports", £3,250,000; and there I think the hon. Member has made rather a serious mistake. On the credit side to which we shall come in a minute or two is an item of "Exports" That represents the value of domestic exports. You cannot put on one side the value of domestic exports and on the debit side the value of all imports into Kenya and those which go through Kenya to the Sudan, Uganda and Tanganyika. The value of retained imports last year, Sir, just about balanced the value of domestic exports. It does not much matter what figure you take, but you must have the same figure on both sides, and as the sum on the credit side is £2,250,000, the hon. Member will have to reduce the item on the debit side by £1,000,000 to get a correct picture.

Passing now to the credit side, Sir, I have mentioned imports. I think that is correct. Then we come to the two most difficult items in the whole picture: "Invisible Exports and Internal Sources of Taxable Wealth". It has been quite impossible in the short time at my disposal to ascertain what those figures may be. It would take weeks of investigation and even then I do not think you would get much more than a rough approximation. But a little study of the factors upon which those items are based has convinced me that they are far below what the figures should be. I would make it, instead of £3,000,000 for the two items—I feel convinced it should be £4,600,000 for the two items. When you come to think of all the items, many of them very large, which go to make up those figures, you must adjust them very considerably. I may be responsible, Sir, for the hon. Member taking £1,000,000 for Invisible Exports because I did mention that figure to him, but I mentioned it as being the absolute minimum. My feeling is that it should be a great deal more than that.

Now if my figures are taken as correct, Sir, then instead of the working account showing a deficit of £1,600,000, it shows a surplus of £250,000, and I feel that is closer approximation to the position of the Colony than the picture previously put up. The point of course at which we aim is to get at the spendings and earnings of the Colony. We must admit, I think, that the trade of the Colony as a whole is at a much lower ebb than it has been for years past, but at the same time it is in a much more healthy condition. As Your Excellency said in your opening address the trade balance was slightly in favour of the Colony for the first time for many years. I should make it clear that I am not speaking to the

motion; I am merely speaking to a question which was asked by the hon. Member for Plateau South which arose and was allowed in the debate. I am not speaking either on revenue or on taxation but what the Colony's annual production of wealth is—you can call it earnings if you like—as opposed on the other side to the spendings against those earnings. In my opinion, Sir, the economic position of the patient, his condition economically, while being somewhat attenuated and thin, is definitely not unhealthy. I am grateful to the hon. Member for having raised this question—they are really fundamentals from the economic point of view and I can only regret that I have had no time to give them more detailed consideration.

THE HON. THE ATTORNEY GENERAL (Mr. A. D. A. MacGregor, K.C.): At the outset, Sir, may I confess quite frankly that after listening to this long but extremely interesting debate I am in a state of some bewilderment. I had thought from the moment the motion for second reading of this Bill was taken that hon. Members opposite were, as my hon. friend the Member for Nairobi West has just assured us, at no substantial variance on any major point of issue. I thought that was the position, Sir, and I began my speech on the second reading with the acceptance of that. I refer to the extremely gratifying response which the public had made to the thought of the payment of further taxation, to the extremely gratifying realization throughout the country of the need for further taxation. Apparently, Sir, I was completely wrong. Apparently the hon. Member for Nairobi North, like myself, has been a little over-optimistic because the one conclusion from the debate which we have listened to, Sir, with which I am sure no hon. Member can honestly cavil, is that on only one point has there been substantial agreement on the other side of the House, and that point is the complete and uncompromising opposition to this measure. On nothing else has there been a semblance of agreement. I could not help marvelling as I listened to the debate at the amount of perhaps unconscious but none the less extremely valuable assistance which hon. Members opposite gave me. As soon as one had spoken a colleague delighted in getting up and destroying his arguments. My notes, I can assure hon. Members, in certain parts of the debate, are more like noughts and crosses than the substantial garnering of material for a serious reply. Where are we, Sir, with it all? If there is not an acceptance of the principle that further taxation has got to be paid, if there is not a general acceptance throughout the country, the country as represented by hon. Members opposite, of the necessity, the paramount necessity, of balancing the Budget, then, Sir, I confess I do not know where

we are drifting. The whole arrangements which Your Excellency and the Secretary of State have made with hon. Members opposite, made on both sides in extreme good faith, seem to me to be completely wasted. Why consider alternative proposals, Sir? Why consider alternatives which your Government was assured by that responsible body which put them up would not be passed on if it is true, as hon. Member after hon. Member has said in the last two days, that the taxable capacity of the country has been reached, that the country is bed white, that no one can pay a penny in taxation? The position, I do submit, Sir, is a very serious one indeed. All that I can suggest, Sir, is that this debate, having gone on so long, must proceed on the same footing, on the same grounds of good faith on both sides in which it began. If there is to be opposition to alternative taxation, Sir, then I do suggest to hon. Members in all seriousness that the case for an income tax is unanswerable. Equally, if hon. Members are right in saying that alternative taxation can be imposed without that alternative taxation being passed on, then I suggest, Sir, that that is an extremely damaging and extremely dangerous statement for them to have made.

Now, Sir, in the course of the debate very many questions, points of detail, have been raised, and I have given some thought in the course of the last two days as to the most convenient method of dealing with those points because, Sir, I would remind hon. Members that I did give an undertaking, quite an honest undertaking, that I would endeavour to deal specifically with all the points that were raised. The conclusion I have come to is that the most convenient method will be to deal with the points made by each speaker in the order in which hon. Members spoke. It is probably a lengthy method, Sir, but it will at least, I hope, ensure that no point which was made, no question which was specifically put to Government, will go without an answer. I will begin, therefore, Sir, with the speech of the hon. and learned Member for Nairobi South. The first specific question which my hon. friend put to me was what my colleague in Uganda was going to say in introducing income tax in view of the fact that Uganda is in the happy position of having a million pounds of surplus. That is so, Sir. I do not imagine that the Attorney General of Uganda will have any difficulty in dealing with the point at all because I would remind the hon. Member that the Protectorate of Uganda is budgeting for a deficit of £15,000. Doubtless the Government of Uganda have full realization of the necessity of conserving the surplus balance which they have? They have started budgeting for a deficit; there is no saying that it will not be necessary for them to do so again. It is because of those surplus balances, I

suggest, Sir, that the Government of Uganda has felt justified in postponing the introduction until 1984, but further than that I submit they were not entitled to go in view of the budgetary deficit.

Then, Sir, we come to a point which has been raised by many hon. Members—the tax is a tax which is incapable of equitable application. My hon. and learned friend asked me whether I could give an assurance that the different races in Trinidad were equitably treated under similar legislation. Well, Sir, there never has been a perfect form of tax and there never will be, and the incidence of taxation can always be said by those who wish to say it to be inequitable. The incidence of the existing indirect taxation, Sir, is extremely inequitable—the Customs duties. That is one of the defects of Customs duties; from one point of view they are a voluntary imposition. There is never exact equality of the incidence of any tax which one person wishes to pay or cannot help paying and another person who never has any inclination to pay—as between individuals that is so. Under indirect taxation as between communities with different standards of living it is equally so, Sir. There are certain dutiable articles which, to a European, are essentials and necessities of life, but to members of other races they are not so. At once there is inequality of the incidence of taxation. Under an income tax system, Sir, I suggest that one of those principles disappears at once. To that extent the inequity is cured. It is, I repeat, a tax on ability to pay and capacity to pay. It is a tax based on income and on nothing else. The disposal of one's income has nothing whatsoever to do with income tax, but unless there is coming into a man's revenue side in a year sufficient to justify his paying tax he will not be called upon to do so. In so far as Trinidad is concerned, Sir, during my experience there I never heard the question of inequity of incidence raised by a member of any community, and I would suggest, Sir, that in any of the other Colonies to which I made reference in my speech earlier in this debate there are citizens who are just as jealous of their rights, just as intelligent and just as anxious to express any alleged infringement of their rights, as there are here. Never, Sir, did I hear it suggested by any member of the many communities in that Colony that income tax was not a perfectly fair tax.

Now, Sir, in passing I should like, on behalf of Government, to thank my hon. friend for the information that there are somewhere about ten rich men who will pay £500 each. The number is not great; possibly we may find one or two more, but even £5,000 in a time like this from such a source is a very welcome gift.

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, Your Excellency, I did not say there were ten. I said they could be counted on the fingers of two hands, which may mean nothing.

THE HON. THE ATTORNEY GENERAL: I said about ten—I am sure my hon. friend would not have used the second hand if he had not meant over five.

Now we come to the question of the incidence of this taxation on the stock-owner and stock farmer. It was raised by my hon. and learned friend with reference to the Masai, and by subsequent Members, particularly the hon. Member for the Lake with reference to European stock farms. I think the statement was made, I am sure quite inadvertently, that an increase in stock was assessable. That is not so, Sir; that is an over-statement. But the first point I wish to deal with is the suggestion that Government in seeking a way out of this *impasse* had definitely realized that native stock was the subject of communal ownership. I need say no more than this that rumour, to whom this particular statement was attributed by my hon. and learned friend, is in this case indeed a lying jade; that Government has no intention whatsoever of doing anything of the sort. There are no express provisions about stock in the Bill. Stock, if it comes in at all, comes in merely under the same three clauses:

Clause 5 : the charging section;

Clause 10 : permissible deductions, and

Clause 11 : prohibited deductions,

by and large, Sir. Of course, if there is a sale of stock then the amount of income derived is perfectly simple—it ceases to be stock and becomes cash or money's worth.

The difficulty only arises, Sir, where there is a carry over of stock from one year to the next and in arriving at any figure for the purpose of income in such a case there is only one figure that can be taken and that is the cost of the stock. Cost may be a simple matter; it may be actual purchase price, but to that purchase price there must naturally fall to be added small charges for maintenance. Equally, there fall to be deducted proper outgoings in respect of the care of the stock, but the test, by and large, Sir, is the cost of the animal, and no other test has ever been suggested, Sir.

CAPT. THE HON. J. L. COTTER: Oh.

THE HON. THE ATTORNEY GENERAL: Well, Sir, the hon. Member for Kenya has taken me by surprise. Perhaps I may more accurately say that no other test has ever been

suggested by any Member of Government. The hon. Member cannot expect me to take full responsibility for what we have read in the public press on the subject, a great deal of which, I can assure him, is inaccurate. The test will be the cost, plus maintenance, less proper expenditure.

Now, Sir, I was rather surprised to hear my hon. friend rely on the argument that income tax would in fact necessitate a cash payment on paper profits, and he went on to paint a dismal picture of a poor merchant whose books showed a credit balance, though in fact most of that was represented by bad debts and doubtful debts—I would remind him, Members of the exemption provisions in clause 10 (1) (c) which not only make ordinary allowance in respect of bad debts but go further and allow as a permissible deduction doubtful debts to the extent they are estimated to the satisfaction of the Commissioner. That is a very generous concession. The clause goes on to say that when a deduction has been allowed in respect of a doubtful debt, which in fact turns out to be a good debt later on . . .

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I am sorry to interrupt my hon. and learned friend again, but I must ask him, in answering questions, to quote me correctly. I do not want to interrupt him again. I did not say that the earnings of merchants consisted chiefly of bad debts and doubtful debts. I referred particularly to the word "outstandings" which take a long time to come in. I am quite prepared to accept any remarks the hon. Member makes. I am sure he does not want to misquote me intentionally but I do ask him merely to be a little more careful.

THE HON. THE ATTORNEY GENERAL: I am extremely sorry if I have, but I am glad my hon. friend acquits me of any deliberate misinterpretation. I can only say, Sir, as all hon. Members realize, this has been a lengthy debate and one cannot always in a very short time make an accurate note. I do most sincerely apologize if I have not the substance wrong, Sir. I could not take down every word of his very long and very able speech.

Now, Sir, the hon. Member has asked me—and in this case I can quote verbatim—about the position in India. The hon. Member said:

“ Now, Sir, there is one point I left out when dealing with a remark of the Attorney General in connexion with the application of income tax in other parts of the Empire. I refer particularly to India, where he said how excellently well it worked, and I would ask him, with the information at his disposal and the means he has of obtaining information, to try and find out—an answer was given in the

House of Commons but I cannot put my hand to it—what percentage of the people in India pay income tax. I believe that it is something quite ridiculous, somewhere in the neighbourhood of 5 or 10 per cent of the total population who pay income tax. If that is suggested as being a smooth working of the tax in a thoroughly satisfactory way I cannot agree. If only 1 per cent or 5 per cent of the population of this country are going to pay income tax there might be something to be said for it, but I do not suppose the Attorney General envisages that for one minute.”

I have made such inquiries as I could on the subject, Sir, and the figure given was .25 per cent—a quarter of 1 per cent. The figure in England, a highly industrialized country, was approximately $\frac{1}{2}$ per cent. The estimated figure for this Colony, Sir, is that approximately 5,000 persons will be subject to income tax out of a population of something over 3,000,000. That gives a figure of .165 per cent of the population, very considerably under even the minimum figure that my hon. friend suggested might reconcile him to the principle of income tax.

Much has been said, Sir, by several speakers of the risk of allowing this Government to turn on the tap. I suggest, Sir, that that is a risk which, if it exists at all, exists in all tax statutes, in all statutes which impose any charges on any community. I suppose there are many taxes which hon. Members might say Government is in a position to turn on. There are, I very readily admit, certain income tax statutes in force in the Empire which approximate very closely to taps. There is in the Colony of Ceylon, the constitution of which the hon. Member for Kenya stigmatized rather forcibly yesterday, a very excellent tap, designed for easy turning on because the basic rate of income tax under the Ceylon statute can be changed by the Governor in Council without reference to the Legislative Assembly at all. But here, Sir, how does the position differ from the position under any other Ordinance imposing a tax or duty? Under the Bill as drafted there can be no alteration in rates whatsoever without reference to this Council. I do suggest, Sir, that the argument, if it has any force whatsoever, has no more force in this case than it has in any other taxation statute that this Colony has applied.

Next, Sir, we were told that temporary measures were all that were wanted. I am indebted to my hon. friend the Member for Plateau South for disposing of that argument with his usual cogency and force. Nothing can be more detrimental than the absence of security and nothing more promotes security than safe, rational fiscal policy. While I am on that subject, Sir, I would like to refer with a certain amount of

amazement to the statement of certain hon. Members that there was no necessity in their view to balance the Budget. It may be thought, Sir, that I am over-labouring and over-emphasizing this point. I do not think that is possible, Sir. We have been told this morning that the solution of all our difficulties is further agricultural credit, but that was not coupled with the acceptance of the principle that the Budget must be balanced. Let me remind hon. Members of what Your Excellency said in your communication from the Chair to this Council in July, 1932, speaking of the fundamental problem of balancing the Budget:—

"In this connexion, I may mention that within the past few weeks I endeavoured to obtain further funds for the Land Bank. The reply I received from the Secretary of State was to the effect that as the Bank is a Government institution the Government must accept liability for any loan which might be raised to supplement its funds; and that any addition to the loan liabilities of the Colony would not be justifiable until steps have been taken which will ensure not only the balancing of the Budget in the future, but also restoring to a reasonable degree the cash and surplus balance position.

Again, Sir, Your Excellency quoted from a recent leading article in *The Times*:—

"The temptation therefore to challenge a particular tax or particular cut will be strong; but there never was a better reason why it should be resisted. A sound Budget is the indispensable foundation of any sound financial policy; and nation after nation has discovered that the necessity to balance a Budget grows with the difficulty of doing so."

Only a few weeks ago, Sir, Mr. Neville Chamberlain, the Chancellor of the Exchequer, was reported to have said something very much in point in this connexion when he said that a nation which for three or four years had an unbalanced Budget might be described as bankrupt. I cannot imagine, Sir, why it is that hon. Members, in whose ranks there is no divergence on any material issue, who are in complete agreement on every point that matters in this whole discussion, can seriously suggest that further money should be voted at a time like this, that the Colony should pursue and continue to pursue a policy of unbalanced budgets and, at the same time, seek for funds from the Imperial Treasury or from any large financial house.

MAJOR THE HON. SIR ROBERT SHAW: Might I rise on a point of order, Your Excellency? I think, as the Member referred to as having suggested the solution, I would remind

hon. Members that—I quite possibly seemed involved—I suggested that temporarily we had toothache, which was our deficit, and we wanted to go to the dentist to secure those alternative methods, but that I considered the balancing of the Budget was essential.

THE HON. THE ATTORNEY GENERAL:—I am very glad the hon. Member said so, but my references were to several speeches on the other side. The point is, I have been frankly unable to reconcile the varying points of view on matters such as this. I repeat, I do not know whether the principle of alternative taxation is accepted or not accepted and until I know that, Sir, I feel I cannot adequately reply to this debate. I very gladly accept the assurance of the hon. Member for Ukamba and I entirely agree, Sir, that perhaps my reference was a little too cryptic.

Now, Sir, I come to what has been said about the constitutional issue. I have very little to say on that, Sir, because it was extremely fully and ably dealt with by my hon. friend the Colonial Secretary yesterday. I would only like to repeat with all emphasis and solemnity what my hon. friend said. It is a very dangerous road to pursue. I do not propose to-day, Sir, to cap statutes with my hon. and learned friend opposite. This is neither the time nor the place for anything of that sort. Reference has been made to the Statute of Edward the First. Nobody knows better than my hon. and learned friend opposite that the constitution of this and of every other Crown Colony is provided for by the British Settlements Act of 1887 and the Statute of Edward the First has no relevancy whatsoever to this or any other part of the Crown Colony Empire. I say this for one reason only because, whether it was the intention of any hon. Member opposite to convey this impression or not, I am fearful that this impression may, in fact, get out and have a disturbing effect; and that impression is that we are here and now in Council attempting to do something which is beyond the constitutional competence of this House. For any such impression, Sir, there can be no foundation whatsoever. Hon. Members are aware of the terms of the Order in Council. They can be publicly brought to the notice of any member of the public and it is competent here and now for this Council to pass such a statute as this. Were it not so, Sir, then the Native Hut and Poll Tax Ordinance and a whole lot of other statutes would be a flagrant illegality.

The hon. Member for the Lake took up the cudgels on behalf of the absentee mortgagees who, he said, could not be taxed because they were entitled to the full benefit of their mortgages. I am not going to reiterate that I differ in principle on that, Sir. All I desire is to remind the hon. Member

that there is provision in this Bill for relief from double taxation. An absentee mortgagee sitting down in the United Kingdom has to pay income tax at United Kingdom rates on the interest on those mortgages; what will happen now under this legislation is that Kenya will take income tax at Sh. 2 in the £ and that the absentee mortgagee will put in a claim and recover at the expense of the United Kingdom Treasury to that extent. He will have to pay no more and this Colony will be better off. Then we are told an equally moving and harrowing tale of a man who had twenty mortgages of whom two or three paid and seventeen or eighteen did not. I was asked to state whether he was entitled to set off the loss on those seventeen or eighteen mortgages against his income from the other two or three. The answer is no, Sir, and the reason is that there is no loss. There is perhaps a subtle but very real distinction between loss and absence of profit.

Then again, Sir, we were told of the third unfortunate who, having made losses year after year, ultimately made a small profit, the bulk of which had to go to the Income Tax Commissioner. There is a clause bearing the number "13" in the Bill which provides for setting off losses over a period of five years against profits. That, I think, adequately answers that particular point.

With the question of stock, the principles of which are applicable equally to European stock farmers and to natives, I have already dealt, Sir.

I pass now to the hon. Member for Plateau North. At the outset, Sir, he raised a very interesting point as to the Government's intentions in the event of a permanent measure of direct taxation such as income tax coming into force with regard to relief from other taxation. I would remind the hon. Member of what Your Excellency very recently said in that regard, that in the event of income tax coming in it was Government's intention to give relief, and Your Excellency specifically mentioned the petrol tax as a suitable direction in which relief might be given; but, Sir, that relief can only be given when the circumstances of the Colony justify Government's so doing. The position is very clearly and succinctly put by Lord Moyne in paragraph III of his Report:—

"Although there is some ground for re-examining the case for lightening certain rates of import duty, it is out of the question to embark on any course which might involve loss of existing revenue until the Budget has been balanced and until the yield of new taxation which may be imposed is established not merely on estimates, but upon firm experience."

Given that state of affairs, Sir, it is Government's desire to grant relief from other forms of taxation, and the forms which would first be taken would naturally be those which press most hardy on the poor man and on the all-important producing interests of the Colony.

I was sorry, Sir, that in a debate which has remained at such a high level throughout the hon. Member saw fit to refer to clause 8 (a) of the Bill. The hon. Member referred to it as clause 8 (a) and possibly his exact meaning may have escaped hon. Members. I propose to come out into the open, Sir, and remind hon. Members that clause 8 (a) deals with the exemption from income tax of the Officer Administering the Government. I am sorry it was mentioned, Sir, but as it was mentioned it is my duty to deal with it, and my answer, Sir, is that in every part of the British Empire, with one exception, a similar tribute of respect to His Majesty's representative is given. That one exception, Sir, is again the Colony to which the hon. Member for Kenya referred, and in far from flattering terms, yesterday. Everywhere else that concession is given, and I am quite sure, I feel certain, that the hon. Member is alone, Sir, in making public the suggestion that where all other parts of the commonwealth of nations have seen fit to deal with the subject in that way Kenya alone should be lacking in that elementary courtesy and respect. But in this Colony there is another reason which does not obtain elsewhere, and that reason, Sir, my hon. friend will find in Article 10 of the Kenya Order in Council of 1921. That Article provides that "a Court shall not exercise any jurisdiction in any proceeding whatsoever over the Governor or his official or other residences or his official or other property." Even standing alone, I suggest that is ample reason for making such an exemption in this case. It is farcical to provide by a statute for the doing or refraining from doing of any particular thing, to impose by a statute condone penalties for the breach of that statute, and then to turn to an Order in Council and say well, of course, we cannot do it.

HIS EXCELLENCY: Perhaps I might interrupt the hon. Member in discussing the emoluments of the Officer Administering the Government. I have always made it known that I do not propose to avail myself of this exemption.

THE HON. T. J. O'SHEA: Your Excellency, may I be permitted to explain that the hon. Member for Plateau North had my approval in raising the point on my behalf as well as on his, in the knowledge that Your Excellency had taken that generous decision.

THE HON. THE ATTORNEY GENERAL: One last point was made by my hon. friend the Member for Plateau North, Sir. He thought that books had to be kept and audited. Well, Sir, I have not been here long and I do not know much about farming conditions in the Colony, but I imagine that every prudent and far-sighted farmer keeps books as a measure of elementary precaution and for his own safety. There is no necessity under the Income Tax Bill to have any audit, Sir. Nowhere will the hon. Member find any such provision, and I can assure him that administratively any simple form of book which is honestly kept is quite sufficient for the purpose of this Bill.

Up to that point there had been uniformity of treatment and uniformity of attack on this Bill. It was at this point that the rift in the unofficial lute began to make itself obvious, when the hon. Member for Kenya flatly opposed . . .

LT.-COL. THE HON. J. G. KIRKWOOD: On a point of order, Your Excellency, might I ask the hon. the Attorney General to deal with my first point. I did draw attention . . .

HIS EXCELLENCY: The hon. Member must not reopen the debate; he must raise a definite point of order.

LT.-COL. THE HON. J. G. KIRKWOOD: I wanted to state that point of order, Sir. The point of order is that he has not dealt with a specific matter in the way in which I put it. In reference to the question in the House of Commons which was answered by the Secretary of State when he stated that direct taxation in the Colony was very light—I pointed out it was quite a substantial sum and asked what action Government intended to take, hoping that they would cable to the Secretary of State and ask for the other side of the question to be put, the amount of indirect taxation paid by the taxpayers in Kenya. The hon. the Attorney General did take the deductions from that, and I think correctly so, but his answer to the deductions was not the direct point.

THE HON. THE ATTORNEY GENERAL: I am afraid, Sir, I cannot possibly at this moment give the hon. Member an answer to that direct question. As he says quite clearly I apparently misunderstood the real purport of his question and I have directed my attention towards answering that aspect of it. Possibly, Your Excellency, I might be able to give the hon. Member the answer later on this specific question of the answer in the House of Commons. I am afraid I had forgotten that part of the hon. Member's speech and I am not in a position to answer it, Sir.

We find, Sir, that it was when we come to the hon. Member for Kenya that we begin to see that all was not well so far as the co-ordination of argument on the other side of the House went. There is to be no further taxation, he says. One very easy way of raising more money is by increasing the levy on official salaries. I mention that only in order that I should not miss out any of my hon. friends opposite, but having mentioned it I need only say that the answer, a very incisive and conclusive answer, was given by the next speaker, the hon. Member for Kikuyu, who, in his opposition to the Bill imagined almost the only impossibility that could happen to it, that it would be thrown out on its first reading, a thing which I would remind him is quite impossible under Standing Rules and Orders. But his chief argument against the Bill was that the people who would be hard hit would be the officials. The officials will be hard hit by it . . .

LT.-COL. THE HON. C. G. DURHAM: On a point of order, that was not my chief argument. I simply . . .

THE HON. ATTORNEY GENERAL: The first argument, Sir, was that officials will be hard hit. They will undoubtedly, Sir, and whether you call a further blow to the officials a levy on salaries or whether you call it an income tax, the effect on their pockets is the same, Sir, but the officials, Sir, realizing as they do the need for further revenue, will pay income tax, and will, I hope I may say for all of them, pay it quite cheerfully.

Then we are told that the schedule of rates is all wrong, and I presume that the hon. Member meant it was too high. A good deal has been said about that, and I dealt with it in my speech on second reading. I do not think it is fully realized throughout the country exactly what these scales mean. Under the amended scale, which Government proposes to move in Select Committee, a taxpayer does not pay income tax at the rate of Sh. 1 in the £, taking a taxpayer with an earned income, and making no deduction for life insurance premia, he does not pay Sh. 1 in the £ until, if a bachelor, his income is £1,030; if a married man without children, £1,160; and if a married man with three or more children, £1,400. It is then and then only that the effective rate of income tax becomes Sh. 1 in the £. I do not think that can seriously be said to be an extremely heavy rate, Sir.

Now, Sir, I come to the extremely intriguing and thought-provoking speech of the hon. Member for Plateau South. I should like to assure him how much I, personally, enjoyed it, and when I say that I say it, Your Excellency, not only because he reinforced many of my own arguments but because both matter and manner, with certain reservations, made a

very real appeal to me. I found from him complete acceptance of the principle that the reform of our taxation system was badly needed, and that the present system was unscientific. I found almost entire acceptance of the principle of income tax in a form not extraordinarily dissimilar from that embodied in this Bill. With the special amendments which the hon. Member has put on the Order Paper I do not propose to deal here, Sir. They were put on the Order Paper presumably in order that they might be dealt with in Committee, and that I think is the more appropriate point at which to take them. It was here that we first came to the point that no one can possibly pay any more. The emphatic statement of the Nairobi Chamber of Commerce that the tax would have to be passed on to the public could not be justified. If people cannot pay, then, says the hon. Member for Plateau South, obviously they must pass on their obligations.

I do owe the hon. Member and this House a very real apology because he pointed out that in my speech on the second reading I did inadvertently but none the less actually omit a very important point, that is, the estimated yield of the tax. The figures, Sir, taking income tax on the proposed new rates, plus non-native hut and poll tax—I put them in that way, Sir, because one is a set-off against the other—are £130,000. It is a difficult figure accurately to arrive at. There is not a great deal known yet of the ability to pay of certain sections of the community, and the question of companies naturally gives rise to a certain amount of difficulty, but I hope it will prove a conservative estimate. That is the figure given to Government, Sir, and I hope it will prove to be a conservative and a reasonable estimate.

THE HON. T. J. O'SHEA: On a point of order, Your Excellency, may I ask whether it is not the case that the amount of revenue to be raised from this Bill must be given separately? The figure is of no value unless it shows, say, what is the set-off against the additional poll tax that is allowed for.

THE HON. THE ATTORNEY GENERAL: The existing figure, Sir, is £35,000. By and large, we say an addition of £95,000. It is not as simple as that, as a matter of accounting, Sir, because it depends on whether credit is given for payment of non-native poll tax or whether that payment appears as payment of income tax. I do not know whether anyone yet knows, Sir, exactly how that amount is ultimately going to be accounted for.

At just about that point in the hon. Member's speech, Sir, there was a certain amount of challenging, with which I do not propose to take up the time of the House. References

were made to the work of the Expenditure Advisory Committee, of which I had the honour to be a member. I propose to say only this, Sir, that the one thing which very deeply and very pleasantly impressed me as a result of my long seven-and-a-half months on that Committee—a service as one of a personnel which did not find favour in the eyes of my hon. friend—was the very obvious co-operation on both sides to try to do the best in the interests of the Colony.

There was no question of official against unofficial at any moment throughout that Committee. I shall always regard it, not only as an honour but as a pleasure to have served on such a committee with my colleagues, and I think it is only right, in view of what was said yesterday, that I should have this opportunity of saying that.

Again, Sir, the hon. Member talked of the deliberate procrastination of the Government and the failure of Government to save. Well, Sir, it is only two or three days ago since, in your communication from the Chair, you gave the latest most illuminating and most gratifying figures. I am prepared to rely on those figures, saying only this, that I am indebted to my hon. friend the Member for Mombasa for disposing of that particular piece of argument.

On details, Sir, I think there is little in the hon. Member's speech with which I should deal, for the reason that express notice of amendment has been given, but something, I think, must be said about the hon. Member's arguments on clause 9, which makes provision for the Colony's loans in regard to income tax. I do not want to repeat myself, Sir. I tried to make the position clear on second reading. I do not propose to repeat the arguments that I then used; but I do want to say this, Sir, and say it very solemnly: In this Bill there are two most valuable provisions—provisions for relief from double taxation. Those are not provisions which this or any other Government can make by a stroke of the pen; they are obviously reciprocal provisions. They can only be made effective when the agreement of other Governments concerned has been sought and obtained. We know that the Imperial Treasury is prepared to subscribe to such an agreement. The effect of that provision—clause 46, Sir—is that this Colony will benefit financially to a very considerable extent at the expense of the Imperial Treasury. Is it seriously contended, Sir, that we should go to these problems like a bull at a gate, and say we are going to tax colonial loans, perhaps flout the sympathy of the Imperial Treasury, and lose all we have got? Let me remind hon. Members that not one of the colonial loans which have been offered up to date had a word about their being subject to Kenya income tax. Surely the investor is entitled to invest on the faith of the prospectus and on the

security of the Colony's revenues and assets. It was because of that that we got the loans on the terms on which we did in fact raise them. There is provision made for future loans to be considered on their merits, but I would remind hon. Members that if a future loan is going to be made subject to income tax at the rate of Sh. 2 in the pound, then it is not unreasonable to suggest that the Colony may have to pay a little more for the privilege of raising that loan.

CAPT. THE HON. H. E. SCHWARTZ: What about relief from local taxation?

THE HON. THE ATTORNEY GENERAL: I am afraid I do not quite understand the hon. Member's point.

HIS EXCELLENCY: What is your point of order? I do not think we can carry on the debate with these repeated interruptions.

CAPT. THE HON. H. E. SCHWARTZ: I am not rising on a point of order, Sir. I merely shouted something across the House, which is not unknown, I think, in the House of Commons: What about relief from local taxation?

THE HON. THE ATTORNEY GENERAL: Provision is made for relief, Sir, and if a person draws interest on any Government loan and that interest has been subject to deduction in Great Britain, then of course relief is granted. To that extent, every resident person here who is receiving income in this way is given relief and to that extent the Kenya Treasury will be better off.

The hon. Member for the Coast, Sir, made one point which I think I ought to dispose of. He suggested that a tax on pensions might affect the decision of an official when he came to make up his mind whether to settle in this Colony, in the Channel Islands, or the Balearic Islands. Well, Sir, pensions are subject to tax, so that an official, when he ceases to be an official here, knows that his pension is going to be taxed at source. We shall get him, Sir, whether he remains here or goes to the Channel Islands, the Balearic Islands, or any other islands. I do not think that particular decision will seriously exercise his mind from that point of view.

The first Indian Member, Sir, was good enough to support the Bill, and the arguments of the hon. Hakim Singh I hope I have to a certain extent disposed of by what I have said about relief from other taxation as soon as financially it is possible to give such a measure of relief; but there is one point, Sir, on which my hon. friend went wrong. He talked of the doubling of the non-native poll tax as a deliberate insult,

and stigmatised it as an additional tax. If that is what the hon. Member meant, I would remind him of clause 75, which provides for a set-off. If a man's income tax is assessed at Sh. 80, and he has paid his Sh. 60 poll tax, he only has another Sh. 20 to pay.

The hon. Member for Mombasa, Sir, interesting though his speech was, covered, I think, very little new ground. The turning on of the tap I have dealt with; the problem of alternatives I am still in complete doubt about, and I cannot agree with the hon. Member that a temporary disease necessarily can be adequately treated and cured for all times by palliatives.

The hon. the Arab Member also, I think, Sir, made a statement which was not quite accurate when he spoke of the abolition of the non-native poll tax. There is no intention of abolishing it at the moment, Sir. It is, in fact, proposed to double it, but it will be allowed as a set-off when the time comes to adjust the income tax payable by any taxpayer.

The hon. Member for Ukamba, Sir, spoke eloquently of the happy days when the import of trousers and ploughshares would go up by leaps and bounds and the Customs revenue would come into its own again. So far as the trousers are concerned, Sir, I agree, but so long as agricultural machinery is imported duty free I am afraid I cannot follow him in the latter part of his argument.

The effect of income tax on present forms of revenue has been raised, and that point I inadvertently have not yet touched upon. Well, Sir, it is the old problem of the pint pot. There always comes a time when you cannot get any more water into it, or whatever fluid it may be, and in taxation, as in anything else, I suppose ultimately a country may reach saturation point. If it does, Sir, then the imposition of any one form of taxation will, of course, have an effect on other forms of taxation. That is not an argument against income tax, Sir. If at this moment it is a valid argument, it is a valid argument against any form of additional taxation whatsoever, and it is just on that one all-important crucial issue that my hon. friends opposite are unable to agree. If alternative proposals are introduced, then, Sir, their effect on other forms of revenue will just be as great, just be as important and just be as acute as would the imposition of income tax. It is not an argument which can apply to income tax any more than to any other form of taxation.

With the question of agricultural credits, Sir, I have dealt, and when we come to my hon. friend the Member for Nairobi North, I feel that it would ill become me quite unnecessarily to enter the lists in which he has been tilting

against my friend the Colonial Secretary. He put up a plucky fight, Sir, but we will leave it to posterity to decide how far the Colonial Secretary's very cogent arguments do not remain quite unshaken.

But there are one or two points, Sir. Absentee investors and the question of their relief from double taxation was mentioned, and I was asked specifically what the position was in regard to Australia, the Union of South Africa, and capitalists from foreign countries. I can only repeat that the provisions relating to double taxation must be reciprocal. At the present moment, no country gives this Colony any relief from double taxation for the simple reason that there is no income tax in this Colony, but if and when there is, Sir, negotiations will begin. We know that the United Kingdom will reciprocate; we are emboldened to believe, as a result of the Report of the Dominions Representatives on the Income Tax Commission of 1918-19 that the Dominions and Colonies will also reciprocate, but there are two exceptions, and those are the two that my hon. friend has raised. In Australia and in South Africa, where there is a system of federal income tax combined with a system of state income tax, relief has not hitherto been given to any Colony. There is relief to the United Kingdom, and, so far as I am aware, there is inter-Dominion relief. Well, Sir, I can only say this, that it is a matter for negotiation, and if this Colony is to have the benefit of a considerable number of settlers from Australia or from South Africa then the more we can get here the greater the pressure we can bring to bear on the Governments of those Dominions, and the greater the hope we can hold that we may one day get corresponding reciprocity from them.

On the question of payment by instalments for Civil Servants, I would refer my hon. friend to the last clause of the Bill. The Civil Service and the servants of the Railways and Harbours Administration are, of course, Sir, the only persons, the only classes of this community, with whom we, as a Government, executive can properly deal. Provision is made in that clause where by regulations the tax may be deducted at source in instalments in the case of Civil Servants and servants of the Railways and Harbours Administration. There is, of course, nothing to prevent any employer of labour coming to a similar arrangement with any of his employees at any time.

I feel that I have made the most improperly vast inroads on hon. Members' time and patience, but the debate has been an important one. The questions that have been asked have been numerous: I hope, however inadequately, I have covered the ground and have answered all the questions that hon. Members put to me.

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

The question was put and carried by 24 votes to 11:—

Ayes: Mr. Bruce, Rev. Canon G. Burns, Mr. S. F. Deck, Major H. H. Brassey-Edwards, Messrs. Feild-Jones, Gardner, Hakim-Singh, Holm, Horne, Logan, MacGregor, Montgomery, Moore, Dr. Paterson, Brig.-Gen. G. D. Rhodes, Messrs. Rushton, Scott, Sheriff Abdulla bin Salim, Sikes, Wade, Abdul Wahid, Walsh, Welby, Col. R. Wilkinson.

Noes: Mr. Bemister, Capt. J. L. Cotter, Lt.-Col. G. G. Durham, Mr. Conway Harvey, Lt.-Col. J. G. Kirkwood, Mr. O'Shea, Major R. W. B. Robertson-Eustace, Capt. H. E. Schwartz, Major Sir Robert Shaw, Capt. H. F. Ward, Mr. Wright.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that A Bill to Impose a Tax upon Incomes and to Regulate the Collection thereof be referred to a Select Committee of this Council. I have Your Excellency's authority for putting forward the following names as the personnel of that Committee:—

The Hon. the Treasurer,
The Hon. the Director of Agriculture,
The Hon. the Commissioner of Customs,
The Hon. Member Representing the Interests of the Native Community,
The Hon. Hakim Singh,
The Hon. Abdul Wahid,
The Hon. Sheriff Abdulla bin Salim,

with myself as Chairman.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to second.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, speaking in this motion, as Your Excellency has already been informed, none of the European Elected Members can agree to sit on this Committee, and knowing that, that is why none of us is suggested in the personnel which forms part of this motion. I have, however, to inform Your Excellency that Elected Members—I now speak for the members of the Organization—have given the most earnest and careful consideration as to whether they should or should not join in any discussion of the details of this Bill when the Bill is in due

course, as announced by Your Excellency, sent to a Committee of the whole House. I wish to give a most complete assurance to you, Sir, that the decision which we have taken and on which we are unanimous is not a decision which has been taken without the most earnest and careful thought and consideration of all the arguments both for and against. We have borne in mind in our discussions and considerations the hope expressed by the Secretary of State that we should find ourselves able to co-operate in the details of the Bill, if not in Select Committee, then in a Committee of the whole House, but we have come to the conclusion, much as we regret it, that we cannot be parties in any Committee, either in a Select Committee or in a Committee of the whole House, to a consideration of the details of this Bill. Believing, as we do, that this Bill cannot be anything but disastrous, we feel that we should be doing wrong to our consciences and to those we represent if we took any part in the structure of the Bill. We do not take this decision, Your Excellency, with any desire to be unreasonable or to create undue difficulties. I am certain Your Excellency will appreciate the position that we are in. We do this because we cannot risk it being afterwards said that we on this side of the House had some part in the structure of this Bill. We say the Bill is bad; you, Sir, say it is good. Time alone can show which of us is right; but we must leave the whole responsibility for the details of this Bill, from the first clause to the last, with Government. We can be no parties to it.

In conclusion, Sir, I wish only to say this, that that belief that I hold, that we hold, that this Bill will prove disastrous has not been lessened by listening to the speeches on the other side of the House, for while I pay the greatest tribute to the earnestness of the speech of the Colonial Secretary, I regret my hon. friend the Attorney General, in replying, should, instead of dealing with the matter with the same earnestness as the Colonial Secretary, have contented himself with cheap jibes and the scoring of small parliamentary triumphs.

The question was put and carried.

The Council adjourned till 10 a.m. on Wednesday, the 5th April, 1933.

WEDNESDAY, 5th APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, 5th April, 1933, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH LOUIS BRYAN, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 4th April, 1933, were confirmed.

NOTICE OF MOTIONS.

THE HON. E. H. WRIGHT: Your Excellency, I beg leave to submit the following notice of motion:—

"That this Council, recognizing the urgent necessity for taking immediate steps to preserve the maize industry of Kenya, urges the immediate appointment of a special committee to consider and report forthwith on the measures necessary to ensure that end."

THE HON. THE COLONIAL SECRETARY (MR. H. M. MOORE): Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move the following motion:—

"That the Estimates of Revenue and Expenditure for the year 1933, as passed by this Council, be referred to a Select Committee for examination in the light of the Expenditure Advisory Committee's Report, and to make a report."

THE HON. T. J. O'SHEA: On a point of order, I understood when the Estimates were submitted that they were provisional only . . .

HIS EXCELLENCY: I cannot hear the hon. Member.

THE HON. T. J. O'SHEA: I am sorry, Sir. On a point of order, I wish to say that when those Estimates were submitted the House was informed, according to my memory, that they were provisional only and that the definite Estimates would be introduced later.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I do not know whether you wish me to deal with the matter now or when I come to the substantive motion. I quite realize the point made by the hon. Member, and I think I shall be able to meet it in moving the motion of which I have just given notice.

ORAL ANSWERS TO QUESTIONS.

WHITE SETTLEMENT.

No. 15.—THE HON. CONWAY HARVEY asked :—

(a) Has the attention of Government been drawn to a statement by one of the delegates to the Convention of Associations on the 23rd March that he had read an official document containing words to the effect that the Secretary of State for the Colonies has decided that there are enough white settlers in Kenya Colony for the advancement of the African, that white settlement should cease, and even the subdivision of large farms be discontinued?

(b) Has any such instruction been received?

(c) Will the hon. gentleman be pleased to announce Government policy in regard to increased European settlement in Kenya?

THE HON. THE COLONIAL SECRETARY: (a) The answer is in the affirmative. The official document in question was a despatch published last year as part of the White Paper known as "Correspondence (1931-32) arising from the Report of the Joint Select Committee on Closer Union in East Africa." It has already been pointed out in the local Press that the delegate in question must have been labouring under a misapprehension in putting the construction he did upon the passage shown him.

(b) The answer is in the negative.

(c) Belief in the value of white settlement as an important element in the progress of East Africa was affirmed in that despatch and the policy of this Government, as evidenced by its actions regarding the financial assistance to the maize industry, the Land Bank and the Agricultural Advances Scheme, is to give to white settlement all the legitimate support it can. The closer settlement schemes previously adopted by Government have had to be held in abeyance owing to the altered financial and economic conditions which now prevail, and Government does not now propose to subsidize fresh settlement until such subsidized settlement can be economically justified.

During the sittings of the Land Inquiry Commission, the alienation of further Crown Land without subsidization has been stopped, save in special cases where it is clear that native interests cannot be affected. As regards subdivision of farms for agricultural purposes, each application for subdivision has been approved, and in 1932 the number of separate schemes of subdivision submitted was 50.

THE HON. CONWAY HARVEY: Arising out of that, Your Excellency, may I ask whether Government is making any special effort to secure more residential settlers?

THE HON. THE COLONIAL SECRETARY: I think the hon. Member is already aware of the attitude that the Government has adopted in connexion with the Kenya Association and has expressed its support of the aims and objects which that Association has in view.

CROWN LAND.

No. 16.—CAPT. THE HON. H. E. SCHWARTZ asked :—

When is it the intention of Government to dispose by auction of Crown land in the vicinity of the new Law Courts?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Arrangements are in progress for several plots in the business area of Nairobi to be offered for sale in the near future. It is proposed to include in the sale four plots in Fifth Avenue, in the vicinity of the new Law Courts, and the necessary survey is now in hand.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that answer, Your Excellency, without wishing to bind the hon. gentleman to any specific date, naturally, could he give us a little clearer indication of what "in the near future" means?

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: By "in the near future" I think, Sir, it can be contemplated the next two or three months—probably sooner.

GIBB REPORT.

No. 21.—CAPT. THE HON. H. E. SCHWARTZ asked :—

Is Government in a position to define its attitude towards the Report of Mr. Roger Gibb and the recommendations contained therein?

2. Does Government endorse the strictures contained in that Report upon the members of the Inter-Colonial Railway Council representing Kenya?

THE HON. THE COLONIAL SECRETARY: I would refer the hon. Member to the statement made by His Excellency the Governor on this subject in his communication from the Chair.

2. The answer is in the negative.

ARMITAGE-SMITH REPORT.

No. 22.—CAPT. THE HON. H. E. SCHWARTZ asked :—

With regard to the question asked by the hon. Member for the Rift Valley on the 19th December, 1932, and the answer, in connexion with the Armitage-Smith Report, given then by the hon. the Colonial Secretary, is Government yet in a position to say what steps are being taken to deal with the question and generally whether representations have been made to the Secretary of State either by this Government or by the Governors' Conference?

THE HON. THE COLONIAL SECRETARY: Memoranda were submitted to the Conference of East African Governors by the Governments of Kenya and Uganda and by the Association of Chambers of Commerce of Eastern Africa inviting the attention of the Conference to the implications of the Report by the late Sir Sidney Armitage-Smith on his financial mission to Tanganyika.

The Governors' Conference agreed that a continuance of the present Customs arrangements was to the advantage of all three territories concerned, and expressed to the Secretary of State for the Colonies a hope that no steps would be taken which would in any way weaken the present position.

MOTIONS.

LOSSES INCURRED BY EAST AFRICAN CURRENCY BOARD.

HIS EXCELLENCY: I understand that the hon. Member for Kenya has agreed to postpone his motion in the absence of the Treasurer—is that so?

CAPT. THE HON. J. L. COTTER: Yes, Sir. I understand it will be taken before the Currency Bill comes up.

CUSTOMS DUTY ON WHEAT IN THE GRAIN.

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

“Whereas, by reason of destruction by locusts and other causes, the yield of wheat from the crop sown in 1932 is insufficient to meet the requirements of the milling industry for the production of flour for the needs of East Africa, and whereas it is expedient to import wheat in the grain rather than in the form of flour, Council do therefore approve that five-sixths of the amount of the

duty levied on such wheat imported by the agency appointed under the Sale of Wheat Ordinance, 1930, be refunded to that agency; provided that the quantity of wheat in respect of which such refund shall be made shall not exceed the amount of the shortfall of the aforesaid crop for purposes of the normal milling requirements, and provided further that it shall be restricted to wheat imported between the first day of January and the last day of December, 1933, under licence issued by the Director of Agriculture.”

Your Excellency, as recently as the 6th May of last year, I submitted a motion to this House in very similar terms, and as the debate which took place on that motion will be within the recollection of hon. Members, I do not propose to occupy the time of the House this morning in repeating much of the information then given. The motion now before the House is in very similar terms: the two exceptions are—one a minor one—where it says in the second line from the top, “sown in 1932”, whereas the previous motion referred to the 1932-33 crop. That slight alteration, Sir, is introduced merely for purposes of clarity and in order to remove any ambiguity. The other alteration in the motion as compared with last year's motion is that it is now proposed to refund only five-sixths of the duty imposed instead of the whole of it, for reasons which I will explain to the House in a minute or two.

The reasons why Government have introduced this motion are similar to those which obtained last year; that is to say, a very considerable proportion of the wheat crop was destroyed by locusts, but in addition the crop which should now be ready for milling, that is to say, the crop from the 1932 planting, was very much reduced for the reason that with another year's locust menace the farmers were not disposed to plant a considerable area of wheat, with the result that in addition to the damage itself there was a reduced output owing to a reduced acreage of the crop itself. Had it not been so, the supply of wheat in the Colony would have been just about sufficient for East African requirements. It is very unfortunate for this industry that these low average yields due to locust destruction should have synchronized with the fall in world wheat prices, but I still feel confident, Sir, that, given an opportunity of establishing itself, this industry will produce at least sufficient wheat for the present East African requirements and for an expanding market in East Africa itself; though I would add that until there is some radical change in the wheat industry throughout the world I doubt very much whether it would be a wise policy on the part of wheat-growers in Kenya to base the industry upon the export trade.

The shortfall, Sir, is estimated, as closely as an estimate can be made in the circumstances, at approximately 65,000 bags. The theoretical loss of revenue to Government on this five-sixths rebate will therefore be about £16,000.

Another point of importance I should state is that the capacity of the local mills is quite sufficient to handle all the wheat grown locally and the wheat which it is proposed to import.

Now, Sir, the question was very exhaustively examined, before Government arrived at its decision in the matter, by my hon. friend the Commissioner of Customs and myself in collaboration with the Wheat Advisory Board, and the action now proposed in the motion is in accord with the recommendations of that Board. In a joint memorandum on the subject to you, Sir, my hon. friend to whom I have referred and myself dealt with this very involved and complicated subject as well as we could, and I think it would save the time of the House if, in connexion with this motion and the succeeding motion, I read short paragraphs of our joint memorandum. We said in one paragraph:—

"Complete discontinuance of the present refund system and maintenance of the present duties (wheat, Sh. 3 plus Sh. 1750 suspended duty per 100 lb.; flour, Sh. 3 plus Sh. 3 suspended duty per 100 lb.) would effectually deter the miller from importing wheat in the grain. As a result the operating milling cost per bag would rise, imports of wheat flour to make good the shortage would increase, and costs of both local wheat and wheat flour would rise to an equivalent of parity with imported flour. Thus such producers as have been sufficiently fortunate to secure their wheat crop would reap a short-lived but very definite advantage at the expense of both miller and consumer, the burden falling particularly heavily on consumers at long distances from the Coast, but the situation so created would be extremely unsatisfactory, as a sharp advance in prices would again provide an artificial stimulus to wheat-growing, increasing milling costs consequent upon inadequate supplies of wheat would either be passed on to the consumer or the majority of the mills would cease operations, and the consumer would suffer until such time as the vicious cycle results in over-production on an uneconomic basis."

On a point made in that extract, I would explain to the House, Sir, that wheat-growing representatives of the Board with whom we discussed the matter were convinced that it would be an unwise act on the part of the wheat-growers to attempt to secure the temporary advantage which would arise

in the absence of this importation. In the event of shortage the price of wheat sold locally during this year would reach a very high figure, with the result that millers would be greatly inconvenienced, mills would be closed down, and undoubtedly the price of flour would be raised to the consumer, with a correspondingly increased cost in the price of bread. Particularly the disadvantage would lie in respect of consumers in far distant points from those of manufacture and ordinary consumption.

I will read again, Sir, an extract from another paragraph, which says:—

"Reduction of the duty charged on, or complete exemption from duty of, wheat flour would bring the imported article into acute competition with the local product, and we are satisfied that this course of action would have the immediate practical effect of closing the coastal markets to local flour. Up-country consumers might benefit for a time in some small degree by a fall in the price of local flour, consequent upon overseas competition, but the producer would suffer and the miller, whose position at the present time is an unenviable one, in all probability would find it no longer possible to operate with any hope of profit, and in fact the whole industry would be jeopardized."

I would add, purely in this connexion, Sir, that, as part of the arrangement made between Government and the Sale of Wheat Agency last year, that Agency gave the undertaking that in the absence of a marked rise in the world's price of wheat, the price of wheat to millers, and in return the price of flour sold by millers to bakers, would not be increased. They further undertook that they would use every endeavour to maintain the coastal markets. I am very glad to be able to inform the House that the Sale of Wheat Agency have loyally abided by that undertaking and succeeded in carrying it out during the past year. They have again given a similar undertaking to Government for this year, provided that the motion now before the House is approved. Concurrently with the rebate of five-sixths of the duty, the Railway Administration has undertaken, on your authority, Sir, as High Commissioner, to carry this imported wheat at Class 10 rate—the same rate at which it was carried last year. That will be a very considerable benefit, and in fact the position is that with the ordinary imported rate, were it imposed, the importation could not be effectively carried out and the millers could not operate.

On the question of five-sixths of the rebate being granted instead of the full rebate, I will explain, Sir, that it is necessary under the Customs Revenue Allocation Ordinance to satisfy the neighbouring territories of Uganda and Tanganyika

in regard to the adjustments which have to be made, and my friend the hon. the Commissioner of Customs has been good enough to give me this note on this particular aspect of the subject:—

"It will be understood that the proposed rebate refers solely to imported wheat consumed in Kenya, and does not in any way interfere with existing Customs arrangements with Uganda and Tanganyika Territory.

"Under the Customs Revenue Allocation Ordinance the import duty collected on goods is credited to the consuming territory irrespective of whether the goods are transferred in their original condition or are transferred after undergoing a process of manufacture. In such circumstances, the duty originally collected on such portion of any wheat flour transferred to Uganda or Tanganyika Territory as is manufactured from imported wheat must be credited to the country of consumption, and in order to cover the amount so involved, one-sixth of the duty paid on wheat imported under licence is retained, the Customs Department making such arrangements as are necessary to ensure a proper allocation."

The amount so required, Sir, was very carefully examined by my hon. friend in discussion with the members of the Wheat Advisory Board at the meeting referred to, and it was seen on the one hand that this proposal could not be carried out effectually if less than five-sixths of the rebate were made, and, on the other hand, the Commissioner of Customs made a case pointing out that not less than Cts. 50 per hundred pounds would be required in order to effect this adjustment with Uganda and Tanganyika.

There is only one more point to which I think I need refer, and that is that as part of our recommendations to Government we considered that the representative wheat organization in the Colony should draw the attention of wheat-growers to the fact that for many years past they had enjoyed the benefits of a protective tariff, and that, unless there was a reasonable assurance given that in future years there would be sufficient wheat grown to supply, not only the requirements of Kenya, but of East Africa, this policy would require to be brought under review. I am glad to be able to inform the House that the Sale of Wheat Agency, through the Kenya Farmers' Association, has circularized every wheat-grower in the country, exhorting him to plant more wheat, and to secure the position in respect of wheat supplies for the East African markets. I, personally, am of the belief that there will be a

larger acreage of wheat planted during this year, for two reasons, if for no other. In the first place, I think—as you yourself said, Sir, in your opening speech at this session of Council—the locust menace is passing. The likelihood is therefore that a comparatively small amount of damage will be done to the wheat crop this year. Secondly, there is reason to believe that the local price of wheat, even with the undertaking given by the Sale of Wheat Agency, will be such as will return a profit to the grower. A third point, I think, is this too that on those farms where both wheat and maize can be grown I am under the impression that a larger proportion of wheat will be planted this year and a smaller proportion of maize.

I hope, Sir, I have given sufficient reasons in these remarks whereby the House will feel justified in approving this motion.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MCGREGOR, K.C.): Your Excellency, I beg to second the motion.

HIS EXCELLENCY: The question is:—

"Whereas, by reason of destruction by locusts and other causes, the yield of wheat from the crop sown in 1932 is insufficient to meet the requirements of the milling industry for the production of flour for the needs of East Africa, and whereas it is expedient to import wheat in the grain rather than in the form of flour, Council do therefore approve that five-sixths of the amount of the duty levied on such wheat imported by the agency appointed under the Sale of Wheat Ordinance, 1930, be refunded to that agency; provided that the quantity of wheat in respect of which such refund shall be made shall not exceed the amount of the shortfall of the aforesaid crop for purposes of the normal milling requirements, and provided further that it shall be restricted to wheat imported between the first day of January and the last day of December, 1933, under licence issued by the Director of Agriculture."

THE HON. F. A. BRISTER: Your Excellency, I am not at all against this motion, but I would like to ask a few questions on it. First of all, I notice that it is only wheat that is to be imported, and no relief apparently is to be given to imported flour. Now, as the Coast would then have to purchase its flour from up-country—because there are no mills at the Coast—it would seem that it will be penalized to the extent of

double railage; and there is a further question, Sir, I would like to ask. In all these concessions which I see coming to this House for approval, I notice that Customs pay a bit, railage pays a bit, but there is not a single word in the hon. mover's suggestion that the millers will mill this special wheat at a lower rate than they usually do. It means they are getting their full mill running, and surely, if the taxpayer, through the Customs and the Railway, is getting this benefit, surely the mill should give something. May I be answered, Sir?

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

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, in reply to the hon. Member for Mombasa, I would reiterate what I attempted to explain in my speech introducing the motion to the effect that the Sale of Wheat Agency had undertaken to see that, in the absence of any marked rise in the world's price of wheat, the price of flour would not be raised and the Coastal markets would be maintained. That, in fact, has been done and continues to be done, and under a certain rebate system entered into between the Sale of Wheat Agency and the millers, mills are enabled to sell flour at the Coastal markets at a lower price than flour is sold at certain up-country markets, and the fact is that flour has been sold, Sir, for some years past, and continues to be sold, on the Coastal markets of Dar es Salaam, Tanganyika, and Mombasa at a lower price than it is sold at certain up-country markets. That has to be done, Sir, in order to maintain the local markets in competition with the imported flour, and my friend the hon. the General Manager gains the advantage in carrying that flour to these Coastal markets.

I have perhaps, I think, indirectly, if not directly, also answered the second part of the question. Millers have also undertaken not to raise the price of flour, and with regard to the output of the mills they are really in no better position than they would be under normal circumstances because, as the motion states, there is only to be imported that amount of wheat which would make up the shortfall; so you are putting the millers only into the position of milling that amount of wheat which they would normally secure from the local market.

HIS EXCELLENCY: The question is that the motion proposed by the hon. the Director of Agriculture be approved.

The question was put and carried.

SUSPENDED DUTY ON WHEAT IN THE GRAIN.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I beg to move:—

"That this Council do approve the Proclamation of His Excellency the Governor removing, with effect from 1st day of January, 1933, the suspended duty imposed on wheat in the grain by Proclamation No. 116 dated the 4th day of December, 1931, and approved by Resolution of this Council on the said 4th day of December, 1931."

I need not cover the ground that I have already done, Sir. Much of what I have said is explanatory in regard to this second motion. It seemed to your advisers, Sir, and to Government somewhat inconsistent to maintain this suspended duty on wheat in the grain during the period that this shortage exists and when wheat in the grain had actually to be imported, and in the joint memorandum to you, Sir, my hon. friend and I said:—

"So long as the importation of wheat is necessary to make good the shortfall in local production we can see no valid reason for the continued imposition of a suspended duty on wheat in the grain imported into Kenya and therefore recommend that the Proclamation imposing this duty be revoked so far as it relates to wheat in the grain."

Hon. Members will understand that the machinery exists for the suspended duty to be reimposed if the need exists.

In this connexion I would explain to the House that the quantity of wheat in the grain which is imported under normal conditions is very small indeed. It only amounts on an average to about 3,000 cwt. per annum, worth about £2,000 odd, so that the importance of the matter is not very great.

The proposal was supported by the Wheat Advisory Board in the discussion to which I have referred. It was considered further on an examination of the question that there was no risk of a wheat mill being established at one of the ports based upon the removal of this suspended duty, and therefore it was not considered that the wheat milling industry would suffer if this were done.

It will not be necessary to say any more on this subject, I think, except perhaps to add that our recommendation was that the suspended duty on wheat in the grain be removed until such time as local supplies are sufficient to meet the local needs, when the position should again be open to review.

I commend the motion to the House.

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

His Excellency: The question is:—

"That this Council do approve the Proclamation of His Excellency the Governor removing, with effect from the 1st day of January, 1933, the suspended duty imposed on wheat in the grain by Proclamation No. 116 dated the 4th day of December, 1931, and approved by Resolution of this Council on the said 4th day of December, 1931."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, might I suggest to the hon. mover that he should insert the date of the Proclamation to which he refers, that is to say, "this Council do approve the Proclamation dated so and so." I think when this Council is approving Proclamations by Your Excellency it is just as well to have that date in so that no question can arise as to what it refers to.

THE HON. THE ATTORNEY GENERAL: Perhaps, Your Excellency, the House will allow me to propose a very small formal amendment to the motion to give effect to the wishes of my hon. and learned friend who has just spoken, and that is that the motion be amended by inserting, after the word "Governor" in the second line, the words "dated the 5th day of April, 1933."

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

HIS EXCELLENCY: The question is that the amendment just proposed be approved.

The question was put and carried.

HIS EXCELLENCY: If no other hon. Member wishes to speak, I will put the question: the question is that the motion, as amended, be approved.

The question was put and carried.

UNOFFICIAL FINANCIAL CONTROL.

CAPT. THE HON. J. J. COTTER: Your Excellency, I ask the indulgence of the House to postpone the motion standing in my name. I do so on the representations of some hon. Members on this side of the House, who would like a little further time to study this question.

BILLS.

FIRST READINGS.

On motion of the hon. the Attorney General the Age of Majority Bill, the Partnerships Bill and the Limited Partnerships Bill were read a first time.

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

SECOND READINGS.

THE JUVENILE OFFENDERS BILL.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to move the second reading of a Bill relating to Children and Young Persons.

This Bill, Sir, is the outcome of the deliberations of a Committee appointed by the Secretary of State in 1931, the terms of reference to the Committee being "to consider what special arrangements are in force in Dependencies under the control of the Colonial Office in connexion with the trial and punishment of young offenders and to make recommendations."

As a result of their deliberations, the Committee recommended that legislation relating to the trial and punishment of children and young persons should be passed in Dependencies where no such legislation existed, and prepared a model Bill, which they recommended should be adopted in such Dependencies.

At the present time, we, in this Colony, have no such legislation, and, accordingly, this Bill is introduced into this Council. The Bill follows the draft prepared by the Secretary of State's Committee, adapted, where necessary, to suit local conditions.

Hon. Members will observe that in this Bill a child is defined as being a person under the age of fourteen years, and a young person is defined as being a person who is fourteen years of age or upwards and under the age of sixteen years.

The Bill provides for the establishment of Juvenile Courts in which charges against children and young persons shall be tried. Juvenile Courts must either be held in a different building or room from that in which the ordinary sittings of a Court are held, or, if a Juvenile Court is held in the ordinary Court-house, it must be held on different days or at different times from those at which ordinary sittings are held. The Bill further lays down that children and young persons shall not be allowed to associate with adults charged with or convicted of any offence whilst being conveyed to or from Court, or whilst in attendance at Court. In a Juvenile Court no persons except the officers of the Court and the parties directly concerned shall be allowed to attend, except by leave of the Court. An exception to this rule is made in that it is laid down that the Press shall not be excluded, except by special order of the Court. A further provision is that no person shall publish the name, address, school, photograph or anything likely to lead to the identification of the child or young person before the Juvenile Court, except with the permission of such Court.

Provision is made for the granting of bail in the case of children and young persons who have been arrested, and who cannot be brought immediately before a Juvenile Court. In such cases, it is laid down in clause 4 of the Bill that the officer to whom such child or young person is brought shall inquire into the case, and may, in any case, release such child or young person on a recognizance, with or without sureties, being entered into by him or by his parent or guardian, or other responsible person, and shall release him on such recognizance—

- (a) unless the charge is homicide or other grave crime; or
- (b) unless it is necessary in the interest of such person to remove him from association with any undesirable person; or
- (c) unless the officer has reason to believe that the release of such person would defeat the end of justice.

Where a child or young person is not discharged on bail after arrest, the officer shall cause him to be detained in a place of detention provided under this Bill, unless the officer certifies that it is impracticable to do so, or that the child or young person is of so unruly or depraved a character that he cannot be safely so detained, or that his mental or bodily condition is such that it is unsafe so to detain him, and in any of these cases the certificate shall be produced to the Juvenile Court before which the child or young person is brought. Arrangements are to be made for preventing a child or young person while being detained from associating with adults charged with any offence. A Court, on remanding or committing for trial a child or young person who is not released on bail shall not commit him to prison, but shall commit him to custody in a place of detention to be provided under this Bill, unless he is of so unruly or depraved a character that he cannot be detained in such a place.

Clause 8 of the Bill lays down the procedure to be followed in Juvenile Courts. Where a child is brought before a Juvenile Court for any offence other than homicide the case is to be finally disposed of in the Juvenile Court. Where a young person is brought before a Juvenile Court for any offence triable by the Supreme Court other than homicide, and the Court considers that it is expedient to deal with the case summarily, the Court must ask the young person whether he desires to be tried by the Juvenile Court or by the Supreme Court. If the young person desires to be tried by the Juvenile Court, the case shall be heard and finally disposed of by the Juvenile Court.

Clause 9 provides that the Governor may appoint probation officers for any area of the Colony, and may also appoint deputy probation officers and assistant probation officers—it is further provided that when a charge other than homicide is proved against a child or young person, a Juvenile Court may bind such child or young person over to be of good behaviour and to appear for sentence when called upon, and may make it a condition that such child or young person shall be under the supervision of a probation officer or other person.

The duties of probation officers are laid down in the Bill, that is to say, he is to visit or receive reports from the person under supervision at reasonable intervals, to see that the conditions of the recognizance are observed, to report to the Court as to the behaviour of the person under supervision, and to advise, assist, and befriend him, and endeavour to find him suitable employment. If the offender fails to observe the conditions of the recognizance, he may be brought before the Court, and dealt with for his original offence.

Where a child or young person is charged with an offence, the Court may require the attendance of his parent or guardian. The Court is empowered in certain cases to order the parent or guardian of a child or young person to pay any fine, damages, or costs imposed by the Court upon any child or young person.

Clause 12 provides that no child shall be sentenced to imprisonment or detention in a detention camp and that no young person shall be sentenced to imprisonment if he can be dealt with in any other way, such as probation, fine, corporal punishment, or committal to a place of detention. In the case of grave crimes, a child or young person may be sentenced to be detained for such period as the Court orders, and in that event the Governor may direct where the child or young person shall be detained.

Clause 15 provides that any person may bring before a Juvenile Court any person apparently under the age of fourteen years who is found begging, or receiving alms, or is found wandering, and not having any home or settled place of abode, or who is found destitute, or who is under the care of a parent or guardian of criminal or drunken habits, or who frequents the company of any reputed thief, or who is being persistently neglected or ill-treated by his parent, or who is living in a house used by a prostitute for the purpose of prostitution, and the court may order the child to be taken out of the custody of any person, and committed to the care of a fit person or to an institution until the child attains the age of eighteen years, and may order the child to be placed under the charge of a probation officer. Power is given in the case of a female child to extend the age mentioned above to twenty-one years. It is made an offence to assist any person to escape

from an institution to which he has been committed, or to knowingly harbour any person who has so escaped. Power is given to the Governor to authorize the emigration of any child or young person who has been committed to the care of any person or institution.

Methods of dealing with children and young person convicted of offences are set out in section 17 of the Bill:—

"Where a child or young person charged with any offence is tried by any court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which, under the provisions of this or any other Ordinance or otherwise enabling the court to deal with the case, the case should be dealt with, namely, whether—

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by so discharging the offender and placing him under the supervision of a probation officer; or
- (d) by committing the offender to the care of a relative or other fit person; or
- (e) by sending the offender to an industrial school; or
- (f) by sending the offender to a reformatory school; or
- (g) by ordering the offender to be whipped; or
- (h) by ordering the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
- (j) by ordering the parent or guardian of the offender to give security for his good behaviour; or
- (k) by committing the offender to custody in a place of detention provided under this Ordinance; or
- (l) where the offender is a young person, by sentencing him to imprisonment; or
- (m) by dealing with the case in any other manner in which it may be legally dealt with:

Provided that nothing in this section shall be construed as authorizing the court to deal with any case in any manner in which it could not deal with the case apart from this section."

Clause 18, 19 and 20 deal with the provision of places of detention, the custody of children and young persons in places of detention, and the expenses of maintenance of children and young persons in such places of detention. The expenses of places of detention, including the maintenance of children and young persons therein are to be borne out of moneys provided by the Legislative Council.

In this period of financial stress, it is not intended to provide places of detention, nor to ask Legislative Council to vote moneys for their upkeep, and accordingly clause 24 of the Bill provides for the suspension of those provisions of the Bill which entail expenditure on building and staff.

It is provided that the provisions of sections 18, 19 and 20 shall not come into force until the Governor brings them into operation by proclamation, and that until that time a place of detention shall be deemed to have reference to a detention camp established under the Detention Camps Ordinance, 1925.

Your Excellency, hon. Members opposite have asked for a Select Committee on this Bill in order to examine carefully the rather detailed and full provisions of it, and I have Your Excellency's authority to say that a Committee will be appointed if the second reading is passed.

I beg to move the second reading of this Bill.

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

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, the more we listen to the able expositions of the hon. the Solicitor General the more we feel convinced that this is another unnecessary Bill sent out in the form of a model Ordinance based on legislation necessary in the conditions applying at home but completely unsuitable to the conditions applying in this Colony.

I do not propose to go into the matter in detail but when you imagine the Court accommodation that we have here and the number of persons, even if not children, who come up during the course of a month for quite petty offences, if this Bill becomes law it will mean either clearing the court every time one of them comes up or having special times for them to be tried—or providing some other building in that commodious and spacious court-house we have, where young persons and children can be dealt with.

In regard to the one or two sections mentioned, I would direct the attention, Your Excellency, of the Select Committee to section 17, where it says that one of the things a magistrate can do, among others, is to dismiss the charge. It seems peculiar—I do not know whether that is a local provision.

I would also draw the attention of the Select Committee to section 21 and would ask them and Government to consider whether it would not be wiser to make provision that none of these possible expenses should be incurred without the consent of this Legislature and it should not be left to the Governor in Council to have the right to say that money is to be spent on these special buildings and detention camps. I feel certain that Government will accept that. If we leave it as it is it does in fact take the spending of money out of the hands of the Legislature and places it in the hands of the executive.

I do not know whether Your Excellency's Government have direct instructions from the Secretary of State that this Bill is to be passed, but I would ask—and I shall be interested to hear both the views of the Director of Education and the hon. gentleman who represents native interests as to whether they really honestly think this Bill is really a suitable one for this country. If they do not, I suggest to Government that they carefully consider whether it would not be better at all events to postpone the second reading of this Bill until a more suitable time when the conditions of this Colony make it more generally applicable.

CAPT. THE HON. H. F. WARD: Your Excellency, I was a member of the Committee sitting under the chairmanship of the Chief Native Commissioner appointed by Your Excellency to inquire into crime in Nairobi. That committee held a very great number of sittings over a long period of time and the whole question was most exhaustively and thoroughly gone into. I think I am right in saying every member of that Committee was convinced that the provisions foreshadowed in this legislation were inevitable some day and were urgently needed to-day and should be introduced as soon as this country was in a position to pay for them. I think, putting it briefly, that was the conclusion we came to, and those are the terms on which we recommended this legislation to Your Excellency's Government. I do not think we were in a position, or that we ever did consider the cost entailed in this measure was introduced. If my memory is right, I think we told Government that we did not think that in present day conditions any of the provisions which entailed expenditure should be introduced.

Sir, for the reasons advanced by the hon. Member for Nairobi South, I do think that before this Ordinance is brought into being, an assurance should be given that no extra expenditure will be incurred by Government under any of the provisions it proposes to make operative. It is very difficult indeed for anybody who has only taken a cursory glance at this Bill to

be sure on that particular point and, as the hon. Member pointed out, a great deal of expense may be incurred indirectly purely by the machinery invoked by the administration of the legal side of the business—special courts, and so on—and I hope that point will not be overlooked when Government gives consideration to the application of the measure.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE): Your Excellency, the hon. and gallant Member for Nairobi South stigmatized this Bill as unnecessary. The hon. Member for Nairobi North has explained to some extent its necessity. As he said, I was chairman of a committee appointed to investigate certain aspects of the alleged increase in crime, particularly in Nairobi and its neighbourhood. That Committee divided its report into three sections—potential or actual juvenile crime, vagrancy and habitual criminals—and of those three sections we emphasized that in our opinion the potential or actual juvenile crime was infinitely the most important and needed the attention of Government, the most earnest attention of Government, as soon as ever Government was in a position to give such attention to it. We decided that the roots of the evil lay among the infant population of Nairobi and that if we really wanted to do any good in lessening the amount of crime in this Colony we had first of all to tackle the infant problem; and we decided that the prevention of crime, before the children were old enough to become criminals, was infinitely more important than the punishment of crime when it had been committed. We came to the conclusion that we were breeding criminals by allowing them to be in contact in their infancy with those who had already grown old in crime.

This Bill in draft form was put before the Crimo Committee and the Crimo Committee considered it very carefully. We were informed that it was the result of a great deal of recent thought and investigation of crime, not only in England but in the Colonies, and also particularly was it the result of investigations then being conducted in Burma. The Bill seemed to this Committee, in principle at any rate, to be thoroughly sound and reasonable and the Committee recommended that it should be introduced, realizing of course that Government could not possibly put into force all its provisions immediately because it had not got the money; but we thought it quite right to make a beginning with it. We could probably obtain philanthropic people to help Government in the form of probationary officers and we felt that we could keep juveniles away from contact with criminals both when they are on remand and when they are on trial and when they are taken from the trial to their place of detention.

We do not want to build new court-houses—give Government time and expedients can no doubt be found, at least we hope they can be found. We thought, and I still think, that this is a Bill which should be passed in order to allow us to make a beginning in this most important problem of preventing our infant population from becoming criminals.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, I would not have interposed in this debate if it had not been that the hon. Member for Nairobi South mentioned my name. I should be quite satisfied merely to endorse the moving speech made by the Chief Native Commissioner. I think that every word he said about the necessity for this Bill or some legislation in this direction will be endorsed by every member of that Committee on which we served. There was a great deal that came before us which does not appear in our Report, which convinced us still more of the necessity for doing something for those unhappy children who are suffering at the present moment entirely or mainly from the relaxation of parental discipline.

I should like to add one word on another aspect of this question. Naturally the Chief Native Commissioner, and I think most of us on that Committee, were considering the increase of crime among native juveniles, but I think I ought to say here and now that during the last eighteen months there has been noticeable a very serious relaxation of the sense of responsibility among European parents. I have had to notice that a good deal in connexion not only with the question of sending children to school but even instances almost approaching desertion of children by their parents. Still, that is not strictly germane to this Bill, but I think it indicates to us that as the community develops a Bill of this nature for both the Europeans, Indians and natives is essential.

What the Chief Native Commissioner said in regard to the possibility of doing something is perfectly true; we shall not be able for a time to put those particular sections into operation, but one of the happy features of this Colony is the number of people who are prepared to help Government in this sort of remedial work. I am quite sure that many of our excellent missionaries will help us and it will be possible for us to do something. I think if hon. Members here knew the conditions which exist unfortunately in Nairobi they would urge Government not only to pass this Bill but to put into operation almost as an urgent necessity some of those sections which, for financial reasons, we cannot immediately adopt.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I shall also content myself with endorsing absolutely every word that the hon. the Chief Native Commissioner has given

expression to. I have been dealing with this aspect of things for twenty-six years in Nairobi, and one of the things that astonishes a person at this stage of your development in Nairobi is the number, the very very large number, not only of boys but also of girls, who do not know their own parents. I have asked children again and again who have been down at our mission—and other missionaries have also—"Who is your father; where does your father live?" They simply shake their heads and say "Sijui"—they do not know who their parents are or anything about them. They are children of women living in Nairobi at the present time under our present conditions, living there and being trained in the roads of crime. It is one of the saddest things that it is possible for anyone to contemplate; and it is a matter of question, Your Excellency, whether certain expenses should not be incurred now so as to prevent, if possible, these children developing into criminals that will have to be dealt with later on and for whom provision must be found later on if we do not try to stop that development at its source.

In connexion with that, Sir, I should very much like to press for an investigation into the present position of the institution that is supposed to receive some of these juvenile offenders. I am speaking now—and I am doing so without any thought in my mind of criticizing the condition of things there—of the Kabete Reformatory. We have an institution there that I think, with certain developments along certain lines, could be made to be very very helpful indeed in regard to this.

One other aspect before I sit down is the juvenile court. If, as I understand, the new courts are to be gone on with—and it is not before it is needed—then there should be in those courts provision made for some room or chamber where juvenile cases could be tried, where those Europeans, Indians or Africans, and above all things the juveniles who are committed for a crime, should not be herded together with criminals who could not and would not be anything but criminals.

I think the length of time, Sir, that children are sent to the Kabete Reformatory is one of the things that would have to be looked into because very very often they are sent there and I am afraid the tendency to crime is not eradicated while they are there, and to bring younger children and put them together with those in the Reformatory would only accentuate the disease and would really be no cure for it at all.

I endorse emphatically every word that the hon. the Chief Native Commissioner has said this morning.

THE HON. HAKIM SINGH: Your Excellency, I support this Bill. I would say that it is better to make use of this Bill as a cure before the disease gets hold of the juveniles. When these juveniles start their lives in criminal ways it is very difficult to curtail them when they get to adults.

Regarding the present Reformatory, I would request Government to say if they are trying to keep the Indian juveniles separate from the Africans because they get their juvenile customs.

THE HON. ANNET WAHID: I support what Mr. Hakim Singh has said, Your Excellency.

THE HON. T. D. H. BRUCE: Your Excellency, I should like, if I may, just to say a few words regarding the points raised by the hon. Member for Nairobi South and the hon. Member for Nairobi North. The former, besides asking that the Bill be delayed, thought it was not a fit time to introduce this Bill. He referred to two clauses in the Bill: the first was clause 17 and the other was clause 21. With regard to the latter point, he said that he doubted whether it was wise to delegate to the Governor the power to bring clauses 18, 19 and 20 into operation, and thought possibly anyhow that it should be this Council that should be the body to bring those clauses into operation when they are brought into operation. The other point was with regard to the power of a juvenile court to dismiss a charge even though the magistrate is satisfied that the child or young person is guilty. Let me say that both these points will be carefully considered in the Committee when it sits, but I should like to make a short reply as far as his remark on clause 17 is concerned because I think that it would be open to objection, even if the magistrate was satisfied that a child or young person was guilty, if he thought that the charge was an extremely trivial one that he should not be able to dismiss it.

With regard to the point raised by the hon. Member for Nairobi North, his point was, I think, entirely the point of expense and how much, if any, expense would be incurred. As I have said, Government now has no intention of providing any places of detention and it has no intention either, in view of the cost, of appointing special probation officers, and outside that, Sir, I do not think that there can be any expense. I cannot see that there can be any particular expense connected with the court itself because no doubt a court or a room can be found in the Supreme Court building or in some other building.

I was very glad to hear, Sir, all the other speakers cordially endorsing the provisions of the Bill and expressing their desire to see it become law. I have therefore nothing further to say.

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill relating to Children and Young Persons, which has just been read a second time, be referred to a Select Committee with the following personnel:—

The Hon. the Chief Native Commissioner,
The Hon. the Director of Education.
The Hon. T. D. H. Bruce,
The Hon. Member for Nairobi North,
The Hon. Member for Ukamba,
The Hon. Member Representing Native Interests,
The Hon. Hakim Singh,

with myself as Chairman.

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

The question was put and carried.

The Council adjourned for the usual interval.

On resuming.

THE STOCK AND PRODUCE THEFT (LEVY OF FINES) BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of the Stock and Produce Theft (Levy of Fines) Bill.

As hon. Members are aware the present law on the subject of stock and produce theft is contained in the Stock and Produce Theft Ordinance (Chapter 79 of the Revised Edition) as amended by the Stock and Produce Theft (Amendment) Ordinance of 1928. The Stock and Produce Theft Ordinance provides for a minimum fine of ten times the value of the cattle or produce stolen when a native is convicted of the offences of produce- or cattle-stealing. The remaining provisions of the Ordinance provide for the levying of the fine on the property of the offender's family, tribe or sub-tribe.

Experience has shown that the provisions of the Ordinance which prescribe a minimum fine of ten-times the value of the stock or produce stolen have in a considerable number of cases

worked undoubted hardship and, in cases where the value of cattle stolen has been high, has led to the imposition of a fine which cannot possibly be paid.

Judges, magistrates, experienced administrative officers are all agreed that these provisions should be deleted and that such offences should be dealt with under the Penal Code, which permits of heavy sentences of imprisonment with or without a fine which may extend to any amount that is reasonable in the circumstances of the particular case. It is felt, however, that the provisions of the Ordinance which permit of a fine being levied on members of the offender's family, tribe or sub-tribe act as a real deterrent to stock or produce theft and these provisions are therefore re-enacted in this Bill, which repeals the present law on the subject and leaves offenders to be dealt with under the Penal Code while keeping alive the provisions for levying fines on the family, tribe or sub-tribe of the offender.

I said, Sir, that this Bill repeals the present law on the subject of stock and produce theft and by this I mean that it repeals the Stock and Produce Theft (Amendment) Ordinance, 1928, as well as the Principal Ordinance. This amending Ordinance provides that if any person is found in possession of any stock or produce reasonably suspected to have been stolen he shall be deemed to have stolen the same unless he proves affirmatively that he did not.

Now that section 296 of the Penal Code is in force, which makes a very similar provision, there is no longer any need for this provision in this amending Ordinance.

The amending Ordinance further provides for a restriction on the sale of stock and produce by persons during the night time. My hon. friend the Provincial Commissioner, Nyanza, informs me that this section has never been used as it has been found to be impracticable. There is therefore no object in keeping this provision on the statute book. I have endeavoured to show, Sir, that there is no further need for the existence of the amending Ordinance which accordingly it is proposed to repeal.

Again in this case, Sir, I understand hon. Members opposite have asked for a Select Committee to consider the detailed provisions of the Bill, and I have Your Excellency's authority for saying that that course will be adopted.

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

HIS EXCELLENCY: The question is that the Stock and Produce Theft (Levy of Fines) Bill be read a second time.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I find myself in a difficulty in regard to this Bill. First of all, in regard to the position that a perfectly innocent person may find himself in by living in a given village or a given area where a thief has been apprehended. That that perfectly innocent person, who must abhor the crime just as much as we do, should have to bear part of the assessment seems to me very unreasonable and very unjust. I know that stock theft is a very serious matter in a country like this and every step that can be taken should be taken to try and put a stop to it, but will this Bill, Sir, really act as a deterrent to stock-thefts in Kenya? If so, it seems to me that it is very hard on innocent people to have to suffer in this way because of men who commit such crimes and steal cattle.

I do not want to oppose the Bill; on the other hand, I find myself in a very real difficulty about the imposition of this levy on the families and on villages where a criminal has been apprehended. I think the family, perhaps, or the people connected with the criminal should bear a part of the fine or a part of the burden.

Then there is one other aspect of this Bill, Your Excellency, and that is rewards to those who give information. That Government should pay men who will bring such information and lay such information before the district officer is an aspect of justice, of procedure, which I do not like, I must confess. It is putting a premium on spying—and spying on his own people is a thing an African does not like doing—especially if the person who brings the information is not a member of the tribe of the person who has committed the offence. It is to my mind raising a very serious question of inter-tribal trouble.

THE HON. CONWAY HARVEY: I suggest, Your Excellency, that the fears of the hon. gentleman who has just spoken are quite groundless. To my mind, Sir, there is not the slightest possibility of the provisions of this Bill operating in the harsh manner suggested. In the first place, Your Excellency, it is left entirely to the discretion of the magistrate, who will in all the circumstances of the case satisfy himself that whatever action he takes is justified. And then there is the additional safeguard, Sir, so far as the offender is concerned, that the Provincial Commissioner has to endorse the warrant and he can then satisfy himself as to all the circumstances and details surrounding the case, which I think provide ample provision against any possibility of injustice being committed.

LT.-COL. THE HON. C. G. DURHAM: I also had no intention of speaking, but clause 4, Sir, which the hon. Member has referred to, is the best clause in the Bill. Clause 7, Sir:

of course one does not like to support informers, and I have a certain amount of sympathy with him on that, Sir, but clause 4 I consider the best clause in the Bill.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I think I can resolve the hon. Nominated Member for Native Interests' doubts as to this Bill in a very few words. Under the existing Ordinance it is mandatory for a magistrate to impose a fine of ten times the amount of the property stolen and it is mandatory to impose that fine, if the offender himself does not pay it, on the offender's tribe, sub-tribe or family. The present Bill removes that mandate and gives a magistrate discretion.

Under the existing law, if a Kavirondo living in Mombasa steals a chicken, the magistrate has no option whatever but to impose a fine of ten times the value on not only the offender, but the offender's tribe, sub-tribe or family. That has brought the law into contempt because the warrant has to go up to the Provincial Commissioner, Nyanza, for endorsement, who may then say it is not to be executed against the family. This Bill is very much more to the interest of the native family than the existing one. The Magistrate in this case will not endorse the warrant against the family unless he is satisfied that the circumstances warrant it; that is to say, that there is some kind of communal responsibility in the case.

HIS EXCELLENCY: Does the Provincial Commissioner, Nyanza, wish to speak on this Bill?

THE HON. H. R. MONTGOMERY (PROVINCIAL COMMISSIONER, NYANZA): I think, Sir, that the point has been answered now.

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

THE HON. T. D. H. BRUCE: The only point I desire to deal with, Sir, in reply is the point raised by the hon. Member representing native interests, when he referred to the fact that there is a reward for informers in this Bill. That is in it, but it is not without precedent. We have a reward for informers already in the Customs Ordinance, and I can see no particular objection to it. However, all the various points raised by hon. Members, Your Excellency, will be considered in the Committee.

HIS EXCELLENCY: The question is that the Stock and Produce Theft (Levy of Fines) Bill be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. T. D. H. BRUCE: Then, Sir, I beg to propose that the following hon. Members be appointed to the Select Committee proposed on this Bill:—

The Hon. the Chief Native Commissioner,

The Hon. the Provincial Commissioner, Nyanza,

The Hon. the Provincial Commissioner, Rift Valley,

The Hon. Member for Rift Valley,

The Hon. Member for Nairobi South,
with myself as Chairman.

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

The question was put and carried.

THE CIVIL PROCEDURE (AMENDMENT) BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill to Amend the Civil Procedure Ordinance, 1924.

At a session of this Council, Sir, held just a year ago, a Bill to Amend the Civil Procedure Ordinance, 1924, was read a second time and was then referred to a Select Committee. This Bill subsequently became law as Ordinance No. XIV of 1932. Now, Sir, while this Committee was sitting it was suggested by the hon. Member for Nairobi South that an alteration should be made to section 11 of the Civil Procedure Ordinance, 1924, to give wider scope as regards the jurisdiction of a court the bench of which is occupied by a qualified lawyer. An amendment to clause 11 was proposed in Select Committee by the hon. Member for Nairobi South which would have had the desired effect. Owing, however, to representations from the hon. the Chief Native Commissioner that, although he himself and more than one of his Provincial Commissioners were in favour of such an extension of jurisdiction, yet the proposed amendment would have too wide an effect, and since no agreement as to the amount of jurisdiction to be conferred could be arrived at between the hon. the Chief Native Commissioner and the hon. Member for Nairobi South, it was decided not to make any such amendment in the Bill then under consideration, but to recommend to Government, Sir, in the Report of the Select Committee that the matter should be further considered at an early date with a view to amending section 11 of the Principal Ordinance as soon as possible. This was accordingly done, and subsequently I held a meeting in the following month with the hon. the Chief Native Commissioner and the hon. Member for Nairobi South, when a

suitable draft—what we believed a suitable draft—was agreed upon. This amendment was considered, Sir, by the Rules Committee appointed under the Civil Procedure Ordinance at their meeting in June, 1932—the draft having been put up in the April of that year, I think—and was approved subject to alterations. Subsequently, however—I think, possibly, in about the month of October—the hon. the Attorney General and the hon. Member for Nairobi South had a further conference, when the form of the Bill was slightly altered, and the Bill was then published for introduction into this Council in the form in which it appears before hon. Members to-day. This Bill, as hon. Members will see, consists of two clauses only, and only clause 2 is the operative clause. Now, Sir, this new Bill, that is, the Bill now before hon. Members, was referred after its publication in the Gazette to the meeting of the Rules Committee held in December, 1932—a meeting which I attended personally. It was agreed, as the Bill had been slightly altered, it should be so referred again. The Committee approved of the principle of the Bill, but asked me to alter the wording of clause 2 to some extent, which I accordingly did, subsequently showing the final draft both to the hon. the Attorney General and the hon. Member for Nairobi South, both of whom approved of it. I then, Sir, circulated the new draft to the members of the Rules Committee for their final approval, and it has been finally approved, subject to a very slight addition made by His Honour the Chief Justice to the effect that “nothing in this section contained shall be deemed to limit or affect the power of the Supreme Court to direct the distribution of business where there is more than one subordinate court in the same district.” That is now done. This new draft considerably alters the Bill as it is now before this House, and therefore, Sir, in the Committee stage on this Bill, the first two paragraphs of clause 2 will have to be deleted and a new paragraph substituted therefor. This new paragraph of clause 2, notice of which was given in the Order of the Day for the 4th April, as hon. Members will no doubt recollect, is now, I think I may say, agreed upon by all parties, and will, I hope, prove satisfactory. If I might claim the indulgence of the House for a very short time, Sir, which I shall move in Committee to be inserted in the place of the first two paragraphs of the present clause 2:—

“11. Every suit shall be instituted in the court of the lowest grade competent to try it, provided that where there are more subordinate courts than one with jurisdiction in the same district competent to try it, a suit may, if the party instituting the suit or his advocates certifies that he believes that a point of law is involved or that any other good and sufficient reason exists, be instituted

in any one of such subordinate courts: Provided that if a suit is instituted in a court other than a court of the lowest grade competent to try it, the magistrate holding such court shall return the plaint for presentation in the court of the lowest grade competent to try it if in his opinion there is no point of law involved or no other good and sufficient reason for instituting the suit in his court: Provided further that nothing in this section contained shall be deemed to limit or affect the power of the Supreme Court to direct the distribution of business where there is more than one subordinate court in the same district.”

Now, Sir, the reason for this Bill, as it will appear to the Committee stage, is that it will enable civil suits to be more conveniently and expeditiously dealt with. As the law now stands, for example, a plaint for Sh. 10 has to be instituted in the court of a third class magistrate, and cannot be taken by a second class magistrate even though the third class magistrate of the district may be absent from headquarters for some time. If this amending Bill becomes law, all first and second class magistrates will be able to try such cases, and Provincial Commissioners will, if the necessity arises, be able to try cases usually triable by the District Commissioners. To obviate the danger of the time of Provincial Commissioners or first and second class magistrates being unnecessarily occupied with trivial disputes, provision has been made for remitting such plaints to a competent subordinate court, unless a substantial point of law is involved, or there is other good and sufficient reason for the case being heard by the court in which it has been instituted. As I have said, in the Committee stage on this Bill I shall move that the first two paragraphs of clause 2 as it now stands be deleted and the amending clause which I have just read be substituted. I commend this Bill to the favourable consideration of this Council.

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

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

The question was put and carried.

THE PUBLIC TRAVEL AND ACCESS ROADS (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that a Bill to Amend the Public Travel and Access Roads Ordinance be read a second time.

In that part of the Principal Ordinance which deals with roads of access provision is made that the whole cost of construction and maintenance of a road of access shall fall upon the persons who apply for it, and over whose land the road passes. The Ordinance also provides that notwithstanding that fact the public at large shall have a right to use the road. That provision, I understand, Sir, when the Principal Ordinance was passed in 1920 did not excite any comment, and it remained unchallenged until last year, when representations were made to Government through the Convention of Associations that that position was an anomaly, and that where owners of land were required to pay for the construction and maintenance of a road that road should be regarded as a private road over which the public should not have a right to pass. The Government have recognized that there was something in that argument, and expressed its willingness to introduce an amending Ordinance provided it was clear that an amendment to that effect was generally desired throughout the country by the persons who had applied for and held roads of access. Consequently, district councils were circularized on the subject, and practically all of them expressed their approval of the introduction of an amending Ordinance to limit the right of user of roads of access to the applicant, his successors in title and every owner or occupier of land over which the said road of access passes; and to give the right to use the said road of access to no others.

Clause 2 of this Bill, Sir, provides now that no others shall have the legal right of using a road of access.

In the third clause, the existing public rights of way are reserved.

There is, however, in clause 2 an omission, and I have given notice in the Order Paper of the 4th April that I shall move an amendment in the Committee stage. Hon. Members will see on the left-hand side of the Bill—the penultimate clause—that “the proportionate share aforesaid to be paid shall be fixed by the district board with due regard both to the extent of road used and the nature and amount of traffic likely to pass thereover.” That provision, Sir, is one which it is not intended to repeal, and it slipped out inadvertently when this Bill was drafted, and I shall therefore propose that it be reinstated.

There is a further amendment, the words of which I have already given notice of, and that is in regard to the date of operation of this Ordinance. As at present drafted, the Ordinance will apply to any roads of access already in existence. I do feel that applicants whose cases have already been heard

and granted should have the opportunity if they so wish to bring their roads within the ambit of this amending Ordinance. I hesitate to advise that the Ordinance should be made retrospective to all roads of access without consultation with the applicants in question, and therefore the amendment suggested—which appeared on the Order of the Day of the 4th April—provides—

“That where a road of access is in existence at the time of the coming into operation of this Ordinance, the original applicant for such road or his successor in title may, if he so desires, give notice in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the Colony, that he desires that the provisions of this Ordinance shall apply to such road of access as from a date to be named in such notice, not being less than one month from the date of the first publication of such notice, and thereupon all the provisions of this Ordinance shall apply accordingly. Such notice shall clearly describe the position of such road of access, and shall give a clear and accurate description thereof.”

I trust, Sir, that by its appearance on the Order of the Day hon. Members will consider they have had sufficient time to consider this amendment, but Government does not wish to rush this Bill through, and should it be desired not to take this in Committee stage but in Select Committee, I have Your Excellency's authority to say that that course will be followed. At the same time, if hon. Members do not wish that course, I trust the amendment will be accepted and approved in the Committee stage.

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

HIS EXCELLENCY: The question is that the Public Travel and Access Roads (Amendment) Bill be read a second time.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, as far as I have been able to ascertain the views of Members since the hon. gentleman spoke, I think perhaps it would be better if this Bill went to Select Committee in order to give Members a chance to consider its implications.

The question was put and carried.

THE SHOPS IN RURAL AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENTS: Your Excellency, I beg to move that a Bill to Regulate and Control the Use of Shops in Rural Areas be read a second time.

This Bill, Sir, forms an integral part of the Report of the "Change of User" Committee which was unanimously approved by this House last week. I may take it therefore that the principle of the Bill has thereby been accepted, and so I will confine myself to dealing very briefly with the simple machinery which it is proposed to set up for the licensing and control of shops on farms.

The Bill provides for a considerable measure of local option in the sense that before issuing a licence under this Ordinance for the opening of a shop, the licensing officer is required to take the opinion of a district council or district committee, if any, within whose area such shop is situated; and in the conditions dealing with the revocation of licences for any offences specified, before a licence is revoked the licensing officer is required to obtain the consent of such district council or committee within whose area such shop is situated.

Opportunity is provided for the owner of the licence, the revocation of which is under consideration, to be given an opportunity of appearing and being heard by the licensing officer and the district council or committee. If he is aggrieved, he may then appeal against the licensing officer's decision to the magistrate's court in whose district the shop is situated; and finally he may appeal to the Supreme Court, whose decision shall be final.

The general effect of this Bill will be, Sir, to control the opening of shops on all lands alienated under the Crown Lands Ordinance either in freehold or in leasehold; and the schedule of fees proposed is, for each shop situated within four miles of the boundary of a municipality, township or trading centre, Sh. 40, and for any other shop, per year or part thereof, Sh. 10. Concurrently with the bringing into operation of this Ordinance, the existing liability of lessees of land held under leasehold to the Crown to pay Sh. 72 per annum, in accordance with the endorsement which is made on titles, will disappear and it will no longer be necessary for that fee to be paid. I beg to move.

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

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolves itself into a Committee of the whole Council in order to consider, clause by clause, the following Bills:—

- The Civil Procedure (Amendment) Bill,
- The Registration of Patents Bill,
- The Registration of Designs Bill,
- The Shops in Rural Areas Bill.

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

CAPT. THE HON. H. E. SCHWARTZ: On a point of order, Your Excellency, was there not to be a Select Committee appointed on the Shops in Rural Areas Bill?

THE HON. THE ATTORNEY GENERAL: I have just asked the same question, Sir. I was under the impression there was. If I may I will remove the last Bill from the list.

HIS EXCELLENCY: Then there are only three Bills—the Civil Procedure (Amendment) Bill, the Registration of Designs Bill, and the Registration of Patents Bill.

CAPT. THE HON. H. E. SCHWARTZ: I raised the point, Your Excellency, because I thought the Commissioner for Local Government, Lands and Settlement would move a motion appointing the Select Committee on the Shops in Rural Areas Bill.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I propose to do so, Sir, but I have not been able to arrange it yet.

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

HIS EXCELLENCY: The question is that the Council resolve itself into a Committee of the whole Council to consider the following Bills clause by clause:—

The Civil Procedure (Amendment) Bill.

The Registration of Patents Bill.

The Registration of Designs Bill.

The question was put and carried.

The Council went into Committee.

In Committee:—

THE CIVIL PROCEDURE (AMENDMENT) BILL.

The Bill was considered clause by clause.

Clause 1.—Short title.

THE HON. THE ATTORNEY GENERAL: I beg to move that in this clause the words "(No. 2)" be deleted, and further, that the figures "1933" be substituted for the figures "1932".

The question was put and carried.

Clause 2.—Courts in which suits to be instituted.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that the first two paragraphs of clause 2, section 11 of the Principal Ordinance, be repealed and replaced as follows:—

"11. Every suit shall be instituted in the court of the lowest grade competent to try it, provided that where there are more subordinate courts than one with jurisdiction in the same district competent to try it, a suit may, if the party instituting the suit or his advocate certifies that he believes that a point of law is involved or that any other good and sufficient reason exists, be instituted in any one of such subordinate courts: Provided that if a suit is instituted in a court other than a court of the lowest grade competent to try it, the magistrate holding such court shall return the plaint for presentation in the court of the lowest grade competent to try it if in his opinion there is no point of law involved or no other good and sufficient reason for instituting the suit in his court: Provided further that nothing in this section contained shall be deemed to limit or affect the power of the Supreme Court to direct the distribution of business where there is more than one subordinate court in the same district."

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: I beg to move that the clause be further amended by deleting the word "Provided" at the beginning of the third paragraph and substituting the words "And provided".

The question was put and carried.

THE REGISTRATION OF PATENTS BILL.

The Bill was considered clause by clause.

Clause 17.—Offences.

THE HON. THE ATTORNEY GENERAL: Hon. Members will recollect that the hon. Member for Nairobi North asked that this Bill and the next Bill might stand over for the consideration of a point which had been raised by the Nairobi Chamber of Commerce. Consideration has been given to this point, which arises on this clause, and the hon. Member, I understand, has expressed his satisfaction with the proposed amendment. The question arises, Sir, from sub-clause (2) of clause 17, which provides:—

"If any person sells an article having stamped, or engraved or impressed thereon or otherwise applied thereto the word 'patent', 'patented', or any other word expressing or implying that the article is patented, he shall be deemed for the purposes of this subsection to represent that the article is a patented article."

The Nairobi Chamber of Commerce have represented that this is a little hard, that time ought to be given to ascertain whether stocks actually on hand constitute an infringement of this section. That, I think, is a very reasonable request indeed to make, and I therefore propose that this clause be amended by adding as sub-clause (3) the words: "Sub-section (2) of this section shall not come into operation numbering sub-clause (3) as sub-clause (4). That, I am sure, will meet the objection taken by the Nairobi Chamber of Commerce."

The question was put and carried.

THE REGISTRATION OF DESIGNS BILL.

The Bill was considered clause by clause.

Clause 18.—Offences.

THE HON. THE ATTORNEY GENERAL: In this case again, Sir, for the reasons I have endeavoured to explain on the last Bill, I beg to move that at the end of sub-clause (2) there be inserted the following new paragraph: "This sub-clause shall not come into operation until the first day of October, 1933."

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Civil Procedure (Amendment) Bill, the Registration of Patents Bill, and the Registration of Designs Bill be reported to Council with amendment.

The question was put and carried.

The Council resumed its sitting.

(On resuming.)

HIS EXCELLENCY: I have to report that the Civil Procedure (Amendment) Bill, the Registration of Patents Bill and the Registration of Designs Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council with amendment.

THIRD READINGS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Civil Procedure (Amendment) Bill, the Registration of Patents Bill, and the Registration of Designs Bill be each read a third time and passed.

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

The question was put and carried.

The Bills were each read a third time and passed.

APPOINTMENT OF SELECT COMMITTEES.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Public Travel and Access Roads (Amendment) Bill be referred to a Select Committee with the following personnel:—

The Hon. the Director of Public Works,

The Hon. T. D. H. Bruce,

The Hon. Member for the Lake,

The Hon. Member for Kikuyu,

The Hon. Member for the Coast,

The Hon. Member for Plateau North,

with myself as Chairman.

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

The question was put and carried.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Shops in Rural Areas Bill be referred to a Select Committee with the following personnel:—

The Hon. the Director of Agriculture,

The Hon. T. D. H. Bruce,

The Hon. Member for Kikuyu,

The Hon. Member for Kenya,

The Hon. Member for Ukamba,
with myself as Chairman.

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

The question was put and carried.

HIS EXCELLENCY: I propose to adjourn Council now until 11 a.m. on Monday morning. After we reassemble there are several matters which have got to be dealt with, and the Income Tax Bill has to be considered in Committee of the whole House. Then, as soon as all these matters have been dealt with, the interval between the completion of business and the adjournment for the Easter recess—we propose to adjourn on Thursday, the 13th—will be taken up with the Select Committee on Estimates. As much Select Committee work as possible will be done during that interval.

After the adjournment on Thursday, the 13th, I propose to reassemble the House on Monday, the 24th April. Have I correctly stated what we arranged?

CAPT. THE HON. H. E. SCHWARTZ: Yes, Sir.

*The Council adjourned till 11 a.m. on Monday,
10th April, 1933.*

MONDAY, 10th APRIL, 1933

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Monday, 10th April, 1933, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 5th April, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

By **THE HON. THE ATTORNEY GENERAL** (MR. A. D. A. MACGREGOR, K.C.):

Report of Select Committee on the Employment of Women, Young Persons and Children Bill.

Report of Select Committee on the Juvenile Offenders Bill.

Report of Select Committee on the Income Tax Bill.

NOTICE OF MOTIONS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move the following motions:—

“That the Report of the Select Committee on the Juvenile Offenders Bill be adopted.”

“That the Report of the Select Committee on the Income Tax Bill be adopted and that the Bill be later referred to a Committee of the whole Council.”

ORAL ANSWERS TO QUESTIONS.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, may I ask when I can expect an answer to my question as to when the Government intends publishing the Report on the Decentralization of the Public Works Department?

THE HON. THE COLONIAL SECRETARY (MR. H. M. M. MOORB): I can give an answer to that question at to-morrow's meeting.

CESSION OF TERRITORY.

No. 23.—CAPT. THE HON. H. E. SCHWARTZ asked :—

Is Government in a position to make any statement with regard to the conversations between the Prime Minister and Signor Mussolini at Rome so far as such conversations affect Kenya?

THE HON. THE COLONIAL SECRETARY: A communication has been received from the Secretary of State to the effect that the conversations in question included no reference whatsoever to Kenya.

AGRICULTURAL CREDITS.

No. 24.—LT.-COL. THE HON. J. G. KIKWOOD asked :—

Will Government state what action it proposes taking with regard to the recommendations on agricultural credits submitted by the Board of Agriculture?

THE HON. THE COLONIAL SECRETARY: The Report referred to is receiving the earnest and sympathetic consideration of Government. Action has been taken by reference to the Land Bank Board, to whose views attention is now being given, and an application has already been made to the Secretary of State for sanction to increase the funds at the disposal of the Land Bank by £260,000.

CESSION OF TERRITORY.

No. 25.—THE HON. T. J. O'SHEA asked :—

(1) Has Government been consulted regarding any proposals to cede a further portion of Kenya to Italy, or for the Imperial Government to return Tanganyika Territory to Germany?

(2) If the answer is in the negative, will Government inquire from the Secretary of State for the Colonies whether any such proposals are under consideration, and inform him that the people of Kenya being deeply concerned by any such proposals will expect their Government to be consulted?

(3) Whether, in the event of any such proposals being now or in the future under consideration, Government will keep prominently in view—

(a) the heavy military expenditure borne by Kenya over a period of years on the Northern Frontier;

(b) the important trade interest between Kenya and Tanganyika Territory;

(c) the close community of interests between Kenya and the Kilimanjaro district of Tanganyika Territory;

(d) the importance to Kenya of maintaining a territorial connexion with the other British possessions to the south?

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

(2) I would refer the hon. Member to the reply I have just given to the hon. and learned Member for Nairobi South.

So far as Tanganyika Territory is concerned, I would refer the hon. Member to the statements made by the Prime Minister and the Secretary of State for the Colonies on the 23rd March, as recently reported in the local Press.

(3) The answer is in the affirmative.

LT.-COL. THE HON. C. G. DURHAM: With regard to my question the other day as to who was appointed the Deputy Collector of Income Tax and what staff had been appointed, in view of the fact that an answer has been given at home, Sir, might I be given an answer here?

HIS EXCELLENCY: You have a question?

LT.-COL. THE HON. C. G. DURHAM: Yes, Sir—put in about six weeks ago.

THE HON. THE COLONIAL SECRETARY: I will look into the matter, Sir.

THE HON. CONWAY HARVEY: Your Excellency, may I have leave to give notice about two questions? The first is to ask the hon. the Colonial Secretary if Government has held an official inquiry into the circumstances which involved the death of a Kikuyu native at the Maseno Mission Hospital following the administration of an anaesthetic, and, if so, what was the result of such inquiry.

My second question, Sir, is addressed to the hon. the Attorney General in these terms :—

1. How many Europeans, Asians and Africans respectively are expected to pay income tax in respect of the first year for which it is imposed?

2. What percentage of the total population of each race is expected to become liable?

3. What amount is it expected to receive from each race?

4. What percentage of the total amount is expected from each race?

MOTIONS.

LOSSES INCURRED BY EAST AFRICAN CURRENCY BOARD.

CAPT. THE HON. J. L. COTTER: Your Excellency, I think the honour to move the motion standing in my name:—

"That in the opinion of this Council a Committee should be appointed by the Secretary of State for the Colonies to inquire into the losses that have been incurred by the Currency Commissioners as revealed in the East African Currency Commissioners' Report."

I would first of all, with your leave, Sir, explain to any hon. Member who is not *au fait* with regard to our currency that our currency system is based on a token issue of notes and coin, and it is linked to sterling by a guarantee of the Currency Commissioners to convert East African currency at any time.

The East African Currency Board was appointed in December, 1919, and in any remarks I make, Sir, I am referring to the Currency Board, though I am aware, Sir, that in most cases they are not really and actually responsible, though in their own report no other names appear. When I refer to them I do so well knowing that they have had instructions from elsewhere, but that fact does not appear in their own reports.

In December, 1919, the Board took over a currency which at par—Sh. 1/4d. to the rupee—was actually solvent. They had at that time somewhere in the neighbourhood of £25,000 credit in hand. Actually, however, they did not take over the currency business until some time later on. In fact, the old East African Currency Commissioners continued their work until June, 1920.

In March, 1920, it was decided that the rupee should be fixed, and it was fixed then at the price of Sh. 2, the rupee actually then standing on its permanent value somewhere in the neighbourhood of Sh. 2/8d. to Sh. 2/10d. per rupee. By fixing it at Sh. 2 the East African Currency Board Commissioners automatically made the currency of this Colony insolvent to the extent of £210,000 odd by that one act. The result, of course, has been most disastrous to this country. There was no term put on the amount—and here I am quoting from the Commissioners' own reports—there was no term put on the amounts that should be redeemed, and actually, after the notes had been redeemed locally and for a considerable time afterwards rupees were presented here—at the banks and at the post office chiefly, I understand—for redemption at the price of Sh. 2 per rupee.

Unfortunately, before the redemption had really taken place, there was a tremendous drop in the value of the rupee, which, as a matter of fact, dropped down to one shilling and threepence and thirteen-sixteenths, which, I think, was the lowest price reached by the rupee. The actual loss on that transaction was £310,000, and that went on for such a long time that it was only the fact that we happened to have a senior officer of the Treasury here with us at the time, who brought to the notice of the Governor that this redemption should be done away with, that the loss was not considerably greater. I can only say that—as the senior officer of the Treasury who did that happens to be the hon. Treasurer who is here to-day—I can only say that few people in these territories realize to what extent they are indebted to that gentleman.

The next thing that happened in this currency business was the redemption of the German rupee. I have looked through the instructions of the Board, where, in Appendix I of the 1921 Report, their functions, duties and powers are delineated. I cannot see any instructions that the German rupee should be redeemed at Sh. 2. As a matter of fact, when they were originally trading they were bought for any sum from Sh. 2/6d. to Sh. 2/10d., as I understand the value was considerably over Sh. 2. In the extraordinary drop in the value of bullion, however, certain firms, chiefly banks, were left. It is quite obvious that they were, because in the 1922 Report it is definitely stated that they were. The value of bullion of the German rupee dropped, I have been told, as low as 7d. and 5d. per German rupee. Naturally, these people who had been left attempted to off-load on to somebody. As a matter of fact, they off-loaded on to the East African Currency Commissioners. They agreed to cash these German rupees at Sh. 2, and they made a loss of somewhere over £500,000 on that transaction. This is no guesswork, Sir; these are their own figures.

We adopted a new coin, the florin, and in doing so, Sir, we naturally linked ourselves to sterling. I will not go into a discussion on the linking of an agricultural country like this to an industrial country, which, as a matter of fact, is always injudicious, but in turning over to the florin it meant that we definitely got away from the old rupee coinage, linked with another agricultural country in which our interests are very much more bound up than they would be linked with an industrial country. We adopted the florin coinage at ten to the pound. The loss made there was somewhere in the neighbourhood of £50,000. That was the cost to us. Influence was brought to bear, I regret to say very largely by settlers in Kenya, to get the florin altered to a shilling, and they also

adopted the idea that you must not have a shilling of the same size as the English shilling. As the coin is made of 50 per cent silver and 50 per cent copper, naturally, the making of the coin the size of that shilling cost a very big sum in changing over. In fact, the cost of the silver in the shilling appears to be very close to what it was in the original florin. The cost of that conversion was in the neighbourhood of £750,000.

I would like to take up the time of the House for a moment to go into a general principle. In my own experience, and I have examined this subject, coins are either real or token. In giving out a coin, one should either take, roughly speaking on the date of minting the actual value of the coin—the metal in it—or one should make that coin of as cheap a material as possible. I cannot see any possible argument for taking fourpence-worth of silver and putting it into a shilling coin. Either take a full shilling-worth as the value of the silver contained in the coin, or give a token, in which case I should have thought a nickel-coin would be the one. The importance of this will be seen when it is realized that we have actually in store in these various protectorates close on eighty million shillings—a figure, I suggest, which is out of all proportion to what is required. We have less than forty million shillings in these territories to-day. At the peak period of our trade, I think we had seventy-five million shillings. I would suggest, Sir, that these shillings actually are fifty per cent more than are required for the ordinary purposes of business in this country.

On looking through the various reports, I came across the sum of £75,000 in bullion or coin. I cannot imagine what was the need of having this burden. The actual bullion values of our coin lying idle is close on £800,000, which, had it been invested in gilt-edged securities might have given us a very good income.

Again, Sir, up till 1923, in studying these Currency Commissioners' Reports—which I have before me—I find that the first liability, and their only liability, is the redemption of notes already printed. From 1923 onwards, the whole system of accountancy is altered, and I would ask the hon. Treasurer, to whose ability and acumen in financial matters I have already borne tribute, if he can, to explain what is the meaning of the term "Currency Reserve" which appears later in the Report, for, in my own opinion, it is utterly unmeaning, and other business men to whom I have referred say that to them it is utterly inexplicable. In other words, the ordinary man is quite unable to understand the reports as issued.

Now, Sir, having made these losses, which in fact total over £2,500,000, the Currency Commissioners, by the Currency Bill which is coming up later in this House, are asking for leave to borrow a million and a half on the credit of these three territories. Now, Sir, anyone who understands the slightest thing about currency matters will realize what this means. They have already sold their currency and sold it to us. Whose money is this million and a half? There is no question about it; it is our money. When a man comes out here with £10,000 at home, what in fact happens is this: He goes to a bank with his money; the bank sends it out here. It is not actually sent out here—it is handed over to the East African Currency Board at home, and two hundred thousand shillings are delivered to the Treasurer out here in Kenya. What is proposed now will happen?—and in considering this matter it can be brought down to a question of £5. Someone—say, Mr. Smith—says he is a seller of East African currency and he wants to borrow £5. He guarantees he will redeem it at any moment. After three or four years, the lender returns to him and says, "Give me my £5 back, as you agreed." Mr. Smith looks round and says: "Yes, lend me £5, so that I can give it back to you." That is the exact process which is suggested now.

I suggest, Sir, as my idea of an inquiry into this matter in which our money has been lost, that one gentleman—a man who understands something about currency matters, and still more understands accountancy and business—should be sent home so that he can give the people back here an assurance that all has been done for their own good, or, if he is not satisfied, that all has not been done for their good.

THE HON. F. A. BEMISTER: Your Excellency, I beg to second.

HIS EXCELLENCY: The question is:—

"That in the opinion of this Council a Committee should be appointed by the Secretary of State for the Colonies to inquire into the losses that have been incurred by the Currency Commissioners as revealed in the East African Currency Commissioners' Report."

THE HON. F. A. BEMISTER: Your Excellency, the one outstanding point that gives me great pleasure in supporting my hon. and gallant friend is that, I believe from the date of the establishment of the elected principle to this House and the inclusion amongst the number of its constituencies that will be found for Kenya, I think this is about the only time that it will be found the Government and Kenya agree.

You will notice that the motion is entirely for an investigation—an investigation into the management and handling of affairs which before 1919 were handled and managed on this side, and, so far as history shows us, were handled in a very efficient manner. In fact, I can find no reference in any book or pamphlet that the Currency Commissioners before 1919 were ever queried or questioned in their acts and business. Now, Sir, it does seem a most peculiar thing that people 6,000 miles away should have, by some methods of finance or book-keeping, incurred such colossal losses. There is no question that everything is straight and above-board, because the losses are definitely exposed in their own accounts. The Reports read so clearly that it does not require a knowledge of currency to understand the difficulties we are now in. It is as plain as reading your ordinary morning paper; so long as you know that two and two make four, those Reports definitely show that losses of two and a half million pounds odd have been definitely made in the value of currency.

To come back to the purchase of the bullion of £700,000 odd, Sir, it does seem a peculiar thing that with that amount of bullion in their coffers, the Currency Commissioners should have manufactured coin which the official figures now give at over £7,500,000 in store here, with a general currency of £5,500,000 to £4,000,000. It does show a peculiar system of balancing accounts. If the purchase of the bullion was intended to be a security for an even amount of currency, say, notes in issue, or something of that sort, there is only one factor which could alter the security of the issue and that is a fall in the price of their stocks of bullion on the open market, which we all know actually happened. We all know that. Now, Sir, does not it really want some investigation as to why, when you had £200,000 worth of bullion which can only deteriorate in its market value—it cannot deteriorate in its purity—you then issue some coins which in your balance sheet could be shown to represent £1,000,000? There is a very serious position, Sir, and I do certainly think that the Government will be not only pleased that this has been brought before them—because, of course, Government could not call for an investigation—but the people of the country—Elected Members being the liaison between the people and the Government. It is only their outstanding duty to bring this matter before the Government, so that you can approach the Secretary of State and say these points have been brought forward, these facts alleged: can there be any excuse now for not having an investigation to satisfy the people of Kenya that their affairs are being well looked after, that all those losses are

only for their own good, and they will see the benefit of it in a few years' time? That report, Sir, should be made by a competent authority, and one who cannot be misled by book-keeping or Colonial Regulations.

LT.-COL. THE HON. J. G. KINGWOOD: Your Excellency, I rise to support the motion before the House, and in doing so I should like to quote some figures applicable to the arguments that have been used, and from the comparative sense show the difference between the East African Currency Board and the West African Currency Board and get deductions from those figures. This has reference to the West African Currency Board:—

"The cost of administration of the Board, it may be noted, was only £2,630 (somewhere about half the cost of the East African Currency Board)—a remarkably low price to pay for the benefits of currency stability and absolute freedom of exchange, and against this low cost may be set the fact that the Board's income from its investments, acquired from the issue of currency and from other sources, reached over £500,000, of which £144,000 was applied to redemption of West African coin and repatriation of United Kingdom silver coin, and £200,000 was distributed to the West African Colonies in aid of their ordinary revenues. Since the Board began operations in 1920, it has so distributed no less than £3,450,000 among the West African Colonial Governments."

That would give a loss, I understand, on the East African Currency Board of £125,000 a year, taking it over twelve years, but the West African figure of £3,450,000 profit in a little under eleven years would give a profit of £313,636 a year as against our loss of £125,000 a year. I submit, Your Excellency, there is a very great discrepancy between the two sets of figures that I have quoted, and for that reason I maintain that an inquiry into the working of our own Currency Board is absolutely essential to clear the atmosphere and to apply the load to those whose shoulders should bear it. I am not aware whether the West African Currency Board has had the same difficulties as the East African Currency Board, that is, stabilization, the redemption of the German rupee, the redemption of the Indian rupee, and afterwards the minting of the shilling in place of the florin, but I maintain that on the figures the discrepancy is so great that it would certainly point to inefficiency on the part of the East African Currency Board in the administration of their obligations—taking the £3,450,000 profit as against, I understand, an approximate loss by the East African Currency Board of £1,500,000, which

is approximately a difference of £5,000,000, and that is a very enormous sum to be the maximum variation between the figures of the two Boards. I do hope that this House will pass the motion before it, and allow of an inquiry to be held to get this matter cleared up.

THE HON. THE TREASURER (MR. H. H. ROBERTS): Your Excellency, I would like to refer to the terms of the motion in the first instance and particularly the words "losses that have been incurred by the Currency Commissioners as revealed in the East African Currency Commissioners' Report." I submit there is no revelation in the East African Currency Board's Report. The revelation took place from ten to twelve years ago. They have been published and have been common knowledge for the whole of that time, and it seems to me a little late in the day to raise questions as to happenings so long ago, and I think particularly so when it is remembered that all those transactions and the losses consequent upon them were the result of representations from this Colony. Tanganyika and Uganda suffered too, but they were not the originators of the suggestions.

Originally, Sir, there was a desire—I think it was more sentimental than anything else—to have a coin coupled up with sterling, as the produce of this country was sold in sterling. The first idea was an East African rupee, value 1/1d. That idea was given up and before anything could be done—I think a few notes were printed—the people of the Colony desired that a florin should be introduced. I may say that while the conversations were going on about the new rupee the Indian rupee commenced to rise, and it was then that the people naturally felt that something should be done to stabilize the currency, because the debtor—the unfortunate farmer with an overdraft or a heavy mortgage—first of all found his debt increased by 50 per cent, then by 100 per cent, and then by even more than 100 per cent; and it was to help the farmer that it was decided to stabilize. On the other hand, the creditors, naturally, finding their deposits increasing without any effort of their own, wished the currency to remain floating. They did not want it stabilized. When, I think, it was 2/0d., it gradually fell, and was stabilized eventually at 2/4d., at 2/2d., and finally at 2/., as being a compromise between the two parties which was not unfair to either.

Then it was thought locally that it would be a good thing to get away from this fluctuating rupee altogether, and have a florin currency. Scarcely had the florin currency been minted and sent out here than there was demand for a shilling currency. It is curious how these chickens come home to roost. I was chairman of the committee which recommended this

unfortunate shilling, and my present deputy was secretary of that committee. I did not think I should be called upon to go back to ancient history in regard to this kind of action. Every step in these currency transactions has been the result of representations made from this Colony. There was never any idea in the Secretary of State's head of Government making profits in connexion with currency. It has been stated by the hon. Member for Kenya that the Currency Board was not responsible for these transactions. That is quite true, Sir. The Currency Board was appointed to carry out the instructions under the Currency Orders in Council. They were not the originators of those Orders; that was a matter of high policy on the instructions of the Secretary of State. It was stated again that when the Currency Board took over the currency in July, 1920, it took over a solvent currency if the rupee had been at par. That is quite true. Unfortunately, the rupee stood at Sh. 1/11d. at that time, and it seems to me it does not serve a very useful purpose to say, if certain conditions existed, then certain things would have been done—when those conditions did not exist.

Then it was alleged, Sir, that the redemption took place over a very long period. I think I am correct, Sir, in saying that redemption was allowed over a period of one month in the case of settlers and non-natives in Kenya, and for a further period of five months where the District Commissioner was satisfied that they had been held by natives. It would have been impossible to inform natives—three millions of them—throughout a country like this within a few days, and make them understand that they really must bring in their rupees and get them changed.

I am afraid I do not know very much about the German rupees, but I should think that at that time, as it was mainly a native country, it was essential that redemption should cover a very considerable period. I do not see how it could have been possible for it to be done rapidly.

CAJUT. THE HON. J. L. COLLIER: It was the 1923 Report I quoted from. The rupees were held in the banks; they are specially mentioned.

THE HON. THE TREASURER: I was coming to that point, Sir. It was from the Currency Commissioners' Reports that the banks applied to the Board for the redemption of accumulated German rupees, and it is true the Currency Board felt it expedient to redeem them. What the reasons for that were, I do not know. I am not fully informed about what took place in Tanganyika at that time.

Then it was stated, Sir, that the stocks of currency on hand were far too large, and the fact that they were on hand showed—I think the intended inference was—bad management. The position, Sir, is that in 1925, when circulation was at its height, the face value of coins so circulated was £4,417,115. In June, 1932, the coins in circulation amounted to £2,317,654, face value. Therefore, between 1925 and June, 1932, there was a shrinkage of over two million pounds' worth of currency. The stocks on hand now amount to £3,040,387, face value, the shrinkage taking place representing £2,099,461. The excess coins therefore over what were actually being used—actually used and circulated and brought back again because of reduction in trade—amount to £1,941,026. That is all you can say is the excess stock which has existed at any time, because over two millions have actually been issued and used and come back in the contraction of the currency.

The last order for shillings was made in 1925, and it was for two million pounds' worth, face value. At that time, Sir, the Colony was prospering, expansion was taking place, trade was increasing and prospects were extremely bright, and the expansion of the currency itself amounted to one million pounds a year. Therefore the order at that time, Sir, was sufficient for a two years' normal increase, and I suggest it would have been most imprudent to order less than that in the circumstances. That has nothing whatever to do with the Currency Board or anybody in London. They are advised by three local bodies, the Currency Advisory Boards of Kenya, Tanganyika and Uganda, each composed of three bank managers and a currency officer in each territory. They advise the Board as to the requirements of the territories as far as they see them. If there is any fault lying upon anybody the responsibility rests upon the local board.

Reference was made, Sir, to the system of accounting in the balance sheet, reference particularly being made to the Currency Reserve Account. I cannot say that I know very much about that either, but it seems to me that the Currency Board is required under its instructions to build up reserves when it can, and I imagine that is an adjustment account to which it debits what it should have in the Reserve and then transfers the balance to the Profit and Loss Account, as appears to have been done here. That is the only suggestion I can make—it is an adjustment account; it merely represents a book entry. The reserves are never spent, because they have always been behind with their reserves.

I think the hon. Member for Kenya also mentioned that it was our money that had been lost—that you paid £5 in

London and got five pounds' worth of shillings out here. If losses have been made, as I said before, they were incurred for the benefit of the people of this Colony.

The hon. Member for Mombasa mentioned the management of the old Currency Board, Sir. The old Currency Board never managed anything at all. The currency of the Colony was the Indian rupee, and they had no more control over the rupee than they had over any other currency. All the Currency Board did at that time was to change notes for coin and coin for notes. They made no remittances overseas, and in no way managed the currency.

The hon. Member for Plateau North mentioned the West African Currency Board and the different picture shown by their accounts and their transactions from that of this Colony. I forget how long the West African Currency Board has been in operation, but it is for many years and through very prosperous times. It is admitted that currency boards should and do make profits, which assist the revenues of the colonies. Unfortunately, the East African Currency Board was forced into a position in which it could not avoid making very heavy losses, but that would not have been of very great importance. Sir, if it had not been for this extravagant fall in values and world conditions generally. Had there been a steady increase in the trade of the Colony with a steady expansion of the currency, it would have reached a position where it could have been prosperous. It is to be hoped it will reach that position, but it is going to take very much longer than if it had made no losses.

It seems to me, Sir, that a motion of this kind does imply a degree of censure, or at least dissatisfaction with the way in which the Currency Board has carried out its duties. I do not see, Sir, that this Colony can in any way associate itself with a motion of this kind when, as I have said, these transactions were all undertaken at the request of the people of the Colony and for their benefit. I do not know if it is due to a spirit of retaliation—we have had so many commissions of inquiry in Kenya—that hon. Members opposite wish perhaps to change the venue and have one or two in England. But these things all cost money, Sir, and I suggest, Your Excellency, that Government should not associate itself with this motion.

CAPT. THE HON. J. E. SCHWARTZ: Your Excellency, the really interesting and able speech to which we have just listened presupposes, as indeed the hon. Member himself said at the end, that this was necessarily a motion of censure on various individuals. An examination of the terms of the

motion will show quite clearly that such is not necessarily the case. We are asking the Secretary of State to institute an inquiry into the reason for certain losses. That those losses have occurred is not denied. That we are the people who have suffered is also not denied, and is it a particularly unreasonable thing that those who have suffered a loss should ask that an inquiry should be instituted into the reasons for such loss? It may well be that what the hon. gentleman says is correct—that the result of such an inquiry would be to show that no fault could lie at the door of the Currency Commissioners. It may be the reverse, but surely, Sir, when one asks for an inquiry into an admitted state of facts, it should not be suggested that those asking for an inquiry are presupposing that that inquiry will result in a verdict of "guilty".

The hon. Treasurer's speech was based on the difficulties of the Currency Commissioners, but he quite frankly stated in regard to one or two matters that were mentioned that he could not give any answer one way or the other—that he was not conversant with the facts. What we want is to get all the facts out into the open. It is not only a question of being asked to pass a Bill enabling the Currency Commissioners to call upon us to float a loan to make good the loss, but we look to the future and we are fearful, perhaps without cause, that when the money that is raised as a result of this Bill has been again lost by the Currency Commissioners, we may again be called upon to pass a Bill enabling another loan to be floated, and it is at least not in any way unreasonable that, when we are asked to find this money, we should say: "Very well, we will find this money, but first of all please let us find out why it has been necessary for us to be called upon to find this money."

I quite agree with what the hon. the Treasurer said with regard to this question of the fixation of the rupee at Sh. 2. If he will remember, I was also intimately connected with that controversy, and there is no question that the suggestion to stabilize at Sh. 2 was done with the best intentions, and in order to try and meet as far as possible the producer without entirely ruining the creditor. But, like many other things in life, things done with the best intentions have turned out not to be as satisfactory as could have been hoped. I daresay also it is correct that the Currency Commissioners did not originate this policy; but I do suggest that when a policy is originated by the Secretary of State for the Colonies with the best intentions in the world, he must have consulted the Currency Commissioners as being experts in this matter, for without the knowledge that the Currency Commissioners had concurred in the view the policy would not have been adopted.

Now we come to the question of the redemption by the Currency Commissioners of rupees held by the banks. The hon. gentleman says he does not know why that was done, but in their wisdom they did it. Surely that is a matter for inquiry. Also is it not a matter for inquiry why they bought, as I believe they did, silver at a very high price—a large amount of silver. I believe somewhere about £700,000 worth; I speak subject to correction—and they held on to that silver hoping for a rise, if my information is correct, instead of which there was a catastrophic fall in silver, and an enormous loss as a result to the Currency Commissioners. If they did buy high hoping for a rise, I would suggest—knowing very little about it—that it really is not part of the duties of the Currency Commissioners to go in for any kind of gamble in bullion, and though no doubt we should have been very pleased if the gamble had turned out a success, so is the office boy pleased when he puts his hand in the till and backs a horse which comes in second instead of first—but the result is disastrous for the office boy.

One other point, Sir: I believe—again I speak subject to correction—that only quite recently have the Currency Commissioners shown as a liability in their balance sheet the note issue. If that is correct, it is a most remarkable thing, because it entirely destroys the value of the balance sheet if your liability, which is a very big one in regard to your note issue, is not shown in that balance sheet. I quite realize, Sir—I fully realize, that it is difficult for Government to go passing a resolution which calls upon the Secretary of State to do something, but, on the other hand, I do think it would be very disastrous if the Government definitely turned this motion down, and I would suggest—I have not discussed it with either Your Excellency or with the hon. Member for Kenya who moved the resolution—I suggest in view of this difficulty which has arisen, that it might possibly be worthy of consideration, if Government would give an undertaking to the hon. Member that this debate should be sent home to the Secretary of State with a covering despatch pointing out what has happened; that perhaps the hon. Member, now that the whole matter has been ventilated fully, would be prepared, on that undertaking, to withdraw the motion rather than have it defeated by a Government majority, which, I think, would be a disastrous matter.

HIS EXCELLENCY: I may say I am prepared, on behalf of Government, to adopt that course.

THE HON. T. J. O'SHEA: Your Excellency, I had no intention of intervening in this debate, realizing that my knowledge of currency matters is very limited—just wide

enough to make me realize that my knowledge is so very limited—but having heard the interesting statement by the hon. the Treasurer, and having heard the suggestion put forward by the hon. Member for Nairobi South, I should like an opportunity to speak before the motion is either defeated or withdrawn.

I can quite realize the force of the argument adduced by the hon. the Treasurer on behalf of Government against the passing of this motion as it stands, but, Sir, I am very disappointed indeed that he did not give any indication that Government realizes the necessity of a more comprehensive inquiry into our currency position. From the statement, it is pretty obvious that the very important matter of our currency has been handled in the most slipshod fashion, and it is difficult to find out where the responsibility for this situation does lie. One thing did stand out very prominently from his address, and that was that whoever may win by the manipulation of the currency of this country, the people of this country always lose. He was very upset indeed about the arrangements that were made about ten years back by which they suffered very heavily. The people of the country who were in the unfortunate position of being debtors had their debts added to automatically by 50 per cent, and now again to-day they are being called upon to take the responsibility for loans to cover the losses that have been made by people over whom they have very little control. I am not so much concerned about placing the responsibility for what has happened in the past as about placing the responsibility for the future. The necessity becomes more obvious every day of facing the breakdown of the financial system of the world. This matter of currency is all-important to a country, and it is very significant that in most other countries arrangements have been made during the last year or two to alter their currency, whereas no suggestion has been made that we should even consider the question of escaping some of our liabilities. Even Great Britain has found it necessary to alter the basis of her currency. She has depreciated its value very considerably in the last eighteen months, and the question must spring to many people's minds that it may be necessary for this country to take stock of its position in relation to currency and investigate the necessity for doing something like that? As I say, Sir, I frankly acknowledge that my understanding of this subject is extremely limited, but the more I think about it, the more I study it, the more I come to the conclusion that it is very necessary indeed that Government should take stock of its position and have a comprehensive inquiry held.

I was rather disappointed to find the hon. the Treasurer placing the responsibility for the doings of the rupee conversion period upon the farmers of this country. I have heard farmers here give expressions of opinion on many problems more fitted to the scope of their knowledge, and Government has never paid any attention to them, and to suggest that the farmers are responsible for the mistaken policy that was adopted in 1922 on a matter like this is, I think, grossly unfair. Surely it is, above all, a question for experts, and it was the experts of that day who made the decision to alter our currency; I think it is very unfair indeed to endeavour to saddle the responsibility on the people of the country who knew absolutely nothing about it—their opinions were not worth listening to.

Seeing that Your Excellency has already given an undertaking that the Secretary of State will be advised of this debate, Sir, I wonder whether it would not be better if the motion were withdrawn and redrafted in a way that would meet with the approval of Government, and so make it clear that what really is wanted is not merely an inquiry into the losses that took place, or that have taken place, but into the intentions of Government as to our currency position in the future. It seems to me very necessary indeed, and I should like to hear an expression of opinion from the Government side of the House as to whether Government does not feel the same way about it.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I yield to no one in my admiration and respect for the hon. the Treasurer, but on his own admission, Sir, he says that nobody will be hurt in any way if an inquiry is instituted, and so, Sir, I think we should urge that an inquiry should be held even if it is only to clear up the very doubtful situation which has arisen. I support the motion, Sir.

CAPT. THE HON. J. L. COCKER: Your Excellency, I understand that you have decided to send the whole of this debate home to the Secretary of State, for which I thank you very much. I intend to withdraw the motion, but before doing so I should like to answer one or two points, with your permission, that have arisen in the debate.

First of all, I should like to refer to the hon. the Treasurer's remarks. As a matter of fact, before I got into this Council, on several occasions it has been brought up. Even myself on one occasion I was told that it would be undesirable and unpatriotic. As a matter of fact, I do not agree with these things, because I think the whole thing should have been ventilated long before, but I have only been a Member of this Council for two years, and this is the first

opportunity I have had of bringing the matter up, chiefly because it is the first time the Currency Commissioners have needed permission to borrow money on our account. The position has arisen, and it is very interesting reading how this position has arisen. The balance sheet total showed that in June, 1925, the Currency Commissioners' investments were £1,512,000 odd; in June, 1932, they were £388,000; in other words, the flight from the shilling had then been during that period £1,200,000—a very good indication of the state of trade in the country, Sir; a very good indication of it. Now, as a matter of fact, they did even get worse than that. I have lost the paper, but I think the hon. the Treasurer will bear me out that my figures are not very far out: there was three months ago a considerable overdraft with the Crown Agents. I think to the extent of £100,000, and there is now an overdraft of £120,000 against roughly £388,000 invested. That is the position as it stands to-day. Now there has been a return to the shilling a little, but if anybody thinks that is on account of the improvement of trade, may I state it is entirely due to the interest taken at home in Kakamega, where people have brought out or purchased this extra money.

One other thing was brought up by the hon. Member for Plateau North, and that was the West African Board. Now I suggest that much of the trouble was caused by the success of the West African Currency Board. It started in 1913. It was highly successful. It went through the Great War, when the prices of their palm oil, cocoa and various other things were at their highest, when their investments and what they made produced 5, 6 and sometimes 7 per cent in gilt-edged securities, and they were left at the end of the War with a vast profit. I suspect that that is the reason why we were saddled with this same form of Currency Board—that and that only.

In regard to the other thing, about trying to saddle the settlers of this country with the responsibility for these various changes that were made in our currency, I am quite prepared to admit that the settlers had a lot to do with it, but I would say this, that the Currency Commissioners are experts. They are chosen experts, and for them to listen to the man in the street, who may have an overdraft and feel himself oppressed by it, to my mind is utterly unreasonable, because until one studies this question a bit one cannot see how dangerous it is to ask for any changes of currency.

I think that is all I have to say in reply, and I would ask permission to withdraw the motion, Sir.

HIS EXCELLENCY: The motion is by leave withdrawn.

UNOFFICIAL FINANCIAL CONTROL.

CAPT. THE HON. J. L. COTTER: Your Excellency, I beg leave to move the motion standing in my name on the Order of the Day:—

“In the opinion of this Council, the time has now come when the control of the Colony's finances should be vested in the elected representatives of the people as at present constituted.”

I do not propose to say very much on this subject, Sir, because there are other and very much more able speakers on this side of the House than myself. I do not regard this matter as political at all. To my mind, if I thought that this was a political move, then I for one would be the first to oppose it tooth and nail. It is simply a matter that the people of this country, now that the Native Betterment Fund has been withdrawn from the purview of this House, should have the right, and I consider the inalienable right, that they should have some say in how their taxes are spent. Therefore, as I have suggested in the motion, the Elected Members, as representatives of the taxpayers of this country, when the Budget is framed, should have the say as to how such money is voted. This is what I had visualized—and I happen to know that Lord Francis Scott is much of the same opinion—that the Government should produce its Budget; it is then handed by Your Excellency yourself or your nominee, with the Treasurer present and the Elected Members. The various services are then brought forward by each Head of Department. The responsibility is then placed upon the people who have to find the money to say how much or how little they will find.

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

HIS EXCELLENCY: The question is:—

“In the opinion of this Council, the time has now come when the control of the Colony's finances should be vested in the elected representatives of the people as at present constituted.”

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I agree with the hon. mover that I do not think it is necessary to speak at any great length in regard to this matter, but I hope it will be fully realized that the fact of dealing with it briefly does not mean that Members on this side of the House have not got this subject very much at heart.

Now, Your Excellency, I think, without going into any details of what form this control should take, one thing must be agreed upon, and that is that the Governor should have the power not only of veto but also of certification. It is

possible—though I should not think in our time probable—that if financial control is placed in the hands of the European and Indian Members, they might go in, or attempt to go in, for a policy of wild extravagance; but however improbable and unlikely that is, there should of course be a power of veto to check that undue extravagance.

The real reason that we are asking, and I think asking as a right, for some control in finance is that we should be able to act as a brake on proposed Government expenditure. I am not referring now to the last two years, but I am suggesting that, certainly from the years 1928 to 1930, if that financial control had been vested in the elected representatives of the people, there is no question that the position of the Colony's balance sheet would be very different to-day—different from what it is actually to-day. Again, I agree that the country could not expect that we should have the right to refuse every expenditure suggested by Government, but that could be got over, as I say, by the Governor of the Colony having the power of certification.

Is there, Your Excellency, any real answer to this demand? The only argument of any kind of weight that has been put up that I have ever heard is that the natives, not being fully represented by those who have control of finance, might be adversely affected and that their services would be starved. I do not believe that the history of Members on this side of the House since 1920, when elected representation first came in, has justified any such accusation or any such prophesy. But leave that alone. The fact is now that if Lord Moyne's suggestion is put into force that argument is completely swept aside, as practically the whole control of native finances is going to be exempted from the purview of this Council.

THE HON. T. J. O'SHEA: Never.

CHIEF THE HON. H. E. SCHWARTZ: I would remind the hon. Member that I said "if Lord Moyne's proposals are put into force", and I was going on to say that using this argument is not to be taken as implying, as far as any Member of this House is concerned, any acceptance in the slightest degree of any proposal of Lord Moyne in this regard. I, personally, and I think my colleagues, consider that that suggestion is one that should be and must be opposed as strongly as we can oppose it, for it not only takes away from this Council the right to deal in full detail with the allocation of revenue—and Parliaments have always been throughout English history very jealous of their financial rights—it not only takes that away, but it leads us, or may lead us, to the very dangerous system

which is the policy dear to Lord Lugard's heart of having a sort of white and black islands. His idea was to have two budgets, both debated in the Legislative Council—one for natives and one for non-natives. I do not believe any country like this is ever going to go along the road to its full development except as one entity, each interdependent on the other and all pulling together, and the surest way to block the progress of a country such as this is to try and divide it into watertight compartments, and it is for that reason that I for one consider the suggestion of Lord Moyne, quite apart from its great difficulty of application, must on constitutional grounds be opposed. But if that is to be forced upon us, then at least the one argument against financial control being vested in Elected Members is gone, and I would ask Government not to turn down this motion out of hand, but merely to see in debate whether they can give any really valid reasons why, given the power of veto and certification, we should not have that next step granted to us of financial control. The country is unanimous; it considers that it has the right to demand it; that the history of the past four years has shown that that demand is not an unreasonable one; and I believe the country is waiting to-day with a very live interest to see the attitude with which this motion is received by the Government of this Colony.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, in speaking to this motion for a few moments, I do not want to waste more time than is necessary in a mere recital of facts, but at the same time it is I think necessary to review a few of the facts that have led up to this demand so inevitably. Very briefly, first of all, one would like to remind this House of the fact that the introduction of white settlement in this country was a deliberate act of imperial policy. That course was taken for the reason, obvious I think to all administrators of this Colony, that only by that means was it possible for the economic development of this Colony to take place. Here we had a country which could not lend itself to the rapid production of highly priced tropical products by comparatively small native effort. White settlement—the introduction of a strong body of British colonists was the only method of carrying out that development. With all its ups and downs, it has been a perfectly consistent policy until now. The results of this policy we see all around us to-day. A great export trade has been built up by white settlers; a great internal native market, which would not otherwise exist, has been created by our concentration of that business and all our multifarious activities connected with it; a vast amount of money has been let loose among the native population in the form of wages; and then there is the enormous amount of capital—something

like £20,000,000 sterling—invested in this country by private enterprise—all this shows that this policy has been a brilliant success. Moreover, Sir, the result that has been achieved is that by that policy the whole responsibility for the maintenance of the economic structure of this Colony has been thrust upon the white settler and he has cheerfully accepted it. It is only on these grounds that it has been possible to build it up, and it is only on these grounds that it will be possible to maintain it. Access to overseas markets and overseas credit facilities is dependent on confidence. It is a purely-business proposition. It is impossible for those who are responsible for maintaining this economic structure to have that confidence or inspire in others that confidence which will enable them to do that work unless a fair measure of control over the finances of the country is vested in this Legislature. I raise that expression, Sir, because a misunderstanding I think has been introduced by the insistence, which is a perfectly natural one, that control must rest in our hands on this side of the House. We want to see the control in the hands of this Legislature, and it seems to me that the obvious constitutional method of doing that is to make use of the Elected Members on this side of the House as a medium for bringing an increased measure of authority to this Legislature in the matter of the finances of the country.

If some simple machinery could be devised for that purpose I think it would greatly facilitate the work of our yearly Budgets and the passage of those Budgets through this House. Agreement would be arrived at on principle before the Budget was presented and its close scrutiny and possible minor amendment in Select Committee would be further simplified, and to devise some such machinery does not seem impossible. I put forward as a suggestion a Financial Secretary—on the lines suggested by Lord Moyne—with under him a Finance Board consisting of a few members from each side of this House, and statutory power in the hands of a Select Committee with an unofficial majority as at present to have the final decision in the matter of money bills—that constitutional problem does not seem very difficult.

I think there can be no more opportune time to regard this matter than the present, when we have before us two financial measures of vital importance and very controversial, as regards which there is probably wide divergence of opinion on both sides of this House—the income tax proposal and the Native Betterment Fund proposal. I do not wish to recapitulate the debate on the one, nor do I wish to anticipate any debate on the other, but I do think that we should realize that in these two very important and difficult measures this Legislature is not in a position now at this date to give a frank and spontaneous decision on these matters and either

accept or reject them. They can be forced upon this country whether we like it or no. That is a position which I believe the economic structure of this country cannot stand very much longer. These shocks from overseas, these measures introduced very hastily, sometimes in a very ill-considered manner, without sufficient previous consideration, are thrust upon us, and here in this Legislature you have men on both sides of the House with more experience of this country and its needs and requirements than anywhere else, and yet these men are not allowed to make the decision in the best interests of the country. I submit it is a position that cannot continue for long. I think it is of the most vital importance, this question of giving authority to this Legislature of Kenya Colony to manage its own financial affairs as far as may be possible, but, of course, under proper financial constitutional control, as pointed out by the hon. Member for Nairobi South. That is an obvious part of any proposal that has been made. But what we want is constitutional control, and not autocratic control, and if we leave power in this Legislature to come to our own decisions with regard to our finance bills—through whatever method of financial control is devised, the only power that can override that decision is the power of the Imperial Parliament—then we have advanced a step which I believe would be of the greatest value to this Colony and to everybody who lives in it.

There are several difficulties in the way, Sir, and it is no use pretending they do not exist by merely ignoring them; and one of them is that which is thrust upon us that in making a demand of this sort from this side of the House we should be perfectly clear as to what our ultimate aims and objects are. Ultimate aims and objects are excellent things but if you introduce them in this connexion you immediately get about half a dozen brought forward for your consideration. Some people say that full responsible self-government is what we are after—whatever that may mean; some people say an elected European majority is our ultimate aim; others some other form of Legislature, possibly on the lines suggested by the Hilton Young Commission or something of that sort; leading again to some other further aim that is not yet specified. Or else we have suggestions made by eminent authorities outside the Colony such as Mr. Winston Churchill in 1922 or the Imperial Government itself in 1930, when they said that the ultimate aim of this Colony must be government by a ministry responsible to an electorate representing all sections of the population—another exotic vision which possibly has some meaning and possibly has not. But, surely, the answer to them is that we cannot at this stage of the proceedings commit ourselves to ultimate aims and objects in this country. All we can say is that as and when the time comes

when we are to carry this burden of responsibility on our own shoulders we are prepared to accept it and are prepared to accept it in whatever executive manner it is imposed upon us. We cannot make our proposals for constitutional advance on future aspirations, however ideal they may be, when there is no agreement about them; but we can take steps which are based on the hard cold facts of past and present experience, and that is what we are suggesting to Government to-day. We have this position built up in the country; we have this economic and financial structure built up; as has been pointed out, it has been built up by white settlement, and we need, definitely need, in this Legislature the power to manage this financial machinery for ourselves and to protect ourselves against the ceaseless shocks of interference from outside.

I am glad, Sir, that the hon. Member for Nairobi South made clear what I believe is the general opinion of Members on this side of the House about the Native Betterment Fund proposal. That is a proposal which I personally regard with the utmost distrust and hostility. I think it is an inexcusable invasion of the proper rights of this Council in the management of its own affairs, and I hope it will never reach the Statute Book. The whole object of this motion, Sir, is to expand and widen the powers of this Legislature in the matter of this country's finances, whereas the other proposal that I referred to is one that must obviously curtail those powers and reduce this Legislature to an even lower level of farcical impotence. Therefore I should never dream of using it as an argument to strengthen a point of principle to which it is obviously opposed.

We are endeavouring to point out to Government as best we can, by fact and argument and quiet reasoning, that this step is really now necessary for the benefit of this country and all the people in it. Another difficulty, however, which confronts us in trying to make that reasoned argument clear is this question which is so often brought up of the taxpayers' rights. That expression "taxpayers' rights", when applied to a country such as Great Britain, where you have a homogeneous population all in the same position and all in the same boat, and that kind of thing, no doubt provides a complete explanation of the whole constitutional position. In this country, I submit, it means nothing. We have here different communities in different stages of advancement, different stages of political capacity, different taxable capacity and vastly different importance in the economic structure of the country, and if we try to base an argument for the advance of this country on the question of the rights of taxpayers, I submit we are merely confusing the whole question and introducing an insoluble problem. It seems to me that the

whole case should be based not on this much-belaboured question of taxpayers' rights but on the duties and obligations of the taxpayers to the country in which they have come to live. If we approach the matter in that manner, Sir, we can see that the proposal that there should be thrust on the representatives of certain sections of the taxpayers on this side of the House the responsibility for assisting in the management of the country's affairs is a perfectly fair and straightforward proposition. We do not prejudice the issue. The time may come, or it may not come, when native men may sit on the seats in this House now occupied by some of the officials of Government appointed to represent them—we do not know whether they will or will not; if they do, it will mean that they too have reached this standard of responsibility, and will have to play their part and take their share. If at the same time you so construct your Legislature that all sections of the taxpayers are properly represented there and their interests properly protected, then I submit you have got a machine which will work. In this connexion at the present moment a very interesting point arises which is worthy of consideration. At the present time in this House all sections of the taxpayers are adequately represented. We admit that. When we come to the question of protecting their interests we find the native taxpayers are completely and irresistibly protected as they should be by the official majority; on the other hand, those sections of the taxpayers who send elected representatives to this House have no protection at all. We can explain, we can expostulate, we can appeal—but we cannot protect; whereas if some such step as we suggest were taken this lop-sided arrangement would be more evenly balanced, and whereas we would have power to protect the interests of those whom we represent, the arrangement would in no way diminish the power of Government to protect those who are not able to represent themselves here.

I think those difficulties that have been brought forward in argument in opposition to any such proposal as we are discussing to-day can largely and entirely be met by quiet discussion and quietly endeavouring to adapt those arguments to the country and to keep in view the absolutely essential nature of the demand which is made in this resolution. I hope very much now, Your Excellency, that Government will not turn down this motion without the very deepest consideration. It is an economic problem of the greatest importance to this country, one which I believe will remain the most important problem before us until some solution for it has been found. I have spoken quickly to-day and briefly in covering it for the first time, but I believe that the various difficulties which appear in the way are not really as great as they appear if

only the one great principle can be admitted that this Colony of Kenya shall have in its own Legislature the right to manage its own finances under proper constitutional control.

THE HON. ABDEL WAHID: Your Excellency, how much I wish to be in that happy position when I would have been glad to give my wholehearted support to this motion. Unfortunately, however, unless the reconstitution of the Legislature takes place on the basis of fair representation of all communities, I do not think I am justified in supporting it. I agree with it entirely in principle, though. Your Excellency, I therefore feel compelled to oppose it at the present moment.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I only rise to speak on one point which was made, and which is only brought forward when such questions as this come forward. That is the question raised by the hon. Member for Nairobi South when he stated that now that the proposal for the Native Betterment Fund is on the boards the objection against such representation or such control by the Elected Members had been taken out of the way. All that I want to say this morning is that I would remind hon. Members of this House that it is only a very small portion of native taxation that is taken out of the revenue to be under the control of the Committee. Whether that takes place or not, I am not speaking to that point now, but not only is half of the direct taxation which comes from the natives still under the control of the Legislature of this Colony, but there is also practically a million sterling of indirect taxation, which very often is not taken into account.

The reason why I rise, Sir, is to correct the impression that because half of the direct taxation over a period of five years is to be taken from the Budget and put into a separate fund, that therefore the native part of the expenditure has already been dealt with. I beg to say, Your Excellency, in all submission, that that is not so—that there is still the other half of the direct taxation and there is also the amount of even if there was such control granted to Elected Members—the natives even then should have their full representation as to how the remainder of the revenue arising from native taxation should be spent, as well as other aspects. I beg to say that of course numerically they are very much larger. Europeans are paying £36 a year and the natives a very small sum. But I beg to say the natives have contributed collectively the larger share towards the revenue of the country. They have contributed £791,000 and the Europeans have contributed

£665,718, and although £239,000 has been deducted from the revenue and put under the control of a Committee to administer that Fund, still there is the other large sum contributed by the natives, which of course deserves consideration by those representing native interests, whether Government or otherwise. The natives are not in a position to be heard, and put forward their own views, but they are playing their part very nobly in the proportion of the revenue which they are contributing in direct and indirect taxation.

THE HON. T. J. O'SHEA: Your Excellency, I observe with great interest that the speeches made on this side of the House so far in support of this motion make it clear that it is not intended that Government should interpret the motion in its widest possible terms. However much people may deceive themselves, immediately they get down to consider the practical implications of a motion of this nature, it must become obvious to them that the control of finance is the control of policy, and the widest interpretation of that motion is responsible self-government. Apparently, however, that is not what it is intended to convey by this motion. We are asked to interpret it in a much narrower sense, which seems to me advisable, because it must be obvious that there would be no good purpose served in putting it forward in the present stage in its widest possible sense.

I observe also that no attempt has been made to support this demand on the dicta of dead warriors and kings, because I believe that that is a very faulty basis on which to put it forward. I base my support of this motion on traditional British policy. As I understand the traditions of the British people, they are that Government must be based upon the broad consent of the governed and that it must have the ability to govern. If this motion be examined from that point of view, I think there is everything to be said in its favour. Unquestionably the existing government institution of this country is not based upon the broad consent of the governed, and I think it is equally the case that it cannot justify itself on the ability to rule. For years past it has been becoming increasingly obvious that our present machinery is rapidly becoming obsolete and must be replaced. In the last year or two that has become so obvious that I do not see how it is possible for Government to resist the demand for replacement, and I suggest that, from whatever point of view you look at the problem, one is bound to recognize the necessity for change of some kind. The existing state of affairs cannot exist much longer without irreparable harm being done to this country.

The necessity for reform being recognized, upon what basis can that reform be based? There is only one possible basis, and that is to resort to closer association of the governed with the machinery of government. I would urge, Sir, that it is necessary in Imperial interests that the government of this country should be reformed and reformed along those lines. This part of Africa is becoming of increasing importance to the Empire, and I venture to prophesy that within the next five or six years it will become of even more importance in the Empire. The present territorial status of Central Africa may not be preserved very much longer, and in the changes it seems to me almost inevitable that this particular part of Central Africa will become of increasing importance, and with that increased importance it will become of vital necessity to the Imperial Government to see that the Government in this territory is based upon a sound foundation, and the only solid foundation I can see for it is the broad consent of the governed and the ability of the government to govern.

The Secretary of State to-day has the choice between making this part of Africa another New Zealand or another South Africa. I am taking New Zealand as that part of the Empire most closely welded to the home country by ties of friendship, respect and loyalty. I hope I am not doing South Africa an injustice by saying that the spirit there is rather different from that of New Zealand, but I suggest that we are at the parting of the ways in this country, and that the policy of the next few years will decide whether the rising generations of Kenyans are going to lean towards the Motherland, as the New Zealanders do, or lean as sections of the South African people do. In Imperial interests, it is necessary that the choice should be made in the near future. If it is to be a wise choice, it will be based upon the idea upon which I support this motion.

I am not surprised that the hon. Indian Member who has spoken should have refused to support this motion. I regret to say that within my experience of Indian Members in this House they have been all too prone to see in motions from the European Elected Members intentions which they very often do not include. I am sure I am interpreting the views of the European colonists of Kenya correctly when I say that they recognize the necessity of making provision for the interests of the Indian people in this territory, and that in the future constitution they would be prepared to make provision for those Indians. But perhaps it is only right I should say also that the Indians themselves must recognize the limitations of their position here. For better or for worse, the native inhabitants of this country have to be developed along either western

or eastern lines. If they are developed along western lines, then western people are more competent to guide and assist them than their eastern competitors. That implies that the executive government of this country must in the future remain in the hands of the western people, and present-day tendencies justify one in urging that we shall in the near future have to make up our minds as to whether this part of Africa shall in the future be part of the British or the Indian Empire. But believing, as we do, that it must remain a part of the British Empire, then our position and the future government of this country are surely clear. I am not one of those who think, Sir, that more obstacles will be placed or can be placed in the way of the people, who have the ability to govern, getting control of their finances because of their position in relation to the native races. I think we can with justice urge that the colonists of Kenya have a record unequalled in the history of colonization in relation to native peoples. I know of no other part of the world in which a more liberal policy has been pursued towards the aborigines of a country in the process of being colonized by people of a different race. I think it is not without significance that, as we have learnt more of the requirements of the native peoples and as we have grown into a deeper understanding of our obligations, our policy has been of an increasingly liberal tendency. I feel that I can claim for our people that there is no reason to fear that that policy will be changed because greater responsibility is put into our hands. I recognize that for many years to come the ultimate control will remain in the hands of the Imperial Government—and that I do not think any of us can question—but we believe that we can with benefit to the native people be made greater use of if the financial control of Government is placed in our hands.

Lastly, Sir, I would urge that it is necessary for the economic future of this territory that financial control should be placed in our hands. The credit of the country is at present jeopardized by the unsatisfactory government machine of to-day. I believe the credit of this country would rise considerably if our machinery, our government machinery, was reformed and control were placed to a greater extent in the hands of local people. In the course of the last ten or fifteen years a complete change has come about in this country. Whereas ten or fifteen years ago the Government could urge that experience and knowledge were on the other side of the House and that their critics on the other side of the House were very largely amateurs, to-day I think it can be urged that the weight of experience and knowledge is on this

side of the House, and not on the other, and day by day it becomes increasingly obvious that reform must take place, and reform can only be in the direction of giving greater responsibility to the people.

I have great pleasure in supporting the motion.

THE HON. HARIU SINGH: Your Excellency, I oppose this motion, not on the ground that it has been put up by the European Members, but on the ground that the Indians have not got adequate and equal representation on this Council. It has been said that if the management of the financial position of the Colony were given to the Elected Members they would not seek for self-government. I think it is a step towards self-government, and I cannot agree until equal representation is given to the Indians. It has been said that this Colony is meant for the European population. We Indians are subjects of the same King and Emperor, so we claim as much right to live and control our finances and take part in all the management as the Europeans have got.

With those few words, I oppose this motion, Sir.

*The Council adjourned till 10 a.m. on Tuesday,
the 11th April, 1933.*

MONDAY, 11th APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Tuesday, the 11th April, 1933, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BIRSE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 10th April, 1933, were confrimed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

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

Report of Committee Appointed to Inquire into Certain Questions Affecting Public Works Department Activities in the Old Nakuru, Eldoret and Kisumu Divisions.

By THE HON. T. D. H. BRUCE (SOLICITOR GENERAL):

Report of Select Committee on the Stock and Produce Theft (Levy of Fines) Bill.

NOTICE OF MOTIONS.

THE HON. T. J. O'SHEA: Your Excellency, I beg to give notice that at the next session of Council I shall move the following motion:—

"That this House urges upon Government the necessity of taking action in time for the General Election due in March, 1934, to alter the Electoral Boundaries as recommended by the Electoral Boundaries Committee's Report of 1924, and further urges the necessity of providing representation for the mining community at Kakamega."

THE HON. T. D. H. BRUCE: Your Excellency, I beg leave to give notice that I shall move the following motion:—

"That the Report of the Select Committee on the Stock and Produce Theft (Levy of Fines) Bill be adopted."

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, I beg to give notice that at a subsequent meeting of this Council I shall move the following motion:—

"That this Council approves the payment of a reduced pension of £114 13s. 11d. per annum and a gratuity of £382 5s. 10d. to Mr. B. J. Rand, who is being retrenched from the Service on the 30th April, 1933, in lieu of an unreduced pension of £182 18s. 6d. per annum."

ORAL ANSWERS TO QUESTIONS.

COMMITTEE ON THE DECENTRALIZATION OF THE PUBLIC WORKS DEPARTMENT.

No 5.—**LT.-COL. THE HON. J. G. KIRKWOOD** asked :

Will Government please state when the Report of the *ad hoc* Committee on the Decentralization of the Public Works Department will be published?

THE HON. THE COLONIAL SECRETARY : It is not proposed to publish the Report. A copy of the Report has, however, been laid by me on the Table for the information of all of the hon. Members of this Council who wish to see it.

THE HON. T. J. O'SHEA : Your Excellency, arising out of that answer and in view of the importance of the subject considered by this Committee, may I ask whether copies will be available to Members of the House?

THE HON. THE COLONIAL SECRETARY : I think there should be sufficient copies for hon. Members who desire them without Government going to the expense of printing the Report.

THE HON. T. J. O'SHEA : Thank you, Sir.

MOTIONS.

UNOFFICIAL FINANCIAL CONTROL.

HIS EXCELLENCY : The debate will now continue on the motion by the hon. Member for Kenya.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I rise to support the motion before the House. We were told yesterday by the hon. member, the Member for Kenya, that it was not a political question, that he was not raising it from that point of view. I must admit that I fail to follow his reasoning. I think it is undoubtedly a political question and it is a constitutional question since it is arguing for constitutional advance in this Colony, which I am in full sympathy with as I believe it is long overdue.

The hon. Member representing native interests told us in the course of the debate yesterday that he thought the Betterment Fund of £279,000 was small and should not be interfered with. Nobody suggested that it should be but I would remind the hon. Member that the Betterment Fund is £279,000 on paper but it is probably nearer three-quarters of a million pounds if an accurate figure were worked out.

We were also told by the hon. Indian Elected Member that he could not agree, but he is looking at it from the same point of view as I am. It is a constitutional question asking

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for constitutional advance, and he asked for full representation for his own people. I think I am right in saying that the White Paper that was published in 1923 laid down what that representation was to be both for the European and for the Indian communities in Kenya, and I see no occasion for raising that question again or any justification for it, neither do I see any justification for any claim from any Indian for equality with the Europeans of this Colony. It has got to be understood that this is a British Colony administered by the Home Government as a Crown Colony. What justification he has got to claim equal rights in this Colony I do not know. It is beyond my imagination. I cannot conceive any reason or any justification for making that claim.

This question has been brought very much into the limelight lately due to the Income Tax Bill, a constitutional issue, and due of course to the Betterment Fund, the creation of that fund, which is also a constitutional issue separating finance from general revenue for the benefit of the natives of the Colony. Constitutional questions in the past have created very great difficulties. To go back to when Britain did have a Colony in America—through their unsympathetic attitude towards their people in America in those Colonies they brought about a rebellion which ended in the Civil War in America and the loss of those Colonies. That is history, and we can go right through ever since. We have had Colonies in the Empire—the same struggle, the same demands have always been made. History has always repeated itself in every case, and no advance has ever been given without very strong pressure being brought to bear on the rulers at home. The same thing can be said about Ireland. The question of Home Rule has been going on for as long as I can remember, and that is some sixty years. Home Rule was delayed. A very insistent demand was created in Ireland and it was maintained for a very long period of years, and it has ended very disastrously both for the Irish and the Empire. That struggle, the results of that struggle, are still going on, and had sympathetic consideration been given to Ireland in the past and in time without creating that ill-feeling and bitterness on their part against the British Empire I maintain the Empire would have been very much better off to-day.

In Kenya, I say, it has been brought to the forefront in very recent times due to the intention of the Government to impose income tax and the betterment fund. Both of them are constitutional issues, and I maintain also that if the representatives of the people do not accept the challenge that is contained in both those measures they are lacking in their duty to the people they represent. It is a very difficult question, I admit. It is very difficult for Your Excellency.

It is very difficult for everybody. It is more difficult in Kenya in that we have not only the Europeans but we have the Asians and we have the natives, but I maintain given goodwill by the authorities at home and amongst ourselves in this Colony that we could arrive at a solution satisfactory to everybody and for the welfare of the Colony in general. We have had many commissions visiting the Colony, such as the Hilton Young Commission. We have also had the Ormsby-Jore Commission. Sir Samuel Wilson, and recently we have had Lord Moyne. It is quite obvious to those who care to see the writing on the wall that a prophet is of no value in his own country. If they want an expert they must bring him from overseas, whether he has knowledge of our very difficult problems or not. The difficult position that the Government is placed in in solving those problems has no weight with their masters on the other side of the sea, but the time has arrived when Kenya has made up its mind that it is going to get a political advance. At the last Convention of Associations, which represents some sixty affiliated Associations throughout the Colony, a resolution was passed demanding that unofficial control should be vested in the Elected Members as constituted in this Council. It was a unanimous vote on that matter and Government will be wanting in their duty if they do not take notice of what happened at that Convention. That motion was debated on a Friday; it was again debated on the Saturday, and a unanimous resolution was taken on the matter. It only tends to show that the people of Kenya consider the time has passed and is overdue for a constitutional advance in this Colony, and I sincerely hope that the endeavours that are now being made to obtain that constitutional advance will be listened to. Sir Samuel Wilson when he was here carried on long negotiations with representatives of the people in this Colony and he arrived at what was known as the Wilson Agreement, but due to a change in the political parties at home nothing has been done. That brings me to the point that we are in this Colony, have been and will be, at the mercy of the political situation at home unless we get a constitutional advance that will give us more power in this Colony to regulate and manage our own affairs. It was quite obvious that when the Conservatives were in they were more or less faithful to the idea; the Labour Party again when they were in were opposed to the idea. It only shows that we are at the mercy of the political situation at home. We are simply pawns in the game.

I do hope, Your Excellency, that you will give favourable consideration to this motion. It seems to me it is a difficult position. I realize that; I realize the position that Your Excellency is in, but if we can have the substance of this

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motion conveyed to the Secretary of State and if he can be told that there is the unanimous opinion throughout the Colony behind this motion, then probably something will eventually happen.

I also would like to warn the Government that it is the general opinion throughout the Colony now, very firm, very insistent, that there shall be no taxation without constitutional advance, and I believe, in issuing that warning, I am only doing my duty. I do not wish to be compelled to take any part in any obstruction measures against the constitutional Government, but if Government acts unconstitutionally then other people in self-defence are compelled to act in a manner which may obstruct the constitution. All this could be saved by goodwill on both sides. Your Excellency, I do not propose to dwell on this matter. It is a most serious motion and it has culminated in a most serious situation in the Colony. When the hon. mover said that this was not a political question all I can say is I think he is a very great humorist. He evidently had in his mind that it was an economic question and would lead to economy if the intention of the resolution was implemented in this House. It would lead to saving by getting the co-operation of this side of the House in all measures of Government; and I believe that is the only happy solution for this Colony, and the longer it is delayed the greater will be the opposition to Government, and the greater the opposition the more regrettable from many points of view it will become. I hope as far as possible Government will do their part to try and get the co-operation of Members on this side of the House by getting the constitutional advance that is being demanded.

THE HON. THE COLONIAL SECRETARY: Your Excellency, in dealing with the motion that now stands before the House I confess that I felt myself in considerable difficulty, and I am very much indebted to the hon. Member for Plateau North for the remarks that have just fallen from his lips and which have helped somewhat to dissipate the fog which, in my mind at any rate, has been circulating there ever since I listened to the motion that has been engaging the attention of the House. The actual terms of the motion are:—

“In the opinion of this Council the time has now come when the control of the Colony's finances should be vested in the elected representatives of the people as at present constituted.”

I confess that when I first read that motion I took it at its face value—that it was a motion in favour of an elected unofficial majority. I was rather surprised therefore when

the mover of that motion prefaced his remarks by the statement that this was not a political question at all. Loath as I am again to incur the chastisement of the hon. and gallant Member for Nairobi North, I feel it is rather difficult for me not to treat this question on a political basis. But, Sir, as I listened to the way in which the debate developed it did become clear that there were apparently two lines of thought. As I gathered it—and he will correct me if I am wrong—the hon. mover of this motion envisaged the possibility of some form—whether in Select Committee on the Estimates or by some device within the present framework of the constitution—under which more financial control could be given to Elected Members opposite. Hardly, however, Sir, had those expressions fallen from his mouth than the hon. Member for Ukamba made it quite clear that in his view it was a different question altogether and must be treated as a broader issue, while the hon. and learned Member for Nairobi South put forward the view that it really was a constitutional question; but, if I am not misinterpreting him, he seemed to base his argument largely on the point that the Betterment Fund and Lord Moyne's proposals constituted an alteration in our constitution and, as the final form of that matter has not been taken, it did appear to him at the time that it was perhaps a little premature for us to discuss this very serious constitutional question until the final decision on the Moyne proposals had been got out of the way. When I say that, Sir, I would not like hon. Members opposite to think that undue weight in my view should be placed upon Lord Moyne's proposals as radically altering the constitution of the Colony, as it was very carefully and clearly set out by the hon. Member representing Native Interests that it is only a portion of native taxation which is to be put under the purview of a special body, not the total of taxation, and that control of a large sum of the finances of this Colony is still vested in the Legislative Council. But, Sir, I feel that the hon. and learned Member for Nairobi South was bound to take that line, in view of the attitude which he adopted, with I understand the full consent of the unofficial community of this Colony, before the Joint Select Committee recently. For, Sir, he will forgive me if I remind the House that in a written memorandum prepared by Lord Francis Scott, Mr. Harper and himself he stated the position which they wished to put before the Committee as they considered view at that time. If I may crave the indulgence of the House I will quote the words then used:—

"The opening months of 1931 find Eastern Africa, in common with the whole world facing deep and varied problems as the result of universal depression.

Eastern Africa has not yet experienced the full effects of this depression, nor is it clear that further problems may not arise as these effects concentrate and deepen over the territories.

It is however, possible to say that much hard work will be required thoroughly to repair the damage already done, necessitating a complete concentration on economic subjects to the exclusion of all other considerations, by those responsible for the administration of these territories, and by those concerned in production, trade and commerce.

It is significant to note that it is these reasons which have actuated the commercial community of Kenya in supporting the contention that consideration of any form of Closer Union should be postponed till the present period of depression has passed, and the economic condition of the world resumes a more stable basis than at present.

The same reasons have actuated the leaders of political thought in postponing their demand for a further advance in the political status of the Colony.

As in all countries, public work in Kenya falls to be performed by a comparatively small proportion of the community, and it is essential at the present time that the energies of public men should be concentrated on the serious and complex economic questions with which they are now confronted, rather than dissipated on the detailed and laborious work entailed by a proper consideration of constitutional changes of a highly controversial nature."

The memorandum then went on to deal with this question of the Select Committee on the Estimates in the following terms:—

"In Kenya there is firmly established a permanent white population and we are confidently of the opinion of Sir Edward Grigg that its destiny is greatly to increase. The tendency of such a population, which is already the driving force in the development of the Colony, must be towards a progressive increase in participation in its Government.

As it is, the elective principle has been in operation for eleven years, with the inevitable result that the unofficial element, though in a permanent minority, and theoretically an opposition, has acquired by virtue of its practical knowledge of Colonial problems, considerable influence on the Government of the Colony.

This influence has been described as disproportionate to its numbers particularly in the matter of the Annual Estimates, which are reviewed by a Select Committee on

which the elected members are in a majority. This fact, while it argues nothing as to the merits of the elective principle—except its value in promoting useful co-operation between governors and governed—emphasises the distinction between Kenya and the neighbouring territories."

That, Sir, was the considered view put before the Joint Select Committee at that time and what I would ask the House is, is the Government to suppose or to assume that the threatened imposition of income tax and Lord Moyno's proposals—which have not yet been finally agreed in their settled form—are so serious in their nature that the country as a whole desires to retreat from the attitude which it took up before the Joint Select Committee at home?

AN HON. MEMBER: Yes.

THE HON. THE COLONIAL SECRETARY: If that is so, Sir, I do suggest in all earnestness that if hon. Members opposite expect the Home Government to reverse the decisions so recently made in the Joint Select Committee Report, they will have to produce more concerted, more logical and more thought out arguments than have been advanced in Council this morning.

The matter, however we may view it here, however keen individual Members may be on their own point of view, is one which, particularly in view of this recent pronouncement—which, mark you, was not a party pronouncement, but was the pronouncement of the Joint Select Committee—will require, I would like to suggest, more considered reasons before opinion at home is likely to vary the opinion so recently expressed. In that connexion, Sir, I would just like to quote, if I may, from the terms of the Joint Select Committee's Report. In reviewing the position of the Kenya Legislative Council it says:—

"The Legislative Council, as the principal forum in which the affairs of the Colony are openly discussed and the only medium by which laws are enacted, must be so composed as to give to every separate race and interest a sense that their special point of view will be considered and safeguarded. The question which confronts the Committee is whether any, and if so, what changes in the composition of the Council are necessary in order to ensure a sense of security to each community with the knowledge that each has its fair share in the direction of the government of the whole country."

That, I suggest, Sir, is a very difficult formula to meet. We all know the practical difficulties in this Colony, but I do suggest that any measure of constitutional reform which is put forward from this country will have to be able to stand the test of those considerations which I have just read out. As a result, Sir, of this very close consideration at home, the final view of the Joint Select Committee was as follows:—

"The Government has an official majority and the Unofficial Members sit on the Council in the capacity of advisers, who can always be outvoted by the official majority should the Governor see fit to use that majority."

If I might interpose for a moment, Sir, and go back to the expression used in the memorandum which I have just read out, in which it is stated that the unofficial element, though in a permanent minority, is theoretically the opposition, I would like to say, in my view anyway, I think it is a great pity that it should be considered that hon. Members opposite are theoretically an opposition. I feel, as the Joint Select Committee said, that they are here as advisers to Government, to help us, to give us the information which we have not got as to how, very often, the unofficial community is thinking on important matters. The essence of a real opposition is that if the opposition view prevails they are in a position immediately to assume the reins of Government and prove their opposition is right. Unfortunately, under the constitution, that position here does not exist. Often for my own part I wish it did, but that being the position, Sir, to say that the gentlemen opposite are really the opposition is, I suggest, not really a correct view of the constitutional position. I often personally deprecate the fact that we all sit on opposite sides of the House with a piece of carpet down the middle and speak from opposite sides of the House. In other legislatures which I have been in, with a similar form of constitution, the Government and unofficial members have sat sprinkled together and I feel the psychological effect of that is not without its value.

To return, Sir, to my point. The final decision made by the Joint Select Committee was that the present position should be maintained. In arriving at that decision they make this significant reflection, particularly in view of the remarks made by my hon. friend as to the possibility of further unofficial representation safeguarded by powers of veto and certification. These are the words that are used:—

"Different considerations, however, arise directly the question of an unofficial majority is admitted into the discussion. This was suggested with the safeguard, however, of the Governor's veto and power of certification. It appears to the Committee—let me again repeat

that this was a Committee of all parties in the House— that, even with the safeguards suggested, an unofficial majority, whatever may be said to the contrary, does morally and in fact become responsible."

Those were the views of the Joint Select Committee, and only recently, when speaking on a different motion, I informed the House of what the final decision arrived at by the Secretary of State as a result of that Report was. I will repeat it again, Sir: "I do not propose that any change should be made in the present arrangement which secures an official majority in Legislative Council." May I again, Sir, repeat that that pronouncement was made in a despatch signed on the 13th July, 1932, after the submission of Lord Moyne's Report, and in fact on the very page in which that pronouncement is made special reference was made by the Secretary of State to Lord Moyne's proposals:—

"In this connexion it will be observed that Lord Moyne in his Report has recommended that one half of the proceeds of direct native taxation should be assigned to a Native Betterment Fund, the disposal of which should be controlled by a special committee with the Governor as Chairman. I have already stated in the House of Commons that I am in general agreement with Lord Moyne's proposal for the creation of a separate fund to be specially administered. If a proposal on these lines is accepted it will, I think, comply with the spirit of the Joint Committee's recommendations."

And just having said that he goes on to make the pronouncement which I have just repeated. That being so, Sir—not that I suggest for a moment that the Secretary of State will not be fully open to sound argument and will give the most careful consideration to any proposals that are put up—as I see it at present and the way the debate has gone, the only new feature which has occurred since that pronouncement was made is the very strong opposition which has arisen from certain sections of the community against the proposal to introduce income tax in this Colony, and I would again inquire, with all seriousness, as to whether that fact alone is likely to be regarded by the authorities at home as a sufficient reason for reversing a considered opinion so very recently made.

There is also a further consideration that might weigh with them in coming to such a decision. I admit now that I am proceeding into the realm of hypothetical conjecture, but the hon. Member for Plateau North pointed out that the nearest approach to agreement which we have arrived at in recent times on the matter of constitutional advance is what he termed the Wilson Agreement. If he would look through

the proposed constitution of Legislative Council under the Wilson proposals and the balance thereby proposed—on the assumption—and I admit it is a pure assumption—that nominated officials and nominated members for other interests would vote as they have already recorded their votes on the income tax measure, even under those proposals, with the support which the Government has had up to the present, there would have been a majority for an Income Tax Bill being introduced in this Colony.

Sir, I think perhaps I have said enough. My object in speaking has been to point out, not in any hostile spirit, but to point out the very real difficulties which I know all serious Members opposite who have given this matter full consideration realize are involved in the proposal, and in view of the debate to which we have listened and the divergence of views which have been expressed which I have endeavoured to invite attention to, I do seriously suggest that it might not be in the best interests of hon. Members opposite to force this motion in its present terms to a division. The debate will have had the result which I have no doubt the hon. mover had in mind of inviting public attention to this issue and to the fact that public feeling has, owing to incidents of which we all know, been strongly aroused in this matter, but in view of the pronouncements of the Secretary of State the hon. Member opposite will understand, and will I think not regard the Government as unreasonable, when I say we cannot accept this motion and I would suggest to the hon. mover that now the matter has been fully debated the motion should be withdrawn. The report will, of course, be forwarded to the Secretary of State.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I had not intended getting up but one has got to raise this point. The hon. the Colonial Secretary, Sir, stressed the fact of the evidence given in 1931. Now, Sir, he must be perfectly well aware, just as we all are, of the reasons for what he calls our retreat. It is entirely wrong, Sir. They did not press other points, they did not press for an unofficial majority or anything of that sort simply and entirely because the whole of the country and the Elected Members wanted to concentrate on the economic situation and they thought the other could be held in abeyance. Since then, Sir, matters have arisen in this Colony which have compelled Elected Members again to put them forward. We cannot go on as we have been going on in the last two years. We would have been quite content, Sir, if we had not been unjustly treated. It is all very nice for the hon. the Colonial Secretary to say that Government has done this and that for us. They have not, Sir. We have not had fair treatment in the last two years—hence

our present attitude. I am sorry, Sir, but I had to get up to disagree with what he thinks. I do not know why he should think we intended to abandon any efforts for self-government or an unofficial majority simply because of what happened in 1931.

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

MR. THE HON. J. L. COTTER:—Your Excellency, in answer to various questions brought up in this debate I am inclined to agree with the hon. the Colonial Secretary when he refers to the divergence of opinion. I had myself made it very obvious when I started to speak that I did not regard it as a political question and therefore I could not see how any of my supporters regarded it as such. They could say they did regard it as such because I regard that as an axiom, and I should like to dwell on that subject if I may for a moment. I admit now that I was entirely wrong. It must be a political question and the gentleman who spoke, the hon. Indian Member who spoke, on this subject has converted me. It is evident that in future we have to regard any question brought up, of finance or otherwise, as purely used by the Indian community as a means of getting extra representation. Very well, as they have thrown down the gauntlet we shall have to take it up, and therefore I will withdraw from my position myself in that and say that I do regard it now as a political question. I have been converted during the course of this debate.

The hon. the Colonial Secretary mentioned several small matters of divergence of opinion but, Sir, I would state that I myself—and here I am talking purely of myself—would like to state that I had regarded ourselves as an opposition, in tackling the question he brought up about our being advisers. I have been here two years, Sir, and on no occasion that I ever remember has anything except the most trifling measures been accepted in any shape or form. Take, for instance, the question of the economic advisory committee we have had. As a matter of fact it was eventually granted but we never applied for it in that shape or form, and I have no knowledge whatsoever that our advice has ever had any effect on Government.

As far as the hon. and rev. Member representing Native Interests is concerned, I feel sure that he has not read the suggestion of the Native Betterment Fund in Lord Moyne's Report for there he will see that whereas half the native direct taxation should be credited to the Native Betterment Fund he forgets there are many other factors in the shape of pensions, passages and payments during leave so that as a matter

of fact, as pointed out by the hon. Member for Plateau North, it is far more likely to be a sum of three-quarters of a million pounds than the £300,000 odd that has been mentioned as the Native Betterment Fund figure.

I regret very much that the Government finds itself unable to accept this motion. I suggest, Sir, that it is bound to come up again; the reason for it is too obvious for words. It is for somebody on this side of the House eventually to decide where this money is to come from and who is to pay and who is to call a halt to the reckless Government expenditure that has gone on ever since 1925, every year mounting up, mounting up, and whatever may be said by the hon. the Colonial Secretary there has never been any chance of any hon. Member on this side of the House being able to call a halt to that expenditure. The thing is necessary and it is bound to occur again, Sir. It must occur shortly because whatever the idea of the 1934 Budget is going to be a man is indeed an optimist who cannot see written out there the 1934 Budget, and I am going to chance my arm in a prediction that the 1934 Budget will be at least half a million pounds down. The same thing must crop up again and again and again and I feel sure that the Government itself will be the first to regret that they have not got other holders to put the burden of that Budget on when it does come up.

HIS EXCELLENCY: The question is:—

“In the opinion of this Council the time has now come when the control of the Colony's finances should be vested in the elected representatives of the people as at present constituted.”

The question was put and lost by 10 votes to 22:—

Ayes: Capt. Cotter, Col. Durham, Mr. Convery Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Capt. Schwartz, Major Sir Robert Shaw, Capt. Ward, Mr. Wright.

Noes: Mr. Bruce, Canon Burns, Messrs. Deck, Field-Jones, Gardner, Hakim Singh, Horne, Logan, MacGregor, Montgomery, Moore, Dr. Paterson, Gen. Rhodes, Messrs. Rushton, Scott, Sheriff Abdulla bin Salim, Sikes, Wade, Abdul Wahid, Walsh, Welby, Col. Wilkinson.

Declined to vote: Mr. Bemister.

REPORT OF SELECT COMMITTEE ON THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN BILL.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, I beg to move that the Report of the Select Committee on the Employment of Women, Young Persons and Children Bill be adopted.

The recommendation of this Committee, Sir, is that this Bill be enacted without amendment and the motion is therefore a formality.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee on the Employment of Women, Young Persons and Children Bill be adopted."

The question was put and carried.

BILL.

THIRD READING.

THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Employment of Women, Young Persons and Children Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

REPORT OF THE SELECT COMMITTEE ON THE JUVENILE OFFENDERS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Report of the Select Committee of this Council on the Juvenile Offenders Bill be adopted.

The Report, Sir, is a brief one of nine paragraphs and there are, I think, only three points to which I need draw attention. The first is that embodied in recommendations Nos. 4 and 5, which deal with clause 15 of the Bill. That clause, in the form in which it appears in the Bill, confers very wide and arbitrary powers of arrest on any person—not powers of arrest so much as powers of detention and taking before a Juvenile Court. The Select Committee felt that in the circumstances which prevail in this Colony that might possibly lead to arbitrary and excessive use of powers, and recommended that these powers be limited to authorized persons, an authorized person being a person or class of persons declared by notice in the Gazette.

The next point, Sir, is that in recommendation No. 6 of the Report. It was pointed out, after exhaustive research into this Bill made by the members of the Crime Committee, that nowhere in the Bill was it declared that the term of detention in an industrial school or reformatory has to be of such terms as to make such period of detention really reformative. The Committee have recommended that the present provisions of the Reformatory Schools Ordinance, which provide for a minimum period of three years and a maximum of seven years should be incorporated in this Bill. A period such as that will give a child or young person a real chance in life, whereas a short period of a few months is probably worse than useless. But with that power, Sir, there necessarily, in the opinion of the Select Committee, must go those additional powers which recommendation No. 7 proposes to confer on Your Excellency, a right of discharge at any time from an industrial school or reformatory school—the right of release when any fit person is found willing to receive and take charge of him, and also the right to remove from a reformatory school to an industrial school, or vice versa.

Those are the main recommendations, Sir; the only other one is that in the last recommendation. All other matters relating to the establishment of industrial schools and reformatories are, by clause 24 of the Bill, suspended until such time as the financial state of the Colony permits of the institution of such schools. That being so, Sir, it is quite obvious that the provisions for the sending of a child to an industrial school for a period of years also must be suspended. That is the import of the last recommendation, Sir.

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

HIS EXCELLENCY: The question is:—

"That the Report of the Select Committee on the Juvenile Offenders Bill be adopted."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I am afraid I have to move an amendment to clause 24 and I regret that I did not give notice to the hon. the Attorney General yesterday. It is really only a question of not having had time. My amendment is, after the word "until", to delete the words "the Governor by proclamation" in lines 3 and 3 and substitute therefor "the Legislative Council by resolution"; and in the last line but one of the clause to substitute for the word "proclamation" the word "resolution".

"I hope Government will accept that. I did refer to it in the debate on the second reading. It simply means that it will rest with the Legislature to say when these three clauses, which mean the expenditure of very considerable sums of money, should be applied. I am quite certain they would not be unreasonably applied but on a matter of principle we always have had these things subject to Legislative Council sanction and Government in practically every case has accepted that principle.

THE HON. CONWAY HARVEY: Your Excellency, I am prepared to second that.

HIS EXCELLENCY: If it is accepted, the Report of the Select Committee is adopted. . . . I think perhaps we had better consider this in the adjournment. Have you got your amendment in writing?

CAPT. THE HON. H. E. SCHWARTZ: I think the hon. the Attorney General has got it down, Sir. Can I move to report progress?

HIS EXCELLENCY: Perhaps we had better adjourn now.

THE HON. THE ATTORNEY GENERAL: Might I suggest that we deal with the other motions first?

HIS EXCELLENCY: Yes.

SELECT COMMITTEE ON 1933 ESTIMATES.

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

"That the Estimates of Revenue and Expenditure for the year 1933, as passed by this Council, be referred to a Select Committee for examination in the light of the Expenditure Advisory Committee's Report and to make a report."

As hon. Members are aware, the present position is quite an unusual and abnormal one. The Budget was passed and the Appropriation Bill enacted in December last but in putting that forward, Sir, you, in your communication from the Chair, stated:—

"The Estimates laid before you are what I might term 'Estimates subject to adjustment,' and if they are accepted on this understanding I can give you the assurance that from the 1st January up to the time when the Estimates are further reviewed in the light of the Expenditure Advisory Committee's Report I will only authorize, under General Warrant, such expenditure as is necessary to carry on essential services."

It is in accordance with that undertaking that we have taken this, the earliest possible opportunity, of bringing forward these Estimates, which are actually on the Statute Book, for examination in the light of the Expenditure Advisory Committee's Report which has only so recently been published.

The practical difficulty that this Colony is placed in is this: that owing to the fact that the Report of the Committee was not received quite as soon as we expected—a short time only before it was necessary to call Council together—there are certain matters on which Government has not had time really to give a considered opinion, if, in Select Committee, I am asked what is the Government's attitude on this or that. But I can assure hon. Members that when we go into Select Committee I will give them all the assistance I can in that regard.

There is a further point. As explained in one paragraph of the Expenditure Advisory Committee's Report, the provisional Estimates as passed already incorporate a large number of interim recommendations put up by them and the full effect of such recommendations as have not yet been so implemented is not likely in their opinion to have a very great effect on the year 1933. That being so, Sir, it will be a matter for us in Select Committee to see how we can deal with the Budget as it stands. But I do feel, anyway on those heads of expenditure which have already been so exhaustively examined by the Expenditure Advisory Committee, that we may be heating the air if we try to go over all that ground again.

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

HIS EXCELLENCY: The question is:—

"That the Estimates of Revenue and Expenditure for the year 1933, as passed by this Council, be referred to a Select Committee for examination in the light of the Expenditure Advisory Committee's Report and to make a report."

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, as you are aware, under ordinary circumstances and in ordinary years the motion to go into Select Committee just proposed by the hon. the Colonial Secretary is the occasion for what may be termed a full dress debate on the Estimates. That full dress debate did not take place when the Estimates were introduced last year. There was a debate, but not covering the ground that is usually covered, and there will probably be a considerable amount still to be said in this House. We have felt however—and the hon. Member for Plateau South is in agreement with us . . .

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

CAPT. THE HON. H. E. SCHWARTZ: I understood that he agreed with me; if I have misinterpreted him I apologize. We feel that this morning is not the time to deal in detail with any of the matters which may have to be dealt with, but that they had better come after we have come out of Select Committee, when we have had our discussion and when our minds are clearer and the points at issue have been set out more clearly for our consideration. We do not, therefore, Sir, propose to indulge in an ordinary debate on this resolution but reserve to ourselves the right to do that when the motion is proposed in the House that the Report of the Select Committee be adopted after we come out of Select Committee.

I have only one other thing to say. Speaking for the Elected Members Organization, we did agree that we personally thought that it would not, as the Colonial Secretary has said, be of any value to cover the whole of the ground that has already been covered by the Expenditure Advisory Committee, but we did wish to go into as much detail as we desired into those parts of the Budget which were excluded from the purview of the Expenditure Advisory Committee and also deal with those questions and those recommendations of the Expenditure Advisory Committee which might affect expenditure for the year 1934. I understand that the hon. Member for Nairobi North wishes to ask the hon. the Colonial Secretary for an assurance in regard to procedure in Select Committee but I understand that, apart from that, no Members propose to address this Council on this resolution this morning.

CAPT. THE HON. H. F. WARD: Your Excellency, on a point of order and in view of the actual wording of the resolution now proposed, which might be taken to limit the deliberations in Select Committee to matters brought to light by the Expenditure Advisory Committee's Report, I would ask for an assurance from the hon. the Colonial Secretary that we shall not be prevented from going into certain urgent matters connected with agriculture and agriculturalists and affecting seriously the revenues of this Colony.

THE HON. THE COLONIAL SECRETARY: Your Excellency, if any such points arise on the agricultural vote quite naturally hon. Members will be quite open to take them.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I only regret I cannot agree to function on any Select Committee in terms of this motion. I take it as a definite restriction of past privileges that we have had on this side of the House, definitely stating here just how far we can go and no further in the Select Committee on the Budget. In Decem-

ber I made it quite clear I was not going to detain the House debating the Budget seeing we were told we should have an opportunity at the following session. I have always had that in mind. I believe that was the intention that was conveyed to the House and the attitude they took on it was that the Select Committee would go into the Budget as usual during the session that followed, and if by this action I am going to be debarred from treating any one item in the Budget in Select Committee I shall not sit on the Select Committee.

THE HON. T. J. O'SHEA: Your Excellency, if reference is made to the address which you gave to Council at its opening on the 14th December last and also to the address given to the House by the hon. the Colonial Secretary when, on the 19th December last, he moved that these Draft Estimates be approved, it will I think be seen that no charge of being merely fractious can be laid against me if I take exception to the procedure that it is now proposed to adopt with regard to the Estimates for 1933. It was clearly indicated at the December session that these Estimates were provisional only and that revised Estimates would be introduced early this year. On that assurance Members on this side did not debate the Estimates for the year as they are accustomed to do, and again it is now suggested that we should not debate them to-day. I have the strongest possible objection to allowing the Estimates for the year, under such difficult circumstances as we are in, going through without receiving the fullest possible consideration, and I cannot agree to the acceptance of these Estimates in this cursory manner. In view of these facts and that the Estimates as presented make provision for a very large sum of the country's revenue being set aside for something known as the Native Betterment Fund, while in fact a Native Betterment Fund has never yet been agreed to by this House in principle, nor has any machinery been set up with the approval of this House for the administration of that fund, it seems to me entirely unconstitutional that a large sum of money like that should be set on one side before the House has agreed in principle to such a thing being done and before the House has discharged its responsibility of providing the necessary machinery to administer that fund. I raised the issue some months back and Government agreed to the appointment of a Committee to tender their views on this subject. That Committee has not yet sat: the majority of the Members of it have wasted the interim in trying to decide whether we should accept Collin's Income Tax Bill or Short's Graduated Poll Tax Bill.

Again, Sir, the Estimates as now presented to us do not include revenue from taxation which Government contemplates bringing into being in the very near future. I understand

that it is the definite intention of Government, whatever may be the views of Members on this side of the House, to introduce new taxation of some sort this year and it estimates to get some appreciable amount of money from that new taxation. That being the case, I do not see how we can possibly allow Estimates to pass for the year in which that new taxation revenue is not accounted for.

Again, the Estimates as we are now asked to approve them show a deficit, though I understand that the arrangements the Government has in view for this year do not allow of a deficit, that in fact steps have been taken to prevent a deficit arising. In such circumstances I suggest it is most improper that this House should pass these Estimates.

Again, it has been a laudable practice of this House year after year as long as I can remember it to debate the principles of Government policy as disposed by the Annual Estimates. That has not been done this year and I think it more than ever necessary it should be done in a year such as this. If it be suggested to me that we can still do that on the Report of the Select Committee I ask what is the sense of doing it after the work of reviewing the Estimates for the year has been completed?

In these circumstances, Sir, I hope the House will allow that I am reasonable in objecting, as I most strongly do, to the passing of this motion.

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

THE HON. THE COLONIAL SECRETARY: Your Excellency, the only remarks that I would make in reply to the hon. Member for Plateau South are that I am not asking him to pass these Estimates. I am asking that they should be moved to a committee, to a Select Committee framed on just the ordinary basis of a Select Committee on the Estimates, for examination. I do not think that anything that I have said has suggested that in that Committee the Members of it should not be able to examine the Estimates fully. It is perfectly true, however, as the hon. Member for Nairobi South has said; that—and I am quite sure he was speaking in the belief that he had the support of all the Elected Members behind him—so far as they were concerned they were most anxious to go into the Estimates properly though much of the work which had been so admirably done by the Expenditure Advisory Committee need not necessarily be gone over again, but that there were several items of expenditure which had not been within their purview which they would naturally like to examine and it was on that basis of perfect good faith on both sides that the motion was put forward in the shape in which it has been put forward.

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HIS EXCELLENCY: The question is:—

“That the Estimates of Revenue and Expenditure for the year 1933, as passed by this Council, be referred to a Select Committee for examination in the light of the Expenditure Advisory Committee's Report and to make a report.”

The question was put and carried.

CAPT. THE HON. H. E. SCHWARTZ: I presume the Select Committee will be the usual one, Sir.

HIS EXCELLENCY: It will be a Select Committee with the usual personnel, including all the Elected Members.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: Your Excellency, with your permission, Sir, I beg to move that Standing Rules and Orders be suspended in order to enable the Companies Bill to be read a first time without due notice.

As hon. Members will observe, I am not suggesting anything more than the first reading, Sir, and the argument in support of moving the suspending of Standing Rules and Orders can be put very shortly, Sir. This is a very lengthy and comprehensive enactment and it is Your Excellency's intention to adjourn Council this week until the 24th. Obviously a measure so substantial as this ought to be examined in Select Committee and I understand that hon. Elected Members are in agreement with the course that I am about to propose, Sir, namely that the Bill should be formally read a first time to-day and be read a second time before the adjournment this week and then be referred to a Select Committee which will have an opportunity of making an exhaustive examination of this very lengthy measure.

THE HON. T. D. H. DUNCAN: Your Excellency I beg to second.

The question was put and carried.

BILL.

FIRST READING.

THE COMPANIES BILL.

On motion of the hon. the Attorney General the Companies Bill was read a first time.

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

The Council adjourned for the usual interval.

On resuming.

MOTION.

REPORT OF SELECT COMMITTEE ON THE JUVENILE
OFFENDERS BILL.

THE HON. THE ATTORNEY GENERAL: Progress has been reported, Sir, on the motion which stands in my name:—

“That the Report of the Select Committee on the Juvenile Offenders Bill be adopted.”

The hon. Member for Nairobi South has moved an amendment.

HIS EXCELLENCY: The question is that the motion be amended by the addition of the following words at the end thereof:—

“Subject to the amendment of clause 24 (1) by the deletion of the words ‘the Governor by proclamation’ where they occur in lines 2 and 3 of the clause and the substitution thereof of the words ‘the Legislative Council by resolution’; and by the deletion of the word ‘proclamation’ at the beginning of the penultimate line of the clause and the substitution thereof of the word ‘resolution’.”

THE HON. CONWAY HARVEY: Your Excellency, I second that.

HIS EXCELLENCY: Clause 24 (1) of the Bill will then read:—

“(1) The provisions of sections 18, 19 and 20 of this Ordinance shall not come into force until the Legislative Council by resolution has declared that the provisions of the said sections shall, from a date to be specified in the said resolution be in force either in the whole Colony or in any area or areas in the Colony.”

The question was put and carried.

HIS EXCELLENCY: The question now is that the Report of the Select Committee, as amended, on the Juvenile Offenders Bill be approved.

The question was put and carried.

BILLS.

THIRD READING.

THE JUVENILE OFFENDERS BILL.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Juvenile Offenders Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

SECOND READINGS.

THE CURRENCY LOAN BILL.

THE HON. THE TREASURER: Your Excellency, I beg to move that the Currency Loan Bill be read a second time.

Hon. Members will notice that in this case the stated Objects and Reasons are longer than the Bill itself, and they are so complete that I think there is little left for me to say that would be of any use to Council. There are just two points, Sir. The first one is, Sir, the probability of the Currency Board having to take advantage of this Bill which is nothing more than an enabling measure, and on that point, Sir, my own opinion is that the probability is rather remote, except possibly for a short temporary borrowing towards the end of this year. The demands on the Currency Board for the credits of East African Currency have been diminishing for some time past and they show signs of diminishing still further. Already this year the tide has commenced to flow in the opposite direction and the Currency Board has received £250,000 in London for transfer to East Africa.

The next point, Sir, I think is the extraordinary change which has taken place in the trade of the Colony. I think, for the first time in the history of the Colony, the balance of trade is favourable, and that directly affects the transactions of the Currency Board. So long as the balance of trade was adverse there seemed little prospect of a change in the flow of money but that has actually taken place now.

The third point is, of course, the Kakamega goldfields. If there is anything at all in the opinion generally expressed of the possibilities there and of the importation of capital for development of the goldfields, then I think we can rest assured that the Currency Board will not have to take advantage of this enabling measure.

The next point, Sir, is the arrangement made for financing the Currency Board in the case of need and the intention, as I understand it, is not that a loan should be raised in the ordinary way. Credits have been arranged with London houses which can be drawn upon as required and paid as convenient at very low rates of interest so that, even should it be necessary for the Currency Board to borrow at all, they can borrow if necessary for a week or a fortnight at low rates of interest and repay as soon as money comes into their hands. I think that is all I can usefully add to the Objects and Reasons appended to the Bill, Sir.

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

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

CAPT. THE HON. J. L. COTTER: Your Excellency, I am opposing this Bill—and I hope every other hon. Member on this side of the House will do likewise—for the reasons which I stated in a motion which I brought up in this House yesterday, a motion to inquire into the manner in which the Currency Commissioners had lost certain sums.

Now, Sir, the Currency Board at the present moment is in fact—if it was asked to meet its full commitments—insolvent. It has a credit of roughly some £250,000 over its debts at the present moment, but it actually is insolvent to the extent of two and three quarters of a million pounds. Now, Sir, it has come to us for permission to borrow one and a half millions on our guarantee. As I said the other day, Sir, it is in fact asking us to lend it money with which to pay ourselves. That is the exact effect of what it is doing.

I want to criticize one or two remarks made by the hon. the Treasurer. First of all, he suggested that the Currency Commissioners will not want this money. With that I would beg to disagree. It is an absolute certainty the Currency Commissioners will need this money on first count because the Crown Agents for the Colonies will request it as a first charge for repayment of the loan. It might be taken as an axiom that as there is no money coming in from the land in this country, that for a certainty conditions will become worse, and except for that one point about a big advance in the gold-fields of Kakamega—an advance which the Government of this country is by no means encouraging—it is closing down places and giving every discouragement. I think there is no likelihood of a big movement in Kakamega—I expect it will flow the other way in two or three months and the Currency Commissioners will be asked to redeem the money already so lately brought in. In my opinion they will have to borrow that million and a half within the next six months—the whole amount.

There is another point, Sir, that has never been brought in in any of the discussions so far in this House on currency matters. We have the example of Australia, New Zealand, and, I notice this morning in reading the paper, they are actually talking about doing it in the United States; and we have first of all the example of our own parent country, England. I refer now to devaluation. I have often heard it said by many people in this House and this country: "Do

not monkey about with our currency." What we are doing to-day is encouraging and asking the Currency Board Commissioners to "monkey about with our currency." Of a truth, if our currency is left on its own, it would certainly fall to very little over the actual bullion coin which is issued. Putting the notes at their true value, it would fall to something in the neighbourhood of 1½d. in the shilling.

Now, Sir, in ordinary fairness to those who have bought our currency under the impression that it had a full market value, it would be utterly unfair to say, "You have lost all your money. We are sorry, but there you are." But, Sir, I would ask you this: to take into consideration whether we should attempt the method adopted in Australia, New Zealand and England and take the value of our currency and fix a certain sum where we should produce it. There are one or two gentlemen in this country, such as Major Grogan, who have suggested that we should devalue to eightpence. Before this Bill is passed I would honestly suggest, Sir—and I have taken the greatest pains to study this question, and I feel I know a little of what I am talking about—that we are going to make a great mistake in passing this Bill, because so soon as we lend this million and a half this country will become bankrupt two or three years hence. A million and a half will not tide them over—perhaps for three years, perhaps for four. If they wish to borrow to make themselves safe they will have to borrow three million pounds.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I endorse a great deal of what has been said by the hon. Member for Kenya. I most certainly intend to vote against this Bill. We were told last year that we could not get any money for the Land Bank until we balanced the Budget. It is true that it has now been intimated that there is a possibility of some £250,000 being obtainable, but it has not eventuated yet. I cannot understand how the Secretary of State can lay it down that you cannot have money for the Land Bank until you have balanced the Budget when he does not apply the same principle to the £500,000 that we are liable for under this Bill if it is passed this morning. It also is very apparent that this Bill will be passed by Government with the official vote and yet this Council, as far as I have been able to ascertain, has no control whatever over the Currency Board. It touches the question again, the question of the motion for financial control. Again it only emphasises the absolute necessity of this Council having control of its own finances. I quoted figures yesterday in connexion with the West African Currency Board which show it made something like £3,450,000 in a matter of ten or eleven years as against

the loss of £1,500,000 that appears to have been made by the East African Currency Board. The motion for an inquiry which was debated yesterday was not accepted by Government. For these reasons I intend to vote against this Bill.

THE HON. F. A. BEMISTER: Your Excellency, I oppose this Bill because it seems to me for a Board outside our control to require to place upon the resources of this Colony a very heavy debt, which the Treasurer himself says it may not want, to place it like a blank cheque at a time when we have had Your Excellency's agreement to place the whole matter of its working before the Secretary of State and the complete investigation of its workings for the past few years; it seems to me a very inopportune time to make a definite resolution whereby it will have in hand funds and can borrow funds while it may happen that the Secretary of State may decide the losses made previously should be debited to another fund and made up by another power. I would have liked this Bill, Sir, to have been postponed until such time as we had a really full and clear picture of the relationship between this Colony, its funds and the control by the East African Currency Board.

In a remark yesterday by the hon. the Treasurer he pointed out how entirely wrong I was to criticize the working of the East African Currency Board previous to 1919 because I had said everything was all right at the time of its working and its control. He pointed out at that time that the reason there was no complaint against those gentlemen was because they had not interfered in the currency and I very thoroughly agree with him—it was a very severe criticism by a responsible Member of this Council on the present East African Currency Board. In other words he said that the previous Board through not interfering and playing about with the currency had never had a complaint and everything was clear and straightforward. He admitted that by reason of its interfering—that is hardly the right word to use—but by its endeavouring to manage the currency, admittedly on the advice of the farmers in this country, great losses and deficiencies had been made. It was the worst criticism I have ever heard and I was very glad, Sir, it did not come from this side, but I would ask if it would be possible to postpone this Bill, which is admittedly not required. The hon. the Treasurer has just said it is not required and if it could be postponed until such time as we really do know our position and do know who is responsible it would be a great advantage to the whole credit of this Colony.

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

THE HON. THE TREASURER: Your Excellency, I would like to remind hon. Members that there is nothing new about this Bill. It merely provides the machinery for implementing section 3 (2) of the Currency Notes Ordinance passed in December, 1920. It merely defines the obligations of this Colony, it does not increase them. I do not think, that being the case, that some of the strictures on the Currency Board are justified. I do not agree either, Sir, that the Currency Board can be called insolvent when it has the whole credit of this Colony and Tanganyika and Uganda at its back.

CAPT. THE HON. J. L. COTTER: On a point of order, Sir, I quite agree with the hon. the Treasurer there. I should have said if it had been regarded as an ordinary business it would have been considered insolvent.

THE HON. THE TREASURER: I accept that, Sir. It is a matter of opinion very largely: the hon. Member for Kenya takes the view that the Currency Board will have to make use of these moneys, take advantage of this Ordinance—I definitely do not, and there I think we shall have to leave it. I have given my reasons at some length why I think it will not be necessary to draw upon these funds, and I am afraid I must leave it at that.

The hon. Member for Kenya did mention the matter of the depreciation of currency. I do not know that I got his meaning quite clearly, Sir, but I do most earnestly hope that there will be no further talk on the matter of the depreciation of currency, and I would make an earnest appeal to the Press that nothing should appear on this subject at the present time. Too much damage has been done to this country by references, as the hon. Member said, to "monkeying about with the currency." I entirely agree with him it would have been very much better for the Colony if the currency had never been touched.

The hon. Member for Plateau North was not quite clear as to why the Secretary of State should object to funds being provided for the Land Bank until we balance our Budget when he approves of this Bill now before the House. I think it is perfectly clear, Sir, that unless these moneys are provided, unless the Currency Board has funds on which it can draw if demands are made upon it, then our credit goes, and to a worse extent than if our Budget is not balanced. I think the balancing of the Budget and this arrangement to support our currency are essential features in stabilizing the position of the Colony before we incur any other debts of a different nature.

The hon. Member for Mombasa said he could not understand the Secretary of State placing a burden like this on the Colony at the present time. I tried to make it clear that in my opinion the burden will be no burden upon the Colony, and if there is it will be a very light one, and I feel convinced myself—I am speaking quite seriously—that my opinion on this matter is a correct one. I do not quite see myself why there should be. I think Members are fairly optimistic if they imagine that under any circumstances this Colony will be relieved of any expenses which might fall upon it in connexion with the Currency Board and that those expenses would be taken over by the unfortunate taxpayer at home when you remember, as I said yesterday, that the changes in the currency were largely brought about at the request of the people of this Colony with a view to helping the people in this Colony and improving their financial position. I think it would be a dreadful thing to suggest that the unfortunate British taxpayer should be saddled with any additional charges on account of this Colony in those circumstances.

I think that I have replied to all the points, Sir.

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

The question was put and carried by 21 votes to 7:—

Ayes: Mr. Bruce, Canon Burns, Messrs. Deck, Feild-Jones, Gardner, Hakim Singh, Horne, Logan, MacGregor, Montgomery, Moore, Dr. Paterson, Gen. Rhodes, Major Robertson-Eustace, Messrs. Rushton, Scott, Sheriff Abdulla bin Salim, Abdul Wahid, Capt. Ward, Mr. Welby, Col. Wilkinson.

Noes: Mr. Bemister, Capt. Cotter, Mr. Conway Harvey, Col. Kirkwood, Capt. Schwartze, Major Sir Robert Shaw, Mr. Wright.

THE AGE OF MAJORITY BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill relating to the Age of Majority.

At the present time the law in force in this Colony relating to the age of majority is the Indian Majority Act, 1875, as applied to the Colony. Under the provisions of this Act 18 is the age of majority for all non-native persons except for a non-native person for whom a guardian has been appointed by a Court of Justice or for a person for whose property a guardian has been appointed by a Court of Justice

in either event before such person has attained the age of 18 years, in such cases a minor shall be deemed to have attained his majority when he has completed the age of 21 years.

The Law Society of Kenya has recommended that the law be amended to provide that the age of majority for all European children in the Colony be raised to 21 years.

The Law Society considers that 21 years is quite sufficiently young for a European child to attain his majority. The Society further points out that in certain instances members of the Society have been instructed to prepare wills with provision for accumulation of property for a life or lives in being and 21 years thereafter which is the ordinary English rule; but that as the Indian rule against perpetuities which is set out in section 14 of the Indian Transfer of Property Act, 1882, provides that no transfer of property can operate to create an interest which is to take effect after the life-time of one or more persons living at the date of such transfer and the minority of some person who shall be in existence at the expiration of that period—it would seem that the normal period during which property could be tied up if the settlement were made here would be for a life or lives in being and 18 years afterwards only which is directly contrary to the English law.

Government agrees that it would be better that the age of majority for Europeans should be 21 years instead of 18 years and that every European or arriving at the age of 21 years shall be of the age of majority as fully, freely and effectually to all intents and purposes in the law, as he may or might have been by the law of England.

The provisions of the Bill relating to the age of majority for non-natives other than Europeans are exactly the same as are now contained in the Indian Act.

The Indian Majority Act as applied to the Colony does not apply to natives. The law relating to majority applicable to natives is the native law and custom of the tribe to which the natives belong. It is therefore provided that this Bill shall not apply to natives.

It is also provided that the Indian Majority Act of 1875 shall cease to apply to the Colony thus carrying the declared policy of Government one step further in deleting Indian law from the statute book of this Colony and replacing it by the law of England.

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

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

The question was put and carried.

THE PARTNERSHIPS BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill relating to Partnerships.

The object of this Bill, which is based on the English Partnership Act, 1890, is to declare the law of Partnership in the Colony. The Bill resolves itself into four divisions.

The first division which is embodied in clauses 3 to 6 inclusive of the Bill deals with the nature of partnership and defines what partnership is and what it is not. Rules are laid down for determining the existence of partnership, one of which is that joint tenancy, tenancy in common, joint property, or part ownership, does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits by the use thereof.

Another rule is that the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which, or from the use of which, the returns are derived.

The third rule for determining the existence of partnership is that the receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business. In certain circumstances the rights of persons lending to a partnership in consideration of a share of the profits are postponed in case of bankruptcy of partnership.

The second division of the Bill deals with the relations of partners to persons dealing with them. It is provided that every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and that the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner. There are other provisions in this division of the Bill, but I will not enlarge upon them.

The third division of the Bill deals with the relations of partners to one another. It is provided that the mutual rights and duties of partners may be varied by the consent of all the partners. What is partnership property is laid down in these clauses and it is further provided that unless the

contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm. It is provided further that a writ of execution shall not issue against any partnership property except on a judgment against the firm. And a person interested in the partnership property and profits may be charged in favour of a judgment creditor of such partner.

The fourth division of the Bill deals with the dissolution of partnership and its consequences. Various ways of dissolving a partnership are provided for in the Bill: one is by expiration or notice; another by bankruptcy or death; the third by reason of illegality of partnership; and yet another way is by an order of the Court for various reasons, such as lunacy, incapacity, misconduct, breach of partnership agreement, when the business of the partnership can only be carried on at a loss and generally whenever in any case circumstances have arisen which, in the opinion of the Court, render it just and equitable that the partnership be dissolved.

Hon. Members will observe that clause 47 of the Bill provides that the rules, legal and equitable, applicable to partnership at present in operation in the Colony shall continue in force except as far as they are inconsistent with the express provisions of this Bill.

There are various aspects of partnership which are dealt with in various Ordinances, such as the Bankruptcy Ordinance and the Companies Ordinance and there is in this Colony quite a considerable body of case law on the subject of partnership. This clause means that the provisions in various other laws and cases will remain in force in spite of the passing of this Bill except where such provisions or such case law is inconsistent with the express provisions of the Bill.

Hon. Members will further observe that clause 48 repeals Chapter XI of the Indian Contract Act as applied to the Colony. This conforms with the wishes of the Secretary of State and with the desire of the people of the Colony generally that Indian law should be replaced wherever possible by English law.

The passing of this Bill will also be a further step forward in the unification of the commercial law of the East African territories which is so strongly urged by the Association of Chambers of Commerce of Eastern Africa.

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

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

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

The question was put and carried.

THE LIMITED PARTNERSHIPS BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill to Establish Limited Partnerships. This Bill will be said to be complementary to the Partnerships Bill, which has just been read a second time.

The Bill is based on the Limited Partnerships Act in force in England, which was passed in the year 1907.

The essential characteristics of an ordinary partnership are, first, that the liability of every partner is unlimited; and, secondly, that each partner has an implied authority to bind the firm in all matters within the scope of the partnership business, and, apart from agreement to the contrary, has, as against his co-partners, a right to take part in the management of the partnership business.

This Bill enables a partnership to be formed which does not display these essential characteristics.

Clause 3 of the Bill defines limited partnerships, and provides that a limited partnership shall not consist in any case of more than twenty persons, and must consist of one or more persons called general partners, who shall be liable for all debts and obligations of the firm, and one or more persons to be called limited partners, who shall at the time of entering into such partnership contribute thereto a sum or sums as capital or property valued at a stated amount, and who shall not be liable for the debts or obligations of the firm beyond the amount so contributed. The Bill provides that every limited partnership must be registered as such with the Registrar of Companies, and that, in default of such registration, it shall be deemed to be a general partnership. Clause 5 provides that, subject to certain exceptions, a limited partner shall not take part in the management of the partnership business and shall not have power to bind the firm.

Clause 6 lays down that, subject to the provisions of this Bill, the Partnerships Ordinance, 1933, and the rules of equity and common law applicable to partnership, except so far as they are inconsistent with the express provisions of the last-mentioned Ordinance, shall apply to limited partnerships. The manner and particulars of registration are dealt with in clause 7 of the Bill. The amount of capital contributed by a limited partner shall be charged with an *ad valorem* duty of Sh. 5 for every £100 of capital. A penalty is provided for making false statements as regards limited partnerships for the purpose of registration. Any statements made for the purpose of registration must be filed by the Registrar of Companies, and it is

also provided that the Registrar of Companies shall keep at his office a register and an index of all the limited partnerships registered with him and of all the statements registered in relation to such partnerships.

Power is given to the Governor in Council to make rules concerning the fees to be paid to the Registrar of Companies under the Bill, so that they do not exceed in the case of the original registration of a limited partnership the sum of two pounds, and in any other case the sum of five shillings. Power is also given to the Governor in Council to make rules for various other purposes.

Government considers that this Bill should go to a Select Committee, and I am authorized to say that the Bill will be sent to a Committee composed of the same personnel as that of the Committee on the Partnerships Bill which has just been read a second time.

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

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

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that the following Committee of the House be appointed to consider the Partnerships Bill and the Limited Partnerships Bill:—

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

The Hon. Member for Nairobi South,

The Hon. Member for Plateau North,

with myself as Chairman.

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

The question was put and carried.

THE ARCHITECTS AND QUANTITY SURVEYORS BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Establish an Institute of Architects and Quantity Surveyors be read a second time.

This measure, Sir, is somewhat of a standing dish in this Council. It dates back to 1929, when a similar Bill, designed to achieve the same end in a rather more ambitious and elaborate manner, was actually before the Council which preceded this present Council. At that time the reception given to the Bill was distinctly mixed. It died—perhaps deservedly died—with the death of the Council. But, Sir, the promoters of the Bill, who are the East African Institute of Architects, a body which includes a chapter of quantity surveyors, had the opportunity, after the publication of that first Bill, of discussing the matter at length and in detail with Elected Members, and as a result of that discussion a new Bill emerged, which is now before hon. Members. It is, I think, a much less contentious and a much more acceptable measure than was the former, but it would be hypocritical to my mind, Sir, to suggest to Council that the Bill in its present form meets with the full acceptance of all Members, and so, Sir, I propose, in moving the second reading to restrict myself to an exposition of the main and basic principles only, for the reason, Sir, that if the motion for the second reading of this Bill is resolved in the affirmative—and on that question, Sir, I should like to say at once that Your Excellency has authorized a free vote—if that question is resolved in the affirmative, the measure will then be referred to a Select Committee, which will have to examine, not only the details of the Bill, but the application of these main principles to which I have just referred.

What are these principles? The first is that for the protection of the public of the Colony against unskilled architects there is set up an Institute of Architects and Quantity Surveyors, an institute consisting of two chapters, one of architects and one of quantity surveyors; and it is provided that that institute shall be the present East African Institute of Architects with the chapter of quantity surveyors which forms part of that institute. That, Sir, is the first principle. I have reason to believe that it is one of the grounds of opposition to this measure that such powers should be vested in an existing and not entirely disinterested professional body in the Colony; that it would be more in accord with precedent were the power to confer qualifications upon architects and quantity surveyors vested rather in a Board of Registration, as is done at the present moment in the case of surveyors. That, Sir, will be a question which the Select Committee will necessarily have to examine, and examine carefully and at length, if the Bill is referred to a Select Committee. But, Sir, I would point out to hon. Members the manifest advantages from the point of view of the public in having some system of registration for architects and quantity surveyors. Those professions, Sir, impinge on one's everyday life from a number of angles, and the limiting of registration to properly qualified

persons and the disciplinary powers over such properly qualified persons which a system of registration necessarily imparts cannot, I suggest, be of anything but great value to the public.

There is, Sir, elaborate machinery set up, firstly for the incorporation as members of the new proposed institute of all those who to-day are fully qualified and registered members of the existing institute; and, secondly, for a system of examination for individual recruits to these two professions. There necessarily must be, in my submission, a prohibition placed on the use of the title or style "architect" or "architectural" by persons who are not properly qualified. There will be placed before the Select Committee representations made by such bodies as the Institute of Civil Engineers and the Institute of Structural Engineers. These representations take this form, Sir, that the Bill has one important omission in that it does not protect members of such well-recognized and highly accredited institutions as these. It does not give to their members that protection which they have the right to seek when they are engaged in the ordinary practice of their profession. That is another matter which will have to be examined by the Select Committee.

There is only one other matter of principle to which I need draw attention. I do so because to my mind at least it is of paramount importance. One of the objects of this Bill, as hon. Members will find in clause 20, is the provision of a scheme of education in architecture and quantity surveying for the youth of the Colony. Complementary to that provision is that in the succeeding clause, No. 21, wherein any architect is empowered to take article'd clerks from among the local youth of the Colony, and such article'd clerks may in course of time become fully qualified members of the proposed institution. That, I repeat, I personally regard as most important. Anything that will give a vocational and professional training to the youth of Kenya is obviously all to the good at any time, and particularly at a time like this.

Those are main provisions of the Bill. I repeat that I am painfully aware there is certainly no degree of unanimity on either side of the House with regard to the details of the measure. I do earnestly suggest to hon. Members that because any one of them does not like the Bill in its present form, that is hardly a reason for throwing it out here and now. Let it, I suggest, go to a Select Committee, which will be charged with the duty of making a full and detailed examination of its provisions. That is time enough to say that, much as I like the educational scheme, I cannot agree with my colleagues on the Committee or Members of this House. Do not, I implore, prejudice the issue at this stage. Let the Bill

go to Select Committee and let that Select Committee have the duty of examining it in all its details, in the interests of the public, in the interests of the youth of the Colony, and in the interests of the profession.

THE HON. T. D. H. BRUCH: I beg to second, Sir.

HIS EXCELLENCY: The question is that the Architects and Quantity Surveyors Bill be read a second time.

THE HON. CONWAY ILAHVRY: Your Excellency, I have seldom listened to a more bald and unconvincing statement for a draft on the patience and time of this House involving the expenditure of public funds.

Although, Sir, I greatly admire the way in which Nairobi architects have improved the appearance of this town during the last few years, much of the best work incidentally having been performed by architects who would be debarred from practising under this Bill unless they elected to become members of the local institute, I intend to oppose the second reading of this Bill, Your Excellency, for several reasons, but chiefly because it embodies two of the worst features of trade unionism inasmuch as the most highly qualified professional men will be barred from practising their profession unless they elect to join the local union which may fix minimum rates of pay.

Now, Sir, it was announced that no public expenditure is involved if this Bill becomes law. As the hon. mover said, it has now been on the stocks for a period of years, and a very large amount of public money has already been expended by the highly competent and highly paid members of the learned gentleman's staff in drafting the Bill, discussing its detailed provisions, and in connexion with printing and postage. I admit, Sir, that it is slightly less harmful than the stillborn product which made its unfortunate appearance about a year ago. Nevertheless, even in its present form, Sir, I say most definitely and emphatically it is most unacceptable to the great majority of people in this Colony. I suggest, Sir, that the staff of the learned Member's Department might far better have been employed in connexion with things that really matter. We all know, Sir, that at the present time we have far too much legislation on the Statute Book of Kenya, a very large proportion of which the Government finds itself quite unable to administer and a very large proportion of which nobody takes the slightest notice of. New legislation, Sir, should never be introduced in the absence of a genuine and widespread public demand. I suggest, Sir, in this case there has been no public demand whatever. In these times, Sir, of financial stress, in fact at any time, it is utterly wrong to expend official energy and public money in this manner.

I should like to ask the learned mover, Sir, whether he has taken the preliminary precaution of consulting expert opinion other than that of the architects of this town who are definitely interested parties. There is a great deal of expert opinion available in Kenya, as Your Excellency is so well aware.

Now, Sir, in the Objects and Reasons it is stated that it is intended to protect the public against unqualified architects. Now, Sir, has the public asked for this protection? I am quite prepared to admit, Your Excellency, the public of Kenya is notoriously inarticulate, but I suggest if they wanted this very badly they would have made some gesture in that direction to the Government.

Now, Sir, the next thing that the learned Member mentioned as a justification for this obnoxious measure was that it was intended to establish an Institute of Architects and Quantity Surveyors. What rubbish, Sir. An Institute of Architects and Quantity Surveyors has been in existence for quite a long time and their capacity to do their work efficiently and well and even acquire public confidence should be quite sufficient. No, Sir, the idea is to confer a monopoly on members of the existing Institute of Architects and Quantity Surveyors, many of whom, Sir, I am informed on most excellent authority, are entirely lacking in any professional qualifications whatever. Now, Sir, are we to understand in terms of section 3 of this measure that all members of the Kenya Institute of Architects and Quantity Surveyors are allowed to practice their profession whether they have any qualifications or not?

My next point, Sir, is why should fully qualified and highly competent architects from England and other parts of the British Empire be barred from practising their profession when they come to Kenya? Such is not the case in England, Your Excellency. This monstrosity is based on nothing known to civilization. The Kenya architect, provided he has proper professional qualifications, is fully entitled to make a living and practise his profession, certainly in England; and I think in most other parts of the British Empire. The only difference there, Sir, is he cannot describe himself as a "registered architect" unless he elects to register, but there is nothing whatever in English legislation to prevent him describing himself as an architect and making his living in that way. Such is not the case under this measure, Your Excellency. As I said, the most highly qualified professional man is not allowed to practise unless he elects to join this trade union.

Now I am very grateful to Your Excellency for allowing a free vote on this highly contentious matter, and I feel convinced that hon. Members on all sides of this House, in accordance with the reputation they have so justly earned for sane judgment and sound commonsense, will join me in relegating this obnoxious measure to the limbo of forgotten things.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, it is obvious from the hon. Member's speech that he feels very deeply as regards this Bill. The seriousness with which he debated it has shown us that. It is therefore surprising that he has not taken the trouble to read the Bill.

THE HON. CONWAY HARVEY: Bash!

CAPT. THE HON. H. E. SCHWARTZ: The whole tenor of his theme throughout was what a scandalous thing it was that no one, however well qualified, should be allowed to practise the profession of an architect or quantity surveyor. This Bill in no wise prevents anyone practising as an architect or a quantity surveyor; all it does is that, unless he is registered or has certain qualifications, he is not allowed to call himself an architect or a quantity surveyor. Even should this Bill pass, there would be nothing to prevent my friend himself from starting to build a house or do surveying, but let him beware and not call himself an architect or a quantity surveyor.

May I, Sir, add my appeal to that of the hon. the Attorney General—and it is extremely refreshing to find oneself being able to do that—that at least the commonsense of this House should allow this Bill to go to Select Committee entirely without prejudice to their right to throw the Bill out after it comes back from the Select Committee if the provisions are still as obnoxious as my friend would have us believe.

CAPT. THE HON. J. L. COTTELL: Your Excellency, I should like to endorse the remarks of the hon. Member for the Lake. In fact, he has said so much of what I was going to say myself that there is little left for me to add. I have a letter here from a well-known architect in this country. I asked him what his views were on the subject, and as I happen to have his letter here now, this is what he says:—

"The plain fact is that this is a Bill to give a monopoly to a small body of about thirty or forty men promoting the Bill for their own ends without a shadow of justification for the public good."

I submit that this gentleman is known to all of us—he is very famous in his own profession.

I think myself it is an absolute waste of the time of this House. Nobody has asked for it, and there is no public wish for it. I was informed there were seventy-three Bills come up every year. I suspect that in a few years' time you would not be able to get them into this room, and this is one of the examples of people getting together and asking for legislation which is not required and which is entirely a waste of public time and money.

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

THE HON. THE ATTORNEY GENERAL: Really, Sir, I think there is very little for me to add to what has been so admirably said by the hon. Member for Nairobi South, but there have been two express points put to me by the hon. Member for the Lake, and I think that he is fully entitled to express answers to them, Sir. One was whether or no expert opinion had been consulted. As far as possible, it has. There is a local branch of the Institute of Civil Engineers and the Institution of Structural Engineers are represented in the Colony. They have been consulted. They have expressed their views at very considerable length. The file, even on this re-born chrysalis of the Bill, already runs well into the second volume. The eminent architect, to whom my friend the hon. Member for Kenya refers, has contributed very largely to these volumes. In short, every endeavour has been made to sound expert opinion.

CAPT. THE HON. J. L. COTTELL: May I ask the hon. Member if he is in favour of or against this Bill, Sir?

THE HON. THE ATTORNEY GENERAL: The fact that I was about to say, Sir, is that assuming that the Bill is amended in the respect to which I referred in my review of the basic principles of this Bill, if this Bill is amended in that particular respect, this institution and their members, not only in the Colony but in England and in South Africa, have expressed themselves as in agreement with the provisions of this measure. That amendment will have to be considered and considered very carefully indeed, together with the other basic points to which I referred.

Then, Sir, I was asked whether the members of the existing East African Institute of Architects and Chapter of Quantity Surveyors would *ipso facto* be members. The hon. Member for the Lake seemed to find something to that effect in clause 3. There, Sir, he has the advantage of me, but if he looks at clause 12—one and two do make three—he will find the provision is expressly made.

THE HON. CONWAY HARVEY: Your Excellency, my remarks on that matter in reference to section 3 applied to the first proviso to that section.

THE HON. THE ATTORNEY GENERAL: Which applies to persons who are not members of the local institute.

HIS EXCELLENCY: The question is that the Architects and Quantity Surveyors Bill be read a second time.

The question was put and carried by 19 votes to 8:—

Ayes: Mr. Bruce, Canon Burns, Messrs. Deck, Feild-Jones, Gardner, Horne, Col. Kirkwood, Messrs. Logan, MacGregor, Moore, Dr. Paterson, Gen. Rhodes, Major Robertson-Eustace, Capt. Schwartz, Mr. Scott, Major Sir Robert Shaw, Capt. Ward, Mr. Welby, Col. Wilkinson.

Noes: Mr. Bemister, Capt. Cotter, Messrs. Hakim Singh, Conway Harvey, Montgomery, Sheriff Abdulla bin Salim, Abdul Wahid, Wright.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Architects and Quantity Surveyors Bill be referred to a Select Committee with the following personnel:—

The Hon. the General Manager, Kenya and Uganda Railways and Harbours.

The Hon. the Director of Public Works,

The Hon. T. D. H. Bruce,

The Hon. Member for Kikuyu,

The Hon. Member for Nairobi North,

The Hon. Member for Kenya,

The Hon. Abdul Wahid,

with myself as Chairman.

THE HON. T. D. H. BRUCE: I beg to second, Sir. The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Council resolve itself into a Committee of the whole Council to consider the Currency Loan Bill and the Age of Majority Bill clause by clause.

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

The question was put and carried.

The Council went into Committee.

In Committee:

THE CURRENCY LOAN BILL.

The Bill was considered clause by clause.

THE AGE OF MAJORITY BILL.

The Bill was considered clause by clause.

THE HON. THE ATTORNEY GENERAL: I beg to move that the Currency Loan Bill and the Age of Majority Bill be reported to Council without amendment.

The question was put and carried.

The Council resumed its sitting.

On resuming.

HIS EXCELLENCY: I have to inform Council that the Currency Loan Bill and the Age of Majority Bill have been considered clause by clause in Committee of the whole Council and have been reported to Council without amendment.

THIRD READINGS.

THE CURRENCY LOAN BILL.

THE AGE OF MAJORITY BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Currency Loan Bill and the Age of Majority Bill be each read a third time and passed.

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

The question was put and carried.

The Bills were each read a third time and passed.

The Council adjourned till 10 a.m. on Wednesday, the 12th April, 1933.

WEDNESDAY, 12th APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 12th April, 1933, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 11th April, 1933, were confirmed.

OFFICIAL DEBATES.

THE HON. CONWAY HARVEY: Your Excellency, it has been suggested to me by some of my colleagues, and I accept the suggestion with alacrity, that, with Your Excellency's kind permission and the indulgence of this House, I should pay a tribute to the zeal and efficiency which has been displayed, especially during this session, by the Council's staff. I refer particularly, Your Excellency, to the accuracy with which the debates have been reduced to writing and the speed with which they have been printed and distributed. I suggest, Sir, that a record has been set which may be emulated but can hardly be surpassed.

HIS EXCELLENCY: I must say I most cordially support what the hon. Member has just said. I have seen something of the work of stenographers in other colonies, but I do not think I have seen anything to equal what has been done in this Council, particularly during this difficult session.

MOTION.

REDUCED PENSION TO MR. B. J. RAND.

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, I beg to move the motion standing in my name, with a slight amendment. The initials of Mr. Rand should be "B. J." It was correct in the notice of motion, but a slight error has crept in in the Order of the Day to-day. The principle is well understood and the details are set out in the motion:

"That this Council approves the payment of a reduced pension of £114 13s. 11d. per annum and a gratuity of £283 5s. 10d. to Mr. B. J. Rand, who is being retrenched from the Service on the 30th April, 1933, in lieu of an unreduced pension of £152 18s. 6d. per annum."

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGIBBON): Your Excellency, I beg to second the motion. The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE STOCK AND PRODUCE THEFT (LEVY OF FINES) BILL.

THE HON. T. D. H. BRUCE (SOLICITOR GENERAL): Your Excellency, I beg to move the adoption of the Report of the Select Committee on the Stock and Produce Theft (Levy of Fines) Bill.

The chief question into which the members of the Select Committee had to go, Sir, was the question as to whether or not the provisions of the Stock and Produce Theft (Amendment) Ordinance, 1928, should be preserved in the law either in their entirety or in part. After discussion it was felt that all the provisions of the amending Ordinance should be retained in the law and should be incorporated in this Bill.

As hon. Members are aware the provisions of the amending Ordinance, 1928, are that:—

(1) If any person is found in possession of produce on any farm in circumstances which may reasonably lead to the belief that such produce has been stolen, such person shall be deemed to have stolen the same unless he proves affirmatively (the onus being on him) that the possession was lawful.

(2) The owner or manager of any farm may apprehend and detain without warrant any person found in possession of any produce upon such farm which such owner or manager may have reasonable cause to suspect of having been stolen from such farm.

(3) If any stock is found in the possession or on the premises of any person in a proclaimed district, that is, in a district which has been proclaimed for that purpose by the Governor in Council, in circumstances which may reasonably lead to the belief that such stock has been stolen, such person shall be deemed to have stolen the same unless he proves affirmatively (the onus being on him) that the possession was lawful.

(4) It is not lawful for any person to sell or deliver any stock or produce in a proclaimed district between sunset and sunrise, and to do so is made an offence.

The members of the Committee are unanimous in recommending that all these provisions shall retain the force of law and should be incorporated in this Bill, and this is accordingly recommended in the Report.

There are one or two small amendments which I may mention—one is the amendment to the title of the Bill consequent upon incorporation therein of the provisions of the amending Ordinance of 1928. It is recommended that the following words be added to the title—“and to make persons liable to account for the possession of stock or produce in certain cases.”

Another similar amendment is in the short title of the Bill where the figures “1932” are altered to “1933.”

It is recommended that the definition of stock be amended to include “poultry” and that Clause 4 be amended by the insertion of the words “or place” after the word “village” in paragraph (b) thereof and by deleting the words “in the order set out above” which occur towards the end of the clause.

This latter amendment will have the effect of allowing execution to be effected against the movable property of any classes mentioned in paragraphs (a), (b), (c) and (d) of the clause in any order. As the clause stands at present, the execution is to be effected against such people in the order mentioned in the clause which may lead to inconvenience and be defeating the objects of the clause.

I beg, Sir, to move the adoption of the Report.

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

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Stock and Produce Theft (Levy of Fines) Bill be adopted.

MR. CAPT. THE HON. J. L. COTTER: Your Excellency, I would like to ask the hon. the Solicitor General if he could make quite clear the point about poultry. Supposing a native is in possession of pure-bred poultry which the owner of that breed knows to have been stolen but cannot prove. Are the police under this new Ordinance entitled to go to that native and say “Where did you get those fowls from?” I am sorry, Sir, but I want an explanation of the amendment.

THE HON. T. D. H. BRUCE: Your Excellency, stock is now defined to include all classes of poultry. The proposed new Clause 10 reads:—

“10. If any stock is found in the possession or on the premises of any person in a proclaimed district in circumstances which may reasonably lead to the belief that such stock has been stolen, such person shall be deemed to have stolen the same and shall, unless he proves affirmatively (the onus being on him) that the possession was lawful, be liable to the penalties prescribed for theft.”

THE REV. CANON THE HON. G. BURNS: Your Excellency, I am not going to say very many words, but I always understand that British law and justice held a man to be innocent

until he was proved guilty. In this clause the law is turned topsy-turvy and a man is held to be guilty until he is proved innocent—an extraordinary state of the law.

HIS EXCELLENCY: Does any other hon. Member wish to speak before I call on the mover to reply?

THE HON. T. D. H. BRUCE: Your Excellency, I can only say in reply to the hon. Member representing native interests that this is no new principle, Sir, at all. It has been in force for five years now and in the first instance it had the approval of this House and of the Secretary of State.

HIS EXCELLENCY: The question is that the Report of the Select Committee on the Stock and Produce Theft (Levy of Fines) Bill be adopted.

The question was put and carried.

BILL.

THIRD READING.

THE STOCK AND PRODUCE THEFT (LEVY OF FINES) BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move that the Stock and Produce Theft (Levy of Fines) Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

THE MAIZE INDUSTRY.

THE HON. E. H. WRIGHT: Your Excellency, I beg to submit the motion standing in my name:—

“That this Council, recognizing the urgent necessity for taking steps to preserve the maize industry of Kenya, urges the immediate appointment of a special committee to consider and report forthwith on the measures necessary to ensure that end.”

At the outset I want to make it known that I am speaking, not only for the unfortunate maize growers of the Rift Valley—whom I have the honour temporarily to represent—but rather for all the maize growers of Kenya, whose plight is desperate. The commercial community of this country, recognizing that their own welfare is interdependent with that of maize growers,

have supported the maize growers through their Associated Chambers of Commerce and other chambers throughout the country. These facts, I trust, Sir, will warrant this motion being well received by all sections of this House.

If it be thought, Sir, that the maize growers of Kenya are as beggars at the door of this House, Members of this Council will readily concede, I think, that these maize growers have played a not inconsiderable part in the past in the shaping of the destiny of this fair Colony and will do so, with your backing, in the future, given a reasonable chance. Maize must still remain a determining economic factor in the wealth of Kenya and the object of my motion is, through a practical committee, to find some means whereby the produce of the soil can be converted into a profit that will pay the maize growers' debts. How this is to be done, whether by a maize quota act or by internal price control, or otherwise, is a matter to be judged by the special committee.

I am not well versed, as you know, Sir, in the procedure of this House, or of politics at all, but I hope it will not be thought impertinent at this stage to suggest that a practical committee should be appointed to assist the Director rather than a committee of political people. I do not wish to cast any aspersions on people, but with your forbearance I would suggest the nomination of one or two people like Colonel Griffiths, Colonel Tucker, Mr. Toogood and Major Cavendish Bentinck, all of whom know and recognize the importance of this industry to Kenya, with the collaboration and with the advice of the Director of Agriculture as chairman. With such people on a committee, Sir, I do feel that for a difficult problem a sound, straightforward solution will quickly be discovered.

In a recent address at Njoro, Sir, Colonel Griffiths gave a very masterly exposition of the maize position and the facts and figures which he quoted to illustrate it are such that I would ask, if I may be permitted, to point out one or two for the information of this House. First of all, he set out to prove that maize is probably to-day the only primary product that is not over-produced. The United States of America, by far the largest grower, producing 300,000,000 bushels out of a total of 450,000,000 bushels—hitherto a large exporter and seller—within recent years has consumed so much internally that her export quantities are less to-day than those of Kenya. The exporting countries marketed up to a total of 50,000,000 quarters in overseas markets.

Now, Sir, the areas of the world suitable for maize growing are limited. The consumption grows and there are few countries comparable to Kenya in yields per acre. Recurring deprivations of locusts, coupled with low prices, have hit the

maize growers very hard, but the excessively high transportation costs have proved a knock-out blow to the industry. In this connexion, Colonel Griffiths pointed out that the transportation costs of a grower represented 35 per cent of the sale price.

The latest policy of the Kenya and Uganda Railways and Harbours in increasing freight rates and imposing restriction of movement seems to maize growers singularly stupid in view of the fact that here is a business concern—so-called—which has invested enormous sums of money in increased harbour facilities and extension of the Railway, whose sole justification for which must have been the transportation of bulk crops such as maize. I would venture to suggest that the extension of the Railway to Uasin Gishu and Kitale was expressly done for the purpose of carrying bulk crops such as maize.

During the financial depression of 1921-22 the Bowring Committee very wisely adopted a railway rating policy wherein they stipulated that maize should be carried at the flat rate of one shilling per bag. The rate is now Sh. 1/20 on main lines and Sh. 1/40 on branch lines in Kenya. In 1921 the total acreage under maize was 53,000 acres and, owing to direct encouragement to the maize growers, engendered by their confidence in the Government, the acreage in 1930 had risen to 231,937 acres, representing no less than 41.7 per cent of the total acreage under cultivation. Last year the settlers and maize growers, beginning to feel discouraged, reduced their acreage by 39,000 acres, bringing down their total acreage under maize to 37½ per cent. To-day and daily throughout this planting season some 800 maize growers out of a total farming population of 2,100 hardly know what to do, whether to plant or not. It seems indeed as if the spectre of famine looms again in Kenya, and Government would do well to reflect on what a famine may mean to Kenya, recalling the fact that on the last occasion when the European maize growers came to the rescue the Government imposed an arbitrary price restriction that hit the maize growers, taking it over a long period, adversely.

The Kenya Farmers' Association last week sent out a circular, a questionnaire, of an urgent nature asking what each member would grow under present conditions and then what each member would grow if he had some reasonable assurance that the price would be not less than Sh. 5 a bag. I was promised a reply by this morning but I have had none, so I imagine the response has been small to date, but I hope that as a result of his visit to Nakuru yesterday the hon. the Director of Agriculture may give us some information on that head. That at all events is a matter for the Committee to deal with when it meets.

The central organization for dealing with maize is seriously disturbed at the maize growing prospects for 1933. The Railway, meantime, seems stubbornly to refuse to recognize that every ton of maize exported profitably brings as collateral advantage to the Railway a definite measure of imports from which initially the Customs and the Railway take a rake-off. Those points are never taken into their calculations, or I have not come across them, when dealing with the freight charges on the maize industry.

—Many maize growers feel indeed that the odds against them are too great, the opposition to their industry seems almost maliciously inspired and organized; many of them even feel that the ultimate result will be the death of the maize growers with the hon. the General Manager of the Railway and Mr. Roger Gibb acting as professional mourners. At heart, however, the maize growers of Kenya are still courageously prepared to take their share in building up the prosperity of this Colony, and I feel all they want is a reasonable chance, and you, as leaders in good government in Kenya, can give them that chance and ensure that prosperity, and achieve a victory for Government in Kenya chiefly by backing the settlers of Kenya.

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

HIS EXCELLENCY: (The question is:—

“That this Council, recognizing the urgent necessity for taking steps to preserve the maize industry of Kenya, urges the immediate appointment of a special committee to consider and report forthwith on the measures necessary to ensure that end.”

THE HON. CONWAY HARVEY: Your Excellency, ever since the Bowring Committee sat many many years ago maize production has always been regarded as one of the key industries, playing a most important part in the economic life of the Colony. Since then, Sir, the wisdom of that policy has been challenged on more than one occasion and numerous Committees have sat. They have proved, Sir, quite conclusively that maize is an appropriate and suitable industry under the conditions of Kenya. Such, Sir, must inevitably be the case when we bear in mind that the average production over a period of no less than twelve years is no less than 7.01 bags per acre, which, as you are doubtless aware, Sir, greatly exceeds the average production in practically all the great maize-producing countries of the world. What is so sadly wanted, Your Excellency, to inspire confidence in industrialists

and capitalists alike is continuity of policy, and in this connexion, Sir, I hope no one will take too seriously the grotesque report by Mr. Roger Gibb on railway economics and finance. If I may be permitted to stray for one moment into the realms of ornithology, Mr. Roger Gibb reminds me of a sparrow hawk whose natural cupidity has been excited by the success attending the cuckoo's raid on the nest of the dove, and I am quite sure, Your Excellency, that the hon. gentleman who introduced that harbinger of glad tidings into this House is fully aware that the primary mission of the dove was to secure a safe landing ground for the inhabitants of the ark, simian and otherwise. Mr. Roger Gibb on the subject of maize says in his Report in paragraph 93: "It is also most important that the history of maize should not be repeated with other agricultural traffics." That to my mind, Your Excellency, condemns this Report at once as being completely worthless. It shows that Mr. Roger Gibb has but an imperfect appreciation of what is in the best interests of Kenya.

Now, Sir, although in his illuminating answers to questions a few days ago on the alleged losses accruing as a result of maize being exported the General Manager assisted us very materially in making out our case, I say unhesitatingly, Sir, that if the maize industry is treated as a whole, as it should be, and the very high rates which are charged for the internal movement of maize are taken into consideration, it will be found that the maize industry plays a by no means unimportant part in the economic and financial life of the Kenya and Uganda Railway. I should like to mention, Sir, a fact which is often overlooked that at least 50 per cent of the total maize produced in Kenya carries the very high rate pertaining to local movements. We must not overlook the very great importance of this industry to the Port on which an enormous amount of capital expenditure has been incurred. Maize, Sir, during the year 1930, was responsible for no less than 30 per cent of the total traffic handled at the Port of Kilindini. In the year 1931 the percentage was no less than 29. There are no special concessions in this service, Your Excellency, in respect of maize, and I suggest that if anything is done to limit the production of maize there must be most serious repercussions on Port finances, and this money must be made up in some other direction.

Now, as the hon. mover has pointed out, Your Excellency, quite rightly, according to available statistical information maize appears to be the only primary product in the world which is not over-produced at the moment, and that, Sir, is an undoubted argument in favour of keeping the industry going, as it must inevitably recover much more quickly than other industries in a less happy position. Government has

assisted the maize industry in many directions during the last few years. It has been making constant contributions to the "jackpot" and I suggest the right thing is to follow up those contributions and keep the "kitty" alive. I should like to suggest, Sir, for the consideration of the Committee which I understand Government will appoint, the very very great importance of going into the matter of endeavouring to fix a minimum local price as has been done in other countries, which I believe, Sir, would be for the benefit of everyone concerned and Government not the least, more especially, Your Excellency, as only a few years ago when the price of maize was very high Government did, in the interests of consumers, fix a maximum price, and I suggest, Sir, it is but a natural corollary of that action, under conditions as they exist to-day, to fix a minimum local price.

I have one further suggestion, Your Excellency. I quite approve of the personnel suggested by the hon. mover but I suggest that the Board of Agriculture, a very representative body which embraces in its personnel several of the gentlemen whose names were mentioned by the hon. mover, should be entrusted with this most important inquiry.

THE HON. THE DIRECTOR OF AGRICULTURE (Mr. A. HOSM): Your Excellency, in rising to deal with the motion before the House I should like to preface my remarks by offering on my own behalf and perhaps also on behalf of the House my hearty congratulations to the hon. mover on his maiden speech in this House, a speech which I think in manner of delivery and in substance will commend itself to the House as a whole.

Now, Sir, the whole House will be aware that Government has during past years given its very earnest and sympathetic consideration to the needs of this important industry in this country and, as stated by the hon. Member for the Lake in particular, has rendered a service to that industry by advancing sums of money in different ways on behalf of the industry and giving relief in different directions. As Your Excellency has said on more than one occasion in your addresses to this House, however, there are limits to the resources of Government when Government is called upon to deal with depressed industries but it cannot be said, I think, with fairness that Government has been neglectful of the maize industry. I should like to take the opportunity at this stage, Sir, of saying that other industries in the Colony and commercial interests in the Colony and employers of labour generally in the Colony are very mindful indeed of the importance of this industry and as the result of inquiries made of those industries and interests they are quite prepared to pay such a

price locally for maize sold in the Colony as will give a reasonable return to the maize grower. They recognize the justice of the view that it would be quite unreasonable on their part to expect that the maize grower should supply them with maize as cheap food for their labour or as cheap food for their stock at a price which incurs a loss to the grower, so that I think on that side, if the question arises in the course of any further inquiry that may be made as to what could or should be done in regard to controlling or exercising some influence upon the local price of maize, those different interests to which I have referred will fairly respond.

The industry has suffered, Sir, during this present marketing season undoubtedly because of the depressed condition of local markets, and that unfortunately has been accentuated because there has not been a free-trade movement in the export of maize. It may not have been fully realized at the time but it has now become abundantly realized that one effect of the allocation system for export maize has been to throw on the local market an undue quantity of maize and to depress local prices.

I do not propose, Sir, to attempt to cover the wide field which this industry might embrace if one attempted to deal with the position fully. The House is aware that during the last three years in particular this subject has been examined by conference, by committee, by the Board of Agriculture several times, and there are on record valuable reports and memoranda which will be very useful indeed for the purposes of any further inquiry that may be conducted.

I have to say, Sir, on your behalf, that Government is not opposed in principle to the motion as it stands, but it is hardly prepared to accept the motion in the words in which it has been expressed because Government is of opinion that there is rather a better way of achieving the same end. Hon. Members will be aware that there is an organization, set up by you, Sir—the Board of Agriculture—which is fully competent and which has complete powers to conduct an inquiry of this kind. In fact, as recently as three or four months ago a committee appointed by the Board of Agriculture dealt very comprehensively with certain aspects of the maize industry, and I suggest to the hon. member and to the House that the case can be fully and adequately met by the Board of Agriculture appointing a special committee to conduct this inquiry. I would also inform the hon. member that within the constitution of the Board of Agriculture that Board has power to co-opt members on a committee other than those who are actually members of the Board itself. In that way the Board is able to invoke the assistance of people in the Colony who have a special knowledge and a considerable experience of any particular subject.

I had the opportunity only yesterday, Sir, of discussing the terms of this motion with the Board of Directors of the Kenya Farmers' Association and they quite agreed with the view that I am now expressing on behalf of Government that this inquiry should be entrusted to the Board of Agriculture. I would also, particularly for the benefit of the hon. member, say that the Board includes in its membership men who are well versed in the problems of the maize industry, men who have previously represented the industry not only to the Board but to the Government, and with the few additions to the Members of the Board on the committee that I have indicated, it seems to Government that the case will be fully and adequately met.

The directors to whom I have referred made this important point, Sir, and that was that this committee to be set up should not attempt again to cover the wide field of the maize industry as a whole but that the inquiry should be confined to a few definite aspects of the problem which might be profitably inquired into and might be dealt with. The position is really this, Sir, that there is no new situation or new case to present in regard to this industry which has not already been fully examined, except perhaps the application of a quota system or a method whereby under a control board the local price of maize should be controlled by Government. Now hon. Members are aware that in this connexion the General Manager of the Kenya Farmers' Association is now in South Africa and Rhodesia inquiring into the methods adopted in those countries and the success achieved—also presenting the difficulties that have arisen in administering schemes of that kind, because, according to the inquiries I have made and the reports I have received, there are difficulties presenting themselves in any attempt to deal with the industry along those lines. However, the General Manager, Colonel Griffiths, is expected to return to the Colony on, I think, the 2nd May, and it is the intention then, Sir, of the Kenya Farmers' Association to represent the case to Government and to make recommendations. I suggest that at that particular juncture this committee should, or soon after that, sit, and I will give the hon. Member an assurance, with your permission, Sir, that prior to that and in fact within the next day or two—and prior to my departure from the Colony—I will take the necessary preliminary steps to get agreement with the Board of Agriculture for the appointment of a special committee for prosecuting this inquiry. I would like to add this, in reply to the hon. Member, that such information as the Kenya Farmers' Association has in regard to the future production of maize indicates that there is likely to be a shortfall this season of something like 30 to 40 per cent.

"I hope I have said sufficient in my reply to persuade the hon. mover to consider whether, in the circumstances and in view of the assurance I have given to him and to the House, he would be prepared to withdraw the motion.

Let me say in conclusion, Sir, that I hope very much that something may be done to secure this industry for the Colony. In some quarters I am aware that doubts are cast, and it is in the minds of some people that this is really after all not a very important industry. I will just say this, Sir: that the United States of America regard maize as the king of all crops, and that in a country where maize is produced chiefly by European growers. I suggest therefore, Sir, that if that is the position in a great country like the United States of America, which can produce more maize than any other country in the world—if they regard it as the king of all crops, how should we not regard maize in this Colony, which has proved itself entirely suitable for the production of this maize.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I think the House will realize that the sting that has been in the tail of this debate has been withdrawn by the intimation that Government accepts the principle of the motion. That being so, there is very little to be said, but I would draw Your Excellency's attention to the fact that it is not proposed to hold this inquiry till the end of this month or the beginning of next month, the reason given being Colonel Griffiths' absence from the Colony. I maintain that is quite an inadequate reason. There are scores of men in Kenya who understand the situation and could deal with it in the absence of Colonel Griffiths or anybody else and I say that it is a calamity that even for three weeks the start of this inquiry is going to be held up. At the moment we are going through a drought definitely from Mombasa right up to the Uganda borders; the country is degenerating into a desert—it is burnt out. The maize growers at the moment, or at any rate a large number of them, have no intention of planting maize. It cannot be wondered at. Why should they plant a crop that, as far as any information is obtainable and as far as one can see is going to incur a loss. The only profit in growing maize at the moment is in the sale of *palilo* in the Colony and I do hope that this inquiry will be speeded up. In view of the weather conditions we have been going through now for months, in view of the fact that the majority of maize should have been planted before now—and planting has not even started up in the Trans Nzoia; and the same may be said of Plateau South—unless there is some assurance given to the maize producers, there will be a very heavy short fall of maize in the Colony in 1934. I do urgently ask Government to consider allowing the committee—if it is to be the Agricultural Board, I agree that is a very suitable body—to

undertake this inquiry now and put up recommendations to Government. They should sit immediately.

CAPT. THE HON. J. L. COTTELL: Your Excellency, I had no intention of intervening in this debate. It has my entire approval, but there are one or two points put up by the mover and by the Director of Agriculture that I think should be brought to the notice of this House. One would gather, listening to the speeches, that the maize industry is the only one that has been hit, but I would say, Sir, that there are other industries. The stock industry has been just as hard hit if not harder than that of maize. Now, Sir, what I really want to get at here is, if a committee is chosen, to the names proposed by the hon. mover, Government would be well advised for their own sakes to bring on to that committee one man interested in the consuming part, with the consuming outlook in this country. Suppose they fix the price, say, at Sh. 10. In that case you could almost say for certainty that the price level would not be kept; so I suggest that possibly one member should be on that committee who is not interested actually in maize except as a consumer, to give the consumer's point of view.

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

THE HON. E. H. WRIGHT: Your Excellency, while readily accepting the assurance given by the hon. the Director of Agriculture about the need for putting this matter in the hands of the Board of Agriculture, I would not willingly withdraw the motion as the hon. Director suggested. I sympathize very greatly with the hon. and gallant Member for Plateau North in pleading for this committee to sit at once, as that was my own intention, and I am dismayed to hear that Colonel Griffiths, whose advice I value very highly on an issue of this sort, will not be in the country at an earlier date than May. That, however, seems to imply that the committee must sit without him, and while, Sir, not withdrawing the motion, to suit the wishes of this House and of Government I would amend my own motion to read:—

"That this Council, recognizing the urgent necessity for taking steps to preserve the maize industry of Kenya, urges an immediate inquiry by the Board of Agriculture into the measures necessary to ensure that end."

If my hon. seconder will approve of that I am sure it will meet with the general approval of the House, but I do emphasize we should not wait until the end of this month. The need for this Committee sitting is very real and very urgent, and I further agree that no more suitable concession could be made to the hon. and gallant Member for Kenya than that the consumer should be represented thereon.

I have been corrected, Sir, on a matter of parliamentary procedure and I apologize for my total ignorance of it. Actually I think I must withdraw the motion when the proposal is accepted, but I am unaware that my motion is accepted except in its principle. If I have offended against the rules of Council I apologize.

HIS EXCELLENCY: I do not quite understand. You have heard the assurance given by the Director of Agriculture on behalf of Government. Of course, if the motion is put in its present form the Government will have to vote against it.

THE HON. E. H. WRIGHT: I have withdrawn it, Sir.

HIS EXCELLENCY: With the permission of the House, the hon. Member has withdrawn the motion on the assurance that has been given by the Director of Agriculture. I take it that that has the consent of the House.

THE HON. T. J. O'SHEA: Are we to understand, Sir, that Government accepts the latest suggestion that it should sit immediately and not wait for the return of anybody next May?

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, on a point of explanation, I do not know whether hon. Members quite realize that a certain amount of time is necessarily taken up in actually appointing a committee itself. Secondly, after having appointed it, it takes a little time to get it convened. By that time, according to my information, without a matter of days, the gentleman referred to will, as I understand it, have arrived in the Colony with just the information which the committee would have to seek.

The motion was by leave withdrawn.

REPORT OF SELECT COMMITTEE ON THE INCOME TAX BILL.

THE HON. THE ATTORNEY GENERAL: With the leave of the House, Sir, I would suggest that the motion standing in my name could be more conveniently and appropriately taken after the second reading of the Companies Bill.

HIS EXCELLENCY: With the leave of the House the second reading of the Companies Bill will be taken now.

BILL.

SECOND READING.

THE COMPANIES BILL.

THE HON. T. D. H. BRUCE: Your Excellency, I beg to move the second reading of a Bill to regulate Trading Companies and other Associations.

The law in the Colony relating to companies dates back to 1921, and is based almost entirely on the English Act of 1908.

In 1925, a Company Law Amendment Committee reported in London and recommended substantial amendment of the law.

In 1928, a Companies Act was passed which clearly followed the recommendations of that Committee, and in 1929 a Companies Consolidation Act was passed.

This Bill brings the law in the Colony closely into line with modern English law on the subject. It is also a step forward in the direction of the unification of commercial legislation in East Africa, Tanganyika Territory having enacted a similar measure in 1930.

The main changes introduced by this Bill are:—

(1) A company is restricted in its choice of names by clause 18.

(2) Clause 145 provides that a company must keep a register of directors or managers which must be open for inspection. As regards each director or manager, the register must show his Christian name and surname, his usual address, his nationality of origin, his business occupation, or, if he has no business occupation but holds other directorships, particulars of such directorships. If a corporation is a director the register must show its complete name and its registered or principal address.

(3) The register of shareholders required by clause 96 must, under clause 97 of the Bill, be indexed, and the index must be kept up-to-date and open to inspection as if it were part of the register.

(4) Every company (unless a private company) must have at least two directors (clause 140).

(5) Clause 120 provides that every company must keep at its registered office a minute book of the proceedings of its general meetings, which shall be open to the inspection of any member without charge. Copies of such minutes (on payment) shall be supplied to members on request (clause 121).

(6) The Bill gives wide effect to the principle that an officer of a company is to be personally liable for breaches of the company's statutory duties.

Among the new statutory duties of a company is the duty, under clause 123, of keeping accounts and bringing out an annual profit and loss account, balance sheet and director's report.

(7) Another section under which a heavy penalty might be incurred is clause 28, relating to the circumstances in which a company ceases to be, or to enjoy the privileges of, a private company.

This clause provides a penalty of £50 for omitting to file with the registrar a prospectus, or statement in lieu of prospectus, within fourteen days after a private company has so altered its articles of association as no longer to comply with the statutory definition of a private company.

(8) Clause 331 proposes to make it unlawful for any person to go from house to house offering shares for subscription or purchase to the public or any members of the public. This clause also provides that no offer of shares may be made in writing unless it is accompanied by a statement in writing containing particulars analogous to those required in a prospectus.

(9) Clause 46 prohibits a company from giving financial assistance for the purpose of or in connexion with a purchase of its own shares.

(10) Clauses 47 and 48 of the Bill give power to issue redeemable shares and to issue shares at a discount.

In addition, opportunity has been taken to include a considerable number of drafting amendments.

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

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

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

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

THE HON. T. D. H. BRUCE: Sir, I beg to move that the following Committee be appointed to consider this Bill:—

The Hon. the Director of Education;

The Hon. Member for Nairobi South;

The Hon. Member for Nairobi North;

with myself as Chairman.

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

The question was put and carried.

VALENTINO: MR. HOLM.

HIS EXCELLENCY: Hon. Members, before I adjourn Council for the usual interval, I feel that it will meet with your approval if I, on your behalf, extend to Mr. Holm and to his family our cordial good wishes for their welfare and happiness in the future. I personally shall greatly miss him not only as a very loyal friend but as the most efficient head of a department the importance of which is obvious in this agricultural Colony. I feel that we shall find it difficult to

find a successor with equal qualifications but I may tell you that I am doing my utmost with the Colonial Office to secure the right type of man.

The esteem with which Mr. Holm is regarded by all sections of the community was very aptly expressed by Lord Francis Scott in a statement he made in this House on the 15th December. I cannot improve on the Noble Lord's words which were as follows: "I think we would like to express how much we appreciate the way he has at all times fought on behalf of the farmer community and I think we can truly say that no man in this country has had such a strong belief in the development of this country on the right lines, whether in native areas or in settled areas and that the Director of Agriculture has been one of the most stalwart champions for the principles which we on this side of the House have always believed in."

Coupled with the name of Mr. Holm I venture to ask you to include in our good wishes the names of Dr. Gilks and Colonel Watkins. Both these gentlemen have given long and honourable service to this Colony and have sat for many years as members of this Council.

THE HON. THE DIRECTOR OF AGRICULTURE: Your Excellency, I am rather embarrassed by the kind expressions which you have conveyed in those words that you have addressed to the House. I should like very sincerely to thank you, Sir, and to thank my hon. colleagues for their response to those expressions. I do not know how far hon. Members realize that in this comparatively young Member who is about to leave the precincts of this House you have had the Father of this House for some years past. I do not think it is good really for the Colony that such rapid changes should take place, but I should like to say that I have always found that the sons have given that respect and consideration to the father when he has been dealing with business in this House.

I regret to leave the Colony and I regret to leave this House in which I have endeavoured to participate fully and freely on matters dealing with agricultural interests. I shall miss these opportunities in the future but I hope and believe that the welfare of this Colony will be safe in the hands of this Council.

HIS EXCELLENCY: I propose to take the usual adjournment now, but in case I do not see some of the hon. Members on the other side of the House after resumption, I should like to say that on the conclusion of the Committee stage of the whole House on the Income Tax Bill the Council will adjourn until 11 a.m. on the 24th of this month.

The Council adjourned for the usual interval.

On resuming.

MOTION.

REPORT OF SELECT COMMITTEE ON THE INCOME TAX BILL.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I would ask the leave of the House to take the motion standing in my name in the Order Paper in two parts—that I should first be permitted to move the adoption of the Report of the Select Committee on the Income Tax Bill and thereafter, when that motion has been put and resolved upon, to move that the Council go into Committee of the whole Council for the consideration of further details of the Bill.

I beg, Sir, to move that the Report of the Select Committee of this Council appointed to consider and report upon the provisions of a Bill to Impose a Tax upon Incomes and to Regulate the Collection Thereof be adopted.

The Report, Sir, is not a lengthy one and I am very happy to say, Sir, that in spite of its taking two full days, involving the examination of a number of witnesses, the Report, to a commendably great extent, is a unanimous one. There are in all, Sir, twenty recommendations, but many of them are purely clerical and consequential, and those which are of any seriousness, Sir, I think, are only three or four.

The first recommendation to which I will draw the attention of the House is that contained in recommendation No. 1, which deals with Clause 5 (c) of the Bill. That clause, Sir, has a provision dealing with the assessment, for the purposes of the computation of income, of the annual value of lands and improvements thereon; in other words, the housing question. As it stands, Sir, the annual value is to be deemed to be five per cent of the capital value, but, Sir, in Clause 8b, the rule-making clause—the last clause in the Bill—there is, under (c)—with which I am sure hon. Members will agree—an enabling provision, enabling a separate assessment to be taken of free housing to members of the Civil Service or servants in the Railways and Harbours Administration. The intention is to assess such houses for purposes of income in accordance with existing rules for arriving at maximum house allowance. The alternative would be to have a lengthy and expensive valuation of all Government premises and, even then, Sir, it would be quite impossible to make any valuation based on such a feat in any sense equitable, in that an officer goes into a house to which he is ordered to go and has no choice in the matter at all; and so it is proposed to insert in Clause 5 (c), after the word "value" in the fifth line, the words "subject to the provisions of any rules made under Section 8b (c) of this Ordinance."

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Then, Sir, I would draw hon. Members' attention to Clause 8, the exemptions clause—paragraph (g)—which deals with the income of a local authority not derived from a trade or business. The difficulty there, Sir, lies in the peculiar circumstances surrounding the Nairobi Water Works undertaking. As hon. Members are aware, it is the avowed policy of the Municipality of Nairobi to establish a Reserve Fund, made up of the profits on water, and that Reserve Fund is in effect earmarked to meet the cost of the projected new water works scheme. Under the Bill as it stands the profits from water would be subject to tax and that provision might in fact delay the bringing about of the badly needed new Nairobi water works scheme; and so it is proposed to give Your Excellency in Council power of exempting the income derived from any municipal trade or business if you are satisfied that public interest is best served by such an exemption.

Again, in the same clause, Sir, the opportunity has been taken to repair an obvious omission. The emoluments of officers serving in the Colony under the British Government are exempt. There is no reason in logic or equity why the same exemption should not be extended to the representatives of the Dominions in the Colony; and the opportunity has been taken in amending this clause to make that further exemption.

Under Clause 13, which deals with the set-off of losses, the opportunity has been taken of making it quite clear that a loss, before it can be set-off, must be a loss incurred in a trade, business, profession or vocation which is carried on inside the Colony. A person in the Colony may not set-off against his local income a loss incurred in respect of a business carried on elsewhere.

The next section of the Bill, the most contentious section, Sir, is that dealing with abatements, allowances and rates. In this section, Sir, it is recommended that under the expression "child" in Clause 17 there should now be included an adopted child. The reason for the exclusion of adopted children, Sir, was that the provisions of the 1926 English Adoption of Children Act do not apply to the Colony and could not apply in any way to the Colony by reason of the express provisions of that statute regarding domicile in the United Kingdom. It is the intention of Government, Sir, to put before this House at an early date a corresponding local enactment legalizing the adoption of children. That being so, Sir, there is no reason whatsoever why an adopted child should not be treated in the same way as a legitimate child or a step-child.

Then, Sir, in Clause 20, effect is given to the statement made by you in your communication from the chair regarding a reduction on the first £350 of chargeable income, and Clause

36 is, by recommendation No. 8, amended to make it clear that the fifteen per cent of the income which may be devoted to capital expenditure on bringing immature areas into bearing is an aggregate of fifteen per cent and that, if a farmer has five immature areas which he is cultivating at the same time, he is not allowed to set-off fifteen per cent against each of these.

Recommendation No. 10, Sir, fills up a lacuna in the Bill as printed in that air companies and companies dealing in the transmission of messages, whether by submarine cable or wireless telegraphy, are treated in the same way as shipping companies. That is an obvious provision to make. All three forms of communication should be dealt with in exactly the same way.

In Clause 55, Sir, the clause which deals with the obligation on employers to submit returns of employees and a return of their payments and allowances, there is an amendment made in that the figure £150 is now increased to £240. The reason for that, Sir, is very largely in consequence of the amendment to which I have already made reference, the amendment to Clause 20, which deals with income tax rates, and the amendment to Clause 75, which doubles the Non-Native Poll Tax. A bachelor in receipt of an income of £240 is entitled to £150 and 42½ earned income relief. His chargeable income is therefore £66, even if he pays no insurance premium. The tax on that, Sir, is Sh. 66 of which Sh. 60 is Non-Native Poll Tax. The effect of the amendment, Sir, is to minimise the burden which the clause puts upon employers. They will now only have to render a return in respect of those employees who have an income of £240 per annum or more.

Now, Sir, I think I can pass to Clause 75, that is, the clause dealing with the set-off of other forms of direct taxation. In the Bill, as drafted, there is an obvious omission, in that the Northern Frontier Poll Tax, which was introduced in 1930, was inadvertently omitted. That omission has been repaired, Sir, in (a) of recommendation No. 18, and in accordance with the announcement of Your Excellency at the opening of this session, the Non-Native Poll Tax is doubled. That is done by amending the provisions of the Non-Native Poll Tax Ordinance as from the 1st January, 1934, and by providing in new sub-clause (4) that, in respect of the year 1933, there shall be an additional Sh. 30 payable. That payment is to be made by the 31st day of October. That provision of the Non-Native Poll Tax Ordinance, including provisions dealing with the power of exemption and the power of granting relief from payment, are made applicable to such additional payments, and the receipt for that additional Sh. 30 is deemed to be a receipt of Non-Native Poll Tax for the purpose of set-off.

In Clause 77, which deals with the repayment of tax, it was not clear that any person dissatisfied with the Commissioner's decision has the right of appeal against such decision. That right is specifically given, Sir, in recommendation No. 19.

Those are the main, in fact, the only recommendations in the Report. I stated earlier that the Report was almost unanimous. The sole matter regarding which there is a lack of unanimity is as regards Clause 75, which doubles the Non-Native Poll Tax. My hon. friend, Mr. Hakim Singh, desired to record his opposition to the principle of doubling the Poll Tax at all.

There are, at the end of the Report, Sir, two additional paragraphs which, though they do not specifically amend the Bill, are perhaps worthy of some slight passing mention. The first, Sir, is that if it is possible in the light of the financial situation at any later time to grant any further measure of relief, the majority of the Committee are of the opinion that such relief should take the form of a reduction in rates rather than an increase in abatements or allowances. To that recommendation, Sir, my hon. friends, the Indian Members and the Arab Member desire to dissent. They, Sir, would prefer to see any measure of relief which can be extended take the form of a reduction in the amount of Non-Native Poll Tax, which now stands at Sh. 60.

Then, Sir, as regards Clause 39, the Committee felt it its duty to point out that there was a risk, admittedly, Sir, a very slight and almost negligible risk—a risk which at least on paper arises from the fact that Tanganyika Territory do not propose to introduce similar legislation this year. The clause in question deals with the taxation of the profits of shipping companies. Freight rates, we understand, Sir, to Tanganyika Territory ports are the same as the rates to ports in this Colony and it is conceivable, though I think the possibility of any such thing is extremely remote, it is nevertheless conceivable that a company might by discriminating in favour of Tanganyika Territory divert a certain amount of traffic from the ports of this Colony. I repeat, Sir, I think the danger is extremely remote because the companies concerned are to a large extent British companies or companies belonging to countries which reciprocate in giving relief from income tax under what is now clause 8 (a) of this Bill. In the case of British companies the provisions of Clause 42 (now Clause 43) relating to relief from double income tax would apply and they would in effect pay no more income tax in the aggregate than they do at the moment.

Your Excellency, I beg to move that the Report be adopted.

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

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Income Tax Bill be adopted.”

THE HON. T. J. O'SHEA: Your Excellency, I feel compelled to oppose the adoption of the Report of this Committee. I am astonished to learn that the Committee thought it could discharge its obligations to this House by getting through this important and lengthy Bill in the course of a couple of days, during which time they gave up a considerable proportion of that period to hearing twelve witnesses. How in the balance of the time at their disposal they could have adequately gone through this Bill I cannot understand, having some experience of select committees.

I must express my astonishment, Sir, that the unofficial members of that Committee should have been so complacent in accepting Government's point of view on the details of this Bill and should have so failed in their duty to press for amendments that would make it a feasible and workable measure under the circumstances of Kenya. The Bill, as published, was obviously a cock-shy; Government intimated publicly that it did not expect the Bill to be passed in anything like that form. It did lead the public to believe that in Select Committee it would be amended in ways that would bring it more into keeping with the conditions of the country, and I must express again my astonishment that the Select Committee so completely failed to alter the published Bill in a manner that would make it workable and that would meet the requirements of the country. The Bill is obviously drafted by people conversant with conditions in countries that bear no resemblance to ours. The scales proposed and the exemptions allowed might possibly be justifiable in other countries, but in the circumstances of Kenya they cannot be justified. I must therefore register my strongest possible protest against the adoption of the Report of this Select Committee.

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

THE HON. THE ATTORNEY GENERAL: Your Excellency, all I would say, I think, at the moment is that my hon. friend the Member for Plateau South has given notice of a number of amendments and I would suggest, Sir, that these could more conveniently be dealt with in Committee of the whole House than they could at this moment. They are hardly germane to the actual terms of this Report.

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Income Tax Bill be adopted.”

The question was put and carried.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council for the consideration clause by clause of the provisions of a Bill to Impose a Tax upon Income and to Regulate the Collection Thereof.

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

The question was put and carried.

The Council went into Committee.

In Committee.

THE INCOME TAX BILL.

The Bill was considered clause by clause.

Clause 2.—Interpretation.

THE HON. T. J. O'SHEA: In connexion with clause 2 on page 2, it says “year of assessment”—a subsequent amendment of mine has been put up that the date January, 1933, be altered to January, 1931.

THE HON. THE ATTORNEY GENERAL: I would say on that, speaking from memory, the acceptance of the amendment which the hon. Member is about to move when we come to clause 5 would necessitate, I think, eleven consequential amendments. I would ask him, Sir, to accept my assurance that in the event of the amendment to clause 5 being accepted I shall move the others in due course.

Clause 4.—Official secrecy.

THE HON. T. J. O'SHEA: With reference to sub-clause (5), line 3, the “Auditor” is mentioned. The Auditor is not defined in the definitions; may I ask who the Auditor would be?

THE HON. THE ATTORNEY GENERAL: The Auditor is the Colonial Auditor. There is no necessity to define Government officials who are mentioned by their titles here, any more than, for instance, we define Your Excellency.

Clause 5.—Charge of income tax.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move that in clause 5, line 4, the figures “1033” be deleted and the figures “1034” substituted therefor.

The effect of that would be, Sir, that income tax would not be levied for this year but would start next. I would strongly urge upon Government the necessity of agreeing to this amendment. If one turns to clause 6, it will be seen that the assessment for the current year is made upon the income of the preceding year, even though in the course of that year the source of income has disappeared. Now, Sir, in the circumstances of this Colony to-day I think it would be obvious to Government that already this year income has disappeared that

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was in existence last year. Take the case of people in the employ of Government: last year they were earning good salaries in the employ of Government; to-day some of them are on the streets. Last year, numbers of people had profitable employment outside Government service; to-day they are many of them dependent upon charity. Last year, quite a number of commercial firms were still making a small profit on which income tax would have been still year, but this year they are working at a loss. Last year all those people were entirely unaware that they would be called upon this year to pay income tax on last year's earnings, and in consequence made no provision whatever for the payment of such a tax. That being the case, Sir, to bring the tax into operation this year would not only create very considerable hardship, but it would also involve Government in an effort to collect a tax for which no provision has been made, and I feel certain that to bring the tax into operation this year would arouse so much opposition, occasion so much difficulty, cause so much hardship, that the subsequent fate of the measure would be jeopardized.

In addition to that, Sir, it seems to be only fair and equitable that the introduction of a measure like this should allow for a period in which people can adjust themselves to its requirements. The scale being such a large one, going down practically to the cost of living, it must be obvious that people will have to adjust their standard of living to the conditions of this tax, and some little time must be allowed them in which to do so. The overwhelming majority of people in the Colony, other than the natives, have had during the last two years to endeavour to cut their scale of living to very much smaller incomes. It has been a difficult task. Many of them are it should be for their health, and I feel certain that the tax will be disastrous. I therefore do hope that Government will see its way to accept this amendment. I appreciate that it may result in a loss of revenue that has been anticipated, but on the other hand the Bill in actual fact Government will collect very little revenue under it this year, even if it decides to make it operative this year.

I hope, in view of these arguments, that Government will seriously consider the acceptance of this amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I feel sure that the hon. Member for Plateau South has achieved his end in taking the opportunity of making the remarks that has just made, and that he will not, I feel certain, press this amendment, Sir, which Government is unable to accept at this moment for the very reason that he himself has given. It is necessary, if we possibly can, to get the debate on this Bill in this House in the past two weeks will, of course, go to the Secretary of State, Sir, and it will be for the Secretary of State, after mature consideration, to decide on this as an other matter.

THE HON. T. J. O'SHEA: Your Excellency, I most certainly have not achieved my object in making known my views. My object most certainly is not to waste my own time and waste the time of this House in string my particular views. My object is to bring home to Government circumstances of which they possibly are not aware, and to have done so to see whether Government has not sufficient sense of its obligations to the people to recognize the advisability of postponing the operation of this measure for a year. I certainly would not agree that the Secretary of State is in a position to make a decision on the matter without the previous decision on the part of this

Government. What the answer of the hon. the Attorney General to my arguments amounts to is this: that however sound may be my arguments, Government are regretfully unable to listen to them because the one consideration that Government can listen to is that they must have more money with which to balance the Budget this year. I suggest, Sir, that that is not a foundation upon which this Government should work, and I am very disappointed indeed to find that Government is not prepared to agree to this very reasonable amendment.

The question was put and lost.

THE HON. T. J. O'SHEA: Under (b), I should like to ask whether the definition given in (b) includes what in the case of Civil Servants is known as "children's emoluments"—that is to say, the annual value of passages every three or three-and-a-half years, the value of free medical service, the value of free transport coming into and going out of the country when going on leave, and so forth—such items as that.

THE HON. THE ATTORNEY GENERAL: That, Sir, I suggest, is largely an administration matter on which I cannot finally pronounce, but in so far as my own opinion, as Your Excellency's legal adviser, is concerned, then it does not include such items. A passage which is given to enable the officer to earn the income which in the circumstances he receives would be a legitimate deduction under 10 (1). If the passage is not taken, obviously the income does not flow. Free medical attention, Sir, is, I suggest, quite incapable of translation into terms of cash at all, and transport is, by and large, governed in the Service by the payment of mileage allowance, and that mileage allowance, being cash actually received, is part of income; but it is equally a permissible deduction as the mileage is incurred in pursuit of the ordinary vocations of the profession and is money necessarily expended in earning; the income.

THE HON. T. J. O'SHEA: In view of that, may I ask whether, as in the case of Civil Servants the cost of going to and coming from England every so many years is not part of a Civil Servant's emoluments, whether in the case of people who are not in the Civil Service it will be a legitimate deduction from income to put down the cost of going to and coming from England every so many years? Again, may I ask whether, as in the case of Civil Servants, the provision of free medical attendance is not part of a man's income, in the case of people who are not in Government Service it will be a legitimate deduction from income to allow for the cost of medical attendance?

THE HON. THE ATTORNEY GENERAL: I began my remarks, Sir, by saying that this is an administration matter, and I confined myself thereafter to Civil Servants. I can only say that, in my opinion—it is, of course, a personal opinion, because it is an administration matter—every such case must be dealt with on its own merits.

THE HON. T. J. O'SHEA: That answer, Sir, justifies my severe comments on the manner in which the Select Committee did its work, because now we are being asked to pass this Bill, and we find we are dependent on the personal opinion of the hon. the Attorney General as to what portions of the Bill mean and what they do not mean. Surely, Sir, it is most inadvisable that we should to-day pass a Bill in Committee in which at the very outset we do not know what constitutes the income of Civil Servants? I think it is most necessary that this clause be amended so that it is made clear what part of the remuneration of Civil Servants is regarded as income. If that is not done it means that people in such circumstances may be getting preferential treatment. So I would ask if the hon. the Attorney General

would be good enough to amend (b) so as to make it perfectly clear that Civil Servants and people engaged on similar terms of employment have to include as part of their emoluments all the things they receive as emoluments, more particularly the cost of passages to and from some country other than Kenya.

HIS EXCELLENCY: If the hon. Member desires to move an amendment he is at liberty to do so.

THE HON. T. J. O'SHEA: You will appreciate, Your Excellency, that I have to wait for an explanation from the hon. the Attorney General as to whether these things are included or not. I will now move that, after the word "residence" in line 3, the words "or the cost of passages to or from the country, or the value of free medical attendance" be added.

HIS EXCELLENCY: The question is that clause 5 (b) be amended by the insertion of the words "or the cost of passages to or from the country or the value of free medical attendance" after the word "residence" in line 3 of sub-clause (b).

The question was put and lost.

Clause 8.—Exemptions.

THE HON. T. J. O'SHEA: Under clause 8, I have given notice of an amendment that, after the paragraph lettered (g), the following be inserted as (h): "income derived from agriculture conducted in Kenya." In other words, Sir, I am bringing up the important question of excluding from the operation of this bill, for the present at any rate, the agricultural community. I do so, Sir, because I feel certain that in the present state of the agricultural industry of the country it is a waste of time for Government to endeavour to collect income tax from the revenue of that industry. One of the strongest possible arguments against the adoption of an income tax bill in this country is that the cost of collecting it is proportionately high. Now I do not think anybody can dispute that such is likely to prove the case, and I honestly believe that the collection costs will be increased out of all proportion to what they might be if you insist upon including agriculture in the scope of the measure, because it will entail on Government an immense amount of cost in endeavouring to collect what does not exist, and will also impose upon the agricultural community a considerable amount of cost in proving that they have not got taxable incomes.

If the circumstances of the industry be considered for a moment, it will be seen that it is useless to expect any appreciable amount of income from this source, and if the new department which has been set up has already had time to make investigations in this direction I am sure it must have informed Government that the cost of collection will be inordinately high, and I hope I shall find that the Government, having considered this question, will be in agreement, and time being.

THE HON. THE ATTORNEY GENERAL: I would suggest to the hon. Member, Sir, that this is a very dangerous amendment in the least. Let me take two points, Sir, which, quite shortly, will indicate my meaning: If income derived from agriculture in the Colony is to be exempt, then, Sir, that class of persons in the Colony is to be an inconsiderable class—who have private incomes and are engaged in no farming would then not be able to set off from their private incomes any part of that income which they have lost in farming. They would suffer more, however, Sir, for the very excellent provision in clause 10,

which deals with a set-off over a period of years, would become ineffective if the men at present engaged in farming did not become subject to this tax, as the hon. Member suggested. We do not anticipate getting much from farmers, Sir; and I think the hon. Member unduly emphasizes the difficulties of submitting returns. The returns to be called for will not be of an elaborate form; they will not be difficult forms to fill up; and I suggest that this would be a dangerous amendment for the farmers themselves if it were passed.

THE HON. T. J. O'SHEA: I should agree with the hon. the Attorney General, Sir, if any very large proportion of the working farmers of this country were people in receipt of private incomes, but as such is not the case, I do not see why the balance should be penalized for a consideration of the circumstances of a small minority. I am well aware that Government will not get much revenue from this source during the next few years, and I did hope that Government would recognize the advisability of keeping down the cost of collection by excluding the agricultural industry of the Colony, for the time being, at any rate; but I can see it is waste of effort to argue the case further, so I will just leave it at that.

HIS EXCELLENCY: Do you wish me to put the amendment?

THE HON. T. J. O'SHEA: Yes, Sir.

The question was put and lost.

Clause 9.—Government loans.

THE HON. T. J. O'SHEA: Your Excellency, I have given notice of my intention to move that this clause of the Bill be deleted. I regard this as possibly the most important of the many important amendments that I am bringing up, and I regard it as of so much importance that I do not think it necessary to apologize for challenging a division on this amendment. It is true, Sir, that the clause, as it stands, merely gives authority to the Governor to exempt the dividends on loans, on national loans, but from what was stated by the hon. the Attorney General during the course of the debate on the second reading, it is obvious that it is Government's intention to exclude the interest on our national debt from the operation of this Bill. Now, Sir, that could only be done in the interests of another country, and not in the interests of this country, which I presume is under orders; and I regard it as a most iniquitous thing that the Secretary of State for the Colonies should, in the face of such strong opposition from the country here, insist upon Government passing a Bill for the imposition of income tax and at the same time insist that that measure should not operate over the dividends of our national debt.

The effect of that will be, Sir, that while the people in the country will be subject to heavy income tax, the dividends from our national debt will be exempt so far as this country is concerned, and the effect of that will be that the Imperial Exchequer will continue to receive the full amount of income tax at very high rates that it is at present receiving from these payments by Kenya. In terms of the Bill as it stands at present, that would mean a loss to Kenya of something in the neighbourhood of £80,000 per annum. I am taking that figure as Sh. 2 in the £ on the dividends from the national loans, and making some allowance for deductions. In other words, we are being asked to pay tribute to the extent of £80,000 per annum to the British Exchequer, and that at a time when this country is so badly in need of money that the Government is compelled to impose very onerous taxation on the country. If there is any uncertainty as to the operation of this clause, I sincerely hope the hon. the Attorney General will clear it up, because the country does understand to-day that it is

the intention of our Government to allow the revenues of Kenya to be deprived of the money covered by this clause, and that will be regarded by the people as a very serious affair indeed.

THE HON. THE ATTORNEY GENERAL: The effect of the deletion of this clause, Sir, would be to exempt all interest payable on any Kenya Government loan except in so far as that interest came into the hands of persons resident in the Colony. That, I hardly think is what my hon. friend has in mind, but I would like to say just one word more, Sir. The hon. Member has talked about not paying tribute to the British Exchequer. That, Sir, is I think hardly what he meant—it was rather that we are not receiving a sum of £80,000 from the British Exchequer. We are, of course, paying no more than we are at the moment, but I would point out to the hon. Member the enormous benefit which this Colony stands to derive from the operation of clause 42 of the Bill at the expense of the British Treasury. A matter like that can only be a matter of bilateral negotiation, and a Government cannot possibly at this moment, Sir, run the risk of jeopardising the successful working of a clause such as that for relief from double taxation, United Kingdom taxation, by accepting any amendment of this provision.

The question was put and lost.

THE HON. T. J. O'SHEA: Your Excellency, the clause not having been deleted, I beg to move a further amendment: that after the word "Governor" in the first line the words "with the advice and consent of the Legislative Council" be added.

In an important matter such as this matter dealing with taxation, I think it is most inadvisable that the power should be left in the hands of the Governor by proclamation. In similar circumstances, have the advice and consent of the Legislative Council before issuing such a proclamation. I hope Government will see no objection to the inclusion of this provision.

THE HON. THE ATTORNEY GENERAL: I suggest that this is a purely administrative step, and that such steps are invariably left to the Government. The precedent—*one stone* only a couple of days ago in connexion with the Juvenile Offenders Ordinance—there are where financial considerations come in. For instance, that which we dealt with a few days ago regarding juvenile offenders, that which we which definitely connoted the expenditure of public funds, and therefore executive matter entirely, Sir, and therefore the whole subject-matter of precedent is in favour of leaving it as it is.

HIS EXCELLENCY: I do not presume the Governor would take any action without consulting the Legislative Council.

THE HON. T. J. O'SHEA: Your Excellency, with respect, I am surprised to find that there is no comparison between the importance of this executive matter and that to which the hon. the Attorney General referred just now. This is a case where the Governor is being invited by law with authority, entirely on his own responsibility, any loan charged on the public revenues of the Colony. Surely, in an important matter of this kind, it is essential that the advice and consent of the Legislative Council should be obtained? If not, what is the function of this Legislative Council?

The question was put and lost.

(Clause 14.—Deduction in respect of earned income.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move, in accordance with the notice which I have given, that in the third line the words "one-tenth" be deleted and the words "one-fifth" substituted therefor; and in line 5 that "£200" be deleted and "£300" substituted therefor.

I think, Sir, in a colony like this, a young colony like this, it is most advisable to allow the maximum possible allowance in respect of earned income, and the provision of one-tenth is much too low. Also I think it advisable, if you make that change, that you should increase the maximum to the comparatively small sum of £300. I hope Government will show some little generosity in this clause by accepting my amendment.

THE HON. THE ATTORNEY GENERAL: I think, Sir, Government would very much like to show generosity in this and other regards, but hard facts come into the case. This is the first of a number of sections, running up to clause 21, by and large, which practically are the Income Tax Bill. They settle the rates, allowances and abatements, and in the circumstances with which the Colony is faced at the moment, Sir, and after very careful and thorough examination of every aspect of each of these clauses, Government could not see its way in the interests of the Colony to going further than it has at the moment gone. If I may say so, I entirely agree with the hon. Member that every differentiation should be made in favour of earned income. The rebate here is only half the rebate which is given in the United Kingdom. We should have liked to go further, but practical considerations precluded, and we have not been able to.

THE HON. T. J. O'SHEA: It is quite obvious that Government's one consideration in connexion with this matter is that it wants the money, and it is going to get it, and it does not matter how it gets it.

The question was put and lost.

(Clause 15.—Deductions in case of residents in the Colony and British subjects.

THE HON. T. J. O'SHEA: Your Excellency, under clause 15 I have given notice of an amendment in lines 3 and 4, that the words "one hundred and fifty pounds" be deleted and the words "two hundred and fifty pounds" substituted therefor.

Incidentally, Sir, I notice in going through this Bill that in some cases the amounts are written in words and in other cases they are shown by figures preceded by a £ mark. I will be sufficiently generous to make the suggestion to Government that they might be uniform about it and do one thing or the other.

Turning to my amendment, Sir, the cost of living allowance is placed in the Bill at £150, and I suggest it should be raised to £250. In doing that, Sir, I am guided entirely by what I know of the circumstances of people living in the Colony. Now perhaps at this stage I might deal with the arguments that have been put up against increasing these abatements generally. It is urged that if we allow generous abatements we are practically excluding the Asiatics of the Colony from the operations of the Bill, and those who would wish to include them apparently argue that if there is injustice to be done they would like to see the largest possible number of people in the Colony affected by that injustice. I take just exactly the opposite point of view. I say that it is unjust to pass this Bill at the present time, and I am opposed to injustice being inflicted upon a larger number of people than is absolutely essential. I also argue in favour of larger abatements because, knowing the circumstances of many

people, I am not prepared to submit to a greater infliction being put upon them in order to put some similar infliction upon others. There is no question about it that whatever are the rates suggested in this Bill and the meagre allowances allowed, they will affect in this indeed affect a large number of what you might call the working-class European population of the Colony. A large proportion of the wage-earning Europeans of the Colony and the salary-earning Europeans their wages cut and their salaries cut to an extent that today they are many of them in really straitened circumstances, and to bring them within the operations of this Bill is a real injustice to them. An amount of £150 per annum is not an adequate cost of living allowance for a European if you take into consideration that he is under existing taxation already paying away a very appreciable amount of that income to Government by way of tax allowance. If it were the case that people earning that comparatively low salary were not already paying a considerable amount in taxation, then I would acknowledge there are at present paying a very considerable proportion of their net revenue to Government in taxation, mainly indirect taxation. I think it would be most unjust indeed to inflict upon them any portion of the burden that would be imposed by this Bill.

In figures quoted in an official document published some months ago over the name of Lord Moyne, there is a figure giving the *per capita* taxation of the Europeans of this Colony. It is very high, higher than in most other countries of the world, but the important thing about it is this: that on that figure the low-salaried class of Europeans in this Colony is paying an entirely undue proportion, and to bring them within the scope of this Bill is, I consider, a grave injustice. That is why I have, right through the rates, suggested alternatives, to ease the position of people in these circumstances.

THE HON. THE ATTORNEY GENERAL: Well, I, naturally, Sir, cannot accept anything my hon. friend has said on the score of injustice. I can and I do accept a great deal of the argument he has just given because it is, in fact, the argument of the Government for fixing their rates at the rates at which they are fixed. There is, however, I think from what my hon. friend has just said, this rate of £150 does not mean that everyone who earns over £150 should pay income tax. That is only one of the many statements. I gave the figure, Sir, a few days ago, in my reply to the debate. A bachelor will not pay income tax until he is earning—I think the figure was—£234 a year; a married man without children, £289; and a married man with three children over £100 a year.

The question was put and lost.

Clause 10.—Deduction for wife.

THE HON. T. J. O'SHEA: Under clause 10, I have given notice of an amendment to delete the amount £50 and substitute an amount of £100. I wonder what will be the answer of the hon. the Attorney General to my argument on this clause? Can it be seriously suggested that £50 is anything like an adequate allowance for the responsibilities of a wife in this country? On what basis is the amount of £50 fixed? I understood that the figure should be somewhere in the neighbourhood of what was the cost in reasonable circumstances of maintaining a wife. If that is not the case, then what is the argument upon which any allowance whatever is made? If, however, any allowance is made because Government is prepared to recognize that it does cost something to maintain a wife, why should they not allow something in the

neighbourhood of the actual cost on a reasonable basis? This particular allowance is of very considerable importance in this country because in quite a number of cases married men have to maintain their wives apart from their own place of living. In some cases they may be up-country and have to maintain a wife in Nairobi, and in other cases it becomes necessary to maintain one's wife overseas. In such cases the allowance made by Government under this heading is not anything like adequate, and to keep them on these low figures will be a real hardship. I therefore ask Government to give favourable consideration to the question of increasing the amount from £50 to £100.

THE HON. THE ATTORNEY GENERAL: I do not think, Sir, on this or succeeding clauses I can usefully add anything to what I have already said. I indicated earlier on that all these statements and allowances must hang together, and my argument on one is my argument on each.

The question was put and lost.

Clause 17.—Deduction for children.

THE HON. T. J. O'SHEA: Your Excellency, on clause 17 I have given notice of several amendments: line 8, delete £40 and substitute £60; line 9, delete £30 and substitute £50; line 10, after the word "child" delete the remaining words of the clause to the end of the paragraph. I will leave that last amendment on the Order Paper till later, Sir.

On the monetary provisions it is suggested that an allowance of only £10 should be made for the first child and £30 for each subsequent child up to a maximum of £100. Well, Sir, I wonder how Government can reconcile that with its knowledge of the cost of educating children in this Colony. Figures have been produced to show that it costs at least £30 for the education of a child in this Colony, and it seems to me a most regrettable thing that in a young, growing colony such discouragement of families should be given by Government. There is no justification whatever, in a young colony, that should be grateful for a young rising generation, that it should be made a burden, at the instigation of the State, to have children; and why Government should suggest that the State was not prepared to recognize more than three children in one family requires some explanation. In view of the moral principles held by Government, as expressed in various ways in this House from time to time, I am astonished that Government should have incorporated in this Bill the principle of the limitation of families; and I am astonished that it should have gone so much further and incorporated in this Bill the most inhumane doctrine that because a child is illegitimate it was not entitled to live. It was, in the process of Select Committee, agreed that it is not improper to take on the responsibility of supporting a child which is not one's own, and I should like to know why it has not gone a step further and recognized that it can be a most humane and proper thing to acknowledge one's responsibilities to a child which is technically illegitimate.

THE HON. THE ATTORNEY GENERAL: The same arguments, Sir, apply very largely to these provisions, but I would like to remind the hon. Member that this clause is not an educational clause at all. This clause makes an statement in respect of a child from the date of its birth; it is not merely during the period that this child is receiving education. It covers the whole period of infancy, and it extends up to whatever the age may be at which the child ceases to receive education.

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The question of illegitimate children, Sir, raises one difficultly in this Colony. It is not a question on which I think anyone on this side of the House feels strongly at all; it is the question of the native children in this class, if I might make a suggestion, Sir, it would be that the point might be left over until we resume the debate to-morrow morning, then we might perhaps return to it.

THE HON. T. J. O'SHEA: In deference to the wishes of the hon. Attorney General, Sir, I am prepared to do that, but in the stipulated allowance for children, I might say that I do appreciate the allowance in respect of the education of children. I quite appreciate no argument has been put in respect of the whole period of infancy, but allowed in these cases are anything like adequate for the annual education of a child, and apparently I shall be met on every clause of the Bill with a repetition of the argument that all Government is concerned with is the question of raising money and that it is not or no. At all times one feels in this House that one is talking to the greater extent and I cannot help expressing myself at this stage that has adopted the Government, in view of all the circumstances, make arguments I am putting up for some modification of this Bill. It emphasizes to a greater extent than has ever been done before that it is not a question of bringing in legislation suitable to the needs of the country, or of bringing in legislation that can be morally justified; it is a question of arbitrarily applying a measure designed no matter of consequence, either to the people who are being compelled to give extra revenue to Government, or of the consequences to Government of adopting such an attitude towards the people.

THE HON. THE ATTORNEY GENERAL: The suggestion I threw out, Sir, had reference only to the hon. Member's last amendment—that put, Sir, and then progress might be reported on this clause.

The question was put and lost.

Progress was reported.

Clause 18.—Deductions in respect of life insurance and contributions to Widows' and Orphans' Fund, etc.

THE HON. T. J. O'SHEA: Your Excellency, I have given notice to move that clause 18 be amended by the deletion of the words "one hundred pounds" on page 10 of the Bill and the substitution thereof "one hundred pounds"; and by the deletion of the words "one hundred pounds" in line 8 on page 10 of the Bill and the substitution thereof the words "two hundred pounds".

Now, Your Excellency, I do hope that reconsideration will be given to this amendment, and it will not be met with the stone-wall attitude which the previous amendments have been met, because if this amendment of this clause is very very desirable indeed if Government really does want to have the Bill in such a form that it does meet the conditions of Kenya. This is the insurance provision, Sir, and I am asking for a more generous allowance be made for insurance purposes. I do that because in the circumstances of this Colony it is very necessary for people to insure, to take out life insurance, to a

greater extent than is necessary in home countries. Unless a man does make provision by insurance for his family on a much more generous scale than might be necessary in old-established countries, there is a real risk of leaving his children in want. And again, it is necessary, if one has any property of any considerable value, to make provision by means of insurance for death duties and other consequences that arise as a result of a man's death. In England and other countries, if death overtakes the head of a concern it is comparatively easy to make provision for the business to be carried on or for the property to be looked after, but in this country the death of the head of the family generally results in the disintegration of the business, and it is extremely difficult to find by agreement a portion of the property the money necessary to meet the estate duties and other expenses which arise from death. I have within the past few weeks come across one case where on the death of the owner of a very considerable property, a man who was estimated to be comparatively rich in terms of conditions in this country, in the process of settling up the estate it has practically disappeared, and although that man had taken what steps he could to safeguard the future of those dependent upon him they are to-day practically penniless. This Bill has not been drafted with due consideration for the conditions of the country, and in this particular respect I suggest that Government can amend the Bill so as to make it more in keeping with what it should be without any appreciable loss of revenue. It cannot be said under this clause that the deficit is going to be very much greater this year if you agree to the acceptance of my amendment.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I would ask leave—I am sure the hon. Member who has just spoken will not object to my doing so—to report progress on this clause also until to-morrow morning.

Progress was reported.

Clause 20.—Rates of tax upon persons other than companies.

THE HON. T. J. O'SHEA: Your Excellency, I have given notice of various amendments, but in view of the obvious intention of Government not to accept any of them I shall not take up the time of the House by going into them in detail. I will give you just a line of argument which I have applied in suggesting those amendments. By applying the operation of this measure to people low down in the salary scale you are discouraging to get revenue from a new source which can only come as a result of a loss of revenue from other sources. I feel confident that the law of diminishing returns is going to show itself in operation in the application of these rates. Government apparently will not recognize that a very large proportion—I might say the majority so far as Europeans are concerned—of the people earning below £750 a year are to-day working as close to the actual cost of living as they can possibly work, and it will only be possible for them to pay income tax under their present circumstances by curtailing their expenditure in other directions from which Government is already receiving revenue, so that in fact a very large proportion of the money Government will get under these rates will only be possible by a loss of revenue in other directions. As to the equity of my amendments, it will be a loss of time to urge at that point of view, because Government has already made it very clear that it is not an argument that carries any weight.

THE HON. THE ATTORNEY GENERAL: I have nothing to add to my previous remarks, Sir.

HIS EXCELLENCY: The question is that clause 20 be amended by the deletion of all the words after the word "rates" in line 3, and the substitution thereof of the following:—

"For every pound of the first £750, seventy-five cents;
For every pound of the next £750, one shilling;
For every pound of the next £1,500, one shilling fifty cents;
For every pound of the next £7,000, two shillings;
For every pound of the remainder of the chargeable income, two shillings fifty cents."

The question was put and lost.

Clause 21.—Flat rate of tax on company.

THE HON. T. J. O'SHEA: Your Excellency, in clause 21 I have given notice of an amendment that the words "two shillings" in line 2 be deleted and the words "one shilling" be substituted therefor.

As it is a waste of time adducing sound arguments in favour of that amendment, I shall content myself with formally moving it.

The question was put and lost.

Clause 22.—Deduction of tax from dividends of companies.

THE HON. T. J. O'SHEA: Your Excellency, I have given notice of an amendment in this clause that the words "two shillings" in line 27 be deleted and the words "one shilling" be substituted therefor. I beg formally to move.

The question was put and lost.

Clause 23.—Deduction of tax from mortgage interest payable by individual.

THE HON. T. J. O'SHEA: Your Excellency, I beg to move that clause 23 be amended by the deletion of the words "two shillings" in words "one shilling", and the substitution thereof of the word "one shilling".

The question was put and lost.

Clause 30.—Ascertainment of profits from certain agricultural undertakings.

THE HON. T. J. O'SHEA: Your Excellency, in clause 30 (4) I move the deletion of the word "fifteen" in the sixth line and the substitution thereof of the words "twenty-five".

Perhaps it is worth giving a reason for this amendment, even though Government may not be prepared to listen to reason. It will be obvious that in a young colony like this it is advisable to encourage people to put back some of their profits from the land into development, and it is in fact necessary to the future progress of the Colony when under pioneering conditions in this Colony, I can say that the profits are small, and to allow only 15 per cent of the profits to be taken into increasing development is to allow an insufficient sum when I say amount. I think Government would lose very little, and would show development if they were nominally generous and allowed the substitution of 25 per cent of the profits instead of the 15 per cent—I mean for exemption purposes.

THE HON. THE ATTORNEY GENERAL: This clause, Sir, has been very carefully examined (indeed). It is not, as the hon. Member is doubtless aware, a common form clause. So far as I know, a provision such as this exists only in one other Colony. It has been extremely

carefully examined with great care and intensity by the Director of Agriculture himself, and it has been considered by representatives of two other large industries which are not specifically covered by this section—the sisal industry and the wattle bark industry—and spoken of by them with commendation, and they are anxious to have analogous provisions made under the last paragraph of sub-section (1) of section 10 for those two industries. Never has it been suggested so far that this provision was not one that was salutary in the interests of those engaged in permanent cultivation in the Colony, and generous to them—never until to-day has that suggestion been made.

THE HON. T. J. O'SHEA: I agree with the case of these two branches of the planting industry that the amount of 15 per cent might be justified, but when you consider other branches of the agricultural industry circumstances are entirely different. If you are endeavouring to build up a dairying industry . . .

THE HON. THE ATTORNEY GENERAL: Permanent cultivation only, Sir. It does not affect maize and wheat.

THE HON. T. J. O'SHEA: No, Sir. I am thinking of the case of mixed agriculture. Take the case of a man who is running maize and coffee or a man who is running wheat and coffee. He is trying to build up a coffee plantation out of the profits he makes out of the less permanent branches of agriculture. The exemption here is very small because the profits are small.

The question was put and lost.

Clause 37.—Profits of non-resident persons from sale of exported produce.

HIS EXCELLENCY: You have some amendments down for this clause.

THE HON. T. J. O'SHEA: Those amendments, Your Excellency, are purely consequential and they now drop.

Clause 72.—Time within which payment is to be made.

THE HON. T. J. O'SHEA: I urge, Sir, that in the circumstances which prevail in this Colony it is necessary to allow perhaps a longer period of time for the payment of income tax. This would be necessary elsewhere.

THE HON. THE ATTORNEY GENERAL: This period, Sir, is only the period for annual payment after receiving notice of assessment. It does not mean that the tax is payable in the first month of the year. There are three months in which to send in your return. The returns have to be examined and settled and it is only after the final assessment goes out that this period of thirty days begins to run. In fact, Sir, in a full year this period of thirty days will probably be somewhat shorter, time, the actual period which elapses until the last day for payment is considerable.

THE HON. T. J. O'SHEA: With people going backwards and forwards and being away from their place of business for various reasons, I should have thought it would have been necessary to allow a longer time.

THE HON. THE ATTORNEY GENERAL: Equally, Sir, as it might well take until the end of July to settle the final assessment, the giving of another three months would mean that it would be perilously near the end of the year.

HIS EXCELLENCY: The question is that clause 72 be amended by the deletion of the word "thirty" in line 1 and the substitution thereof of the word "ninety".

The question was put and lost.

Clause 73.—Penalty for non-payment of tax; and enforcement of payment.

THE HON. T. J. O'SHEA: This must be the clause on which I had hoped to arrange with the hon. the Attorney General for moving words to provide for payment by instalments. I understand the Government does appreciate the necessity for that. I am afraid Government will find that if provision is not made for payment by instalments the number of cases occupying the attention of the courts on this measure will be very considerable.

THE HON. THE ATTORNEY GENERAL: I should not like, Sir, to attempt to draft, here and now, anything which will satisfy my hon. friend, but I should be glad to give any help I can.

THE HON. T. J. O'SHEA: I agree, Sir, I am now merely drawing the attention of Government to the matter.

HIS EXCELLENCY: We propose to adjourn now.

THE HON. T. J. O'SHEA: Your Excellency, before you adjourn may I make a statement. I think I have now done my duty by this Council in endeavouring to assist in improving this measure. My efforts have not been very successful, but even if they had been I should have found it necessary to dissociate myself entirely from this Bill and point out that by endeavouring to do my duty by this Council I am not in any way associating myself or my constituents with the passage of this Bill.

*The Council adjourned till 10 a.m. on Thursday,
the 13th April, 1933.*

THURSDAY, 13th APRIL, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Thursday, 13th April, 1933, **HIS EXCELLENCY THE GOVERNOR (BIGGADIER-GENERAL SIR JOSEPH ALOYSIUS BIRNE, K.C.M.G., K.B.E., C.B.)** presiding.

HIS EXCELLENCY opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 12th April, 1933, were confirmed.

BILLS.

THE INCOME TAX BILL.

HIS EXCELLENCY: Council will now resolve itself into Committee of the whole Council to consider further the Income Tax Bill.

THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.): Your Excellency, we adjourned in Committee yesterday. I beg now to move that the Committee be resumed on the Income Tax Bill.

THE HON. THE TREASURER (MR. H. H. RUSSELL): I beg to second the motion.

The question was put and carried.

The Council went into Committee.

In Committee.

THE HON. THE ATTORNEY GENERAL: I would ask Your Excellency to resume consideration of clause 17, on which progress was reported yesterday.

Clause 17.—Deduction for children.

THE HON. THE ATTORNEY GENERAL: I beg, Sir, to move that clause 17 be amended by deleting the last two lines of the clause and substituting the following: "The expression 'child' in this section includes a step-child, an illegitimate child or an adopted child who was during the year preceding the year of assessment wholly maintained by the adopter".

The question was put and carried.

Clause 18.—Deductions in respect of life insurance and contributions to Widows' and Orphans' Fund, etc.

THE HON. THE ATTORNEY GENERAL: Progress was reported also, Sir, on clause 18 and in connexion with this clause, Your Excellency, I beg to move that the clause be amended by substituting the word "two" for the word "one" in the last line of the clause.

The question was put and carried.

Clause 75.

THE HON. T. J. O'SHEA: Your Excellency, I take this to mean clause 75 as amended by the Select Committee?

THE HON. THE ATTORNEY GENERAL: Yes, Sir.

THE HON. T. J. O'SHEA: In that case, Sir, I should like to challenge the action of Government in deciding to double the Non-Native Poll Tax under this Bill. In doing so, Sir, should like to place myself in the position which, according to the hon. the Colonial Secretary, is the position that a Member of this House—a non-official Member of this House—rightly occupies, the position of an adviser to Government. I should like on this occasion strictly to limit my outlook to that position in the hope that by so doing my arguments to Government on this important issue will carry more weight. Looking at it from that point of view entirely, Sir, I would strongly urge upon Government the inadvisability of doubling the Poll Tax. The intention of this Bill I thought was to get additional revenue, to get additional taxation from those who enjoy some surplus of revenue and to leave unaffected those whose circumstances in life were such that they merely had as income the bare cost of living. The effect of introducing this double Poll Tax clause in this Bill will be that you will apply to the people lowest down in the scale the principle of making a further contribution to Government revenue at the present time.

Now, Sir, I readily appreciate that Government's decision to make that attempt is based upon the argument that if this is not done a very large proportion of the non-native community will be left unaffected by the Bill. I think there is no use blinking the fact that this last moment change is entirely due to an effort to bring in the Arabs and the Indians. As regards these people, they have their representatives present to-day, so it is unnecessary for me to say very much as to how it affects them. But as an adviser to Government I think it is only right I should say I have seen no case made out for adding to the taxation of these people at the present time, and from my little knowledge of the effect of existing taxation upon them I say it is open to question whether one can justly add to the burden of very much overtaxed, and to add to their burden under the conditions in which they are living to-day. I think a very grave error of judgment of the part of Government. However, having a better knowledge of the effect that this clause will have upon my own people, I should like to say this: that I believe that if this clause is included it will make much more difficult any chance the Government ever had of getting this Bill accepted by the people. I honestly do believe, Sir, that if an attempt is made to put this Bill into operation with this clause included, it will give rise to an amount of dissatisfaction that will cause Government considerable difficulty. I think, Sir, people who would be affected by it, that Government is so entirely indifferent to their interests that they will be justified in resisting as now, Sir, that the application of the law as it applies to them, position which arose in the United States of America as a result of the passing of the Prohibition Bill against the wishes of a very large proportion of the people. What was the result? The Bill did not have the moral sanction of the people and so a very large proportion of them felt justified in resisting its application in any way that

they could. Now, Sir, I think that the effect of this clause would be similar, and so I feel it my duty to advise Government to reconsider the question before it is too late.

The answer to my argument probably will be that provision is made for exemption in cases of hardship. Now, Sir, I regard that in this way: that it is most inadvisable to pass legislation which you know cannot be applied to the people whom you intend it to apply to, and if at the time you are passing that legislation you are aware that it cannot be made operative over the overwhelming majority of the people to whom it will apply, that you will not attempt to bring it into operation, it seems to me entirely wrong in principle to make it law that every man must pay Sh. 50 or Sh. 100 per annum Poll Tax and then have an arrangement by which subordinate officers of Government may differentiate and say whether the law applies to you or does not apply to you. This is to me a very unusual principle of legislation, and so, looking at it entirely from the point of view of an adviser to Government, I would strongly urge that the decision be not taken to make an income tax bill apply to people who have not an income out of which taxes should be paid.

THE HON. HAKIM SINGH: Your Excellency, the previous speaker has very fully explained the case of the non-native poor, whether Indian or European. He has presented the case of Indians and Europeans alike, and I support every word of his that only those people should be taxed who are able to pay, not those people who can hardly support their families. I strongly object and I hope Government will agree to delete this clause.

THE HON. ABDUL WAHID: Your Excellency, I disagree with the hon. Hakim Singh. I had a discussion in Select Committee first of all that there should be no double Poll Tax at all. After discussion we came to the terms that there will be no people getting more than £50 a year, who would get exemption from double Poll Tax. But I can see no mention in this clause at all that instructions should be issued to District Commissioners that those people who have not got £50 a year should be exempted.

THE HON. SHERRIFF ABDULLA BIN SALIM: Your Excellency, I also should like to associate myself with the remarks of the hon. Hakim Singh.

REV. CANON THE HON. G. BURNS: Your Excellency, I signed this Select Committee's Report on the assurance given that District Commissioners would be instructed by Your Excellency where the incidence would press heavily upon any person not to have that incidence so pressed upon them, and therefore that was the reason I signed that without comment, and I take it, Your Excellency, that that stands to-day.

THE HON. THE ATTORNEY GENERAL: May I on that point state what has occurred since the Select Committee completed its session? I did, in response to questions specifically put to me by the hon. Indian Members, the hon. Arab Member and the hon. reverend gentleman, give an undertaking that I would see Your Excellency personally and give an assurance that the procedure which was adopted with regard to exemptions in the second half of the year 1932 when the additional non-native Poll Tax legislation was introduced would be repeated in this case. As Your Excellency is aware, I saw you the following morning and I got the most categorical and definite assurance that the same principles exactly would be followed as were

followed last year. The form which the amending legislation—the amendment of clause 75 and sub-clause (4) and (5) thereof—takes is that the whole of the provisions of the Non-Native Poll Tax Ordinance, including that provision allowing of exemptions, are made applicable to this additional tax for the remaining part of the year 1933. There will be no differentiation, no difference in treatment in the year 1933 races in the year 1932. For that assurance I have Your Excellency's full authority.

On the point made by the hon. Member for Plateau South as to the inadvisability of legislation which confers a power of exemption upon junior officers of Government, I might point out that I am in complete agreement with him. I would much sooner see another form of legislation if I could think of a better one. It seems to me we have two views to choose from: either the poll tax has got to be paid irrespective of means or power of exemption at all, or and I suggest this is infinitely preferable—there must be a power of exemption which must be real and effective and which must be vested in the man on the spot, so that the district officers, the administrative officers, throughout the country should have that power.

On the general question of the doubling of the non-native poll tax, Sir, I do not think that I can usefully add anything to what Your Excellency said in your communication from the Chair. It is integrally bound up with the reduction in the rates in clause 20 as the first £350 of chargeable income coupled with the right to exempt, the power to exempt, conferred on all administrative officers. The view of Government is that these two amendments taken together spread the burden more equitably over those who have means, in the case of a married man, up to £400 a year.

THE HON. ABDEL WAHID: I want to say only one word, that there should be something added in this clause so that the public shall know the poor people will not suffer.

THE HON. THE ATTORNEY GENERAL: It is perhaps not very definitely and explicitly stated, but if the hon. Member will look at the amendment to clause 75 in the Report of the Select Committee, of which he was a member, he will see that the whole of the provisions of the Non-Native Poll Tax Ordinance from clause 6 to clause 17—speaking from memory—are made applicable to this tax. One of these is the right to claim exemption.

HIS EXCELLENCY (to the hon. Member for Plateau South): You have put in no amendment?

THE HON. T. J. O'SHEA: No, Sir, I have not put in an amendment because I know it would only be negatived. But it is a revision matter. I feel certain that, Sir, because I think it is a very little wholesale applications on the part of the European people who of the Income Tax Bill. Now, Sir, it seems to me that Government of the European people of the Colony are at present situated. I state very definite, Sir, that not only in the town of Nairobi but in the up-country agricultural districts a very large proportion of our people are at present existing under conditions that are undermining their health and that they are suffering real hardship and they are not in a position to have any extra taxation. Nevertheless they are very reluctant to adopt what they regard as the unadvised course of appealing to the Government for exemption from

payment of this tax on the plea of poverty. They still, I am glad to say, have sufficient pride left to refrain from doing that if they can possibly avoid it. I know of cases in this town: I will just give one or two as examples. I will take just one: the case of a man who, up to twelve months ago was earning in the neighbourhood of £50 a month—today, in the same job and doing very much more work, his salary is £25 a month. Out of that £25 a month he has to support a wife and five young children. If Government will consider what the costs of that man are for the maintenance of a young family of five children I should like the hon. the Attorney General to say how he can envisage the possibility of that man paying his double poll tax. Now, Sir, I may be answered that he has merely to go to the District Commissioner and he will get the most sympathetic consideration. I say it is not fair, it is not right on the part of the law to place a man in that position. The law should be such that it recognizes he is not in a position to pay additional taxation and he should not be compelled to go and plead poverty in order to get exemption. If that were merely an isolated case I would not waste the time of the House in citing it but it is typical of the position in which hundreds of people in this town are today placed. They have to count every penny of expenditure. So far as Nairobi is concerned I feel certain that the applications for exemption will be on a wholesale scale, and I think it extremely likely that one of the consequences will be that when the people of their class as a whole recognize the position in which so many of their fellows are placed they will come to the decision to stand by them and definitely not pay this extra poll tax, and thus will all stand together and defy the efforts of Government to collect it.

In the case of up-country districts the position is slightly different. The people on the land can do out of existence somehow; but the existence there is appalling. Government, I hope, will not accuse me of exaggerating the case if I say that there are large numbers of European people up-country who are living on a standard of living that a few years ago was common to a lot of the native people here in Nairobi. I know cases of families whose expenditure for the month does not exceed £3. That £3 largely goes on tea or coffee, bread, sugar—very little else—and anything else has got to come off their own farms or the farms of their neighbours. Money for clothes or anything else is non-existent. To show you how this case of poll tax operates harshly I mention that there are families known to me of two and three grown-up sons who are unable to get work and therefore are dependent upon the farm for a living, and three and four poll taxes are demanded from people whose gross income is very little in excess of the amount demanded as poll tax and whose bare necessities of life.

Now, Your Excellency, in such circumstances it seems to me entirely wrong on the part of Government to bring in a law under which it is demanded that these people are called upon to pay extra taxation. The principle is entirely wrong. It will undermine the authority of Government in this country to an amazing extent if it is made law, and to say that the law can be made ineffective in regard to people such as those is not a sufficient attitude. It is going to build up an entirely wrong attitude towards Government if we go on legislating in that way. The position to-day is an incitement to people to plead poverty. It is undermining their self-respect and I would suggest that Government reconsider the question and see whether they have not made a mistake in making the reduction for which this is regarded as compensation.

THE HON. HAKIM SINGH: Your Excellency, I want to explain that a rich man may deduct money from his income for his wife and children. He is allowed to deduct so much and pay income tax on the balance, but if the poor man can hardly exist on his income he has to go to the District Commissioner to prove that he has only got enough to live on. There should be one law for everybody. There should not be one law for a rich man and another law for a poor man. Why should a man be put to the trouble of going to the District Commissioner in order to prove that he is not able to pay the double poll tax? There should be exemption to the poor people. That is my case.

HIS EXCELLENCY: As no amendment has been proposed I will put the question that clause 75 do stand part of the Bill.

The question was put and carried by 16 votes to 4.

Agreed.—Mr. Bruce, Canon Burns, Messrs. Feild-Jones, Gardner, Horne, Logan, MacGregor, Montgomery, Moore, Dr. Paterson, Messrs. Rushton, Sec 1, Wade, Walsh, Colonel Wilkinson.

Notes.—Messrs. Hakim Singh, Officer, Sheriff Abdulla bin Salim, Abdul Wahid.

THE HON. THE ATTORNEY GENERAL: Your Excellency, I beg to move that the Income Tax Bill be reported to Council with amendment.

The question was put and carried.

The Council resumed its sitting.

On resuming.

HIS EXCELLENCY: I have to report that the Income Tax Bill has been considered in Committee of the whole Council clause by clause and has been reported to Council with amendments.

THE HON. THE ATTORNEY GENERAL: That concludes, Your Excellency. It is not Your Excellency's intention to proceed with the third reading at this stage.

*The Council adjourned till 11 a.m. on Monday,
the 24th April, 1933.*

MONDAY, 24th APRIL, 1933

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Monday, the 24th April, 1933, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

EX OFFICIO MEMBER:

HENRY WOLFE, Acting Director of Agriculture.

MINUTES.

The minutes of the meeting of the 13th April, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

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

Report of the Alternative Revenue Proposals Committee.

Annual Trade Report of Kenya and Uganda for the year 1932.

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

Return of Land Grants, etc., under the Crown Lands Ordinance: 1st January to 31st March, 1933.

ORAL ANSWERS TO QUESTIONS.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to give notice of the following question . . .

HIS EXCELLENCY: Will the hon. Member hand the notice in writing? There is no necessity to give verbal notice.

NATIVE HOSPITALS AT ELDORET, NAKURU, AND KITALE.

No. 12.—LT.-COL. THE HON. J. G. KIRKWOOD asked:—

What amount of money was expended on Native Hospitals in Eldoret, Nakuru, and Kitale respectively for 1931-32?

THE HON. THE ACTING DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. A. R. PATTERSON) : The amount of money expended by Government on the Native Hospitals in Eldoret, Nakuru and Kitale respectively for the years 1931 and 1932 was as follows:—

	1931.	1932.
Native Hospital, Eldoret	£9,625	£2,706
Native Hospital, Nakuru	£3,059	£3,000
Native Hospital, Kitale	£701	££34

These figures include expenditure on medical and surgical stores and uniforms.

NATIVE HOSPITALS IN SETTLED AREAS.

No. 13.—**LT.-COL. THE HON. J. G. KIRKWOOD** asked:—

What amount of money was paid, or is proposed to be paid, from the Native Betterment Fund to Native Hospitals in Settled Areas?

THE HON. THE ACTING DIRECTOR OF MEDICAL AND SANITARY SERVICES : The charges to be met from the Native Betterment Fund in 1933, inclusive of expenditure on medical and surgical stores and uniforms, in respect of Native Hospitals at Eldoret, Kitale, Nakuru and Nyeri, are estimated as follows:—

Eldoret	£2,410
Kitale	£931
Nakuru	£2,954
Nyeri	£1,041

THE HON. T. J. O'SHEA : Arising out of that answer, Your Excellency, may I ask whether there is to be a reduction of services or an increase in services at these hospitals as a result of this expenditure?

THE HON. THE ACTING DIRECTOR OF MEDICAL AND SANITARY SERVICES : Your Excellency, I do not anticipate a reduction of services.

BILL.

FIRST READING.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

On motion of the hon. the Chief Native Commissioner (Mr. A. de V. Wade), 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.

HIS EXCELLENCY : That completes the agenda. I now propose to adjourn the Council until 11 a.m. on Monday next, to enable the Select Committee to sit. I understand that it is the desire of hon. Members that that Select Committee on the Estimates should sit here and not at Government House. Council will adjourn now until 11 a.m. on Monday next.

*The Council adjourned till 11 a.m. on Monday,
the 1st May, 1933.*

(Subsequently the reassembly of Council was postponed till 10 a.m. on Wednesday, the 3rd May, 1933.)

WEDNESDAY, 3rd MAY, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 3rd May, 1933, His Excellency the Governor (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 24th April, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the table:—

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

Addendum to the Report of the Alternative Revenue Proposals Committee dated 27th April, 1933.

Abridged Report of the Post Office and Telegraphs Department for the year 1932.

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

Annual Report of the Land and Agricultural Bank of Kenya for the year 1932.

Schedule of Additional Provision No. 1 of 1933: 1st January to 31st March, 1933.

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

Report of Select Committee on the Public Travel and Access Roads (Amendment) Bill.

Report of Select Committee on the Shops in Rural Areas Bill.

NOTICES OF MOTION.

THE HON. THE TREASURER: Your Excellency, I beg to give notice that at a later stage in this session I shall move the two following motions:—

"That this Council approves of the appropriation of a further sum of £7,000 for the purpose of making advances and meeting expenses under the Agricultural Advances Ordinance, 1930, such sum to be a charge against the surplus balances of the Colony."

"That this Council approves the write-off as final expenditure of a sum of £9,956-18-12 advanced under the provisions of the Agricultural Advances Ordinance, 1930, this write-off operating in reduction of the authorized appropriation of £100,000 approved by this Council by motion dated the 30th May, 1930."

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 following motions:—

"That the Report of the Select Committee on the Public Travel and Access Roads (Amendment) Bill be adopted."

"That the Report of the Select Committee on the Shops in Rural Areas Bill be adopted."

THE HON. CONWAY HARVEY: Your Excellency, on behalf of the learned Member for Nairobi South, I beg to give notice of this motion:—

"That this Council, whilst in no way desirous of prejudging the general recommendations of the Roger Gibb Report, strongly deprecates any proposal to vary the Railway Order in Council which would have the effect of weakening such control as is at present exercised by this Colony over the Kenya and Uganda Railways and Harbours, and this Council is further of opinion that any change that may be made should tend to strengthen such control."

I also beg leave to give notice of this motion, Your Excellency:—

"This Council is of opinion that a Committee should be appointed to examine local mining legislation and to make recommendations for any amendments which may be deemed necessary to facilitate development of the Colony's mineral resources."

ORAL ANSWERS TO QUESTIONS.

INCOME TAX.

No. 15.—THE HON. CONWAY HARVEY asked:—

Will Government please state as early as possible in the present session what is the official estimate of the amount to be secured, gross and net, after deducting direct administration charges, by the imposition of income tax—

- (a) in respect of the current year;
- (b) in respect of 1934?

THE HON. THE TREASURER: With regard to the year 1933 it is impossible to give any estimate of the yield until it is known from what date the Ordinance is to be applied.

With regard to the year 1934, it is not possible, on the information available, to frame any accurate estimates, but it is thought that the yield will not be less than £130,000 gross or approximately £122,000 net after deducting direct administration charges.

INCOME TAX.

No. 26.—THE HON. CONWAY HARVEY asked:—

1. How many Europeans, Asians and Africans respectively are expected to pay income tax in respect of the first year for which it is imposed?

2. What percentage of the total population of each race is expected to become liable?

3. What amount is it expected to receive from each race?

4. What percentage of the total amount is expected from each race?

THE HON. THE TREASURER: 1. The available data is not at present sufficient for any reliable estimate to be prepared as to the number of persons in each of the communities mentioned who would be liable to pay income tax in respect of the first year for which it is imposed.

2. In view of the answer to the first part of this question, it is clearly impossible to give the information required by the remaining three parts of the question.

DEATH OF KIKUYU NATIVE AT MASENO.

No. 27.—THE HON. CONWAY HARVEY asked:—

1. Has the Government held an official inquiry into the circumstances which involved the death of a Kikuyu native at the Maseno Mission Hospital, following the administration of an anaesthetic?

2. If so, what was the result of such inquiry?

THE HON. THE ACTING DIRECTOR OF MEDICAL AND SANITARY SERVICES (DR. A. R. PATRICKSON): An official inquiry into the case to which the hon. Member refers was held by the Resident Magistrate, Kisumu, from which inquiry it appears that death was due to poison administered and wounds inflicted by two natives. These natives, employed as dressers by the Church Missionary Society, were acting under instructions

The question of taking proceedings against the persons responsible for this death is engaging the active attention of the Law Officers.

BILLS.

FIRST READINGS.

THE EXPULSION FROM PROCLAIMED AREAS BILL.

On motion of the hon. the Acting Commissioner for Local Government, Lands and Settlement, the Expulsion from Proclaimed Areas Bill was read a first time.

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

THE MINING IN PROCLAIMED AREAS BILL.

On motion of the hon. the Acting Commissioner for Local Government, Lands and Settlement, the Mining in Proclaimed Areas Bill was read a first time.

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

THE ADOPTION OF CHILDREN BILL.

On motion of the hon. the Acting Attorney General (Mr. T. D. H. Bruce), the Adoption of Children Bill was read a first time.

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

SECOND READING.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE): Your Excellency, I beg to move that a Bill to Amend the Native Authority Ordinance be read a second time.

The object of this Bill, Your Excellency, as explained in the printed Objects and Reasons, is quite briefly to empower Government to compel Local Native Councils to pay their just debts. The present position is that, although Government has power to veto expenditure by Local Native Councils inasmuch as no expenditure may be incurred by them which has not been sanctioned by the Executive Council, Government has no power to compel expenditure by these Local Native Councils, because no expenditure may be incurred by them that has not been approved by a majority resolution of a Local Native Council; and there is obviously no power to make a Local Native Council pass a resolution against its own will.

As will be seen, Sir, from the proposed amending Bill, it is now proposed to give Government power to compel expenditure in certain cases, which fall into two categories: The first category is comprised of cases which have been the subject of litigation and in respect of which a decree of payment of money has been made by a competent court against a Local Native Council. As the law stands at present, a Local Native Council involved in litigation, if the case goes against it, is under no compulsion to pay; and payment cannot be made unless the Council passes a resolution to that effect.

The second class of case contemplated concerns claims that have not come into court but in respect of which it is quite obvious that the Local Native Council ought to pay. Such claims may arise from a variety of causes. Local Native Councils possess property of their own—transport oxen, motor lorries, etc. Transport oxen may stray and do damage to crops; motor lorries may drive over a goat or do other damage; there may be disputes as to work undertaken by contractors on behalf of Local Native Councils, and there may be mistakes made in perfect good faith by officers and servants of a Local Native Council where some compensation should be made in respect of those genuine mistakes.

Now, Sir, in similar circumstances, if claims of that kind are brought against Government and the Attorney General advises that Government has no good case to go to law and ought to pay, Government naturally takes the advice of the Attorney General rather than embark on expensive litigation in the course of which it is perfectly obvious it must lose; and it is rather a ludicrous position that a Local Native Council in similar circumstances should be able to say the Attorney General does not know his business, and that they are not going to take his advice and that they are not going to pay. There has been one case of that kind which has shown the necessity for legislation on these lines. There was a certain amount of additional and entirely unforeseen expenditure in connexion with a certain contract. The Attorney General advised that a particular Local Native Council should pay this extra expenditure? As I said, in similar circumstances Government would have no hesitation whatever in accepting that advice, that if the case did go to law in all probability the Council would lose. But that particular Local Native Council has refused to accept the advice of the Attorney General and has refused to make the payment.

I do not wish it to be understood, Sir, that cases of this kind are in the least common. It is the only case that has come to our notice yet, and I would like to pay a tribute to the economic sense of these Local Native Councils, especially when it is considered that the transfer from a subsistence basis

of life to an economic basis has only begun in recent times and is still in the course of development. I do not want it to be thought that Local Native Councils are stupid and refuse to accept the advice they get, but this one case does show there are possibilities which we ought to guard against, and that there is a defect in this legislation that ought to be remedied; and this Bill, Sir, is the proposed remedy.

YOUR EXCELLENCY, I beg to move the second reading.

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

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

CAPT. THE HON. H. P. WARD: Your Excellency, I do not wish to oppose this Bill, but I should like to get some assurance from Government that the matter will be further looked into. Most bodies in the position of a Local Native Council have their activities defined and restricted, either by Articles of Association, or, in the case of municipalities, by Ordinance, and so on and so forth. It appears to me, Sir, that these Native Councils are, from the native point of view, given rather exceptional powers and unrestricted authority against financial commitments, for which in the long run the rather ignorant native peoples have to be made responsible; and I would suggest to Government that the whole matter wants looking into, so that if you are going to give these powers to Native Councils they should be given some kind of corporate entity, as is given in some other communities.

THE HON. THE CHIEF NATIVE COMMISSIONER: I shall be very glad to give the hon. Member for Nairobi North an assurance that this matter will be looked into very carefully. It is not unlikely that the Native Authority Ordinance will be amended as a result of the Expenditure Advisory Committee's recommendations. But he overstates the case when he says that they have been given unrestricted powers. Their powers are very definitely restricted. They may pass resolutions for the welfare and good government of the native inhabitants of their district and for local by-laws with reference to certain matters, and they may establish a fund to be derived from the rents of land in their own area and from rates and royalties, but such fund may be devoted only to such purposes as are approved by the Governor in Council. So that they are very definitely restricted to expenditure which has the approval of the Central Government. But I will certainly give this matter full consideration. As a matter of fact, I have been wondering whether the time has not come when they ought to be declared

bodies corporate, capable of suing and being sued, and that sort of thing, but I will consult the Attorney General on that point.

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

The question was put and carried.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council for the consideration clause by clause of a Bill to Amend the Native Authority Ordinance.

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

The question was put and carried.

The Council went into Committee.

In Committee.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

The Bill was considered clause by clause.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, I beg to move that the Native Authority (Amendment) Bill be reported to Council without amendment.

The question was put and carried.
Council resumed its sitting.

On resuming.

HIS EXCELLENCY: I have to report that the Native Authority (Amendment) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE NATIVE AUTHORITY (AMENDMENT) BILL.

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

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

The question was put and carried.

The Bill was read a third time and passed.

SUSPENSION OF STANDING ORDERS.

THE HON. THE COLONIAL SECRETARY: With Your Excellency's permission, I beg to move that Standing Rule and Order No. 103 be suspended in order to enable the second readings of the Expulsion from Proclaimed Areas Bill and the Mining in Proclaimed Areas Bill to be taken to-day without due notice.

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

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended.

THE HON. CONWAY HARVEY: Your Excellency, a majority of, if not all, Elected Members have agreed to support this proposal because it merely means, Your Excellency, an acceleration of the business of this Council, and we may get away one day earlier than we otherwise should. These Bills have been published long ago; they have been very fully discussed on the goldfields and elsewhere; and I can think of no reason why we should not proceed with their consideration.

The question was put and carried.

BILLS.

SECOND READINGS.

THE EXPULSION FROM PROCLAIMED AREAS 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 make Provision for the Expulsion from Certain Areas of the Colony of Persons whose Presence therein is Deemed to be Undesirable.

It is a coincidence, Sir, in this Colony that the mineral resources all appear to lie within the area of the Native Reserves. But that fact brings with it a number of special problems which have to be dealt with here which may not, and probably do not, arise in other countries in connexion with the development of mineral resources. At the latter end of 1931, gold was discovered in part of the North Kavirondo Reserve, and within a very short time a large number of European men and women flocked to the spot and settled themselves down in the active pursuit of the search for gold. That fact, Sir, in itself—when it is remembered that the area in question is a fully occupied area, inhabited by a large number of natives who are unaccustomed to the pursuit of gold in any shape or form and who are also unaccustomed to the sight of large numbers of Europeans living amongst them—is

a fact that is in itself of peculiar importance. It is not to be wondered at, I think, that the sight of these operations being engaged in was a shock to the native mentality, and it is, I think, a fact which redounds to the great credit both of the natives and of the miners that during the last eighteen months any cases which have occurred where native law and custom have been infringed or the relationships between the miners and the native have been strained have been extremely few.

The position, Sir, is now about to undergo an important change. Up to date, the miners, the great majority of miners, have been Kenya residents, people who have been in this country for some time, who know the native language, who are accustomed to handle natives, and who, from that particular point of view, represent probably the best type of miner that we could have had in this country. Members who read their paper on Monday morning last will, however, have seen that it is the intention of Government within a short time to open a very much larger area to prospecting. The area about to be opened, or the vast bulk of it, is an area in which prospecting has not hitherto occurred at all, and in which the tribes-people have no experience of this kind of activity. Moreover, it is not unlikely that the opening of these areas will attract to this country persons from outside who may not have the same experience of dealing with the natives and will certainly not have the same knowledge of the native language and law and custom that is possessed by the miners who have hitherto pursued their avocations in Kakanega. The problems therefore that face Government in administering these areas which are newly to be opened may be much more difficult than the problems with which they have been confronted so far. It is therefore, I think, necessary that some special powers should be taken to deal with this situation which is developing. A peculiar feature of the situation is that it is not the ordinary type of offence that has to be dealt with, but a rather extraordinary type of offence, a type of offence which may not be punishable by law but which may well be such an infringement of native law and habits of thought that the results attending any such infringement may have incalculable and harmful results on the relationships between the miners and the natives. Happily, the cases have been very few; but there are cases, there are people, a few black sheep, who, whenever they become removed from the ordinary restraints of a civilized community, do things which in the normal way they would not do, things which may not be punishable by law but which may have very material, grave and lasting effects on the relationships between the communities in particular areas.

Up to the present time, Sir, we have endeavoured to deal with this situation as best we could under the laws which we had to administer. Under the Mining Ordinance, where prospecting is carried on in a Native Reserve, there is provision that a permit, issuable now by the Provincial Commissioner on behalf of the Central Native Lands Trust Board, is required before a man may enter a Native Reserve to prospect, and prior to the issue of such permits we have, so far as possible, tightened up affairs so that the Provincial Commissioner, before issuing the permit, may be reasonably satisfied that the person applying for it, is a person whose presence would be desirable in the Reserve, but that permit is applicable only to prospecting: that is to say, a man may go into a Native Reserve as the employee of a prospector, as a person who carries on transport for a prospector or is engaged in any of the numerous ancillary services of prospecting—he may enter perfectly freely without any such permit. Furthermore, if the person holding that permit conducts himself in such a way that the permit should be cancelled, the cancellation of the permit only means that he may not return to the Reserve for the purpose of prospecting. He is at full liberty to return to the Reserve for any other business, so that it is clear that this weapon in itself is quite inadequate for dealing with this particular situation.

It might have been possible to have applied to these areas the Outlying Districts Ordinance. Under that Ordinance, where a district is declared to be an outlying district, it then becomes obligatory on every person desiring to enter such a district to obtain a permit from the officer in charge, that is to say, from the District Officer. That permit is issued upon conditions which may be specified by the District Officer, and is cancellable at will by such District Officer if those conditions are infringed. That, Sir, in itself is a very great restriction upon the individual liberty of people desiring to enter districts for normal purposes. It is also a somewhat ineffective weapon because when an outlying district is declared to be such you cannot declare the roads or the trading centres to be roads which the public may not use or public places to which the public may not go, so that persons entering an outlying district are really only prevented from entering the Native Reserve outside the highway and outside the trading centres. But the chief objection to the Outlying Districts Ordinance is that it would introduce a quite unnecessary restriction upon the ordinary vocations of people engaged in trade and commerce, and moreover it would be far too great a power to put into the hands of an individual officer of Government. It is for that reason, Sir, that this Bill has been devised. It is, in the view of Government, essential that some special power

should be taken to deal with the question of excluding undesirable persons from these areas. It is also the view of Government that in deciding whether a person is so undesirable, whether he should be removed from or prevented from going into that area, that in the exercise of that power officials as well as officers should be joined together. Hon. Members will see from the provisions of this Bill that the constitution of the Board provides that the Provincial Commissioner should be the Chairman and the members should be "such persons unconnected with the public service as the Governor may appoint, who shall, whenever possible, be persons resident in or connected with such area."

Some such measure of this sort was contemplated in the very early days of prospecting in Kakamega by the miners themselves, who, I understand, on the occasion of one of Your Excellency's visits there, suggested the formation of a Vigilance Committee with this very purpose in view. The Bill which is now before the House has been before the Miners' Executive, and I have before me a letter from the honorary secretary of that association in which he states that he is instructed by the Miners' Executive to inform me that they fully agree with the proposed Bill. They have certain suggestions on points of detail which are rather Committee points, and will be discussed by the Select Committee which Your Excellency proposes to appoint. That, Sir, is a very gratifying feature, that the miners themselves have recognized the importance and necessity of a measure of this sort; and with that I think I may pass from the general principles of the Bill and deal with one or two of the detailed features.

Hon. Members will see that this Bill is applicable by proclamation of the Governor to any area within the Colony from time to time, and that on such proclamation the area will become a proclaimed area in which this machinery will be set up. It was not possible in the body of the Bill to provide that this Bill should apply specifically to the Native Reserves. It may happen that an area, which is one composite area from the mining point of view, will comprise either a part of a Native Reserve and a part of a non-Native area in one district, or it may comprise two Native Reserves; and therefore, for convenience, we have provided that the area should be proclaimed by proclamation.

With the constitution of the Board I have dealt.

The procedure envisaged is that the first step is to be taken by the District Commissioner on receipt of a complaint that the presence of any person in the proclaimed area, is undesirable. He then notifies the person affected that this complaint has been made, and that it will be heard by the Board on a certain specified date.

The Board then sits and deals with the situation and if necessary passes an expulsion order. There are various provisions of a detailed nature showing what happens if that expulsion order is not obeyed. A person becomes subject to a sentence of imprisonment, and there is provision for an appeal to the Governor against an order of expulsion. Members will see, in clause 12, that no court of law in the Colony shall have any jurisdiction to review, quash, reverse or otherwise interfere with any proceeding, act or order had, done or made under this Bill.

Those, Sir, are the outlines of the Bill, and in clause 14 provision is made that the duration of the Ordinance shall be confined to two years, with the proviso that Your Excellency may by proclamation declare that the Ordinance shall remain in force until a date to be fixed in such proclamation.

I trust, Sir, that in this brief exposition I have convinced hon. Members that a measure of this sort is essential both to the miners and the natives of this Colony, and I commend the Bill to their favourable consideration.

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

HIS EXCELLENCY: The question is that the Expulsion from Proclaimed Areas Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, I support the broad principle of this Bill, with one very important reservation: I, and, I think, all my colleagues on this side, consider that the duration of this Bill should be limited to one year, subject, however, to an extension, which should be approved by this House and not by proclamation.

Now, Sir, ordinarily an autocratic government would not be vested with these powers but it seems to me, Sir, there is no reason to believe that the Kenya Government will not exercise its powers with reason and discretion.

I understand, Sir, that Government have agreed to this Bill being considered by a Select Committee of this House.

Now, Sir, I think the hon. mover has shown quite clearly how drastic these proposals are and under the peculiar circumstances of the Kenya goldfields they are highly desirable. When the Bill was first published, Your Excellency, it seemed to me such a revolutionary proposal that I started searching for precedents. Your Excellency, I could find none. The nearest counterpart that I could discover was a more picturesque form of administering summary justice so popular in many of the goldfields of the world fifty or sixty years ago.

I allude particularly, Your Excellency, to lynch law and mob law, which I suggest are not suited to the circumstances of Kenya society.

As the hon. mover has said, Your Excellency, this Bill has been considered in some detail by the miners themselves and has their approval and I do not think there is any doubt whatever, Sir, that legislation on these lines is highly desirable, as many acts occur from time to time which, though they do not constitute an offence in law, do very seriously interfere with the orderly development of the goldfields and may quite easily upset the natives.

Now, Sir, there are one or two points of detail which I should very briefly like to mention for consideration by the Select Committee. We consider the committee to be appointed under this Bill should be fully representative and we are not quite sure of the propriety of giving the Provincial Commissioner two votes on the body appointed. We also think, Your Excellency, that the local people should have some say in the personnel of this committee. And there is one more point, Your Excellency. We consider that appeals from the decisions of this body should lie to the Governor in Council and not to His Excellency the Governor.

Lt.-Col. THE HON. J. G. KINKWOOD: Your Excellency, I am in support of the principle set forth in this Bill. On first reading it seemed to me a very revolutionary measure but after giving it a good deal of consideration I came to the conclusion that it is not so in fact. The Board it is proposed to set up will be presided over by the Provincial Commissioner or his deputy, all the other members of the board being unofficial. I look upon it as a vigilance committee with statutory powers. The action which has been taken on many occasions in the course of the history of the goldfields in other parts of the world where vigilance committees have functioned has resulted in their keeping order on the field, but they were not vested with statutory powers. But I see no objection to giving them statutory powers. As a matter of fact, I think it is advisable.

The hon. Member for the Lake stated that he could find no precedents for this Bill. I think it is very much on the lines of military law: Under martial law, military law, paragraphs 1 to 104, are cancelled and are non-operative, which really means that no use can be made of exceptions on technicalities under military law. The result is that a court martial, after hearing the evidence, satisfies itself as to whether a person is guilty or not guilty, and by deleting paragraphs 1 to 104 of the military law, it destroys any appeal that might be made under technicalities under different circumstances.

from martial law. So it is reasonable that the procedure in the Army should now be adopted here in Kenya and I do believe that it is in the interests of the goldfields and in the interests of every European in this Colony that such power should be given because I do not believe, knowing our people, that it will not be used wisely and justly.

We also know from past experience of goldfields that the circumstances on a goldfield are very different from what they are in ordinary civil life, and I believe for that reason, without going into detail, that this is an advisable step and it will be another proof that the colonists of Kenya are all out to protect the native.

I notice it is a discrimination between races. Personally I have no objection to that. I am referring to paragraph 5, which states that it does not apply to natives, but it is a question for Government to decide whether in a committee of this sort power should not be given to Native Councils on a wider basis to deal with their own people than they have at present. I also understand that as far as this board will have power over their own people to expel them from the goldfields, it does not exclude missionaries, which is probably advisable.

I also agree with the hon. Member for the Lake that it is advisable that appeals should rest with the Governor in Council. I think it would put Your Excellency in an invidious position to give a decision against an individual, which does open up a channel to a charge which might become personal. Not for a moment do I think you would not discharge that duty honourably and with justice, but I do suggest it would be advisable to make it an appeal to the Governor in Council to avoid anything of that sort. I also support the suggestion that this Bill be for one year and that it should then be reviewed. I hope, Your Excellency, there will be no opposition to the Bill.

MAJOR THE HON. SIR ROBERT SHAW: Your Excellency, in supporting the principle of this Bill, which I do, there is one point only to which I should like to draw attention. I think I am correct, but the hon. mover will correct me if I am wrong, in saying that the constitution of this board, the object of which we realize quite plainly—it was I think explained by the hon. mover as to deal with offences—I must call them "offences". I can think of no other word at the moment—which he said cannot be punished by law. But I think this clause should provide that this board cannot usurp the powers of the courts. In other words, if the reason for expelling a man from the goldfields is that he had committed an offence under the existing law, that he could not be convicted of that offence by this Bill and expelled from the goldfields. But,

of course, it is obvious that where he has been charged and convicted by law, one would imagine such a conviction would be sufficient cause for the board to expel him. My one point is that the board should not through inadvertence be placed in a position to over-ride the existing courts in any way, and I suggest that is a point which the Select Committee should go into with some care.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I rise to support the Bill and I do so not so much from the point of view of protecting the natives as from the point of view of having some machinery which will guarantee that the relations existing between the miners and the natives should not in any way be injured or altered. It is quite possible—the circumstances are so entirely different where a lot of men are let in to a native reserve—that cases which are not punishable by law might arise which would cause a very great deal of trouble with the natives themselves if a European misbehaved himself. Not lynch law exactly but other extreme measures might be taken against the offender. I agree with the Government manner which we have at present, which is to do the right thing by the native as well as the European; and it is for their protection just as much as for the native that this law is to be brought into being. I hope it will have the desired effect. Equally, with our Kenya settlers who have turned miners—and who are just as anxious as anybody to provide that the native is not in any way interfered with—I hope that this Bill will have the desired effect, and so protect the miner as well as the native.

THE HON. HAKIM SINGH: Your Excellency, I beg to support the Bill. All the previous speakers have raised points and I agree with the necessity for their being discussed in the Select Committee.

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

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, if I may say so, Government was confident that this Bill would receive the entire and unanimous support of hon. Members opposite which it has received to-day.

One or two of the points mentioned by various speakers are points which will be carefully considered in the Select Committee, but I may say here that in regard to the broad principle, the point raised by the hon. Member for the Lake—that is, the alteration of clause 14 in regard to the continuation in force of the Ordinance for one year and that thereafter

it should be continued by resolution of this Council—will be accepted by Government; and also the reference by appeal to the Governor in Council instead of to the Governor. The other points will be considered in Select Committee, Sir.

HIS EXCELLENCY: The question is that the Expulsion from Proclaimed Areas Bill be read a second time.

The question was put and carried.

THE MINING IN PROCLAIMED AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that a Bill to make Special Provision for Mining in Proclaimed Areas be read a second time.

This Bill, Sir, is purely and simply a revenue measure and the Objects and Reasons of it are given in language commendably terse in the printed Bill. The object of this Bill is to provide additional revenue in view of the additional expenditure that will be incurred in connexion with the development of the mineral resources of the Colony.

The discovery of gold in Kakamega in the latter part of 1931 almost immediately led to a large influx, as I said in my previous speech, of Europeans to that particular area. The search for gold or for precious minerals has throughout the years had a magic attraction which has never failed to lure men, and in this particular case the response was as immediate as it has been in every other goldfield in the world. The one important difference between the discovery of gold in other parts of the world is, I think, that in places like the Klondyke and Australia gold was discovered in areas which were very remote, inaccessible and largely unoccupied and almost certainly unworked. Here, however, in Kakamega the goldfields are almost at the doorstep of the Kenya settler. They are in areas well populated by natives and in a country which rejoices in a beneficent Government. The advent of 600 or 900 Europeans within a very few months into a native area meant that the difficulties of administration were immediately increased. Each of those Europeans was coming into daily contact with natives, either offering compensation, employment or payment for food, and in all those relationships the duties of the administrative officers were very largely increased. It was therefore necessary for Government to increase both the administrative and the police staffs to deal with them. In getting to these areas, Sir, there has been no blazing of any trail—roads were in existence and modern means of transport enabled the prospector to go rapidly practically from any point in the Colony to the goldfields within a day. One result of that has been that there has been a

demand for the upkeep of roads in a suitable condition and the Government has been put to considerable expense already in improving the roads in the vicinity of Kakamega. Furthermore, the prospectors who have up to date explored the Kakamega fields have not always been experts in the profession and the normal staff of mining inspectors has had to be perhaps increased more than the actual work of mining inspection would require because in so many cases it has been necessary first of all to instruct and secondly to inspect—to instruct both in the mining laws and regulations and also in the more technical ways of dealing with the construction of tunnels and adits and the like to prevent their creating damage and loss of life to those working in them.

The pegging out of as many as 14,000 claims, which is the total up to date, will also mean that when the time comes for the issue of leases it will be necessary to re-establish various points on the land and on the maps in order that the boundaries of leases and the plans which are necessary to be attached to those documents may be properly tied up with the trigonometrical points. That work is one which will be extremely expensive if it has to be done and charged for by ordinary methods. So far we have been able to carry out a topographical survey in the neighbourhood of Kakamega of some 300 square miles with very little additional expense by departmental activity but it is extremely doubtful whether the same kind of thing can be done in other areas if demands come in on a large scale.

The discovery of gold in Kakamega reinforced the Government's wish, which had been dormant for some time, for the institution of a geological survey, and as hon. Members are aware, Sir Albert Kitson came here and conducted a preliminary geological survey at a cost to Government of some £3,600.

The opening up of the new areas to which I have already referred this morning will undoubtedly lead to similar demands for services in those areas also. So, Sir, it is clear that the development of the mineral resources has so far been an expensive matter to Government. I am aware that in normal circumstances governments expect to be put to some initial capital expense on the development of their goldfields and that their normal method of recouping themselves for that expenditure is over the passage of years by way of royalties on output, fees on claims and that type of revenue. If these were normal times I feel perfectly sure that this Bill would not be before the House, but they are not normal times. We have already had large demands made upon us for initial capital expenditure. We have the contemplation of further such demands and, as hon. Members are aware, the state of

the purse is not altogether satisfactory. That is the principal reason for the introduction of this Bill. There is also the reason, I think, Sir, that in connexion with concessions we have reason to believe that the people who are anxious to obtain concessions are perfectly willing to pay for them and I may say perhaps at this point that the actual fees which appear in the Schedule to this Bill in connexion with exclusive prospecting licences have been discussed with several of the representatives of fairly large interests who happen to be in the country at the present time and I understand that in each case those representatives have professed themselves as completely satisfied with the charges proposed. The charges themselves are set out quite clearly in the Schedule and in the clauses of the Bill and I need not perhaps refer to them in any particular detail. It is very difficult to form any precise estimate of what the imposition of these charges will produce. From the very nature of the case, Sir, we do not know how many prospectors will come into the proclaimed areas or how many applications for exclusive prospecting licences there will be, but I think it is fairly reasonable to assume that probably in the two years of operation which is proposed for this Bill we may get as much as possibly £12,000. It seems quite certain that even with that additional revenue during that time we shall certainly not cover our expenditure. The revised estimates for the Mining Department have recently been considered in the Select Committee of this House, Sir, and for this year they will amount to a sum of round about £10,000. We hope by receipts from royalties and fees to get rather more than we estimated for at the beginning of the year and if our hopes are fulfilled we may just cover that £10,000 expenditure, so that the whole balance of the capital expenditure which I have enumerated is uncovered by any corresponding source of revenue.

For those reasons and on the general ground that Government is extremely interested naturally in the development of the mineral resources of the Colony and is anxious to afford all reasonable facilities to those who go out in search of gold and for the reason of the general financial situation, I propose the second reading of this Bill in the confident hope that hon. Members opposite will accept the necessity for it and vote in favour of its adoption.

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

HIS EXCELLENCY: The question is that the Mining in Proclaimed Areas Bill be read a second time.

THE HON. CONWAY HARVEY: Your Excellency, in the peculiar financial position of Kenya at the moment it seems but reasonable to impose these extra charges in order to raise a revenue so urgently required for the maximum and rapid development of the goldfields. If we are given an assurance, Your Excellency, that certain details of these charges will be considered by a Select Committee a majority of my colleagues will quite certainly support this Bill as it stands.

We feel, Sir, that the extra charges, as the hon. mover hinted, will not in any way act as a deterrent to those mining interests who are concerned with the development of the fields at the moment, but there is just one point, Your Excellency, to which I should like to refer and that is in clause 3, where it will be seen that it is intended to impose an additional fee of £5 additional to the £1 already paid by the individual prospector. We are not quite satisfied, Your Excellency, that that is in the best interests of the rapid development of the areas in which these individual prospectors operate. It may be said that £5 is a small sum to be added to the £1 they already have to pay, to the £25 (I think it is) deposit they have to lodge with the district officer and all the other charges incidental to effective prospecting but £5 is Sh. 100 and it is a lot of money to the individual prospector in these days, Your Excellency, and I would commend to the attention of the Select Committee, if one is appointed, that particular point as to whether it would not be in the best interests of the industry to reduce this extra fee to be imposed on the individual prospector, who incidentally, Sir, has played such a very prominent part up to now in the development of these Kenya goldfields.

CAPT. THE HON. J. L. COOPER: Your Excellency, I would like to support what the previous speaker has said. I feel myself, in spite of the remarks made by the hon. mover, that the real intention here is to discourage mining activity. In fact, I might go back and suggest that he should read up the history of the Eureka Stockade. That famous rebellion in Australia was caused solely and entirely by almost the very words of clause 3 in the Bill now before the House. I would suggest that the idea is really to confine the activities to those who are really serious-minded prospectors. The protection given to keeping what are called "undesirables" out of the country—for instance, £50 at the coast, £25 to enter the goldfields area and an extra £6 now for prospecting—will certainly have the effect of keeping prospectors and miners out of the country; but undesirables, such as drum sellers and illicit gold buyers, who will all have prospecting licences to cover their nefarious trades—this will not keep them out at

all. Therefore, I suggest, Sir, that if it is really the intention of the Government to encourage mining, the prospecting licences should be kept as they are at present.

THE HON. ABDUL WAHID: Your Excellency, I support the Bill, but I think the amount of the fee should be considered in Select Committee.

THE HON. T. J. O'SHEA: Your Excellency, as the hon. mover of this Bill said that this was purely a revenue raising measure, there is no necessity for me to apologize for dealing with it in rather a critical manner. The hon. mover endeavoured to make out that a new industry had been pressed upon the liability of Government and that on that account there was justification for this effort to squeeze it for further direct revenue. Now, Sir, I think the attitude of Government towards this industry is explained in that way. Government apparently does not yet realize what the starting of this industry in the last two years has meant to the country or what it is likely to mean in the next few years. Government apparently does not recognize that the discoveries at Kakamega a couple of years ago saved this country from collapse and that it is the one hope the country has of getting out of its difficulties in the course of the next few years. To say that what Government has got out of it up to the present moment is the amount of direct revenue received from licence fees and such things is the height of absurdity. That is a negligible part of the amount Government has benefited by from the industry during the last two years.

Perhaps the best illustration I can give of the way the new industry has helped the country is by referring to the immigration and emigration statistics of the last two years. Despite considerable retrenchments from Government and commercial services and despite the complete collapse of the agricultural industry, there has been an increase of 500 in the European population of Kenya during the last two years. To what can that be attributed? To nothing else but this new mining industry. Had it not been for that, the population would certainly have dropped something in the neighbourhood of 1,000. That increase is eloquent of the influence the young industry has had upon our position during the past two years and in my opinion supports my contention that Government is not justified in endeavouring to squeeze further revenue out of the industry at this stage.

The amount of indirect revenue the Government has received from the industry in the short period it has been in existence is very considerable. The number of natives employed last year was on the average 5,000. Knowing the way in which they go into and leave employment for very short

periods one can safely estimate that there were in fact something like 15,000 employed during the course of the year earning money to enable them to pay their hut and poll tax, so that you have no less than 15,000 native hut and poll taxes, in addition to something in the neighbourhood of 1,000 non-native poll and education taxes, a considerable amount of revenue out of the petrol tax, and in various other ways Government did receive from the industry last year very large sums of money.

Now, Sir, I suggest, that being the case, Government should hesitate before placing deterrents on the industry at this stage. When the capital being invested in the industry is producing, then I say, if a case can be made out for a contribution to Government revenue, proceed; but at this stage I suggest it is most inadvisable that the Government should adopt the attitude of trying to get out of it every penny it can. It is going to leave a very bad impression and it is going to slow up progress.

The point I should like to emphasize most of all is this: that you are not asking for this revenue from the mining industry but you are asking it for the right to prospect. If it were coming from the mining industry some justification for these charges might be made, but when it comes to making prospecting an expensive privilege instead of a right, then I say Government is pursuing a wrong policy.

I should like to be taken as opposing the Bill on principle and as supporting the request from other Members on this side of the House that in the Committee process the Bill will be amended, more particularly that section of it which attempts to impose an extra fee of £5 for the right to prospect in these proclaimed areas.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, my position is very much the same as that of my hon. colleague for Plateau South. On reading the Bill the first impression I got was that our mining laws in this Colony still have to be made, that they are non-existent. That it should be necessary, even at this early stage of gold mining in the Colony to have to keep on altering our mining laws is a point which I do hope Government will take seriously and appoint a board or committee to investigate the advisability of altering the mining laws and report to Government. Undoubtedly they do require a great deal of alteration. Paragraph 3 I take a very strong objection to, which imposes another £5 on to the £1 prospecting licence that is paid to-day.

We have been told by the hon. mover that they pay very much more elsewhere, but it is a fact that in Kenya we pay very heavily for disturbance of the natives' rights and

shambas on top of everything else. In the case of immigrants coming to the Colony there is a deposit at the coast of £50; then there is another £25 to enter the mining area, and then this £6, plus the cost of his sea transport, railway and road transport. He could not get here under £200. Apart from that, Your Excellency, I maintain the success of this goldfield up to now has been made by the individual prospector, not by the big companies in any shape or form; and that process has gone on all the world over in the history of gold mining. It will go on in Kenya and I look forward to the time when the individual prospector will make it possible for the larger capitalists to come in. I think it would be a crime to put up this fee to the amount which has been suggested. It might be considered whether you could not charge a prospecting licence fee for each area as it is opened. That is one way out.

I am doubtful about the schedule but still have an open mind on it and should I be on the Select Committee that is the attitude on which I shall come on it. But I do feel that there is an avenue of revenue from these large syndicates and capitalists, that they should pay for exclusive prospecting rights—quite a different thing from issuing an ordinary prospecting right—and I think there is much to be said for that, but I do not know.

It has been stated it is a revenue measure. I think it is tactically wrong to make that statement. One could not say to what area this will be applied, but it has been already put in the paper that the Lolgorien River area will be opened on the 1st January next; but I cannot visualize any great number of people going down there and operating in that area; it is probably the most malarious area in the whole of the Colony; it is one of the most inaccessible in the Colony; it is also a tsetse fly area and also depopulated of natives. Several companies have been operating there for a period of years and I cannot imagine they have not prospected every foot of it. I do not think there are many people—but miners are really gamblers who take on a gambler's chance—who are going to go down there. If different conditions are made to apply to No. 2 area, then why cannot Government say so, and why cannot Government fix a date when that area is to be opened? If it is not to be applied to No. 2 area, then I maintain it is unnecessary and only a "red herring" or sharp practice. In my candid opinion it cannot apply to Lolgorien. If it does not apply to No. 2 area, then I say it is sharp practice. For the moment I will leave it at that.

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, I regret I omitted to state in moving the second reading of this Bill that Your Excellency had agreed that the Bill should be referred to a Select Committee, and in that Committee, of course, the points that have been raised will be fully considered.

The debate has centred round the charge of £5 for an individual prospector. I notice that no mention—practically no mention, with the exception that the hon. Member for Plateau North referred to it—was made to the charges proposed for exclusive prospecting licences. I think, Sir, that the amount of the fee is naturally a subject which is a proper one for consideration in Select Committee. Nothing that I remember in moving the second reading could, I think, justify any suggestion that Government was not fully sympathetic with the development of this mining industry. Quite apart from anything that I may have said, Government's actions in this matter stand for themselves for examination, and although the addition of the £5 proposed for prospecting in those particular areas may have much to be said against it, there is this to be said for it. On the general view, the opening up of these areas must be to make further demands for services from Government which Government will be only too anxious and willing to provide if it is financially able to do so. It does not seem unreasonable as a general proposition that in incurring expenditure which may be for a particular object, for a particular service, for a particular activity, if a contribution from the people who engage in that particular activity can be reasonably expected, that some contribution should be made. But, as I say, the actual amount proposed is a subject which can be discussed in Select Committee, but I am not able to agree to the principle that it is inequitable to suggest that any contribution should be expected from the people who demand services towards the cost of those services in times of financial stress like the present.

That, I think, Sir, is all I need say in reply to the debate as the Bill is going into Select Committee.

HIS EXCELLENCY: The question is that the Mining in Proclaimed Area Bill be read a second time.

The question was put and carried.

APPOINTMENT OF SELECT COMMITTEE.

HIS EXCELLENCY: I understand that it is agreed that this Bill and the other Bill—the Expulsion from Proclaimed Areas Bill—should be referred to a Select Committee, and the following will be the Select Committee which will deal with both Bills:—

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

The Hon. the Acting Attorney General;

The Hon. the Chief Native Commissioner;

The Hon. the Provincial Commissioner, Nyauza Province;

The Hon. Member for the Lake;

The Hon. Member for Plateau North;

The Hon. Member for Plateau South;

The Hon. Member representing Native Interests.

That concludes the business for to-day, and Council will adjourn until 11 a.m. on Monday morning.

*The Council adjourned till 11 a.m. on Monday,
the 8th May, 1933.*

MONDAY, 8th MAY, 1933

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Monday, the 8th May, 1933, HIS EXCELLENCY THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

HIS EXCELLENCY opened the Council with prayer.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Admittal Elected Member:

AMRITAL UJAMBE SHETH.

MINUTES.

The Minutes of the Meeting of the 3rd May, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

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

Report of Select Committee on the Expulsion from Proclaimed Areas Bill.

Report of Select Committee on the Mining in Proclaimed Areas Bill.

BY THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES):

Report of the General Manager on the Administration of the Railways and Harbours for the year ended 31st December, 1932 (Part I).

NOTICE OF MOTIONS.

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, I beg to give notice that at a later stage of this session I shall move the following motion:—

“That this Council approves the payment of a pension at the rate of £157/13/6 per annum together with a gratuity of £147/13/1 to Sir Ralph Cator in respect of his services in Kenya from the 1st May, 1896, to the 31st March, 1905.”

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to give notice that at a subsequent stage of this session I shall move the following motion:—

"This Council requests Government, in the preparation of the draft Estimates for 1934 to implement the recommendation contained in paragraph 461 of the Report of the Expenditure Advisory Committee and to reduce expenditure on 'reducible items' to £1,500,000 in respect of Kenya services and £394,000 in respect of joint services.

N.B.—Heads of Estimates not included in 'reducible items' are:—

Interest.

Pensions and Gratuities.

Public Debt Funded.

Rent and Interest to H.H. the Sultan of Zanzibar.

Colonial Development Fund."

THE REV. CANON THE HON. G. BURNS: Your Excellency, I beg to give notice of motion in the following terms:—

"In view of the fact that further large areas in the Kavironda Reserve are, in the near future, to be thrown open for prospecting and mining operations, will Government consider the advisability of appointing a small Board consisting of equal numbers of Europeans and Natives, the latter to be nominated by their fellow Natives?

The functions of such a Board to be:—

- (a) The valuing of all lands and the buildings thereon from which, owing to mining exigencies, natives have to be ejected, and
- (b) To arrange for the re-erection of such buildings on another site in the Native Reserve, or on other contiguous land provided by the Government for this purpose, if such land is not available in the Reserve."

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to give notice that at a later stage, I shall move the following motions:—

"That the Report of the Select Committee on the Expulsion from Proclaimed Areas Bill be adopted."

"That the Report of the Select Committee on the Mining in Proclaimed Areas Bill be adopted."

MOTIONS.

THE AGRICULTURAL ADVANCES ORDINANCE, 1930:

APPROPRIATION OF FURTHER FUNDS.

THE HON. THE TREASURER: Your Excellency, on the 3rd instant I gave verbal notice of the motion that appears on the Order Paper to-day. I should like, Sir, to ask the indulgence of Council to vary the wording of that motion somewhat in order that its intention may be out of question or doubt. The wording I should like to adopt, Sir, if I have the consent of Council, is:—

"That this Council gives covering authority under section 6 of the Agricultural Advances Ordinance, 1930, to a temporary appropriation of £7,000, over and above the £100,000 previously appropriated, to cover certain advances made during the year 1932 in excess of the £100,000, on the understanding that the £7,000 is recovered as quickly as possible. This further appropriation to be a temporary charge against the surplus balances of the Colony."

HIS EXCELLENCY: I do not know whether you wish to propose a formal amendment or whether the Council will accept that?

CAPT. THE HON. H. E. SCHWARTZ: I think the Council would agree to the latter course, Sir.

THE HON. THE TREASURER: I think that the Council understands the way in which the Agricultural Advances Board works. Council is aware that a sum of £100,000 was placed at the disposal of the Board by Your Excellency in this Council, and any addition to that sum must also, under section 6 of the Ordinance, be voted by this Council. The authority of the Secretary of State and of this Council was obtained to advances which are recovered being placed back in the fund and re-issued as further advances from time to time. It has been the constant endeavour of the Board to keep within the £100,000. In fact we have tried continuously to arrange so that recoveries would exceed the advances made each year. Unfortunately about July last year we became aware of the fact that there had been a heavy over-estimation of crops from all over the country and that our estimate of recoveries would not be obtained. In August Your Excellency, on the advice of your Executive Council, authorized the Board temporarily to exceed the £100,000 by £7,000. We felt confident at the time, Sir, that at the end of the year there would be no excess on the £100,000, but unfortunately owing to the cold wet weather towards the end of the year the early coffee crop

was delayed and we could not recover the amounts we had expected, with the result that we over-spent the £100,000 by about £1,000. At the same time we were called upon to pay to Government revenue £3,200, being the interest recovered on advances less the cost of administration, so that we found ourselves, when the accounts were made up, £7,000 in excess of the authorization, and this motion has for its object the regularization of that position, Sir. I cannot say exactly when the £7,000 will be recovered, but we shall do our best, of course.

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

HIS EXCELLENCY: The question is:—

"That this Council gives covering authority under section 6 of the Agricultural Advances Ordinance, 1930, to a temporary appropriation of £7,000, over and above the £100,000 previously appropriated, to cover certain advances made during the year 1932 in excess of the £100,000, on the understanding that the £7,000 is recovered as quickly as possible. This further appropriation to be a temporary charge against the surplus balance of the Colony."

The question was put and carried.

AGRICULTURAL ADVANCES ORDINANCE, 1930: WRITE-OFF.

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

"That this Council approves the write-off as final expenditure of a sum of £2,956/18/12 advanced under the provisions of the Agricultural Advances Ordinance, 1930, this write-off operating in reduction of the authorized appropriation of £100,000 approved by this Council by motion dated the 30th May, 1930."

This is the first time we have had to come before Council to seek authority for writing off losses incurred by the Agricultural Advances Board. From the very inception of the scheme, Sir, it was realized that its character was such that losses were inevitable and Government was such made aware of that opinion of the Board. This motion covers five or six cases of actually ascertained losses, but I should not like this Council to imagine for one moment that the losses we can already see are not very much greater than this motion would tend to show. We have not yet the actual figures in other cases and until we have them we cannot very well come before Council and ask for a write-off.

With regard the cases now before Council:

No. 1 is a loss of £886/10/06. The holder of the first mortgage in this case gave notice calling for immediate payment of the mortgage. The Board were faced with the alternatives of allowing foreclosure to take place or of paying interest amounting to £480 and maintaining the estate at an annual cost of £1,200 with the prospect of only a small return from crops. Prolonged negotiations with the mortgagee resulted in a settlement which greatly reduced the anticipated loss and which, in the circumstances, must be considered satisfactory.

Case No. 2 is a loss of £14/10/23. This represents the unpaid balance after realization of securities held by the Board in a bankrupt estate.

The next one is a loss of £1,510/5/25. This estate was sold by public auction at the instance of the holder of the first mortgage. The loss again represents the unpaid balance after realization of the securities held by the Board.

Case No. 4 is a loss of £381/5/13. This loss represents the balance after realization of the securities held by the Board in a bankrupt estate. These securities were valued at the time they were taken over at £1,500, but on the sale of the farm they realized only £226.

In the last case, No. 5, the loss is £160/17/55. It was a deceased and insolvent estate, administered by the Public Trustee. There were no moneys available for distribution, and therefore the whole of the advances must be written off in this case.

I beg to move the motion.

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

HIS EXCELLENCY: The question is:—

"That this Council approves the write-off as final expenditure of a sum of £2,956/18/12 advanced under the provisions of the Agricultural Advances Ordinance, 1930, this write-off operating in reduction of the authorized appropriation of £100,000 approved by this Council by motion dated the 30th May, 1930."

CAPT. THE HON. H. E. SCHWARZ: Your Excellency, all I wish to say on this matter is that as I understand the Estimates are, as a result of what happened in the Select Committee, likely to be reprinted, and as those Estimates will

presumably show the final estimated picture as known with regard to the excess of assets over liabilities at the end of 1933, if it is not too late I suggest that this figure of £2,900 odd should appear as part of the picture, altering the figure which will at present appear as the estimated excess of assets over liabilities at the end of this year from £75,939 to approximately £73,000. If that can be done I would request Government to do it so that the picture in the reprinted Estimates is completely accurate as we know it to-day.

THE HON. T. J. O'SHEA: Your Excellency, I should like to take advantage of the introduction of this motion to pay a tribute to the official and unofficial gentlemen responsible for the administration of this fund for the efficiency with which it has been administered. In my opinion, Sir, no amount of money voted to the agricultural industry has achieved greater results than the £100,000 which the Agricultural Advances Board was put into control of, and that in such circumstances they should have up to the present achieved a loss of only something less than £3,000 is, I think, striking testimony to the manner in which they have administered those funds.

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

THE HON. THE TREASURER: Your Excellency, I think there is nothing to reply to. I do not know quite how the question of reprinting the Estimates stands—if it has not been done I imagine the request of the hon. Member for Nairobi South will be coupled with... I am authorized to state that that will be discussed in the Select Committee.

HIS EXCELLENCY: The question is:—

.. That this Council approves the write-off as final expenditure of a sum of £2,956/18/12 advanced under the provisions of the Agricultural Advances Ordinance, 1930, this write-off operating in reduction of the authorized appropriation of £100,000 approved by this Council by motion dated the 30th May, 1930."

The question was put and carried.

REPORT OF SELECT COMMITTEE ON THE PUBLIC TRAVEL AND ACCESS ROADS (AMENDMENT) BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, with regard to the first motion standing on the Order Paper in my name, I beg Your Excellency's leave and the leave of the

House to withdraw that as I shall reassemble the Select Committee to consider certain other proposed amendments to this Bill.

HIS EXCELLENCY: Is it the wish of the House that this motion should be withdrawn?

CAPT. THE HON. H. E. SCHWARTZ: Might I suggest, Your Excellency, that possibly—thinking only of the time and trouble—it might be postponed instead of withdrawn. If it is withdrawn it means fresh notice having to be given; if it is not withdrawn, whatever the final form of the Select Committee's Report, the motion will be in the same words.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I should like to take advantage of that suggestion, Your Excellency.

HIS EXCELLENCY: The question is postponed.

REPORT OF THE SELECT COMMITTEE ON THE SHOPS IN RURAL AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Report of the Select Committee on the Shops in Rural Areas Bill be adopted.

Hon. Members will see that the Report of the Select Committee recommends that the Bill be adopted without any amendment at all and in those circumstances I think there is nothing left for me to do, Sir, save to move that the motion be adopted.

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

The question was put and carried.

BILL.

THIRD READING.

THE SHOPS IN RURAL AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I beg to move that the Shops in Rural Areas Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTIONS.

RAILWAY CONTROL.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I beg to move:—

“That this Council, whilst in no way desirous of prejudging the general recommendations of the Roger Gibb Report, strongly deprecates any proposal to vary the Railway Order in Council which would have the effect of weakening such control as is at present exercised by this Colony over the Kenya and Uganda Railways and Harbours and this Council is further of the opinion that any change that may be made should tend to strengthen such control.”

Your Excellency, I do not propose in putting forward this motion to take up the time of this House to any great extent because I feel that the terms of this motion are completely acceptable to every Member on this side of the House, and, I believe I can say, to every Member on the other side of the House, with the possible exception of the hon. and gallant *advocatus diaboli* who controls the Railways and Harbours of this Colony.

Up to about ten or twelve years ago, as is common knowledge, the Legislature of this Colony had as complete a control over the Railway as it had over any other Government Department, and after a great deal of consideration and thought, and consultation with the neighbouring Protectorate of Uganda, the system was altered to the system which obtains to-day. Some may think that by consenting to such alteration this Government and the hon. Members who were then the Elected Members on this side of the House made a mistake and gave away more than they should have done. But at least it is no good at the present moment to look at back history or bewail any milk that may have been spilt, and I would like to remind the House that though the control exercised now is considerably less than the control that was exercised heretofore, nevertheless that control which we have to-day is by no means ephemeral. We have first of all the right in Legislative Council that the Railway Estimates should come before the Council and be discussed to the fullest possible length, and it is the right of any Member of this Council to ask any questions in connexion with Railway affairs, not only during the debate on the Railway Estimates, but at any time and at any season. Now that is clearly an important privilege which has been retained by this Legislature and by Elected Members representing their various constituencies; and in addition to that the wording of the Order in Council makes it imperative for the High Commissioner to consult the Railway

Advisory Council in connexion with a very large number of matters, which I will enumerate briefly in a moment. Furthermore, the constitution of the Railway Council is a very great safeguard to the unofficial community of this Colony because they are entitled—as is Uganda—to two representatives on that Railway Council and those representatives, although the prerogative is the Governor's to nominate those two members—it is the established practice in this Colony, accepted by more than one Governor, and I am sure—never let it be departed from—that in effect the Governor does nominate to the Railway Council such persons whose names are sent up to him by Elected Members, after consideration and consultation. We have, therefore, in effect, the position that the two unofficial members of the Railway Advisory Council are people chosen by the elected representatives of the people and can thus therefore be said to be fully representative of the unofficial section of this Colony.

I would lay stress upon that important position which obtains at present because it is really the strongest part of the control which this Colony has over the Railway and if, as is suggested by Mr. Roger Gibb, that is to all intents and purposes to disappear, we are left practically without any control at all.

Now, Sir, I would like, if I may, to remind this House of those matters which must be sent to the Council before the High Commissioner can act. There is a right to require the High Commissioner—who may consult the Council upon any matter concerning the administration and working of the Railway—that he shall (and it is mandatory) consult the Council upon the following matters:—

- (i) Any substantial alteration in the tariff of rates, fares and charges of the Services.
- (ii) All estimates of revenue and expenditure, including Loan Services.
- (iii) All Government Bills relating to the Services prior to submission to the Legislative Council of Kenya or Uganda, as the case may be.
- (iv) The expenditure of any sum exceeding £2,500, voluntarily reduced by Sir Christian Felling to £750, in respect of any one railway or harbour work or service other than a work or service covered by sanctioned working estimates or carried out under an authorized construction, betterment or renewals programme.
- (v) Alterations in the scales of salaries, wages or hours of employment, or other important conditions of employment.

- (vi) Substantial reduction of staff.
- (vii) The abolition of any office in the Services carrying a salary of £1,000 per annum or over.
- (viii) Substantial changes in the organization of the Services.
- (ix) All questions of general policy in connexion with the administration, control, working or management of the Services.

It will thus be seen, Sir, that the matters upon which the High Commissioner is compelled to consult the Railway Council, which has representation of the unofficial community upon it, are very wide indeed and there is practically nothing of importance which can be achieved without the Railway Advisory Council being consulted.

Now I would also like to quote—because it seems to have been entirely forgotten by Mr. Roger Gibb in his conclusions—section 13 of the Kenya and Uganda Railway Ordinance, 1927 :

“ The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport ”.

and then it goes on to deal with various points there. The position, therefore, to-day is (1) control is exercised to a large degree by the Advisory Council, as I have already stated, and (2) that section 13 is a matter which is being continually considered and kept in the forefront by, I think, most members of the Railway Advisory Council, and certainly the unofficial members. That is to say, that the Railway is not to be run purely and solely as a Railway, but due regard has to be had to the effect of Railway policy on the Colony and on the producers in the Colony; and there can be little doubt that, if this control is wrenched from the Railway Advisory Council and sent to a small Board in London, section 13 will become a dead section and will not be considered by any such Board, who will content themselves, I suggest, with following the Gibb line of thinking of nothing but the Railway and entirely ignoring the interests of the Colony.

It is natural that if the Railway were to be administered by a Board in London, quite apart from the inadvisability of administering a Railway six thousand miles away, it will certainly be administered by people who have not naturally the interests of the Colony generally at heart, as is the case with official and unofficial members of the Railway Advisory Council out here.

Now the Board in London presumably will be advised by what I may call the unfettered General Manager, because, in spite of the very important powers which the General Manager at present wields, he cannot be called completely unfettered, because he has his Advisory Council and the advice of that Advisory Council is naturally given the fullest weight by the High Commissioner when considering any important suggestions or changes which may be put forward.

If we are going to have a Board, first of all, all that distance away, and secondly, nothing to do with the Colony and not having the interest of the Colony at heart but only the interests of the Railway, and that Board advised by a practically unfettered General Manager, we see the terrible danger into which we may be led. Now, no one in this House, Sir, has a greater respect than I have for my hon. friend the General Manager, but no one would have a greater fear of seeing that hon. and delightful gentleman unfettered, because I think his policy has shown quite clearly that he places the Railway first, foremost and all the way, and that the welfare of the Colony is a completely secondary consideration so far as he is concerned. His policy—a wrong policy, in my submission—is almost diametrically opposed to that of his predecessor. Sir Christian Felling, who, I think, can be said to have kept the interests of the Railway and the interests of the Colony evenly balanced in his decisions and in his policy, I am not going to flog the old dead horse of the maize question, but the whole attitude of the General Manager in connexion with the maize question and many other questions, such as distribution rates, country produce rates and other matters, has shown me—and I think it has shown hon. Members on this side of the House and I think has also shown hon. Members on the other side of the House—quite clearly that his sole concern is to make the Railway as paying as possible, without any regard to the indirect repercussions that such a policy must inevitably have on the Colony as a whole, and I suggest, Sir, with full seriousness, that if the hon. the General Manager, holding that view—he has a perfect right indeed to any view he wishes to hold—holding that view should be the unfettered adviser to the Railway Board, presumably composed of railway men trained to work on railway principles and nothing else, the result will be completely disastrous for this Colony.

Now another reason: major issues of importance are continually arising in connexion with Railway matters in this Colony. Now who is best able to deal with these major issues and to find a solution for the major problems that may arise than the people living in this country, the people who are on the spot, the people with a full knowledge of all local

conditions and local difficulties? Are we not going, if we ever agreed to any such suggestion as made by Mr. Roger Gibb—are not we in effect going back to that which we are continually complaining about in other matters, namely, that too little is left to be dealt with by the man on the spot and too much is dealt with by a man or by people who, although they may have the interests of the Colony at heart, have not the capacity for dealing with those problems as well as the people out here because of their lesser knowledge of the conditions which obtain out there.

Now let it not be forgotten that this Colony is responsible ultimately for the repayment of loans which have been raised for Railway development and also responsible, if the Railway cannot pay, for the interest on those loans. Now can it be seriously suggested that the Colony, which is ultimately responsible for those enormous sums of money spent on the Railway, should give up completely all control over the conduct of that Railway, the result of the workings of which may so vitally affect the finances of the Colony? It is a suggestion, Sir, that really, if it had not appeared in a State document under the name of Mr. Roger Gibb, whose past history I do not know but who is presumably a man of some eminence because no one except of great eminence is ever sent out here to advise on our affairs—but unless it appeared above the signature of Mr. Roger Gibb I do not think that anyone would take the suggestion seriously. It only has to be mentioned to be, in my submission, laughed out of court as unfeasible, unpractical and unfair.

Now what will happen if Mr. Gibb's suggestions with regard to higher rates, higher rates, higher rates—because that is what he is after all the time—were put into force by this London Board? It might or might not improve the position of the Railway, for again we should probably be faced with the old law of diminishing returns, but even if the Railway put itself in a better position it would merely mean another crushing burden on this Colony which this Colony certainly could not afford to face, and there is not the slightest doubt that it would drive up the cost of living from one end of the country to the other, and it was to provide against that very thing that section 13 of the Railway Ordinance was passed. I remember full well the importance that was attached at that time to that section.

Another point, Sir: I understand that the cost to this Colony at present—whether to this Colony alone or to this Colony and Uganda, I am not quite clear—the annual cost of the Railway Advisory Council is somewhere in the neighbourhood of £100 a year. Is it suggested that this small

Board in London, composed of eminent railway men, would cost anywhere near that? I suggest it would be more like £5,000 or £6,000 a year, and in these times, quite apart from anything else, should we be justified, would the Railway be justified, in multiplying by ten times the cost of the Board that is going to administer or advise in connexion with Railway matters?

Now there have in the past, as Your Excellency is aware, been many cases of dispute and difference of opinion between this Colony and Uganda with regard to Railway matters, and it is therefore that I feel myself justified in quoting, Your Excellency, in this House very brief extracts from a memorandum prepared by the Eastern Province Chamber of Commerce, Uganda, on that part of the Gibb Report which we are discussing to-day, because they feel as strongly as we feel the undesirability and impracticability of adopting this suggestion of the London Board. They say:—

"In any and every business in the world the subscribers of the capital have the chief say in the management of that business, and, it is, to say the least, a remarkable omission on the part of the report that it fails to recognize the fact, when dealing with Organization and Control.

This Chamber is therefore of the opinion that the control of the Railway must remain in the hands of the Governments of the two countries, and anything in the form of a London Board which would have the final say in rating problems, and through that, control finance and financial policy, without any financial responsibility, is a suggestion to be strongly opposed.

This Chamber would like to emphasize the advisability of a strong Advisory Council, and in so doing wish to strongly oppose any suggestion of curtailing its present powers.

"Any suggestion of curtailing the powers of the Advisory Council would mean that unofficial opinion in both countries would feel that their views are not adequately represented. . . . The desirability of a strong Council can be cited by the fact that in the last three years Railway expenditure has been reduced by about £800,000, and this Chamber feels that this would not have been accomplished had the Railway Administration been able to lightly ignore the advice of the Council."

I would lay the strongest possible emphasis on that point made by the Eastern Province Chamber of Commerce because I think it is an open secret that the reduction in expenditure

by the Railway would not have been as much as it is had it not been for the efforts of official and unofficial members of the Railway Advisory Council.

It ends up, Sir:—

"We can look upon this suggestion as further evidence that the report believes that a railway should be run by railway men without control, and very much fear that this is what is meant by a purely railway policy."

Now, Sir, Mr. Gibb, in my suggestion to this House, has weakened the effect of his Report and has made it very much less convincing than it might otherwise have been if he had not shown, both with regard to his remarks in connexion with the members of the Railway Advisory Council, his remarks with regard to the policy of protection supported by Railway rates and many other things in his Report, that he approached this subject in a biased spirit, and parts of his Report—I do not think I am exaggerating and I think I am entitled to say this—show him to have been literally venomous, and I suggest that this Council should show quite clearly that they are not prepared to listen for one moment to such a suggestion as he has made. This is not the time, when we are pressing and are determined to get a measure of control over our own finances, to agree to give up any kind of measure of control that we already have got over the Railway. It is suggested in some quarters that there is no unanimity with regard to getting control over our own finances. This is not the time to deal with that matter—I shall speak on that at greater length when the Report of the Select Committee on the Budget comes up—but I can say this, that we are unanimous in demanding control over our own finances and we are unanimous in being determined that the suggestion that such control as we have got over the Kenya and Uganda Railways and Harbours should not and must not be taken away from us.

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

HIS EXCELLENCY: The question is:—

"That this Council, whilst in no way desirous of prejudging the general recommendations of the Roger Gibb Report, strongly deprecates any proposal to vary the Railway Order in Council which would have the effect of weakening such control as is at present exercised by this Colony over the Kenya and Uganda Railways and Harbours and this Council is further of the opinion that any change that may be made should tend to strengthen such control."

THE HON. CONWAY HARVEY: Your Excellency, in common with many others, I am definitely of the opinion that a big mistake was made in 1925 when the change over was made to the present system of controlling the Railway Administration. I agree, Sir, with everything the learned mover has said and I suggest that any suggestion to the effect that control should be transferred to London, when all the facts of the case and all the arguments tend in the opposite direction, would be a retrograde step which must be resisted.

Now, Sir, it appears to me the result of obviously inspired prejudice against existing control—that is, Sir, against the present Inter-Colonial Railway Council—which it has been suggested is more due to official resentment because the Railway Council periodically oppose the natural spending proclivities of bureaucracy rather than to its alleged subordination of purely Railway interests to those of the country as a whole. I suggest, Sir, in all seriousness that there is not one jot or tittle of evidence in support of such an allegation and I defy its protagonists to produce it. Evidence on the other hand, Your Excellency, is pointing to the fact that the present Inter-Colonial Railway Council functions with very great efficiency and has performed most valuable services in the interests of those its members represent.

Now, Sir, no less an authority than the hon. the General Manager in more than one of his annual reports has paid a very warm tribute to the work of this Council, the efficiency of which is being challenged by the Report now under discussion. Sir, we are all agreed that the Railway organization must be regarded as an integral part of the Colony's economic structure.

Now, Sir, the allegation that members of the Council are advocates rather than judges is somewhat discounted by the fact that the Railway Council has five sessions nearly every year, dealing on an average with thirty subjects on each occasion. That means 150 subjects a year. Sir, or, in the course of ten years, no less than 1,500 decisions are made; and I understand, Sir, that it is very rare indeed that any matter brought up for discussion which has been debated is put to a vote at all, which, to my mind, Sir, completely destroys the suggestion that members approach the various matters under discussion in a partisan spirit as advocates rather than judges. As, during the whole period that the present organization has functioned, the High Commissioner has not been called upon to exercise his over-riding powers on more than two or three occasions, I suggest, Sir, that the objection to him in actual practice is far more imaginary than real.

Now, Sir, another objection to the existing organization is, I understand, that the hon. the General Manager is not a member of the Inter-Colonial Railway Council. As a matter of fact, Sir, everybody knows that originally, from the year 1923 to 1925, the late Sir Christian Felling actually was a member—in fact, chairman—of this Council; but he himself, Sir, made out an unanswerable case for his exclusion, or the exclusion of the General Manager, from the Council, in order that his freedom in giving subsequent advice to the High Commissioner should not be curtailed or prejudiced in any way.

Another criticism against the existing organization is the lack of publicity, which I think is deplored by Mr. Roger Gibb, Unofficial Members of the Inter-Colonial Railway Council, Your Excellency, have always deplored the lack of publicity, and I think I am right in saying they have pressed for greater publicity. It has been opposed, Sir, by official members on the ground that publicity might quite conceivably embarrass the subsequent consideration by the High Commissioner, and I suggest, Sir, in all seriousness, that this position would not be improved by transferring control to London.

Now, Sir, I quite agree with all the objections mentioned by the learned mover, to which I would add an inevitable increase in rates by reason of the encouragement given to the administration, particularly by paragraphs 54, 78 and 103 of the Roger Gibb Report, which, though possibly sound in some respects, should be resisted, so far as its acceptance would mean the transfer of any of the control now exercised in Kenya to London.

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): Your Excellency, in rising to speak on this motion, I feel myself in a somewhat difficult position inasmuch as I am myself a member, as everyone knows, of this Railway Council; and I find myself to-day, as a member of that Council, in the somewhat unwonted position of having bouquets of a most pleasant nature handed out to me. Therefore, I find myself in a difficult position in perhaps taking an entirely impartial view of a matter of which naturally, owing to one's internal knowledge of the working of that Council, one must have formed some idea.

In the first place, I should like to say that I must, in fairness to the Council and to the hon. the General Manager, endorse entirely what has been said by the last two speakers, namely, that though on many occasions the Council may have met, when different points of view were advanced by the members from Uganda and Kenya, yet the occasions on which,

after a free and frank discussion round that Board, general agreement could not be arrived at, have been so rare that I believe they can be counted on the fingers of one hand. To that extent, therefore, it is true, I think, that the Railway Advisory Council, to the best of its ability has tried to sink parochial interests in giving the best advice they thought possible to the General Manager and you, Sir, as High Commissioner, in the interests of the Railway.

But to turn for a moment to what I understand is the major question which is coming up in the debate to-day, namely, the question of this transfer of control to a London Board. I can only say, Sir, that the Government very much welcomes this debate and we hope that, after I have spoken, we shall hear still further opinions from the other side of the House in order to enable the Government to get a clear conception of what is the general view on this subject. As you, Sir, stated in your communication from the Chair, this whole question is coming up before a special meeting of the Governors' Conference, and in order to enable you, Sir, at that Conference to voice the feelings of this Colony in general, you are most anxious that the freest possible expression of public opinion should be given on these most important points. Further, we have specially written to the Chambers of Commerce, asking them to prepare memoranda on this subject. Those memoranda have not yet been officially received by Government, and therefore, I think the hon. mover of this motion will appreciate that until all these views have been obtained, it is perhaps difficult for the Government to suggest that this motion should actually be put to a division; and I would suggest to him, either that the debate should stand adjourned or, if he prefers—after this full debate has occurred—that the motion should be by leave withdrawn.

There is just one point, Sir, which I would like to make, and that is this: I do feel myself that Mr. Gibb, in anything he may have said in his criticism of the present organization, perhaps was not fully aware of the history of the Railway Advisory Council and the circumstances which led up to the passing of the Orders in Council. I myself being a newcomer to this country and not having been present in this House at the time that that step was taken, have taken the trouble of reading some of the debates that occurred at that time, and it is quite clear that in assenting to the Order in Council hon. Members opposite felt—I think the expression was frequently used in the course of those debates—that they were assenting in a measure to a self-denying Ordinance, but they thought that that self-denial was fully justified and they hoped their action would make not only for the more efficient

working of the Railway but also for the material development and prosperity of the two Colonies concerned. As I see it, Sir, really the point that stands for decision is whether or not the machinery so set up has, by and large, effected the results that we hoped or whether it has been a failure and requires modification in one direction or another. It is perfectly true to say, Sir—and that was fully recognized by the late General Manager, Sir Christian Felling—that a very great security was still left to this Colony by the fact that the Estimates of Revenue and Expenditure had to go before the Legislative Councils of Kenya and Uganda. This, in his words, he felt "should give us much opportunity as exists at present of criticism by Members of Legislative Council", and I can well feel, Sir, that Members of this House may feel apprehensive that that right may in some way be curtailed should the London Board be set up. Whether such an apprehension is well-founded I cannot say; it depends a good deal on the structure that would finally be adopted but I do feel, Sir, and all Members feel, that in so vital a question as our Railway local opinion should have every opportunity for proper ventilation.

There is just one point, Sir, that I feel I must join issue upon with the hon. and learned mover of this motion and that is his reference to the present General Manager. I think any difference of opinion that exists depends really on one's point of view and interpretation of these difficult words "business principles". The hon. mover did suggest that Mr. Roger Gibb had entirely omitted or overlooked the fact that any such section existed at all in the Railway Ordinance, but such is not the case. If you will look at page 7 of his Report, in making a comment on the policy which was endorsed in a resolution of the Kenya Legislative Council in 1931, he goes on to say: "Although section 13 of the Railway Ordinance of 1927 states that the Railway shall be administered on business principles, the above resolution does not appear to attach sufficient importance to this."

As I understand it, the bone of contention really is this: whether a railway run on business principles, however that is to be interpreted, is or is not in the best interests of the two Colonies. I think the contention of my hon. friend the General Manager is that in the long run a railway run on such principles must be in the best interests of these two Colonies and the real point of difficulty is to decide to what extent, if at all, the principle of running your railway for the purpose of Colonial development must in any way infringe true business principles looked at from the Railway point of view. That Sir Christian Felling generally held very much

the same principles as the General Manager advocates I can only judge from a couple of extracts which, if I may, I will read from his speech at the time when this Order in Council was passed in October, 1924. He states:—

"The Uganda Railway and its lake steamers serve mainly the Colony and Protectorate of Kenya and the Protectorate of Uganda. It cannot be repeated too often and emphasized too strongly that in the absence of navigable rivers efficient railway and lake steamer transport and port facilities are vital to the development and well-being of East Africa, and it is essential that the control of these services should be placed on a sound footing. The whole future of both Kenya and Uganda depends upon the railways. Any form of control which might at any time have the effect of subordinating the railway and lake services common to both Kenya and Uganda to the local interests of either Kenya or Uganda, any form of control which is apt to be swayed by political influences from either territory cannot, in the nature of things, be permanently acceptable to both territories and must in the long run be harmful to both. In my opinion the best way of consolidating all interests and meeting the business requirements of both Kenya and Uganda is so to regulate the administration of the Port and Railway as to make it in the nature of a trust on behalf of both territories."

In a concluding portion of his speech, he spoke as follows:—

"The Colony must decide, but I could never advise a compromise on this principle. In my opinion indirect taxation through Railway rates is unsound, and a system which inevitably tends to an alternation of raids by the users of the Railways on the taxpayers in general and by the taxpayers in general on the users of the Railways is wrong in principle."

To my mind there can be no middle course. Either we must work on the well-defined principle that the Railway has the control of its own funds, can make sufficient provision for renewals, betterments, and eventualities, and thereafter, if any money is left over, must reduce rates; or we leave the Railway policy wholly subordinate to the exigencies of the general financial position of the Colony or Colonies."

That was the view voiced in Legislative Council by the late General Manager, and I believe that is really exactly the view held by the present General Manager. The only question

is the manner of implementing that policy, and I do feel therefore that if some of the views which the General Manager has felt it necessary to press are criticized, I feel sure that in pressing those views it is not because he regards the interests of this Colony as secondary. After all, the Railway has got to live on these two Colonies and he believes, rightly or wrongly, that by the carrying out of a certain Railway policy in the long run these two Colonies will benefit.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I rise to support the motion moved by the hon. Member for Nairobi South and I would like to congratulate him on the manner in which he has put forward that motion. I also should like to mention that there was no reluctance on this side of the House to support that motion. We are unanimous in our feeling on this side but we did not wish to reiterate anything that had been said. Most of the points have been covered but I should like to emphasize also, Sir, that it is true that there is throughout Kenya, and has been for a long time, a determination—taking the whole of the European population of this Colony—to get further control of their own affairs, and that cannot be taken to mean that we would face the recommendation in Mr. Roger Gibb's Report, which would take control away from us, as it is stated at the moment, and substitute a Board sitting in London. We have too much of the London reflecting on the Colony already and I maintain it is impossible at that distance to administer the Colony satisfactorily, not only from the Railway point of view but from every point of view and certainly this Colony will not sanction even a weakening of the control that we have over the Railway. I am also convinced that apart from that it will not be long before we shall demand further control. I do not propose to go into the details of the Report of Mr. Roger Gibb; there are good recommendations in it and there are some very bad ones, but I do maintain that as we will eventually have to pay, the Colony will have to pay, any deficit on the Railway loans, we have a right to demand control and retain control as we have it now. I am not advocating or suggesting that I consider the present form of control an ideal one and I do hope that there will be a revision of the Railway Ordinance. I have tried to ascertain this morning when that revision is due, if due, in the Ordinance, and I would like information on that point from the Government side—whether it is coming up for revision, say, in ten years' time. But if it is not coming up for review I do not think the time is very far off when a motion will be moved in this House for a revision or cancellation of that

Ordinance with a view to getting matters put on a more satisfactory footing as regards Kenya. Mr. Roger Gibb has pointed out—quoting from memory—that the Kenya burden is some 90 per cent though we only have 50 per cent, less than 50 per cent, of the control, and that does seem to me to be unreasonable. I have always subscribed to the fact that those who pay the piper should call the tune, but I understand that is not so.

I also, Your Excellency, welcome the manner in which Government has treated this motion and I hope Members of the House will assist Government by expressing their individual opinions in favour of it.

CAPT. THE HON. J. L. COTTER: Your Excellency, could we hear the hon. the General Manager on this subject?

HIS EXCELLENCY: I do not know whether the General Manager would like to speak or not?

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I had hoped to have been an interested listener to this debate and not necessarily to take part in it in an active form. There are various reasons, Sir, why that should be so. First of all, as this House is aware, these problems that we have been discussing have not yet reached a point where any definite decision has been reached. Furthermore, I am, as General Manager of an Inter-Colonial Railway, also unwelcome to another Legislative Council and it is a little difficult for me therefore to take part in what ought to be a Government debate. However, perhaps I may draw attention to one or two points that occurred to me when listening to this discussion.

First of all, Sir, if I may, I should like to thank my hon. friend the Colonial Secretary for making it so clear, in his speech and in the extracts which he has read from the late General Manager's speeches, that the policy of the Railway to-day is no different in effect from what it was in those days. The policy of the Railway has always been to do what it can to develop these territories. In fact, Sir, that is the cause of our sole difficulty at the present moment. If hon. Members will read my Report, which has to-day been laid on the Table, they will find, I think, that the position has been very clearly explained.

Now, Sir, people in these territories are frequently referred to as shareholders of the Railway. They are not quite shareholders, Sir, because they have not, as shareholders do, contributed to the capital of this Railway. Most of the capital,

except that contributed through earnings, has been found by loans on the London market. These territories are, however, responsible for meeting interest on those Loans should the Railway Administration fail to earn sufficient revenue to meet their liabilities. In fact, there has, so far, been no piper to pay because the Railway Administration has been able to meet its liabilities in that way. But, Sir, although in the strict sense of the word we are not shareholders out here in that we are not looking for dividends from money that we have contributed to the capital of the Railway, we are very interested indeed to see that we are not called upon to meet any of those liabilities, and I suggest, Sir, that from the point of view of the psychological effect on our minds, that aspect of the matter has the same effect as if we were shareholders looking for dividends. The big problem before us to-day, Sir, is to see that we do not have to call upon either of these two Governments to meet the liabilities that we have contracted in pushing on the development of these Colonies.

Our capital expenditure, Sir, is some £22,000,000. That expenditure, as I have explained in my Report, is capable of earning at least twice the revenue that it earns to-day. Our loan commitments are extraordinarily high. First of all, many of our loans were raised at times when the rates of interest and sinking fund charges together were high. We average 6 per cent on our money. That is a very high figure and our total loan charges amount to practically 40 per cent of our revenue. That again is a very high figure.

I just quote these few figures to show what our real anxiety in this House and in the country generally should be. Our real anxiety should be to see that somehow or other we do not have to call upon these two Governments to meet their guarantees. So far we have succeeded in doing it, but we have only just succeeded in doing it. The past two years have been years of extreme anxiety in regard to that very point. We have succeeded in scraping through and I hope we shall not have to call upon either Government to meet its guarantees. But that, Sir, should be the real anxiety of this country—to see that our Railways are so managed that we shall not have to call upon the two Governments for further support.

Now, Sir, how can we do that? We can do that by obtaining the most satisfactory form of financial control over policy. It has been suggested, I think, by the hon. and gallant Member that I am against any form of control at all. That is not so and I would like to take this opportunity of making that quite clear. No general manager of a railway, no managing director or manager of any business concern is ever free from control of his financial policy through some sort

of organization. The usual business organization is a Board of Directors, and the bigger and more important the business concern is, the more powerful is that Board of Directors. That is what I am anxious for here and that, I suggest, Sir, is what these two territories should be anxious for too—the strongest and most efficient form of control that will supply the control that is normally given to a business concern by a Board of Directors, and I hope our practical efforts will be concentrated on trying to find what organization will provide that control.

Section 13 of the Ordinance has been quoted on one or two occasions with reference to business principles and cheap transport. As General Manager I read the words "business principles" to mean that I must try and make both ends meet. That seems to be the logical meaning of those words. We must try to do that in exceptional circumstances. We have not quite managed to do that without raiding certain funds, but we have, as I have stated, avoided calling upon the Governments for assistance.

The other clause of that section refers to cheap transport. If hon. Members will read the Report before them they will see that our working costs have never been so low in the whole history of the Railway as they are to-day, and that too, Sir, in spite of falling traffic. It is easy very often to get cheap costs when business is prospering, when trade is going up. It is very difficult indeed, as most railways have discovered, to do that if business is falling away. I repeat, to-day our working costs have never been so low as they are at the present moment. I only say that to show that I think, in addition to achieving what we are called upon to do from the business principles point of view, we have also achieved to some extent at least what we are called upon to do in regard to cheap transport.

Now, Sir, there are three or four forms of control that can be suggested to meet the situation. Mr. Gibb has suggested one, involving a Board in London. This is not the time to say whether we are in a position to recommend that form of control or not. All I will say on this point is that not one of us likes to see control moved from the local territories if it can possibly be avoided. But what we are out to get is the most efficient control that will ensure that the Railway is managed on business lines and that cheap transport is obtained.

There are, as I say, three or four different forms of control which can be devised, and each and every one of these forms must be examined and carefully considered, and the best must be selected to serve the best interests of the country, whatever

that best form may be. The Railway's interest is the country's interest. We cannot prosper as a Railway unless the country prospers; and I suggest that the country cannot prosper unless we can pay our way. That is the fundamental fact that we must face. If the country wants to use the Railway in any other way, then they must be in a position to face also any losses or deficits that may be incurred.

Those are the only points that occur to me at the moment, but I would again stress the fact that our problem is to see that the control of our Railway is the most efficient that we can possibly find. Whether the present organization is so or not has to be decided; whether any better one can be found again has to be decided after the fullest examination of this problem. I suggest it is a little premature to say that any particular form is set at the moment suitable. We do not know until we have heard all the discussions and all the pros and cons of each particular form of organization. I would, however, say that these discussions will undoubtedly help both the Railway Advisory Council and the Harbour Advisory Board when we come to consider this question, and from that point of view a debate of this nature is of the greatest use indeed.

THE HON. T. J. O'SHEA: Your Excellency, I am rather sorry that this motion is worded in such a way as to confine the debate to that portion of the Gibb Report which deals with the question of control. I greatly regret a growing tendency on the part of this House, both on the official and on the unofficial side, to shirk the responsibility that devolves upon it in giving mature consideration to the Reports issued by Commissions of Inquiry. It seems to me that we are neglecting our duty in not giving full consideration to such Reports. We have in recent months neglected to discuss one very important Report and now we are neglecting to discuss another, one that strikes at the very foundations of the economic future of this country. A further tendency arising out of that, Sir, is that it now appears to be becoming the prevailing practice on the Government side of the House for the officer in charge of the Department not to intervene in a debate dealing with his Department until too late in the discussion for it to be of any value to Members on this side of the House.

Now, having listened to the interesting contribution to the debate by the hon. the General Manager, I say that this House is going to suffer if it allows that tendency to which I have referred to develop. What he has said has been, I am sure, of considerable interest to Members here. My

first reaction to the Gibb Report, Sir, was that it was unquestionably a report by a railway man on railway finance, that it had the impress upon it very strongly of the influence of railway authorities and it gave no consideration to the views of those who cannot see eye to eye with the railway point of view.—Its strongest recommendation is that the existing form of local control over the Railway Administration should be abolished, and yet no attempt whatever is made to prove a case for such abolition. So far as I can see, from a study of the Report, no attempt is made to prove that the existing difficulties of the Railway are to any extent due to this local control. On the contrary, there is an extraordinary failure to point out that the difficulties of the Railway are at least to a very large extent due to circumstances that have nothing whatever to do with this question of local control. On the first page or two of the hon. the General Manager's Report for last year it is brought out that out of a revenue of two million pounds, £600,000 odd has to be found for interest and sinking fund charges, and I think it proves that the Railway must have been running on a reasonably sound policy during the last ten years that despite that heavy burden practically all of it—the overwhelming proportion of it, at any rate—has been met out of revenue even under the most pressing circumstances. What is the position in other countries? In places like Australia and Canada where they have State control of railways the State coffers have been called upon for millions of pounds to keep the railways going. In countries where they have privately-owned railways the privately-owned railways have simply said to their shareholders: "Sorry, no dividends". In this country not only are we expected to pay very heavy dividends indeed but we are abused right, left and centre, because in addition we cannot maintain the extravagant methods of working that were possibly excusable in periods of prosperity. They certainly have been excused this morning by the hon. the General Manager in that he points out as something for which he thinks he ought to get credit that during the last year or two under the stress of economic circumstances he has brought down the working costs to the lowest that they have ever been at, despite a very considerable reduction in traffic. I give full credit to the Railway Administration for their efforts during the last year or two; they certainly have tackled the job very seriously and they certainly have achieved a lot, but making due allowance for the credit to which they are entitled I put it to this House, how could it have been possible to effect this very considerable reduction in working costs on a lower turnover had there not been considerable extravagance in the past? I say that the difficulties of the Railway to-day

are in no way due to the existing local control but due entirely to the extravagance of the past, to the manner in which the money that was raised by loan was spent, and to the economic circumstances of the times.

It was an immense pleasure, Sir, I am sure, to all the House, to listen to the very frank and honest expression of opinion by the hon. the Colonial Secretary. It is in accordance with what one would expect from him that he should have looked up the debates that took place when we were dealing with the Order in Council that set up the present administration of the Railway, and of course he was impressed by the views that were then expressed, not only by Members on this side of the House but by the then General Manager and other responsible officers of Government. Now I wonder whether Mr. Roger Gibb ever read those debates. I wonder whether the Railway Authorities in putting up the Railway point of view to him ever thought it necessary to suggest that he should go along to the Secretariat and find out what was the non-Railway point of view when this question of control came up? Had he done so, it would have been brought home to him that we were asked to agree to the present form of control on the very distinct understanding that we were not losing one iota of control over the ownership of the Railway, that we were agreeing to a working arrangement under which we were to have a very large say in the policy of the Railway, and that to attempt to withdraw any of that control from the owners of the Railway here would be a breach of what we understood to be an honourable agreement.

The hon. the General Manager has said that we are not shareholders in this Railway. Technically, perhaps, he is correct. The Railway in that strict technical sense has no shareholders, but in actual fact we are shareholders with an unlimited liability. Not only have we got to find the costs another to find that 6 per cent on the fourteen million pounds, body of people outside this country who are in any way entitled to any control over this Railway, seeing that the whole responsibility falls upon the people of this country. Up to the present, by agreeing to very high rates for the carriage of our goods we have managed to pay the bondholders out of the Railway earnings. Should that process fail in the near future we have then, in addition to paying these very high rates, to turn around and find any deficit out of general taxation. That being the case, I say that we are shareholders in this Railway to an extent that goes beyond the liabilities of the ordinary shareholder, that we are in effect shareholders

with an unrestricted liability. That being so, how can it be suggested that the present limited measure of control we have over this Railway should be taken out of our hands?

We are all agreed that the Railway is to be run on business lines, due consideration being given to the agricultural and industrial development of these territories. As the hon. the Colonial Secretary has pointed out, the difference of opinion is as to the interpretation of that agreement. I am in agreement with him there and my interpretation of the Gibb Report on this issue is that the business policy shall be interpreted by railway men, that these railway men shall be the ultimate body outside this Colony and not be under our control to any extent whatever.

How can we run a business partnership on those lines? I am astonished at this suggestion being put forward at the present time when in practically every country it has been recognized that railways are no longer a purely railway concern and that their control can no longer be left in the hands entirely of railway men. Is it not the case that in practice other organizations are being set up to control transport as a whole in which railways find their proper place? Did we not have it brought home to us convincingly only some months back that it was necessary in this part of the development of the country to recognize that railways are merely a part of a very large transport problem; that they are of vital importance to the economic development of the country and that their control cannot be left entirely in the hands of railway men? If the General Manager likes to insist that in future control should be entirely in the hands of railway men, then I ask should be entirely in the hands of railway men, then I ask him to consider what is going to be the reaction in this country when it comes to a question of control in motor transport and air transport.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: On a point of explanation, Your Excellency, I do not think I made any suggestion that the control should be in railway hands. I said that from a railway point of view what we wanted was the strongest and most efficient form of control that could be obtained.

THE HON. T. J. O'SHEA: I apologise if I inadvertently gave the credit to the General Manager for sharing the views expressed in the Gibb Report on this issue. I refer to paragraph 123 of the Report in which Mr. Gibb suggests a board of control consisting of railway men living in London.

Well, Sir, last year we were asked to pass another Ordinance and Members on this side of the House, wrongly in my humble opinion, were so obsessed by the requirements

of the Railway that they passed another of these self-denying Ordinances, for which we very often have occasion to feel regret in this House. I feel certain that it is not in the interests of the Railway itself or of the management of the Railway that we should leave this control entirely in the hands of railway men because if we do they cannot expect us to show that consideration for the Railway interests that we have shown in the past; and if we attempt to alter existing control on the lines recommended by Mr. Roger Gibb I feel certain that one of the first actions of the people of this country will be to attempt the abrogation of the law which we passed last year giving a monopoly to the Railway system.

Your Excellency, if this motion is not withdrawn—and I am not asking that it should be withdrawn—I shall have to vote for it reluctantly and with regret—reluctantly and with regret because I shall tell this House, shall I say in confidence, that I should like to see Government attempt to put Mr. Roger Gibb's recommendation into operation. From the political point of view I should have liked to see Government attempt to add another blunder to the several blunders it has made in recent months because, as semi-professional politicians shall I say, I am impressed by the discontent that there is in the country; I feel that that discontent is just groping for some weapon with which to meet Government and I cannot think of anything that would suit the policy of a discontented politician better than an endeavour on the part of Government to carry out this recommendation of Mr. Roger Gibb. We did voluntarily agree in 1925, so as to make for the efficient working of the Railway, to having our undoubted right of control of this Railway limited in the common interest; but, Sir, any further attempt to remove that Railway completely from our control would have the effect of awakening the people of this country to the dangers of a form of government under which they can do nothing more than express their wishes and they have no redress when those wishes are ignored.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I merely rise to answer a question asked in the course of the debate by the hon. Member for Plateau North, I think, who asked whether in the Railway Ordinance or in the Order in Council of 1925 any provision exists for revision at the end of a stated period. With regard to the Ordinance the answer is "No". With regard to the Order in Council the answer also is "No"; but there is provision in Article 23 of the Transport Order in Council, 1925, for the Legislative Council

of Kenya, for the Legislative Council of Kenya or Uganda, to petition His Majesty through the Secretary of State for the termination of this Order or any provisions of this Order.

LT.-COL. THE HON. C. G. DENHAM: Your Excellency, in my opinion we have already lost a great deal too much control of our Railways and if we accept the concrete recommendations put up by Mr. Roger Gibb, people would be quite justified in deeming us fit subjects for Mathari.

Your Excellency, with regard to the hon. General Manager's suggestion that we were not shareholders in our Railway, let us admit we are not shareholders; but I do suggest to him that we are the underwriters and, as such, are responsible for the flotation of the company. True, we have not been called upon to pay the piper up to now, but they have got us and, if the piper has to be paid, the Colony will have to pay.

Your Excellency, I think the Railway Council as constituted at present is to be heartily congratulated on the work they have done and it is up to us to demand that they lose no control such as they have in their hands at present. I support the motion.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, there is very little I have to say in reply. I should like first of all to deal with the point raised by the hon. Member for Plateau South when he suggested that the terms of the motion were too circumscribed, that once again this Legislature was being denied an opportunity of discussing an important State document in full. I think he will agree, on consideration, that it is not quite fair to put it in that way. There is nothing to prevent him or any other Member proposing any resolution to deal with the whole of the Gibb Report in complete detail. I purposely put the motion in the terms in which it now stands because I felt that we had not had time to give the full and sufficient consideration to the whole Report which would enable us to debate the various conclusions reached in that Report in the way in which such conclusions should be debated. I also felt—and I think most hon. Members on this side agree with me—that no time should be lost in making it quite clear to Your Excellency and to the Secretary of State for the Colonies that the unofficial community of this Colony, at all events, wished to enter an immediate protest against the adoption of this particular suggestion made by Mr. Gibb because they felt that the question of control was such a vital one at the present moment

that they might easily be deemed to acquiesce in the suggestion unless they took the first opportunity at the first session after the Report was issued to express their views with regard to it.

With regard to the hon. the General Manager's remarks and those of the hon. the Colonial Secretary, I hope that neither of those two gentlemen interpreted my remarks as meaning that I looked upon the General Manager as completely callous to the welfare of the Colony. No one who has been so long in this Colony as he has and who has been so identified with this Colony, not only in this House but in other more congenial parts of its social life, could possibly be callous to the welfare of the Colony any more than any one who has been any length of time in it can do other than look upon it with a very real affection. But I did suggest, I have suggested and I do suggest that it is really more like the case of the Railway being his own son and the Colony being—as suggested by this Bill that is coming next—the adopted son, and that he would be rather apt to feed the one at the expense of the other if there was not enough food for both.

I am surprised that the General Manager in his speech entirely failed to deal with a single one of the arguments put up by me with regard to the disadvantage of moving the control to London, nor did he deal with the remarks made by the seconder of this motion with regard to the admirable way in which the present system had worked. His speech must have left the impression—which no doubt he meant it to leave—that he was indulging his well-known agility in balancing himself on the fence and declining to come down on one side or the other.

I have little more to say, Sir, except something that I forgot to say in my original remarks, and that is that there can be no question in reading this Report that it is the Report of a man who not only belongs to that almost extinct genus, the liberal free-trader, but who I understand glories in it, and it is a little difficult for a country which, rightly or wrongly, is basing its policy on protection to have an expert sent out who starts as a liberal free-trader, a Dodo who takes a long time to die, and apparently is not quite dead yet.

Finally, Sir, I would say with regard to the hon. the Colonial Secretary, who supplied us with his charming retiring blush when he spoke about the bouquets that had been presented to him, I would ask him to realize what I am sure he and all Members on the other side do realize, that we never give bouquets unless they are deserved, nor do we ever throw eggs unless they are deserved.

I think, Your Excellency, that we would prefer that this debate should stand adjourned, in the hopes that when it comes up again the Government will be in a position to accept it.

HIS EXCELLENCY: The debate stands adjourned.

What would hon. Members prefer to do now, to adjourn or continue with the second reading of the Adoption of Children Bill?

CAPT. THE HON. H. E. SCHWARTZ: In glancing through this Bill again just now I find that there is a rather important amendment that I should like to discuss with the Acting Attorney General, and in order to save this thing having to go to a Select Committee I would suggest that after it has finished its second reading, which will not take more than a few minutes, it should not go into Committee of the whole House this morning until I have had an opportunity of seeing the Acting Attorney General.

MINING LEGISLATION.

THE HON. CONWAY HARVEY: On a point of order, Your Excellency, what about my motion?

HIS EXCELLENCY: It is next on the Order Paper.

THE HON. CONWAY HARVEY: I apologize.

HIS EXCELLENCY: What I wanted to know was whether we should adjourn now and take your motion to-morrow morning or continue with the Order Paper.

THE HON. CONWAY HARVEY: I think we can dispose of it in two minutes, Your Excellency. I understand, Sir, that Your Excellency is prepared to appoint a small Committee to go into the matter of existing mining legislation with the object of consolidating it and also codifying the rules and regulations made under such legislation. May I be allowed to suggest, Your Excellency, for your consideration, the addition to the Committee which Your Excellency may appoint, of one of the Nairobi lawyers who have had very great experience of the practical workings of this extremely complex legislation?

• "This Council is of opinion that a Committee should be appointed to examine local Mining Legislation and to make recommendations for any amendments which may be deemed necessary to facilitate development of the Colony's mineral resources."

HIS EXCELLENCY: You withdraw the motion?

THE HON. CONWAY HARVEY: I do so, on the assurance from Government that that is its intention.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I think I can give that assurance. Our intention in the first instance is to get the existing laws printed in a complete brochure. I agree that they are scattered now amongst three or four amending Ordinances and it is difficult to find one's way about the law. That will take some time, but when that is done it seems to me it would be ready again to go into the question of what further amendments are necessary so that we can then bring in a consolidating amending Bill.

HIS EXCELLENCY: The motion is with leave withdrawn. I take it that we now proceed with the Bill?

CAPT. THE HON. H. E. SCHWARTZ: That is a matter entirely for Government. I understand the Acting Attorney General will only speak for about a minute or so—there is nothing much to say on it.

BILL.

SECOND READING.

THE ADOPTION OF CHILDREN BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move the second reading of a Bill to make provision for the Adoption of Infants.

The principle of adoption, Sir, was well-known in Greece and Rome many centuries ago. Cases of adoption were very frequent among the Greeks and Romans, and the custom was accordingly very strictly regulated in their laws. In Hindu law, as in nearly every ancient system of law, wills were, many centuries ago, unknown, and adoptions took their place. In France and Germany, countries which may be said to have embodied the Roman law in their jurisprudence, adoption has for a long time been regulated according to the principles of the Roman Emperor Justinian who may have been said to have been the father of Roman law. In the United States of America the principle of adoption has also been regulated by statute for a considerable number of years. In England, however, it was only quite recently, that is to say in the year 1926, that the principle of adoption was laid down and regulated by the Adoption of Children Act, 1926. Hitherto, the only legalized and regulated principle which came near

to adoption was that there did exist legal means by which a person could assume the name and arms and inherit the property of a stranger.

Cases have from time to time arisen in this Colony which make it very desirable that an Ordinance on the lines of the English Act of 1926 should be passed here. Accordingly Government has decided to introduce this Bill into this Council in the hope that it will meet with a favourable reception from hon. Members of this House. The Bill follows the English Act closely, and it may not be out of place if I give to the Council a short exposition of the chief features.

Clause 3 of the Bill confers power on the Supreme Court to make adoption orders authorizing the adoption of an infant, an infant being a person under the age of twenty-one years. Where an application for an adoption order is made by two spouses jointly the court may make the order authorizing the two spouses jointly to adopt.

Clause 4 imposes certain restrictions upon the making of adoption orders where: (a) the applicant for the order is under the age of twenty-five years, or (b) the applicant is less than twenty-one years older than the infant in respect of whom the application is made except that where the applicant and the infant are within the prohibited degrees of consanguinity, the Court may make the order notwithstanding that the applicant is less than twenty-one years older than the infant.

It is provided that an adoption order shall not be made in any case where the sole applicant is a male and the infant in respect of whom the application is made is a female unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

It is also provided that an adoption order shall only be made with the consent of every person or body who is a parent or guardian of the infant in respect of whom the application is made or who has the actual custody or who is liable to contribute to the support of the infant: Provided, however, that the Court may dispense with consent in certain cases. Another provision is that an adoption order shall not be made in favour of any applicant who is not resident and domiciled in the Colony or in respect of any infant who is not a British subject and so resident.

Clause 5 lays down that the Court, before making an adoption order, shall be satisfied as to certain matters, namely: (1) that every person whose consent is necessary has consented to and understands the nature and effect of the

adoption order and in particular in the case of any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights: (2) that the order will be for the welfare of the infant; and (3) that the applicant has not received or agreed to receive any payment or other reward in consideration of the adoption except such as the Court may sanction.

Clause 6 provides that an adoption order may contain such terms and conditions as the Court may think fit.

These first six clauses of the Bill take us up to the point at which the adoption order is made.

Clause 7 deals with the effect of an adoption order. Upon an adoption order being made, all rights, duties, obligations and liabilities of the parent or guardian of the adopted child in relation to the future custody, maintenance and education of the adopted child including all rights to appoint a guardian or to consent or give notice of dissent to marriage shall be extinguished, and all such rights and obligations shall vest in and be exercisable by and enforceable against the adopter as though the adopted child was a child born to the adopter in lawful wedlock, and the adopted child shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock in respect of such matters and in respect of its liability to maintain its parents. It is provided that an adoption order shall not deprive the adopted child of any right to property to which, but for the order, the child would have been entitled under any intestacy or disposition.

Clause 8: The Bill confers power upon the Court to make interim adoption orders giving the custody of an infant to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the Court may think fit.

Clause 10 provides that the Court may make Rules for directing the manner in which applications to the Court are to be made.

Clause 11 deals with the appointment of a guardian *ad litem* for the purpose of applications under the Bill.

Clause 13 makes provision for the bringing under the terms of the Bill of children who have been *de facto* adopted.

Clause 14 provides that the Registrar General shall keep a register to be called the Adopted Children Register, in which he shall make the appropriate entries.

Clause 15 confers upon the Governor in Council power to make Regulations for any matter requiring to be prescribed by the Bill.

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

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

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

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to express my thanks to the hon. Member for the historical information we had as regards the Romans, but I would point out that, in my opinion, the people who made this Bill possible were Adam and Eve.

HIS EXCELLENCY: No doubt you do not wish to reply, so I will put the question.

The question was put and carried.

The Council adjourned till 10.30 a.m. on Tuesday,
9th May, 1933.

TUESDAY, 9th MAY, 1933

The Council assembled at 10.30 a.m., at the Memorial Hall, Nairobi, on Tuesday, 9th May, 1933, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.) presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 8th May, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following paper was laid on the Table:—

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

Report of Select Committee appointed to examine the Estimates of Revenue and Expenditure for the year 1933 in the light of the Report of the Expenditure Advisory Committee.

NOTICE OF MOTION.

THE HON. THE COLONIAL SECRETARY: Your Excellency, I beg to give notice that at a later stage of this session I shall move the following motion:—

“ That the Report of the Select Committee appointed to examine the Estimates of Revenue and Expenditure for the year 1933 in the light of the Report of the Expenditure Advisory Committee be adopted and the consequential amendments to the Estimates of Revenue and Expenditure for the year 1933 as expressed in the Schedules to the Report.”

ORAL ANSWERS TO QUESTIONS.

HIDES.

No. 29.—THE HON. F. A. BEMISTER asked:—

1. Has the Government experimented in the purchase and shipping of hides to the United Kingdom for tanning?

2. If so:—

- (a) What amount of money has been expended?
- (b) What number of hides (or fruilas) was purchased?
- (c) What were the selections as shipped?
- (d) What date was the first shipment made?
- (e) What is the financial result of the experiment?

3. What is Government's intention as to a continuance of this policy?

THE HON. THE CHIEF NATIVE COMMISSIONER (MR. A. DE V. WADE): It is not the case that this Government has experimented in the purchase and shipping of hides to the United Kingdom for tanning. In the interests of the native hide trade, however, the Trustees of the Natives' Trust Fund approved and the Governor in Council sanctioned the expenditure of £500 from that Fund on a series of experiments undertaken by the Imperial Institute for the purpose of investigating the causes of "blister" in East African hides. It was the intention that these experiments should be followed by tanning trials in England. It is hoped that the sale of the hides, when tanned in England, will recover part at least, if not the whole, of the cost of the experiments.

2. (a) Sh. 9,982/10 cents.

(b) 1,000 hides.

(c) The hides shipped were selected in accordance with the two experiments into—

(i) the dry weather;

(ii) the wet weather groups.

(d) 1st October, 1933.

(e) This Government has not received a final report on the experiments and has no knowledge as yet of the financial result.

3. Until the results of these experiments are known no question of policy arises.

KAKAMEGA GOLDFIELDS.

No. 30.—THE REV. CANON THE HON. G. BURNS asked:—

With reference to the gold-mining operations being at present carried on in the Kavironda Native Reserve, will Government please state:—

1. How many natives (if any) have been temporarily or permanently dispossessed of their holdings?

2. The amount paid in compensation to such natives?
3. The method of assessing for such compensation?
4. How many of those so dispossessed (if any) have been re-established in:—
 - (a) the native location among their fellow-tribemen; or
 - (b) on land provided by Government for that purpose?

THE HON. THE CHIEF NATIVE COMMISSIONER: (1) No natives have been temporarily or permanently dispossessed of their holdings. It has been reported to Government that one native has moved by agreement.

2. Government has no knowledge of the total amount of compensation paid for disturbance.

3. In the great majority of cases the amount of compensation is settled by the parties concerned, the miner and the native, without having recourse to outside assistance. If, however, either party is dissatisfied assessment is made by a European Inspector of Claims, assisted by a Native Assessor. An appeal then lies from such assessment to the District Commissioner. Only six cases have been so referred to the District Commissioner.

The following rates have been adopted as a basis for compensation where an award by Government is required:—

(a) Per mining peg: 50 cents (once only).

(b) Disturbance (measurements to include spoil):

(i) Fallow: 1 cent per square yard per quarter.

(ii) Cultivated but not planted land: in addition to (i) 1 cent per square yard (once): 2 cents.

(iii) Planted land: in addition to (i) 3 cents per square yard (once): 4 cents.

(iv) Auger holes, according to class of land:

(i) 1 cent; (ii) 2 cents; (iii) 4 cents.

(v) Banana trees: Sh. 1 if bearing, otherwise 50 cents; other trees, including timber taken from stream or bush: at fair valuation.

(d) Native Labour Camps: Sh. 5 per acre per month, with minimum of Sh. 1 per month.

(e) European Camps: Sh. 3 per person per month. Excepting only miners' wives who are not in possession of a Prospecting Right.

4. In view of the answer to the first part of the question this part does not arise.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, arising out of the question and answer, will Government take steps to see that this extremely important information is conveyed to the right quarters and given publicity?

THE HON. T. J. O'SHEA: In doing that, Sir, may I ask if Government would be good enough to work out the compensation rates at per acre.

THE HON. THE CHIEF NATIVE COMMISSIONER: That has already been done, Sir, in a general way. One cent per square yard per quarter works out at a rate of £10 per acre per annum.

MOTIONS.

EXPENDITURE ESTIMATES, 1934.

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

"This Council requests Government, in the preparation of the draft Estimates for 1934, to implement the recommendation contained in paragraph 401 of the Report of the Expenditure Advisory Committee and to reduce expenditure on 'reducible items' to £1,500,000 in respect of Kenya services and £394,000 in respect of joint services."

There is a note to this resolution—

"Heads of Estimates not included in 'reducible items' are—

Interest.

Pensions and Gratuities.

Public Debt Funded.

Rent to H.H. the Sultan of Zanzibar; and

Colonial Development Fund."

Your Excellency, it will be necessary in the first instance briefly to explain how these two figures of £1,500,000 and £394,000 respectively are arrived at. They are as follows. If full effect is given to the recommendations of the Expenditure Advisory Committee, the estimated gross expenditure for 1934 will be £3,204,870. From that one has first to deduct the amount in respect of irreducible items which appears as a note to this motion. That figure is £1,197,327, which leaves a balance of £2,007,542. There is still to be deducted from that figure the cost of common services, because it will be seen in the motion that the first figure of £1,500,000 is in respect of Kenya services only. The common services, which are the Governor's Conference, Customs, Military, and Post Office, amount to £405,414, leaving a balance of £1,602,128.

Again, from that figure have to be deducted two items—one, the £12,021 which originally appeared in the Estimates as the reserve fund in connexion with what was then called the "Betterment Fund" but which, it will be seen when the Select Committee's Report is debated and when the revised Estimates are printed and laid, no longer appears as a "Betterment Fund" in those Estimates; and in addition, there is a sum of £20,185, which represents salaries, emoluments, passages, etc., in connexion with part-time officers—that is to say, those whose duties are connected in part with direct native services and in part with other services. Examination of the Estimates will show that that figure appears actually three times in the Estimates: it appears twice as an expenditure item and once as a reimbursement, so you can cancel one on each side, leaving that figure. That, and the Betterment Reserve Fund, amount to £32,206, which leaves an approximate net figure of £1,570,000.

Now the recommendation contained in paragraph 402 of the Expenditure Advisory Committee's Report is a recommendation signed by two members, Lord Francis Scott and Major Cavendish-Bentinck, which recommends that in addition to the specific recommendations contained in the Report it should be possible to reduce, so far as 1934 expenditure is concerned, by a further 5 per cent. If, therefore, one takes 5 per cent of the last figure which I gave this House, £1,570,000—5 per cent on that is £78,500, which leaves a final net figure for expenditure of £1,491,500. I have put in this motion a round figure of £1,500,000, which is giving an allowance to Government, if I may so express it, of £8,500, which represents 5 per cent on an expenditure of £170,000. I did that because there are certain other items in the Estimates which do not come under the head of common services and which do not come under the head of irreducible items, but which cannot in fact in 1934 be reduced. I do not want to quote all of them—I will quote only one, the most important one, which is the subsidy to Imperial Airways, which, being contractual, Sir, cannot, until the period of the contract falls in, be reduced. It is also possible that by this 5 per cent reduction, there will be to some slight extent an adverse effect on certain reimbursements. Therefore I thought it fair, in dealing with the 1934 Estimates, to put the total net expenditure on reducible items at £1,500,000 instead of at £1,491,500.

Now, Sir, when one comes to the next figure in the motion, £394,000, that is arrived at in the following manner. The total expenditure, as already stated, on common services amounts to £405,414, against which there is a contra credit

in the way of reimbursements—that is, in fact, what is paid towards common services by other Colonies—amounting to £173,796, which leaves a net amount expended by Kenya on these common services of £331,618. Five per cent of that, Sir, is £11,581, and if one takes that figure of £11,581 from the total of the common services, it reduces these common services to almost exactly £304,000; and that, Sir, is how these figures are reached.

Now it is not without interest, and it is eminently germane to a discussion such as this, to glance for one minute at the recurrent expenditure on reducible items of this Colony in the last ten years. These comparisons, although they can be easily ascertained, are not such as are easily carried in the memory and I think probably it is a good thing, not only for Members on the Government side but for other Members on this side of the House and the country generally to be occasionally reminded of them. The increases briefly are as follows:—

1923 ...	£308,000	1927 ...	£1,148,000
1924 ...	£1,000,000	1928 ...	£1,589,000
1925 ...	£1,150,000	1929 ...	£1,743,000
1926 ...	£1,365,000	1930 ...	£1,851,000

(the peak year)

It will therefore be seen that between 1923 and 1930 the recurrent expenditure on reducible items increased from £308,000 to £1,851,000, or approximately 100 per cent in those eight years. Since 1930 the curve, I am glad to say, has taken the opposite turn. In 1931 it was reduced to £1,720,000 and in 1932 to £1,568,000. So it will be seen that so far as recurrent expenditure on reducible items is concerned, the saving between 1930 and 1932 has amounted to £300,000, and I think we should be wrong if we did not give Government full credit for that very substantial reduction in those two years. But we still find that expenditure on those items is greater than it was in 1927 and almost exactly the same as it was in 1928; and the financial position of this Colony to-day is so different from what it was in those two years just mentioned that it is abundantly apparent that this Colony is not in a position to-day to afford an expenditure even like £1,568,000, and, as was said in the debate yesterday, the fact that this Colony is carrying on to-day with an expenditure of £300,000 less on those items than it had in 1930 does, I think, show conclusively that with goodwill on the part of Government that figure can very easily be reduced in 1934 by the suggested 5 per cent which this motion requests Government to do.

I would like to make it clear, Sir, that, speaking not only for myself but, I think, for all Members on this side of the House, when we request Government to make this 5 per cent reduction and reduce these Heads of Estimates in 1934 to the figures given, we do not suggest that that must be the final goal of Government. We think that it can be, in 1935 and 1936, still further reduced. Speaking for myself, I do not think it would be reasonable to suggest that for next year, the Estimates for which will, in a comparatively short space of time, be before us, Government should be asked to reduce those Estimates by more than the percentage suggested and to less than the figure suggested.

Now, Sir, there are two ways of framing a budget. If I repeat what I said four or five years ago I am sorry, but I am certain everyone has forgotten it, so perhaps there is no need for me to excuse myself. One way is to collect from Heads of Departments what they consider a reasonable sum for the estimates of their Departments, bearing in mind the financial stringency of the Colony; to have those cobbled out by the Colonial Secretary and, when that is done, to add them all up and find what they come to, and say: "That is the figure of expenditure for our Estimates of this year." Another way is for Government to decide what shall be the maximum figure for the Estimates for the year in question and to base their departmental expenditure on that figure and see that it is not exceeded; and I suggest the only proper way of preparing a budget in times like this is the second, and I would like, if I may, Sir, to give an analogous case in private life.

If any of us propose to send a son to the University we do not say: "Now, my boy, do you mind sitting down and telling me what you anticipate you will spend on clothes and games and wine and tuition and smokes, and let me know, and that shall be your allowance." We say: "This is the allowance that I can afford to give you and that I think is good for you. Go away and allocate it as you like, but you will not get any more." I suggest that that is the proper way in times of stringency like this for the Government to prepare its Budget, and I do not think we are being in the least unreasonable if we ask that what is a comparatively small percentage—3 per cent—is deducted in respect of the 1934 Estimates.

Furthermore, Sir, it is well known that if one allows oneself to be inveigled into a discussion of details of Estimates one is invariably defeated. That has been proved every year in the ten years that I have had the honour to be a Member of this Council and it is only natural that one should be defeated because the points are mixed and they are answered

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by a gentleman whose whole working life is given up to his own Department and who is intimately acquainted with that Department and who can put up what at all events appear to be very sound arguments why detailed suggestions for reductions in any particular items of his Estimates should not be accepted. I would go so far as to say that while we know that if we fight a battle on details we start with the prospect of losing the fight, I also believe that Government, in the person of the Colonial Secretary, whose duty it is first to comb out the Estimates, is also defeated, and must necessarily be defeated on many occasions, when he fights his battle with his Heads of Departments on details of expenditure. Therefore let us try and assist him: instead of the Head of the Department being in the super-position first of all with his fight with the Colonial Secretary and afterwards with his fight with the Select Committee on the Estimates, let the battle be fought on ground more favourable, first to the Colonial Secretary, and secondly to the Select Committee, and let the Heads of Departments, who are told that they cannot spend more than such and such a sum, start the attack with us on the top of them instead of what it has been during the last twelve or fifteen years.

We did not, Sir—and I hope that you will accept this—put forward this resolution without thought and consideration and without a full realization of the difficulties that will naturally be entailed, but we do feel that first and foremost must be borne in mind by all of us the country's ability, plus the minimum necessary, for carrying on the machinery of Government. We believe, and we are certain in our own minds that it is not unreasonable to suggest this extra 5 per cent reduction in the forthcoming Budget.

Now, Sir, I should like to quote an example which I believe to be correct—and I have it on good authority—to bear out what I say with regard to this method. When the Geddes Committee was sitting in 1923, I believe I am right in saying that the then Principal Medical Officer came one afternoon with his proposed Estimates for the following year which amounted—I am not now accurate about my figures, but it does not matter for the purpose of illustrating the tale—amounting to approximately £160,000, we will say—I believe that was the figure—and the Geddes Committee said to him: "To-day is Thursday; can you be back on Tuesday with Estimates approximating £120,000? Tuesday afternoon, will that suit you? Thank you. Good-bye." He went away and came back on Tuesday with Estimates

approximating £120,000 and said: "Here you are. I have done what you asked me, but if you could possibly allow me an extra £6,000 it would make a tremendous difference to the efficiency of my Department." "Certainly, Dr. Gilks, that is quite reasonable. Here is your £6,000. Good-bye."

That shows what can be done by goodwill. I have said before this session—not during this session but during the discussion in the Select Committee on the Estimates—that the outstanding Department—and in this I cast no aspersions on others—in a time when rigid economy was called for was the Medical Department, and that is a matter which will ever live in my memory. I was amazed at the time how they answered the call and they have done the same this time. I do say, with that example, if all other Heads of Departments throughout the Service would show the same determination as was shown by the Medical Department in 1922, and as the present Director of Medical and Sanitary Services is attempting to show now, there would not only be no difficulty in reducing by the figure that I have suggested but it would be quite easy, without serious harm to the machinery of Government, to reduce it still further. At all events, Sir, that is what we feel and it is only fair to state that when the 1934 Estimates come up for consideration we Members on this side of the House are not prepared to give consideration to any sum in excess of the figures set out in my motion. Many of us feel, many of my colleagues feel, that I have not gone far enough but that is a matter which can be gone into in the future. At least I have their authority for saying that as far as I do go they are completely behind me and completely unanimous.

Finally, Sir, I would draw Your Excellency's attention to the actual wording of the motion, in which I use the word "request". I particularly did not say "That this Council is of opinion," or any words which would make the Government adopt the attitude that until they had gone into a detailed consideration they could not accept a motion which would in effect be an instruction to them. I used the word "request" because it will enable Government, without in any way being bound to accept this motion, to have before them when they do frame the 1934 Estimates the knowledge that they have at least been requested by this House to bring their Estimates into line with the figures in the motion. For that reason I hope and believe that Government, in view of the wording of it, will accept this motion, which under no circumstances will I consent to withdraw.

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

His Excellency: The question is—

"This Council requests Government, in the preparation of the draft Estimates for 1954, to implement the recommendation contained in paragraph 461 of the Report of the Expenditure Advisory Committee and to reduce expenditure on 'reducible items' to £1,500,000 in respect of Kenya services and £394,000 in respect of joint services.

N.B.—Heads of Estimates not included in 'reducible items' are—

Interest.

Pensions and Gratuities.

Public Debt Funded.

Rent to H.H. the Sultan of Zanzibar; and Colonial Development Fund."

THE HON. THE TREASURER (MR. H. H. RUSHTON): Your Excellency, I should like to say that the Government continues to be keenly alive to the need for further economy and the necessity for vigilance in all expenditure. I submit, Sir, that the heavy reductions which have been made by the Government already and which were so gracefully referred to by the hon. Member for Nairobi South, together with the appointment of the Expenditure Advisory Committee, are a guarantee of the determination of Government to leave no stone unturned to place the Colony's finances on a sound and solid basis. I think hon. Members are aware that the Government is actively engaged in the earnest consideration of all the recommendations of the Expenditure Advisory Committee and they can be assured, I think, that every possible means of reducing expenditure in the 1954 Budget will be taken. But I think hon. Members will understand it is clearly impossible at this period of the year for the Government to bind itself to any figure. I think that the hon. Member based his figures on one of the bases that the whole of the recommendations of the Expenditure Advisory Committee would be adopted. Hon. Members are aware that there is considerable objection to one of the most important of those recommendations, and that is the abolition of the Central Native Registry and the Finger Print Bureau. Although the Expenditure Advisory Committee contemplated that when Departments had settled down to the reorganizations which were recommended by that Committee it would be possible to add a considerable amount of further economy, they never contemplated that any large sum could be obtained in that way. I think my calculation is correct—the hon. Member's figures are something between £70,000 and £90,000 all told. If any large sum like that is to be obtained, Sir,

there are only two methods of obtaining it: one is by the curtailment of public services, and the other is by an increased levy on salaries, or a combination of both those methods. As regards the possible curtailment of public services, Sir, the attitude of Elected Members and the local public to the recommendation of the Committee that I have already referred to for the abolition of the Central Native Registry and the Finger Print Bureau is not encouraging; and as regards a further levy on salaries, that would require very very careful consideration before the Government could contemplate any such action. I think, Sir, the suggestion to reduce Kenya's share of the Joint Services will also require a very great deal of careful thought. To me it seems that big complications, comparable with those which have arisen in connexion with the Native Betterment Fund, may probably arise in connexion with any attempt to cut the Kenya share of Joint Services and leave the shares which are paid by other Governments intact. I do not for the moment see how that is going to work.

I have pointed out one or two of the difficulties, Sir. I think that I can do nothing better than to repeat what I said at first, that the Government is determined to reduce expenditure to the lowest possible figure and will be diligent in that regard.

I might perhaps refer to the hon. Member for Nairobi South's sad tale of the schoolboy whose allowance was cut down and say to the harsh and mean parent that the sacrifice might be too heavy and the unfortunate child might have to dispense with trousers. That may happen if you cut down the Government expenditure below what is necessary and I am afraid that Elected Members might have to go without trousers or something which they value at the present time which would be required for sacrifice.

THE HON. THE DIRECTOR OF EDUCATION (MR. H. S. SCOTT): Your Excellency, perhaps I may be excused for intervening in this debate, as a member of the Expenditure Advisory Committee. I should like, if I may, to congratulate the hon. mover for the way in which he has drafted his resolution because, reading it, one would imagine that the recommendation referred to in paragraph 462 (1) was a recommendation of the Committee as a whole. He was very careful to explain in his speech that it was a recommendation of a minority

minority of the Committee. When the Expenditure Advisory Committee proceeded with this work, it was obvious that there were these two methods of reducing expenditure, but the terms of reference of the Expenditure Advisory Committee were to state for the guidance of His Excellency what they considered the smallest sum with which a reasonably efficient machine could be kept in being.

Now I should like to ask hon. Members opposite to consider one point, which to my mind is of great importance, and that is the Estimates of Expenditure are quite different from the realized expenditure. When the Expenditure Advisory Committee were framing what they considered to be estimates of expenditure, they were—as the hon. Treasurer has stated—fully aware that those estimates of expenditure, if they were to be taken as a basis of money to be voted by the Legislature, would not involve the whole expenditure of that money—that is a commonplace in the financial arrangements of any Government, that the money which you ask the Legislature for is an estimate not to be exceeded, but in nearly every case to be reduced. I do not quite see how you can expect to take an estimate of the services which you require as a minimum and then simply say: “We will take 5 per cent off that.”

We had hoped, and still hope, that the expenditure asked for and recommended by the Expenditure Advisory Committee will be reduced by the automatic savings which occur every year. I would ask the hon. mover to bear that in mind. We went most carefully into every possible saving that we could see and the conclusion we arrived at we arrived at unanimously; and to suggest now that Government should adopt what one might call almost a casual recommendation at the end of the Report by two Members of the Committee would be unreasonable and unfair.

I think I may say one personal thing, Sir—that I speak on this matter with a clean sheet. If you take all my recommendations made in the Expenditure Advisory Committee and all the recommendations of my colleagues, there would be a considerable saving to Government over and above the recommendations of the Committee as a whole. But I am quite prepared to stand by the recommendations of that Committee as a whole, and I think it is unfair that hon. Members opposite should pick out a particular recommendation of a minority and say that that particular recommendation is to be adopted and not others.

CAPT. THE HON. H. P. WARD: Your Excellency, the last speaker, I think, has raised a point which strikes at the whole reason for the reduction suggested, but before I get down to that, may I take two points made by the hon. the Treasurer. In the first place, in regard to native registration.—As I read the Report, what in fact was said was this: “We, the majority, believe that the kipandi system will not be injured in any way and will remain quite as effective as it is to-day if you do away with the Central Registration Department,” and on that assumption the majority made their recommendation that it should be done away with. On this, Sir, some of us had a warning by officers of Government in the best position to judge that the basis upon which that recommendation was made was a completely false one and that if the Native Registration Department was scrapped the kipandi system must be destroyed. The assumption by the majority of the Expenditure Advisory Committee has not been proved to our satisfaction to be right, so we are entitled to say that the Native Registration Department at any rate in some modified form should remain.

As regards the point about the lad and his trousers, Sir, I suggest that in fact what he was asking was that we on this side of the House should part with our trousers in order that Government should be fully clothed, and that is a proposal that we do not intend fully to accept.

Now, Sir, to get back to the speech of the hon. the Director of Education. This resolution is really a case of the sins of Government coming home to roost. If, a year or eighteen months ago, the advice tendered with all the earnestness we could command on this side of the House had been followed, there would have been no need for this resolution. We, Sir, have always said from the start that the peculiar conditions raised by the depression did necessitate a full enquiry on the widest possible and unrestricted grounds that could be devised into Government expenditure and Government revenue. Unfortunately our advice was not accepted. Had it been accepted, Sir, I do submit that this resolution would not have been produced and I do submit, Sir, that the full enquiry, that the Expenditure Advisory Committee were not able to make by reason of their restricted terms of reference and other reasons, would have been made and the country as a whole would have been much more content with the findings of that complete committee. Further, Sir, I do submit that we should

not, in the middle of May, be still discussing or considering what forms additional revenue should take for the current year. That is another question, Sir, which I submit would have been settled. We feel that, unless we produce a definite resolution or something of that sort, we never get finality from Government. There is the case of the Local Civil Service, recommended for years, debated by two committees for many months, and still in the air and still unsettled. So much so, Sir, that some of us have taken a definite stand in insisting that new appointments to Government shall not be made unless they are made on the revised terms of service to be agreed. The point, I think, is that we must continue to have resolutions of this sort put up because of the fact that we were denied the full inquiry that we asked for from the start.

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I have very little to add in reply. In regard to the remarks made by the hon. the Director of Education, while I fully appreciate the line he takes, I think that one thing he said is perhaps rather contra to his own arguments. He said he had a clean sheet and that if all his recommendations had been accepted, as opposed to the recommendations of the main Committee, the reductions would have been greater than the Committee has, as a fact, recommended. Now, does not that show conclusively that there is room for further reductions, and can it really be doubted that if someone in the shape of a Mussolini—I do not refer to the gentleman personally—that if some definite instruction were given to this Government, if that were possible, that the Estimates for next year were not to be more than this, does the Treasurer or any hon. Member opposite really believe that there is not sufficient room for reorganization of the Government machine as to make it possible for such an instruction to be observed? It can be done if it has to be done, but it will not be done unless it has to be done.

The Council adjourned for the usual interval:

On resuming:

CAPT. THE HON. H. E. SCHWARTZ: With Your Excellency's indulgence and that of the House, I find there is a small misprint in this motion. Instead of being "paragraph 461 of the Report of the Expenditure Advisory Committee" it should be "paragraph 462, sub-section (1)". With your leave, Sir, I should like to make that amendment.

HIS EXCELLENCY: With the leave of the House that amendment can be made.

As regards the motion itself, I have had a discussion during the interval and I am afraid Government cannot accept the motion as it stands, certainly not without much further consideration. By not accepting it, it does not mean Government are not going to do the utmost in their power, as has already been stated by the Treasurer, to cut down expenditure when they are preparing the 1934 Estimates. But as the motion stands—as I say, we have given it very complete consideration and we cannot agree to it as it stands. I tried to find some formula by which we might come to an agreement, but I am afraid the only alternative is for Government to vote against the motion. But that does not mean that we are digging our toes in and are not going to try and cut down expenditure.

The question is:—

"This Council requests Government, in the preparation of the draft Estimates for 1934, to implement the recommendation contained in paragraph 462 (1) of the Report of the Expenditure Advisory Committee and to reduce expenditure on 'reducible items' to £1,500,000 in respect of Kenya services and £394,000 in respect of joint services.

N.B.—Heads of Estimates not included in 'reducible items' are—

- Interest.
- Pensions and Gratuities.
- Public Debt Funded.
- Rent to H.H. the Sultan of Zanzibar; and
- Colonial Development Fund."

The question was put and lost by fourteen votes to nineteen.

Ayes.—Mr. Benister, Capt. Cotter, Col. Durham, Mr. Hakim Singh, Mr. Harvey, Col. Kirkwood, Mr. O'Shea, Major Robertson-Eustace, Capt. Schwartz, Major Sir Robert Shaw, Dr. Sheth, Mr. Abdul Wahid, Capt. Ward, Mr. Wright.

Noes.—Mr. Bruce, Canon Burne, Messrs. Deck, Bracey-Edwards, Fells-Jones, Gardner, Horne, Logan, Moore, Dr. Paterson, Gen. Rhodes, Messrs. Rushton, Scott, Sikes, Wade, Walsh, Welby, Col. Wilkinson, Mr. Wolfe.

PENSION—SIR RALPH CATOR.

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

"That this Council approves the payment of a pension at the rate of £157/12/6 per annum together with a gratuity of £447/13/1 to Sir Ralph Cator in respect of his service in Kenya from the 1st May, 1896, to the 31st March, 1905."

Sir Ralph Cator was in 1905 transferred to the Imperial Service and subsequently to the service of the Egyptian Government. Pensions, as I think hon. Members know, are granted under the European Officers' Pensions Ordinance of 1927, but that Ordinance only applies in the case of officers who have either served their whole time in Kenya or been transferred to "other public service". It so happens that the Secretary of State had never declared the Egyptian Service as "other public service" and therefore that Ordinance cannot be applied in this case. It is proposed that as he has been awarded a pension from the Imperial Service—and it seems quite clear he is entitled to a pension because the office he served in here was a pensionable office—the Secretary of State has decided that he should have a pension assessed under No. 2 of the Rules made under the Imperial Superannuation Act of 1892. Until our own Pensions Ordinance was passed that was the Act which provided the authority for the grant of pensions in this Colony, but it no longer applies because we have our own Pensions Ordinance, and the result is that it is necessary to seek the sanction of this Council in order to legalize the Kenya share of the pension, which amounts, as shown in the motion, to £157/12/6 per annum, together with a gratuity of £447/13/1. Had the pension been computed under the Kenya Ordinance it would have amounted to a sum greater than this—£20 or £30 more—so that the fact that it has been calculated under the Imperial Superannuation Act does not mean that the officer gets more than he would be entitled to had the Egyptian Service been scheduled as "other public service".

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

HIS EXCELLENCY: The question is:—

"That this Council approves the payment of a pension at the rate of £157/12/6 per annum together with a gratuity of £447/13/1 to Sir Ralph Cator in respect of his service in Kenya from the 1st May, 1896, to the 31st March, 1905."

The question was put and carried.

MINING IN NATIVE RESERVES.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I would ask the permission of Council to change the wording of the motion to read as follows:—

"In view of the fact that further large areas in the Kavirondo Reserve are, in the near future, to be thrown open for prospecting and mining operations, this Council is of the opinion that Government should appoint a small Board consisting of equal numbers of Europeans and natives, the latter to be nominated by their fellow natives. The functions of such a Board to be:—

- the valuing of all lands and the buildings thereon from which, owing to mining exigencies, natives have to be ejected; and
- to arrange for the re-erection of such buildings on another site in the Native Reserve, or on other contiguous land provided by the Government for this purpose, if such land is not available in the Reserve."

HIS EXCELLENCY: You propose to amend your motion?

THE REV. CANON THE HON. G. BURNS: With your permission, Sir.

HIS EXCELLENCY: I do not know whether hon. Members will agree to that amendment? I take it Council agrees to that.

THE REV. CANON THE HON. G. BURNS: Thank you, Sir.

Your Excellency, in speaking to this motion I am doing so under very great stress of conviction that this should be done. Gold has been discovered, not in Crown Lands belonging to the Government, where the problems connected with such a discovery would be negligible, nor has the discovery been made in settled areas where the problems, though more than in Crown Land, would not be very very great. But, Your Excellency, gold has been discovered in one of the most thickly populated Reserves in the whole Colony, a Reserve where a short time ago the boundaries were demarcated and the natives residing in that Reserve were told that that was their land for ever. Into that Reserve, Your Excellency, during the last eighteen months or so there has crowded a number of Europeans prospecting and working the gold industry in that land, numbering, I understand, over 1,000 people. Such an invasion, if one may use the word, of that

territory cannot possibly take place without a certain amount, and a very great amount, of disturbance and dislocation of the order of things that existed before gold was discovered in that place, and I should like, Your Excellency, to pay a tribute, and I do so wholeheartedly, to the fact that for eighteen months those two communities have been living side by side and working together in that Reserve—I should like to pay a tribute to the fact that there has been so little disturbance in that area and that the relationships existing between the two communities are what they are to-day. I think that reflects very great credit both on the invaders and also on the natives of that country. But, Your Excellency, mining operations are only in their infancy. If it be that large tracts of that country so thickly populated are in the near future to be thrown open for prospecting and mining operations, the methods by which the arrangements were made in the past between the miner and the native when the industry was in its infancy may not prove to be efficient when the larger areas are thrown open, and it is not inconceivable that there may not be greater disturbance amongst the natives than there has been in the past. I am sure, Your Excellency, it is the wish and desire of every hon. Member of this Council that those happy relations or good relations existing between the European and the African in the Kavirondo Reserve to-day should be continued during the whole of the operations of mining in that land. I submit, Your Excellency, that for that purpose, or because of that wish on the part, not only of the miners themselves—for I have spoken with some of them on this question—but also of the hon. Members of this House, as well as of Government, those relations should continue, and it is in my opinion necessary that the Africans should be made to feel that they have a very important part, through their representatives—in settling the questions that may arise with regard to their land and with regard to their being dispossessed from those lands. Therefore, as I have stated in the motion, the natives would feel, if they had their representatives on such a board, that they were being represented by their own people who knew the conditions of their life, who understood the native laws and customs connected with their land, because the land is a sacred thing to the African from the fact that his people are all buried there in that land, not in cemeteries as we bury our people. To feel that they had their representatives was very important. To feel vinced, be one means of keeping the African assured that he was going to get a fair deal all round with regard to the whole position of his land. I will be told, no doubt, that the African is no judge of land values—that may be, Your Excellency, but the Europeans who would be serving on such

a board, I submit, would be appointed because of their knowledge of land values; but while they may not be very clever with regard to valuing their land there can be no question at all about their knowledge with regard to the buildings erected on those places from which they may be dispossessed, the value of those buildings and also the money necessary for their re-erection on another site. We have heard this morning—and I should like here, with your permission, Sir, to thank the hon. the Chief Native Commissioner very very heartily indeed for the information that he has given this House this morning with regard to the operations in Kavirondo up to the present time. I myself appreciated it very much, and I look upon it as most valuable information and I hope the press will give full publicity to all that has been disclosed by the hon. the Chief Native Commissioner. I will just take a case, with your permission: there is a man who has, maybe, three wives; he has four or five or six children as the case may be; he has dependent upon him his old people, his father and mother or perhaps the parents of his wives—they are all dependent upon him. He has a tract of land, say five acres in one of the concessions—his land comes into one of the concessions, a syndicate or a company or an individual may have a lease that comes into that land; such land may be necessary, may be needed, for the erection of buildings and for the general plant of mining operations which that company or that individual desires to carry out on that place. His land is valued, and we are told that it is valued at £10 per acre per year. Well, he has £50, but he is ejected from his land; he is told to pull down his villages and his houses, and when he has done that he stands, he and all his dependants, homeless. Your Excellency, he has no home; he has no place where his womenfolk can cultivate; he has no place where his old people can rest; and he has no place for his children to be settled in. He is homeless, I say. I submit, Your Excellency, that in such a case, where such a man must be dispossessed of his holding, because of the needs of the mining industry that is going on there, that that man should be given a tract of land equal to the tract that he has left upon which to erect the huts that have been demolished and to establish his family on that land and in that village. I have spoken to miners operating to-day in Kakamega and they have told me without one exception that they are most anxious that the natives so dispossessed in the future should have land given to them where they can erect their villages and have their homes for their families, and so, Your Excellency, in moving this motion I do so with the sense of real responsibility, not so much just to get this motion passed or anything like that, but I move it because I have in my mind

a sense of responsibility, not only to the natives, Your Excellency, living in the land where their work has been carried on, but in a sense of responsibility with regard to the feelings and the opinions of people who do not understand the circumstances and the conditions under which those mining operations are taking place to-day in Kenya Colony.

I am told that generous compensation is being paid. Well, perhaps £10 an acre a year is generous compensation, but I take it, Sir, that no money compensation is a generous compensation if the native is dispossessed of his land and has no land on which to build his villages. Therefore I do appeal to this Council, as I would appeal to the Government, to consider the effect of having such a board, so that when a man like that is dispossessed of his gardens or his place he has an authority that he can turn to and tell what has taken place and ask them to show him where he can erect his village and his huts. If in the Native Reserve such a place cannot be found for him, then, Your Excellency, I submit that it is the business of Government—I would say with all humility, that it is the business of Government to see that land is provided for such a man where he can erect his village and have his home and where his womenfolk can have land to cultivate and so provide for their families. So that I hope Government will consider that the motion is a reasonable one and that it is one that tends to the peace of the whole community in Kavirondo during the term of the operations that are taking place there with regard to mining of gold in that land.

I move the motion standing in my name, Your Excellency.

THE HON. ABDUL WAHID : Your Excellency, I beg to second.

HIS EXCELLENCY : The question is :—

"In view of the fact that further large areas in the Kavirondo Reserve are, in the near future, to be thrown open for prospecting and mining operations, this Council is of the opinion that Government should appoint a small Board consisting of equal numbers of Europeans and natives, the latter to be nominated by their fellow natives. The functions of such a Board to be :—

- (a) the valuing of all lands and the buildings thereon from which, owing to mining exigencies, natives have to be ejected; and
- (b) to arrange for the re-erection of such buildings on another site in the Native Reserve, or on other contiguous land provided by the Government for this purpose, if such land is not available in the Reserve."

THE HON. ABDUL WAHID : Your Excellency, I beg to second this motion, as it is very important. I have nothing else to say except that I agree entirely with what the hon. Canon Burns has said.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I rise to oppose this motion. I would like to say that the Elected Members have not considered this motion and consequently I am speaking purely personally.

In the first place, Sir, it presupposes that Government's policy is to acquire land outside the native areas and it is dictating a policy to Government which, from past experience, Government cannot possibly accept. It is also quite unnecessary and is going to cause financial commitments.

I endorse what the hon. Member representing Native Interests said when he complimented or paid a tribute to the miners of Kakamega during the last eighteen months.

The answer given by the hon. the Chief Native Commissioner to a previous question this morning I thought was quite sufficient to make it unnecessary for this motion to be put to this House this morning inasmuch as we were told there were only six natives whose case had had to be referred to the administrative officer, whoever he was. In regard to other cases, there must be thousands that have been settled amicably between the miners and natives themselves. I think that is a tribute to both of them and again it seems to me that it is quite unnecessary to adopt this motion that will implement a Board, expensive to the Colony, and which has been found now to be quite unnecessary. There has not been a single case made out for it. The hon. mover has not quoted one single case of injustice or alleged that there has been any case of injustice in the past to the natives.

It has also been brought to light that the compensation paid is in the region of £10 per acre per year. That is an enormous value, Sir. While I am not suggesting that the schedule of compensation should be altered, I would warn the hon. mover that to appoint a Board of Europeans and natives and to suggest that the Europeans should have a knowledge of the value of land at their disposal to back up their judgment would be detrimental to the natives. No Board could conscientiously pay £10 an acre per year, or any fraction of it, if it is going to be based on a considered judgment, and I think it would be from his point of view not good. I hope for those reasons, Sir, that this motion will not be considered.

LT.-COL. THE HON. C. G. DURHAM: I also, Sir . . .

HIS EXCELLENCY: I am going to call upon the Chief Native Commissioner to speak now.

THE HON. THE CHIEF NATIVE COMMISSIONER: Your Excellency, while I am fully in sympathy with the principle underlying this motion which has been proposed by the hon. Nominated Member representing Native Interests, that is to say, the principle of enlisting native co-operation in finding solutions to the problems that have arisen, or may arise, as a result of mining in Native Reserves, I regret I am unable to accept this motion as it stands because I am convinced that this Board which has been suggested, in some of its proposed activities will be cumbersome, in others it will be redundant in view of existing authorities, and in others it will be completely useless. I am, however, very grateful indeed to the hon. Member for raising this question because it does give me an opportunity to state accurately a position which is gravely misunderstood in some quarters and in other quarters I fear is maliciously misrepresented.

The position we have to deal with is this, in so far as this matter of compensation is concerned. We have problems that have arisen or may arise—and there is a very important distinction between the two—which fall into three categories. The first category is compensation for damage or disturbance or inconvenience caused in the ordinary course of mining or prospecting. The second category is compensation that we may have to pay for excisions for purposes of mining leases; and the third category is the resettlement of any natives who may have to be dispossessed, or moved, or evicted, or ejected, as a result of land being excised for the purposes of leases.

These three problems demand entirely different treatment. As to the first, I have already explained that compensation is being paid on a basis that I believe to be satisfactory and I have explained that there is in existence a Board of arbitration very much on the lines of what the hon. and rev. mover desires—that is to say, there is a Board of two, one of whom is a European and the other a native. It is a Board of fifty-fifty representation. All the information I have is to the effect that this compensation is at present being arranged very satisfactorily for the native. From what I know of him, it is more likely that he will get the benefit of anything of that kind than the miner at present.

It has been suggested that their land is valued at £10 an acre rent. Nothing of the kind. Compensation is paid for inconvenience and disturbance at a rate which would work

out at £10 per acre if the whole acre were disturbed. But miners only disturb the land by making trial holes and that sort of thing, and for that disturbance the natives are given this very generous compensation indeed; but it is not suggested that the land is valued at £10 per acre.

In saying that to the best of my belief this compensation is managed very well indeed I know perfectly well that I shall be contradicted and some of my critics will produce instances of natives who will say they have not been properly compensated. Some natives always demand a very great deal more than they are entitled to. In the old days of ox-transport I have known natives put in most extravagant claims for damage done by stray oxen in maize fields—two hundred maize stalks destroyed valued at two or three cents each, and the claim put in has been for 40 or 50 rupees; and the natives have gone away and said we have not treated them fairly. But in spite of the critics, when they do produce these instances, from what I have been told I can only say that the compensation is on a very generous basis.

I cannot believe that a Board such as that contemplated in this motion could do the work better. Where is that Board going to have its headquarters? I understand it should have on the Board men well versed in the price of land. Such men are probably better found in Nairobi. Is the headquarters of this Board then to be in Nairobi? If so, is it expected to go up to a *shamba* in North Kavirondo to value the land, or to visit a hut there that has to be pulled down? Perhaps I shall be told that I am suggesting a sort of extravagant idea in contemplating that the Board's headquarters should be in Nairobi and that I ought to have the sense to see that it should be situated somewhere else, at Kisumu, Nakuru, or some place like that. But even that would be very much more cumbersome than having a Board which can go to every *shamba* and every hut and see exactly what is going to be destroyed. I cannot see that this central Board is going to do the work anything like as well as it is being done at present.

Now we come to the dispossession of natives and the eviction of natives. None have yet been dispossessed or evicted. We do not know yet that any will be, but when land is excised and we have to give a mining lease it is almost too much to hope that there will be no natives who will have to be accommodated somewhere in the country. In such cases compensation is provided for by Statute. Under the Native Lands Trust (Amendment) Ordinance which this House passed at the end of last year it is provided that in those cases no land might be leased for which compensation has not already been paid and that in no case shall that compensation be a lesser

sum than would be payable in the case of private land outside Native Reserves. Now, Sir, on this Board has to be an equal representation of natives and Europeans; but how can natives in a Reserve know anything of the value of land outside the Reserve? I do not see that two natives on a Board like that could be of any assistance at all in the function of estimating the value of land in those conditions, and these are the functions to which I referred when I said that I thought the Board in certain of its functions would be useless. The information we want in cases of this sort is information which I can get from the Commissioner of Lands or the Director of Surveys in Nairobi or experts of that kind, and not from natives in the Reserves.

The third category of problems is one of tremendous importance, as was very rightly suggested by the mover of this motion, that is the resettlement of any natives who may have to be displaced. We do not expect that there will be very many. It is not expected that the land leased will be very large in area, and from examples that we have had in the past it does not look as though there is going to be any very severe dislocation of native life. One example of the past is when the Railway went through Yala. It went through a very populous area indeed and the total area, I think, taken by the Railway was somewhere in the neighbourhood of two square miles, which is about the maximum area which we think will be wanted in the Reserve for leases. This Railway involved the destruction of about 150 huts. There is the Kakamega township in the Reserve and other places have been taken out of the Reserve but there has never been any great trouble in resettling the disturbed natives among their own people. If there is any suitable and adjacent land to compensate them with that land may provide a solution. No one wants natives to be rendered homeless. That would be the very greatest possible calamity, that could happen to them, and it is a problem of immense importance.

Here there are already in existence authorities specifically charged with dealing with problems of this kind. In each district there is a Local Native Council and by Statute each Council is specifically empowered to pass resolutions for the use of land. I have all along contemplated that if and when the time comes that we have to excise land and lease land for mining purposes and natives have to be moved from those areas then the body to deal with their settlement will be the Local Native Council, or probably a Standing Sub-Committee of that Council. Here again I cannot see, just as in the other case I could not see what use the native members would be on the Board so here I cannot see what earthly use the European members would be. I want to leave that to the Local Native

Council, with their District Commissioner to advise them. I cannot see any better body or body for arranging such resettlement than the Local Native Council which is already in existence. I cannot see that this proposed central board sitting in Nairobi or sitting in Kisumu and composed of equal numbers of Europeans and natives can possibly do the work anything like as well as a sub-committee of that Local Native Council. If that is not enough, we have the local Land Board and the Central Native Lands Trust Board. The Central Native Lands Trust Board is entrusted with the management of the Native Reserves and every matter of major importance can be referred to it, and if it wants to it can consult the local board. The Local Native Council can pass a resolution and ask the local board to assist. It seems to me that every kind of necessary authority is already in existence, and I cannot see that this proposed central board is going to be any better.

As I say, I am fully in sympathy with the principle underlying the motion and with the motives with which it has been put forward and I am very grateful I have had this opportunity to explain the position but I regret that I cannot accept the motion as it stands.

THE HON. T. J. O'SHUA: Your Excellency, it has been made clear by the hon. and rev. member himself that his motion is not put forward because of anything that has happened up to the present but to provide against things that may happen in the future. The rev. gentleman has made it quite clear that he is perfectly satisfied with what has been done by Government up to the present to ensure that mining activities in the Reserves will not occasion hardship or injustice to the native population. He is trying to make provision for the future. In fact, Sir, it is because of that that I should be very sorry indeed to see this resolution get any support, and it is because of that that I sincerely hope that on reflection the hon. and rev. Member himself will see the advisability of withdrawing it. I believe that he must be very much influenced by the concise statement that has just been made by the hon. the Chief Native Commissioner, and I hope he will agree with me that the arrangements contemplated by Government for dealing with this problem are much more comprehensive than the arrangement he himself suggests. It is quite possible, indeed it may be considered likely, that much wider problems will arise in connexion with mining activities in the Reserves than are at present foreseen by the hon. and rev. Member. I certainly think so, and I should not like to see those problems dealt with in a piecemeal way by small bodies set up to meet conditions as they arise. I sincerely hope, and I think I am justified in believing from what the hon. the

Chief Native Commissioner has said, that the Government is looking forward to the possibility of having at some future date to set up some body that will deal with the problems of the mining areas in the Reserves in a comprehensive manner. The problems likely to arise go very much further than the mere question of paying compensation to natives who have to be disturbed from their land, and taking a wide view of these possible problems, I strongly support the Government in refusing to adopt a piecemeal policy and in endeavouring to meet the necessities of the case as they arise keeping their mind upon the possibility of the problems of the future being very much greater and requiring more comprehensive organization.

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

THE REV. CANON THE HON. G. BRUNS: Your Excellency, I am satisfied that I have gained the object of my motion. In saying that I want it to be understood by all hon. Members of this House that the motion that I am responsible for to-day is absolutely and entirely my own and has not been influenced by anybody other than my own reflections with regard to the position of things in Kavirondo and my conversations with African natives that come from that land.

I am deeply grateful to the hon. the Chief Native Commissioner for the lucid way in which he has explained the position as it exists to-day and of course I quite recognize that the Government is just as anxious as I am—perhaps more so because they have the definite responsibility resting on their shoulders—that the amicable relations existing in Kakamega to-day should continue throughout the whole of that area. I am glad to hear that the Government has made preparations for the meeting of the needs as they arise and that if further needs arise they will see that those needs are met and dealt with in a righteous and a proper way. The only reason really that I brought this motion up was because I have heard several Members, several people—outside and inside this House—say, or at least they have given me that impression, that compensation in money is enough. That was the reason, Your Excellency, why this motion was put before this House to-day. Most emphatically I say compensation in money to a native dispossessed of his land is not enough, and the assurance given by the hon. the Chief Native Commissioner that when such cases arise—and I cannot conceive mining operations being carried on in a district so thickly populated as parts of Kavirondo are without there being a very great deal of disturbance and a very great deal of dislocation of the native life—the hon. the Chief Native Commissioner has

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assured us (I understand, Sir, that he is speaking for the Government) that as these cases arise the Government will be the first to see that they are dealt with and dealt with in a righteous and in a just way.

Having heard the explanations of the hon. the Chief Native Commissioner and knowing, of course, the opposition of the remainder of the House, I would be foolish, Your Excellency, to call for a division on this motion, but as I say, it has gained its object in my mind and I propose, with Your Excellency's permission, to withdraw the motion, but in doing so I should like very much that the discussion that has taken place here to-day and the words given expression to by the hon. the Chief Native Commissioner should get the widest publicity. With the permission of my seconder, Sir, I will withdraw the motion.

THE HON. ABDUL WAHID: I agree, Your Excellency.

HIS EXCELLENCY: I take it the House approves of the withdrawal of this motion? The motion is withdrawn.

REPORT OF SELECT COMMITTEE ON THE EXPULSION FROM PROCLAIMED AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENTS (MR. W. M. LOGAN): Your Excellency, I beg to move:—

“That the Report of the Select Committee on the Expulsion from Proclaimed Areas Bill be adopted.”

The House will see that the Report is a unanimous one and makes recommendations for three amendments in the Bill, the first amendment being in clause 4 that sub-clause (4) of that clause be deleted. I may say that the sub-clause was inserted in the original draft in pursuance of the form regulating the procedure in the working of other similar boards which have from time to time been appointed by the Government. A strong point was, however, made in the Select Committee that it was of great importance to the successful operation of this particular board that the official chairman should on no occasion have two votes. The Government feel, Sir, that the reservation of a casting vote by the chairman, though not an uncommon provision, is in this particular instance perhaps of a somewhat academic nature and it anticipates that in the working of this Ordinance the cases which come up before the board, would be of rare occasion and that when such cases do come up that it is highly desirable that the decisions of the board should at least be by a clear majority, if not entirely unanimous. For those reasons, the Government is prepared to agree to the deletion of sub-clause (4).

The other amendments to clauses 5 and 14 fulfil the undertaking I gave on the second reading of the Bill that Government would agree to appeals against the decisions of these boards lying to the Governor in Council rather than to the Governor, and that the Ordinance should be in operation for one year only and that any extension of that period should depend upon the approval of this House.

In clause 5 we have made one further amendment to make it perfectly clear what is to happen to an individual if he has been ordered by the board to withdraw from a proclaimed area and he appeals. It was not perfectly clear in the original draft that during the time of an appeal he would not be permitted to remain within the proclaimed area.

I beg, Sir, to move that the Report be adopted.

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

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Expulsion from Proclaimed Areas Bill be adopted.”

The question was put and carried.

BILL.

THIRD READING.

THE EXPULSION FROM PROCLAIMED AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: I beg to move that the Expulsion from Proclaimed Areas Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

REPORT OF SELECT COMMITTEE ON THE MINING IN PROCLAIMED AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: Your Excellency, I beg to move that the Report of the Select Committee on the Mining in Proclaimed Areas Bill be adopted.

This Report, Sir, is not entirely unanimous; it is subject to a reservation by the hon. Member for Plateau North, who considers that the whole of clause 3 of the Bill should be deleted. The propriety of the actual charge fixed in the original clause of the Bill, that is to say, £5 for a licence to enter the proclaimed area, was fully discussed in Select Committee, and the view there expressed by the hon. Member was that any charge at all would have, in his opinion, the effect of deterring the adequate prospecting of areas in which individual prospecting is to be permitted. With that view the majority of the Members were unable to agree, but in order to obtain unanimity all the remaining Members agreed to the clause, subject to altering the word “five” to the word “four”, the effect of that being that the cost of a licence for prospecting in a proclaimed area will be £5 instead of £6.

The second amendment proposed, Sir, is to provide that it shall remain in force for three years only from the date of its coming into operation and shall then expire. That is a provision similar to the one in the Bill we have just passed, and any further extension of the Ordinance will depend upon the approval of this House.

I beg to move that the Report be adopted.

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

HIS EXCELLENCY: The question is:—

“That the Report of the Select Committee on the Mining in Proclaimed Areas Bill be adopted.”

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I beg to move an amendment in the following terms:—

“That the Report be amended by the deletion of the following paragraph:—

Clause 3.—That this clause be amended by the deletion of the word ‘five’ in the sixth line thereof, and the substitution therefor of the word ‘four’; and the substitution therefor of the following:—

Clause 3.—That this clause be deleted.”

If that is agreed to, Sir, it will mean that clause 3 in the Bill will be deleted. It will have the effect, Sir, of then leaving the amount to be paid for a prospecting licence at Sh. 20 and not Sh. 100.

In speaking on the second reading I agreed to the principle of this Bill subject to its going to a Select Committee. I submit, Sir, that the whole of the unemployed—and there were a very large number in Nairobi before Kakamega started—are now getting employment on the goldfields, but I can assure Your Excellency that a very large number of these men are only earning from five to ten pounds a month. It has taken them off the "dole" as it were and it has been of much assistance financially to the British Legion working in the interests of the unemployed who require assistance. Also, Sir, the goldfields consist of a very large number of the people of Plateau North and Plateau South, who find under present economic conditions, with the terrible drop in cereal prices, that it is impossible to carry on farming and they are brought down to the goldfields. Generally, Sir, a very large number of the so-called "miners" are people without capital, or with very little capital, and without the goldfields their outlook for the future is practically nil; and I do appeal to this Council to give these men a chance. I consider it would be iniquitous not to agree with me in my statements—for I am perfectly certain they are accurate and just—it would be iniquitous to put further taxation on these people under present conditions. Also, Sir, it has a very much wider effect. The idea might be taken for granted that the object of all mining legislation is to help the mining areas to progress, but it is obvious to me that the larger number of prospectors that you have on the field the quicker the prospecting is done and the quicker will Government eventually get the return which they ought to get out of the results of that gold-mining. I would warn you, Sir, that before the end of this year the gold output from Kakamega will largely increase from the fact that quite a number of mills have been erected and as a result of the working of these mills the gold output in a very few months will reach in my opinion quite a large sum and the Government will then get its rake-off from that source, which I maintain is a legitimate source of revenue for Government.

I am not in the confidence of Government with regard to whether it is proposed in the near future to open Area No. 2, but I will suggest that you are going to get very little out of prospecting licences in that area. It is a tsetse area, it is a malarious area, it is the most inaccessible area in the whole of the Colony and consequently the most expensive area. It is not an alluvial field; it is a reef field. At least three companies have been working there during the last ten or twelve years and I cannot imagine that that area has not been very well prospected already; and I do not myself consider that you are going to get any great amount out of prospecting licences in that area.

In conclusion, Sir, I would ask Government, and also Members on this side of the House, to give very serious consideration to what it is proposed to do in this Bill. We all heartily support the principle of raising revenue for the mining area and the mining administration, just the same as we should subscribe to raising revenue to balance our budget, but I do suggest that it be left to the unofficial Members to decide how that revenue should be raised. We have personal knowledge, contact with the goldfields, we know the people down there and their financial capabilities, and I maintain it is impossible for them to pay this amount which is demanded and any restriction of the number of licences is going to restrict the prospecting of any area which may be opened in the future. For these reasons, Sir, I hope my amendment will get support.

CAPT. THE HON. J. L. COTTER: Your Excellency, I beg to second the amendment.

HIS EXCELLENCY: The question now before the House is the amendment proposed by the hon. Member for Plateau North.

LT.-COL. THE HON. C. G. DURHAM: I beg to support the amendment. Government apparently has forgotten the fact that when prospectors first went up there they had to pay a fee of Sh. 20 for a prospecting licence. They had not been there very long before the deposit was raised to £10 as a guarantee that they would pay their wages. Since then Government has raised it to £35. How much more is going to be imposed upon these people who have gone there? It has been stated that Government will not open up the areas unless they can get this amount of money. Sir, that would not be the first time that Government's short-sighted policy has failed the country, and if Government has got no better excuse than that they must have the money before the opening up of these areas—I dare Government to hold up the throwing open of these areas if they have no better excuse than that they must have that money first.

CAPT. THE HON. J. L. COTTER: Your Excellency, in supporting this amendment I should like to say that I cannot understand how any Government which is really interested in the finances of the Colony and wants to get more revenue for it can for a moment imagine that section 3 in this Bill can possibly bring more revenue to the Government. The whole idea of taxing the goldfields is like excise duties on any agricultural products in this world—an utterly wrong one, a fact that can be proved by anybody who has taken the trouble to read any mining literature. In this particular case—as I

have said before, in Australia similar legislation was brought in and there was the famous Eureka Stockade rebellion. There is no suggestion that will take place here. We are a most pacific population; the people are not built in quite the hardy strong way that the old pioneers of Victoria were. I do not say that there will be trouble of that sort in this country, but I gave it as an example of what has happened before.

I should like to repeat exactly what my friend the hon. Member for Kikuyu has said and that is that here we have people in this country who have made this field—the settlers in Kenya first made this goldfield possible, without the help of the Government, without originally any geologist or anybody else to help in any possible way, yet the moment the thing shows any signs of success the first idea of Government is where is this revenue to come from? Extra taxation in every possible way. To charge your prospector £5 is to debar, practically speaking, any new people in the country to-day going to Kakamega to attempt to discover gold, and it is, as I said, on this one point, going back to Bray's Golden Quarry, where there were twenty thousand miners and prospectors, of whom at least 50 per cent were practical men—which is not the case in Kakamega—they were there for two years before Bray's Golden Quarry, later known as the Sheba Reef, was discovered, and that Sheba Reef was the only reef worth discovering in the whole field. We are getting to this stage now. Our idea to get revenue out of this industry is that we are not in the position of the person who kills the goose that lays the golden egg but of the person who strangles the gosling before it gets as far as the goose.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I want to make an appeal to Your Excellency and to Government not to turn down this amendment without very much more serious consideration than it is possible to give it in these few minutes. I know nothing whatever about the conditions in Kakamega, as I have not been there. My knowledge of mining is infinitesimal, but I have listened to the reasons and the arguments of people holding views diametrically opposite. I have discussed the matter with my friend, the Acting Commissioner for Local Government, Lands and Settlement; I have listened with very great interest to the Commissioner of Mines when he was kind enough to come and talk frankly and fully at a meeting of the Elected Members when they were preparing for this Select Committee on the Estimates. I have heard what has been said to-day, I have heard what has been said at Elected Members' meetings, and as one who would approach this problem, this question, from a completely impartial view, I, if I had to give a verdict, would undoubtedly

give it in favour of the disadvantage of increasing this fee at the present time. The sole object of increasing this fee is in order to raise what is estimated to be an extra £9,000 revenue for the purpose of making roads and generally improving the amenities in the areas to be opened to general prospecting. At the time that this Bill was first suggested it was not then known that the revenue from royalties and other mining activities was very much greater than had been anticipated and it will be seen in the Select Committee's Report that the actual revenue to be derived has been put up by a sum of, I think, £2,000, or something like that, so that the position really is that the Government would be no worse off in actual revenue than they thought they would have been when they proposed to put up this charge from £1 to £6, now reduced to £5. My only concern, Sir, is whether the putting up of this is going to have the effect of stopping prospecting in the new areas. Those who know much better than I, numbers of them, say undoubtedly it will have this effect; those who hold the opposite view—I do not think it is an unfair interpretation of the Commissioner of Mines' view—are inclined to the opinion that it will not have that effect. He is by no means certain. If we have people who have been in touch with the people up there of the definite opinion that it will have that effect, and other people on the other side do not think it will but are not quite certain, surely it is better not to go putting up this proposed revenue and not to pass this Select Committee's Report as it stands unamended, making the thing an experiment, and if it is found not to be workable, to reduce it. That will not do. The harm will have been done. Surely it is better to pass this Bill with the deletion of clause 3 here and now and have further enquiries made on the spot by impartial Government officers to report as to what their view is; and then, if Government comes to the conclusion that the fears expressed are groundless, then we are quite justified in going on with this Bill. I would appeal to Your Excellency not to press this through here and now, because it may turn out to be disastrous and we do not want to have a stop put to prospecting in the areas to be opened for the sake of what, after all, is the comparatively small sum of extra revenue of £2,000.

HIS EXCELLENCY: I propose to adjourn now and continue this debate to-morrow.

*The Council adjourned till 10 a.m. on Wednesday,
the 10th May, 1933.*

WEDNESDAY, 10th MAY, 1933

The Council assembled at 10 a.m. at the Memorial Hall, Nairobi, on Wednesday, the 10th May, 1933, His Excellency THE GOVERNOR (BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.), presiding.

His Excellency opened the Council with prayer.

MINUTES.

The minutes of the meeting of the 9th May, 1933, were confirmed.

ORAL ANSWERS TO QUESTIONS.

INCOME TAX.

No. 33.—THE HON. T. J. O'SHEA asked:—

1. In the estimate of £130,000 as revenue from income tax in 1934 should the Income Tax Bill become law, what portion of that figure is obtained from dividends on the Colony's loans?

2. If no income from that source has been estimated, why?

THE HON. THE TREASURER (MR. H. H. RUSHTON): No income from that source has been estimated because, so far as loans existing at the date of imposition of an income tax are concerned, it is understood to be the established Colonial practice that the Governor should exercise the powers of exemption granted to him in the relative clause and as at present advised the Government is not aware of any considerations peculiar to Kenya which would make it desirable to depart from such procedure.

THE HON. T. J. O'SHEA: Your Excellency, arising out of that answer, may I ask what would be the amount likely to be collected if the dividends on these loans were included?

THE HON. THE TREASURER: As far as I can estimate the amount, it would be between £80,000 and £85,000.

THE HON. T. J. O'SHEA: May I ask, arising out of that, whether it is not the case that income tax is paid in Great Britain on the bulk of that sum?

THE HON. THE TREASURER: I believe that is the case, Sir.

THE HON. T. J. O'SHEA: That being the case, may I ask whether there would not be a refund to the bondholders of any income tax collected by this country in terms of our Bill?

THE HON. THE TREASURER: I think under the terms of the draft Ordinance, the bondholders themselves would not be affected; it would be the British Exchequer that would be affected.

THE HON. T. J. O'SHEA: That being the case, may I ask why this very substantial source of revenue should not be included in the terms of the Bill merely because it is not a customary practice in other Colonies so to include such loans?

HIS EXCELLENCY: I think the answer has been supplied by the Treasurer so far as this Government is concerned.

THE HON. T. J. O'SHEA: May I put my question in another way which is entirely relevant to the main question? Is it in the interests of this Colony, in view of its serious financial difficulties, that this source of revenue should be excluded from the operation of the Bill if it is made law?

THE HON. THE COLONIAL SECRETARY (MR. H. M.-M. MOORE): May I suggest the hon. Member is now not asking a question of fact but a question of policy, which normally should form the basis of a subsequent motion?

HIS EXCELLENCY: If the hon. Member wishes to bring up the larger question perhaps he will move a motion to that effect.

THE HON. T. J. O'SHEA: If you rule that question out of order on the grounds that it is a matter of policy, may I ask a direct question which is not on policy but on finance: whether the Government of this country can afford to go without that source of revenue?

HIS EXCELLENCY: That appears to me to be a matter of opinion, which I must rule out.

CAPT. THE HON. H. E. SCHWARTZ: Arising out of that ruling, may I ask whether we are to understand from that that the Government is possibly of opinion that this country can afford to give up £85,000 at the present moment? (Laughter.)

MOTION.

REPORT OF SELECT COMMITTEE ON THE MINING IN PROCLAIMED AREAS BILL.

HIS EXCELLENCY: We now continue where we left off yesterday—the amendment proposed by the hon. Member for Plateau North to the Report of the Select Committee on the Mining in Proclaimed Areas Bill. I will call upon the Colonial Secretary.

THE HON. THE COLONIAL SECRETARY: Your Excellency, in the interval which has elapsed since yesterday the Government has had an opportunity of giving consideration to the amendment moved by the hon. Member and on the whole feels disposed to accept it, but before finally doing so I think the Government would certainly welcome any expression of opinion from those Unofficial Members on the other side of this House who did sign the Report in its present form. It is realized that the hon. Member for Plateau North always objected to this particular clause but it is understood that the other Members were unanimously of opinion that it should stand in the form presented. The Government is only too anxious to obtain the fullest advice on this difficult matter and before finally accepting this motion they would welcome any indication as to whether the arguments that have already been put forward have had any effect on the views previously expressed by Unofficial Members of that Committee.

THE HON. CONWAY HANVEY: Your Excellency, as one of the signatories to that Report, I should like to explain that after a very long discussion I and my colleagues succeeded in getting a considerable reduction in the cost of the licence suggested, and I was, Sir, very greatly impressed by the definite statement of the Acting Commissioner of Mines and one or two members of his staff that, when they had discussed this matter on the goldfields at Kakamega, no objections whatever were raised to this proposed increase of licence in respect of the one or two very restricted areas which would be proclaimed. I have, Sir, this morning, however, received a telegram from the Miners' Association at Kakamega in which they urge that both of these Bills dealing specifically with mining should be postponed until receipt of letters which are now in the post. I think, Sir, in spite of that, in view of the enormous amount of opposition to the proposal with which I am definitely associated, Government would be very wise to postpone or withdraw this particular clause which has met with so much opposition.

THE HON. T. J. O'SHEA: Your Excellency, as another signatory to the Report, may I remind the House that on the second reading of the Bill I expressed my opposition to the policy embodied in the Bill and in Committee I very reluctantly agreed to the inclusion of this clause on the strength of the statements made by the Government side of the Committee that the proceeds were necessary to the finances of the Department. But, as Government has now apparently found the money for the Mining Department from other sources, I am very pleased indeed that it is able to see its way to the deletion of the clause to which I only very reluctantly consented. I in turn was impressed by the information given us that the mining community at Kakamega did not object to the payment of these special licences. Quite frankly, knowing the dilatory way in which people look after their public interests in this Colony, my mind was not made up entirely on that account, and so I am not very much surprised at the information that has been given to us this morning by the hon. Member for the Lake.

THE REV. CANON THE HON. G. BURNS: Your Excellency, I, as a signatory to that Report, agree that, as the Government have given more consideration to this matter, I think it would be wise to take out that section from the Bill—I agree.

HIS EXCELLENCY: Then I will put the question. Of course, this is without prejudice to any action that the Government may take afterwards. The withdrawal of this clause now does not mean the Government may not have to reconsider the matter. That must be clearly understood. I will put . . .

THE HON. THE COLONIAL SECRETARY: On a point of order, if the question is to be put, I would suggest with the leave of the hon. member that he should add on to the amendment "and that the following clauses be consequentially renumbered." I do not think that appears in his motion and it will be necessary if this clause is deleted.

HIS EXCELLENCY: Does the hon. Member wish to speak?

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I am not quite clear, now that the three Members of the Select Committee who signed that Report have spoken, whether the Government now intends to accept my amendment.

HIS EXCELLENCY: Yes, that is so.

LT.-COL. THE HON. J. G. KIRKWOOD: In view of that all I have to do is the very pleasant duty of congratulating the Government on a very wise decision.

HIS EXCELLENCY: The question is that the amendment proposed by the hon. Member for Plateau North that the Report be amended by the deletion of the following paragraph:—

" Clause 3.—That this clause be amended by the deletion of the word 'five' in the sixth line thereof and the substitution thereof of the word 'four' "

and the substitution thereof of the following:—
" Clause 3.—That this clause be deleted."

and that the following clauses be consequentially renumbered, be adopted.

The amendment was put and carried.

HIS EXCELLENCY: I will now put the question that the Report of the Select Committee as amended be adopted.

The question was put and carried.

BILL.

THIRD READING.

THE MINING IN PROCLAIMED AREAS BILL.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT (MR. W. M. LOGAN): Your Excellency, I beg to move that the Mining in Proclaimed Areas Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

MOTION.

REPORT OF SELECT COMMITTEE ON THE ESTIMATES FOR 1953.

THE HON. THE COLONIAL SECRETARY: Your Excellency, in rising to move the motion standing in my name I would ask for the usual indulgence of the House, when dealing with Estimates matters, if on certain points involving figures I refer to my written brief.

I do not propose, Sir, in view of the manner in which the Budget has been dealt with this year to speak at any great length on the Report of the Select Committee which is

now before the Council. I would merely make this statement, Sir, that, as I informed the Council in December last, when introducing the Provisional Budget, and as they are aware from the terms of the Report of the Expenditure Advisory Committee which has been published in the interim, the underlying policy on which both the Provisional Budget and the recommendations of this Select Committee are based is the need for rigid economy and the curtailment as much as possible of all services except those which must be regarded as definitely essential; and I need hardly say, Sir, that all the Members of the Select Committee approached their task in that spirit when dealing with the Report which now has been laid before this Council. It was, however, Sir, generally realized from the outset that, owing to the fact that the Provisional Budget for 1933 already contained to a large extent such recommendations of the Expenditure Advisory Committee as could be immediately reflected in those Estimates, the total of further economies that could be effected during the current year was not likely to be large, and that further certain additional—though not large—unforeseen items of expenditure have occurred in the interval which have had to be provided for, notably in connexion with the Mining Department and the restoration of Travelling Allowances on a modified scale. None the less, Sir, thanks to the further economies which were offered to Government by Heads of Departments, and also to the recommendations of the Select Committee whose Report is now before you, we are able to suggest a net decrease in expenditure of £45,537. How this amount has been made up I will explain later.

On the revenue side, Sir, except for an increase of some £5,000 under mining revenue, the Select Committee saw no reason to recommend any material change in the figures that appeared in the Provisional Budget. The net decrease of £7,165 which you will see referred to in paragraph 170 of this Report is largely due to the elimination of the Native Betterment Fund head from the Estimates and the somewhat complicated book transactions resulting therefrom and which, in accordance with the proposals that the Select Committee has put forward, now disappears from the Estimates altogether. That being so, Sir, it would perhaps be well for me at this stage briefly to explain what those proposals are. When the Provisional Budget was debated in December last certain Elected Members took exception to the inclusion within that Budget of the new Head XXXV, Native Betterment Fund, before the creation of such a Fund had received the statutory sanction of the House, and indeed some of them declined to vote for the Provisional Estimates on that account. This

view, Sir, was again strongly pressed in Select Committee and as a result Your Excellency has authorized the restoration of expenditure on direct native services to their appropriate heads of departmental expenditure, with, however, the proviso that the expenditure so transferred should be separately shown under each departmental head so that the services can be earmarked and can be administered by the Native Betterment Fund Committee should eventually the Native Betterment Fund be created on the lines proposed by Lord Moyne. As a result, Sir, of that decision, it will be necessary to reprint the Estimates substantially on the same lines as they have appeared in the past.

With this explanation, Sir, I am brought back to the proposed reduction of £45,537 in expenditure to which I have already referred. Of this sum approximately £7,000 represents the general net decrease over a variety of heads of Estimates. Of the remainder, some £20,000 odd is accounted for by the elimination of the item "Reimbursements from the Native Betterment Fund to General Expenditure on account of the Services of Part-Time Officers", while the remaining £18,000 odd is made up of the unallocated revenue that would have been payable to the Betterment Fund had it been created on the lines advocated by Lord Moyne, plus the value of certain unspecified miscellaneous works under Public Works Extraordinary, Betterment Fund Head, which appeared in the Provisional Budget. In the view, Sir, of Elected Members, these moneys should not in a year of depression like this be regarded as a saving and should be utilized for the purpose of reducing *pro tanto* the deficit on the year's working.

In their opinion, Sir, the same argument applies to the cost of filling certain vacancies in the Agricultural Department, a course which has been proposed by the Director of Agriculture in order to bring his Department's expenditure up to the total allocated to it under Lord Moyne's classification. I can only say, Sir, on this point that this view will be very carefully considered by Government and referred to the Secretary of State for his decision. So much, Sir, for the only important alteration in the structure of the Budget which has resulted from our deliberations.

Let me now recapitulate briefly the general financial effect of these deliberations. If the Secretary of State accepts the proposals to which I have just referred, the estimated deficit on the year's working for 1933 will be reduced from the sum of £214,167 shown in the provisional Budget to a

figure of £176,935. Owing to this reduction, coupled with the fact which has already been explained to this House that the actual deficit on the year's working in 1932 was £109,509, or some £110,000 odd better than was estimated for in the provisional Budget for 1933, it is estimated that, on our present information at the close of the present year, our surplus balances will reveal an excess of assets over liabilities of £75,939 instead of an excess of liabilities over assets of £72,624. This very satisfactory improvement of £148,563 in our surplus balance position is due therefore, as I have just tried to explain, first to the transactions of 1932 working out £110,941 better than we had anticipated, and secondly to the reduction of £38,072 recommended by the Select Committee in the estimated deficit on the working of the year 1933.

—Before I leave that figure, Sir, of the estimated deficit, I should just like to make it clear that that is the estimated paper deficit on the Budget as it is now proposed that it should be shown. It does not take into account the possibility of any additional revenue being obtained during the present year from any form of additional taxation. In view of the present situation and the uncertainty as to whether any such measures will be brought in, it would clearly have been improper to have reflected any such sum in the revenue estimates which are now before the House.

In view of the terms of the Report and the schedules attached to it, I do not think I need review our recommendations in any detail. It will be observed, however, that on most Heads of Estimates Elected Members have taken the opportunity of recording their views on the recommendations of the Expenditure Advisory Committee, which can, if adopted by Government, be only reflected in the Estimates for 1934. I need hardly say, Sir, that it will be of the greatest assistance to Government to have these views so clearly on record when considering the Expenditure Advisory Committee's Report in detail and the manner in which the recommendations can be reflected in next year's Budget.

Finally, Sir, I would only repeat the assurance given by Your Excellency yesterday in respect of the Budget for 1934—that the need for reducing expenditure to the minimum will continue to be borne in mind by Government as it has been in the past.

Before I sit down, Sir, I should like to thank Members of the Select Committee for the assistance given me in the work of the Committee and for their kind expressions as to the work done, both by myself as Chairman and by the Clerk.

I beg, Sir, formally to move the motion standing in my name:—

“ That the Report of the Select Committee appointed to examine the Estimates of Revenue and Expenditure for the year 1933 in the light of the Report of the Expenditure Advisory Committee be adopted and the consequential amendments to the Estimates of Revenue and Expenditure for the year 1933 as expressed in the schedules to the Report.”

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, though I cannot naturally hope to emulate the hon. gentleman who has just spoken in lucidity, I will at least hope to emulate him in brevity and not occupy the attention of this House for more than a very few minutes.

I do not think that any detailed discussion on this motion is necessary, in view of the admirable way, if I may say so, in which the Report has been prepared by the Secretary, which sets out so clearly and concisely the views that were expressed during the sittings of the Select Committee on all Heads of Estimates.

I would like, however, Sir, to refer to those two recommendations of the Expenditure Advisory Committee which were not followed in their entirety by the Select Committee because it will be seen that, when hon. Members have had an opportunity of appraising in detail the Report of the Committee which is now before them, in practically every instance the Committee, or at any rate the Elected Members, supported the recommendations of the Expenditure Advisory Committee who had given such untiring work to the preparation of their Report.

The first matter, Sir, is one which, in view of the attitude adopted by the Select Committee, I make no excuse for referring to, although it does affect Your Excellency personally. It was recommended in the Report of the Expenditure Advisory Committee that the duty allowance of His Excellency the Governor should be reduced by £1,000 and the Select Committee, while supporting that recommendation as a general recommendation, have recommended that it should not apply to the present holder of that post; and I should like in two words to say why that decision was reached. It was, in the first instance, because it was felt and realized that the duty allowance was part and parcel of the terms which were offered to the present holder of the post when he accepted

the post; and secondly, the Committee were not unmindful of the present holder of the post voluntarily bowing to the levy, and his statement made from the Chair that, if and when income tax is introduced, he would not take advantage of the clause in the Bill making income tax not applicable to the holder of the post. We were, therefore, pleased to be able to recommend that this recommendation should not apply to the present holder of the post.

The other point upon which the Report of the Expenditure Advisory Committee was not followed was in connexion with the majority suggestion to do away with the Central Registration Office and Finger Print Bureau. This is a matter which has engaged the attention of Elected Members for a very considerable time and there seemed to be such grave doubts as to whether, if the majority report was accepted, it would not, in fact, destroy the *kipandi* system, that we have recommended that, rather than do away with the Central Registration Office and Finger Print Bureau, the Government should make every effort—and this is a suggestion of the Committee—by some kind of combination of the two Departments, to reduce expenditure to a very large extent and at the same time keep in being the *kipandi* system; because, Sir, we believe—and I believe the vast majority of the people in this country believe that it is essential for the welfare, not only of the Europeans of the Colony, but equally—if not more so—for the natives of the Colony, that this system which has worked so admirably should be kept in being.

There are two other points. The first is, Sir, as will be seen from the Report, that the Chairman gave an undertaking on behalf of Government that every effort will be made finally to decide on the terms and conditions of service of the Local Civil Service and to bring that service into being. We were grateful for that assurance, and, knowing that the hon. gentleman who holds the position of Colonial Secretary at present is not in the habit of giving assurances which he does not propose to keep, we can look forward in the near future to finality in regard to the Local Civil Service, which has taken so many years and which we are all anxious to see become a fact accomplished. We also hope that final terms of service in connexion with the Overseas Service will be settled at the earliest possible moment, for, as the hon. Member for Plateau South said yesterday or the day before, it is now some eight of ten years since this matter was first started, and it is essential in the interests of the Colony and the Civil Servants themselves that some finality should be reached with the least possible delay.

Before leaving this Report, Sir, I think it is my duty to refer to paragraph 50 of that Report, in which Elected Members have felt themselves compelled, albeit very reluctantly, to support the recommendations of the minority of the Expenditure Advisory Committee with regard to a further levy on official salaries. Now, Sir, I want to give a complete assurance that, so far as I am concerned—and, I think, so far as everyone on this side of the House is concerned—this decision to support that recommendation was not taken in any hasty spirit and was not taken without a realization of the seriousness of what that recommendation would mean. But we feel, Sir, genuinely, that we are justified in supporting that recommendation when we look round this Colony and see the position in which the citizens of the Colony are placed. I am not going into detail, but I do not believe that anyone, very few people at any rate, have any conception—I admit myself that I have no proper conception—of the straits to which large numbers of the farming community are at present reduced. I think I can say, without exaggeration, that in many cases their position is such that they hardly have the wherewithal properly to feed and clothe themselves. When we turn to the perhaps more fortunate—if that is not an euphemism—position of people in towns, I can assure Your Excellency, I can assure Members on the other side of the House and, indeed, the whole of the Civil Service, that the sacrifices to which they have been put, both employed and employer, go far beyond what is generally realized.

I can say—I think again without fear of contradiction—that there is probably not a single employee in any town in this country, with the possible exception of those employed by banks and in one or two only of the very large commercial corporations, who has not suffered a minimum of 10 per cent reduction, and in the majority of cases 20 and even 25 per cent, if not more. With regard to people with their own businesses, whether commercial, whether professional or in any other walk of business, the percentage loss in profits—where profits are left at all, which is rare—could be put at a figure of 40, 50, 60 or 70 per cent. Now I am not exaggerating this, Your Excellency. I hope that hon. Members opposite and members of the Civil Service will believe that I am not exaggerating. I am not attempting to make a case but I can give a complete assurance, whether you take the farmer, whether you take the employed or whether you take the employer, that no single one of them has suffered to an extent of only 6 per cent of his income. No one regrets more than I that it should be necessary to ask Government seriously to consider this recommendation and to put it into

force. No one would wish more than I to see myself and my fellows, whether official or unofficial, in the hey-day of prosperity, but these things are not possible in the world of to-day, and if members of the Civil Service will look round, not only at what is being suffered by their unofficial fellows in this Colony, but if they will also look at what has been suffered by the Civil Service in other parts of the Empire, and especially at home, I think they will realize that, even if they were asked to pay this additional levy, they would be considerably better off than most of their fellows. I regret, Sir, very much that when the levy was first put on, when it was found necessary, it should not have been a definite levy at an adequate figure, with an assurance that there was an end of the matter. It is very much easier to take a tablespoonful of medicine once and have done with it than to be given a dessertspoonful and in a few months to be given another teaspoonful, and then to be asked to take another perhaps smaller dessertspoonful. It is very much easier to be bitten once by a wasp than three times by a mosquito, and I do think, Sir, and I have always thought, that the result of putting on the original levy of 5 per cent and then adding 1 per cent and then facing the necessity of having to consider another 1 per cent has caused, and must necessarily cause, a spirit of unrest and uneasiness in the ranks of the Civil Service which can be well understood and which could quite easily have been avoided. I am not unmindful of the fact that a large body of my constituents are members of the Civil Service and that it is my duty to support their interests just as much as the interests of others of my constituents. I do not think that such efforts as I have been able to make for them in the past have shown that I am unmindful of those interests, but I do believe most genuinely that to suggest this further levy is not unreasonable and I would ask you, Sir, and Members on the opposite side of the House and all members of the Civil Service to believe that this is not a case of saying that if we want more money go and bleed the Civil Servant. I have tried hard to do my duty and I believe it is my duty to recommend this further levy. With regard to the details of it, I agree with the majority recommendation of Elected Members on the Select Committee that it would be fairer, taking all things into consideration, that it should be a tapering levy with a maximum of 4 per cent rather than a flat rate which would affect the lower paid ranks of the Service in the same proportion as the higher paid ranks.

Finally, Sir, I can assure Your Excellency from what I myself have heard that a very large number of members of the Civil Service would accept that rather than be faced with

the fear that the time may come when the financial position of the Colony is such that there may be further retrenchments and they may find themselves not with a salary less an extra 4 per cent but with no salary at all.

Now, in conclusion, Sir—and I think this is the first time that I have ever in this House craved indulgence—I will not say actually to read but to refer more often to my notes than I am accustomed to do—but I shall take advantage of the opportunity always accorded to Elected Members on a debate on the Estimates to discuss all matters of interest to the Colony to make a clear statement with regard to the policy of Elected Members. It has recently been suggested in some quarters that either Elected Members have no policy or that, if they have, there is no unanimity with regard to such policy. Now, Sir, I wish to state most emphatically that neither of these allegations is true. There is complete unanimity amongst Elected Members with regard to their policy on all major issues and I have their authority for stating briefly what that policy is. In the first place, Sir, they are determined to press without remission for such change in the constitution as may be necessary to give them control of the Colony's finances and to have the final say with regard to the Colony's expenditure, which will further prevent any attempt in the future to impose taxation on the people without the consent of the people. It is true that there is a section of the community which favours some form of unofficial majority such as was suggested in the Report of Sir Samuel Wilson, while others are fearful of what has been called a hybrid form of unofficial majority. Now, Sir, while I do not share those fears to the extent that some do, I am convinced that the only right course to adopt is to press for such change in the constitution as has the unanimous support of the Colony and to accept that as a first step towards our eventual, and I hope not too far distant goal, of complete self-government. This goal is also the policy and ambition of every unofficial in this Colony, I have no doubt. It has been suggested, Sir, that Elected Members are apathetic and pusillanimous with regard to this issue, but I would ask the country to realize that because a good deal has not been said in public lately about this subject that is not to say that a great deal is not being done—and I feel justified in making public the fact that Lord Francis Scott has been and is engaged with the Secretary of State and the permanent officials of the Colonial Office in a detailed investigation into this very subject.

Our next item of policy, Sir, is our unwavering determination that Government expenditure should be reduced to and maintained at the lowest level consistent with the necessary

efficiency, and that this policy should be maintained not only in times of stress like the present but in times of prosperity and that when prosperity returns that should not be made an excuse for unnecessary inflation and extravagance in Government Departments.

We are also determined, Sir, to press to the utmost the encouragement of all measures that will help production and all measures which will tend to cheapen production, and in this respect we realize that every possible effort should be made, whether by means of increased funds for the land bank or otherwise, to keep the agriculturalist on the land.

We are unanimous also, Sir, in our determination to encourage white settlement in this Colony. We all feel that without increased white settlement the Colony will never achieve the fulfilment of its rightful destiny.

These, Sir, briefly put, may be called the chief heads of our policy, a policy which I have no doubt will be subscribed to by every thinking man and woman in this Colony.

MAJOR THE HON. R. W. B. ROBERTSON-ESTACE: Your Excellency, as has already been said by other speakers, this Budget has now been so thoroughly gone through that I do not propose to say anything about it myself but will leave it, in case there has been anything left out, to the many financial experts on this side of the House who, I am sure, will say something about it.

I will revert now to my hardy annual, the Coast and its problems. I would first, Sir—though I fear it is now rather ancient history—like to congratulate Your Excellency on the visit you paid last year to the Coast. During that trip, Sir, you saw what the Coast is more or less capable of producing, and I think you will agree, Sir, that the Coast area is not the arid desert that it has been considered by some to be. Though this area cannot be recommended entirely for European settlement on a small scale it is essentially suitable for large companies to operate there under European supervision, and though they are now suffering, as is everybody else all through the world, from the depression, I sincerely trust that in the near future a very large improvement will be found.

We have also on the Coast a very large native population from whom, under good administration, a great deal can be expected. Though you saw a good deal of the actual Coast, Sir, you have still to see the Teita and Taveta areas, which I think will surprise you. Though these areas are not exactly on the Coast they are in the Coast Province and they are certainly not the Highlands. You listened, Sir, most

attentively and sympathetically to the various complaints and grievances of the various communities, and though some of them were trivial, some frivolous perhaps, the general strain throughout, Sir, was the increase of assistance that might be expected from Government to further production of agricultural products. You saw, Sir, the development in the sugar industry, the coconut industry, the dairying industry, the sisal. At Malindi you saw the increase, the very large increase in the production of cotton. Cotton, Sir, was grown at Malindi some twenty-five or thirty years ago but it has been, I maintain, entirely due, or very largely due to the energy of the agricultural officer who was appointed there some three years ago that this revival has taken place and I consider the appointment of that officer has been thoroughly justified. He has now gone on leave, Sir, and another energetic young officer has taken his place and I think we may expect things from him. In addition, Sir, we have at the Coast at the present time—all the Government officers are an exceptionally fine lot and I sincerely trust it will not be found necessary to remove any of them in the near future.

The salt industry, Sir, is another you saw, which with a very little assistance could be made a very large and valued asset to this Colony. It offers at present from the importation of Aden salt. The interest you have shown in these various industries has given very great encouragement to all concerned and we look forward, Sir, to another visit from you this year, and we trust, Sir, you will continue to show your interest and assist us.

I note, Sir, with pleasure the recommendation of the Expenditure Advisory Committee with reference to the dividing up of the country into four provinces. I have long advocated that the best way of administering the Coast is that the officer in charge be given further powers. You may call him what you like—Lieutenant Governor, Senior Commissioner, District Commissioner or Seneschal. It is all the same what his name is, if he has the various Departments put under him, such as Public Works, Survey, Agricultural and some others. Let that officer be responsible entirely to you, Sir. That would be a very great advantage to us all. Sir. If necessary, I have thought, too, it might be advisable to give him a small advisory council. We have that in the Advisory Agricultural Committee now, but I think a committee composed of one or two settlers might be an advantage.

I am looking forward, Sir, to reports from the various district commissioners, as promised by the Chief Native Commissioner last year, with regard to the further protection of agricultural products throughout the country, especially, Sir,

rice in the Coast area. It may be of interest to know that the consumption of rice in Britain is about 70,000 tons per annum, valued at over £1,000,000 sterling. Of this, however, Empire-grown rice is from 15,000 to 20,000 tons only, and though Burma is the largest exporting country in the world, the supply is chiefly obtained from American and Spanish sources. There is a preferential rate in favour of Empire-produced rice of £9/6/8 per ton and the price at the time I got these figures, was about £13 to the distributor, this leaves a very good margin for Empire-grown rice to compete against imported rice.

Last year we heard a pathetic story about a babe who was born with fairy godmothers but whom the two devils killed. Another babe was, however, born, Sir, with an official godfather. For a long time, owing to the secrecy observed as to the activities of this babe, I feared it was stillborn, but a short time ago we heard a wail from this babe—it was a very infantile one I acknowledge. It was with reference to a report, a very able report put up by the Coast Advisory Committee with reference to either the reduction or the doing away with ferrying fees in the Coast area. One member of that Committee stated that he was unable to support such a resolution as it meant subsidising Coast agriculture at the expense of the Colony and that it would affect land and property values in Mombasa and the Coast. I am sorry but I am afraid I cannot follow that argument. The Board put up two very good arguments, Sir. There is one little paragraph here which might interest you in which it is stated that the packet system is carried to extreme lengths. A poor native bringing down chickens to Mombasa for sale must pay 30 cents for each chicken, plus 6 cents for himself and 6 cents for return; and if he buys something in Mombasa to carry home, he must pay on that as well. There is no question that that is a hardship which they have to put up with. The recommendation of the Coast Advisory Committee was forwarded, Sir, but I am unaware that any further action has been taken on it.

The Coast relies entirely on what it produces from the soil and the sea. It boasts of no large towns except Mombasa, which is known to a large majority of the people of this country, I am afraid by name only, as they fail to make use of the attractions which it contains. It has the sea on three sides of it, magnificent bathing beaches and two swimming pools unequalled in the world. It is the seat of Government and the home of merchant princes—and princesses—who rely entirely on the production of the whole country (laughter)—the princes I mean, not the princesses.

The other towns, Sir—Malindi, Lamu and Vanga—have all gone down in the world, owing chiefly to the suppression of the slave trade, but I hope, with good administration, that the revival of these towns may shortly take place and I hope, with some assistance from Government—not financial—and the Railway—not with a branch line—that we may find considerable development taking place in the Malindi area.

His EXCELLENCY: I propose to adjourn now, but for a very short adjournment only if we are going to try and get through our business as early as possible.

On resuming:

THE HON. T. J. O'SHEA: Your Excellency, I should like to refer very briefly to three important matters mentioned in the Report of the Select Committee. The first, Sir, is that in which the Committee urges upon Government the advisability of reaching finality in the near future regarding the terms of the Civil Service. In referring to that matter, I should like to support the statement of the hon. Member for Nairobi South when he said that it was finally in the interests, not only of the country but of the Service itself, that finality should be reached in the near future. We have been dealing with it over a period of ten years. It was hoped that when some two years ago Government recognized the necessity of economizing, that that necessity would lead to finality being reached; and I think that the Select Committee has been very considerate for Government's feelings in merely noting it in the Report, as it does appear that delay is still taking place in arriving at definite conclusions.

Your Excellency, I do not wish to spoil the effect of my appeal by referring at any length to the delays that have taken place in the last two years, but I think I would be doing less than my duty if I did not point out that already considerable sums of money have been lost in these difficult times by Government's failure to deal once and for all with the problem. I am prepared to take as definitely sincere the undertaking given by the Colonial Secretary on behalf of Government that every possible effort will be made to deal with this problem once and for all in the near future and I sincerely hope that in the Estimates for 1934 we shall see them based on terms of service that have been agreed upon.

Before departing from this subject, Sir, may I take advantage of the opportunity to point out that even when the transfer was being advocated so vigorously, Members on this side did not press for any revision of the terms that

would inflict hardship on the Service or do the Service an injustice. On the contrary we have always advocated that it was as much a necessity to ourselves as to the Service itself to see that the terms eventually agreed upon would ensure a high standard of personnel and a loyal and contented Service. As evidence of our sincerity in that respect, I think I should point out that we have never called for such changes as would leave the Service in a state of discontent, which at present prevails in most other countries. Only last mail there came to this country the issue of a widely read English journal in which there is a report of a mass meeting of servants of the Imperial Government protesting against reductions that have been made in their remuneration in recent years. A few days ago we read in the local press of a strike in the Civil Service of another country not very far removed from Great Britain. Only a few days ago we read that in the United States of America it had been necessary for the Government of that country to make most drastic reductions in the remuneration of their Civil Service. I am merely mentioning these matters so as to bring home to the majority of the Civil Servants who have resented our activities in this matter that at no time have such demands been made upon them that they could regard them as unfair, and lastly to give them my assurance—and I feel that in doing so I am speaking for every Member on this side, elected and otherwise—that we do not want the problem to be settled in such a manner as would leave any genuine discontent. On the contrary, we have endeavoured to proceed right through, and shall continue to do so, on the basis of co-operating with Government in the finding of terms that were suited to the conditions of the country, that were within the capacity of the country to pay for and that were nevertheless generous remuneration for the services rendered.

The second matter that I regard of importance on which I should like to say a few words is that of local government policy. On page 12 of the Report there is a recommendation that Government should carry out a proposal of the Expenditure Advisory Committee that as an experiment the maintenance of the main roads running through the Nakuru district be handed over to the Nakuru District Council. The object of that recommendation, Sir, was to endeavour to find a conclusion to the lengthy deliberations that have taken place regarding the ability of these local government institutions to carry out an extension of road-making activities. This controversy, again, was at times rather bitter: on the one hand the advocates of the local government bodies very

emphatically maintaining that they were competent, not only competent to carry out this work, but they could do so at a greatly decreased cost to the community; on the other hand we had the advocates of the Public Works Department just as emphatically maintaining that that Department was the more competent body and the more economical body. It was eventually concluded that the only way of settling this issue was to have an experiment. This experiment has been recommended and I was astonished to find in the course of the proceedings of the Select Committee that Government had not definitely made up its mind to carry out that experiment. Now, Your Excellency, I feel sure the country would have regarded it as a breach of faith on Government's part not to carry out that experiment. It is the only way in which the issue can be settled, and from another point of view I think it is highly desirable that that experiment should be carried out and given a fair trial because we have set up these institutions as part and parcel of a policy of decentralizing Government and of developing the sense of responsibility in our people. It was the considered policy of Government two or three years ago to decentralize Government activities in so far as it was possible to do so and, in pursuit of that policy of developing on the part of the people the sense of responsibility, it was realized if that was not done it would not be possible to criticize the central departments that were spending that money and the people, still being without any further responsibility, would find that the criticism of Government would be unreasonable and it would still be in the power of the people to make demands that were unreasonable because they had not carried the responsibility. Now, Sir, in the course of the last three years I think it has been clearly shown that the policy of decentralization and the policy of throwing responsibility on to the shoulders of the people themselves was justified. I challenge Government to deny that the majority of these local government institutions have been an overwhelming success, and the remainder have been a partial success; I do not know of one of them that has been a failure. In the process of their development we have found that with the setting up of them, in addition to the maintenance of the Public Works Department on its own lines, the economies we anticipated have not entirely been effected; that in fact we have two sets of institutions covering the same work. The choice, therefore, is whether we shall continue to develop these institutions and gradually pass over to them greater responsibilities or do away with them and revert to the old policy. You certainly cannot continue the two as at present and I would urge upon Government that they cannot

possibly contemplate the destruction of these institutions—therefore they must encourage their development. I sincerely hope that in the course of the next year we shall get a clear statement of policy on that issue from Government, and it would be a wise one to decide to promote and develop these local government institutions.

Lastly, Sir, I would refer to the paragraph in the Report in which Government is reminded that mining developments in the Kavirondo district may necessitate further expenditure on roads and other services. I draw attention to that, Sir, for the purpose of giving me an opportunity of again emphasizing my very strong opinion that the immediate future of this country depends upon the development of that industry: As I see the situation, we cannot possibly be got out of our difficulties by agriculture in the course of the next three or four years. It will take at least that period for the agricultural industry to recover itself even if in the near future we have a bettering of conditions throughout the world. The process of attrition that has gone on for the last two or three years has left even the strongest in that industry on the verge of bankruptcy and even though a settlement of European and world-wide questions may in the near future improve the price level of agricultural commodities, the burden of debt that is now being carried by the agricultural community is such that they cannot possibly get square in the course of the next two or three years. Therefore if we are to maintain the services of Government that we have built up in our period of prosperity, even on the reduced level for which we have provided this year and which we contemplate providing next year, it will be necessary for Government to do everything possible to encourage the development of the mining industry. Realizing that this cannot be done without expenditure, I was one of those who was prepared to agree to the measure of taxation with which we dealt this morning, though I am very pleased indeed that Government has been able to see the future sufficiently clearly to find the money necessary without resorting to this extra taxation, but, Sir, I think it only fair to say that, having subscribed to the paragraph in the Report of the Committee pointing out to Government that further expenditure will be necessary, I am accepting responsibility for meeting Government in a fair and square spirit on the question of finding funds for the development of our resources. So as to make my position quite clear, I am not pledging myself to support the Government in any special measure of taxation for the purpose but I am giving an undertaking that, having subscribed to that paragraph, I recognize that I have got to meet Government in a liberal spirit.

THE HON. F. A. BRISTON: Your Excellency, my experiences of this Colony have been rather unique. Once I fell out of the Uganda train, and sundry other things happened to me. But, Sir, the most unique experience that I have ever had was the wonderful spirit of co-operation now being expressed by Elected Members to Your Excellency's policy. It would appear, Sir, that at last the position always taken up by me as the twelfth jurymen has been accepted by my colleagues and we are now united in a fixed idea of bringing the finances of the Colony, the expenditure of the Colony, down to the necessary expenditure for a proper service, but, Sir, I am afraid that though we may agree completely on this side we have one very strong deterrent and that is in the office that actually and really controls the financial policy of this Colony, and that is the home Colonial Office. I have always looked on that organization as a body of gentlemen who have never known what they really wanted but who would not be satisfied until they got it. We have had evidence, definite evidence, during the Committee stage that Heads of Departments on this side could actually obtain the services of properly qualified assistants at lower rates than are being offered, yet the economy which would be effected by that reform has been handicapped by the orders of the Colonial Office as to the starting salaries of those officers. We also have had, Sir, sent us in the last year Commissions, which were unasked for by this Colony, which were very expensive ones, for which the colonists of this country have had to pay. Expensive reports have been issued: some have been read, but very few have been actually acted upon. In fact, on one the consensus of opinion has been fairly well expressed that, though it is good in principle and ideals, it is unworkable.

Again, Sir, we have a very strong deterrent against economy by the organization on this side. I want it distinctly understood that any remarks I make are not against persons but against the policies and principles followed.

I referred a moment ago to the question of the starting salaries of officers appointed from overseas, and I have been told that unless these higher salaries are offered it affects the type of man who is recruited. Yet, Sir, I put up a proposition to the Expenditure Advisory Committee which would have had the effect of raising the status of the district commissioners right through the Colony—the practical abolition of provincial commissioners and substituting for them administrators general, who would travel round the country—and I was definitely told by prominent members of the Government that the type of district commissioner here was not quite fit

for the extra responsibility. Now, Sir, that is a distinct contradiction. If you had the best type of man, then the best type of man should take the responsibility. The system that I proposed would have caused very large economies, would have reduced central costs to a very large extent and, I am convinced, would have tended towards efficiency.

To examine a few of the details of the Expenditure Advisory Committee's Report, Sir: I notice that they advocate the reorganization of the Town Planning Department. I have never subscribed so heartily to a recommendation of any committee that has ever been appointed as I do to that one. The hon. Member for Plateau South has referred to local government and, if ever a constituency has suffered from the fads and fancies of town planning through the local government committee, that one is Mombasa. I have mentioned it before in this House, Sir, that ideals which might apply to a large plateau or a plain, where unlimited land is available for development and ample space for roads—the proposition might be reasonable there, but in a little island of 3,566 acres we have been forced to provide 100 ft. roads in areas that I would say in five hundred years will not carry 25 ft. traffic. This is all reflected on the taxpayers and it is a policy which I hope will never be inflicted on any other locality in the Colony.

THE HON. THE ACTING COMMISSIONER FOR LOCAL GOVERNMENT, LANDS AND SETTLEMENT: On a point of order, Sir, may I call the hon. Member's attention to the fact that the facts which he now brings to the notice of the House are facts which resulted from the passing of the Act in 1926, before the Mombasa Municipality was created.

THE HON. P. A. BENNETT: Verily, we have suffered to-day, Sir. You see, Sir, it doesn't matter really when you cut a man's throat if the effect is the same after the funeral has taken place.

Now, Sir, my hon. friend the Member for the Coast, referred to the enormous development in agriculture during the last two years, and I support him most heartily in that, but I would like to dissociate myself from his suggestion—I do not think he meant the suggestion—regarding the officer attached to the post. It is the policy that matters and it is up to the Head of the Department to appoint the proper man; it is the policy we approve and back. Let us examine a small item which has caused a very substantial industry at the Coast a most serious and sad set-back. Some time ago it was found in Kampala that the celebrated sugar cane called "The Wonder-

of Java" could be grown in this Colony. Now, all the facts I am telling you now can be seen on the files of the Agricultural Department. The head of the estate went to Kampala and examined the cane with the mycologist there and found that it was ideal for the Coast. I will tell you—to show you the value of this cane, Sir—that in Java the first year it was planted it increased the production by 750,000 tons of sugar. Obviously, a man who was developing his estate would like to get the very best product out of his land, so he sent his manager, his superintendent, with a letter to the Agricultural Department in Nairobi saying would the Agricultural Department give him a permit to go to Uganda and bring through these plants to plant at the Coast. He was met with a direct and definite refusal until the plants had been brought to the mycologist at the Scott Laboratory, planted there, and then, if the cuttings there planted proved to be without disease, they could be grown in Kenya. The gentleman concerned—Major Turpin—was very annoyed about this because he had never received such treatment and after a lot of correspondence he wrote a letter to the Agricultural Department saying: "Will you give me a letter definitely stating that you refuse to accept the Kampala mycologist's report that this cane is suitable and without disease?" In the end he received a permit to bring this cane through, and then it was found that the whole of the cane had been lauded over to Rajji Kalidas and he had to wait another nine months before the cane was grown. What was the result? For a whole season the production of that cane, that wonderful cane, was lost to the Coast, and my conclusion is, Sir, that agriculture at the Coast, the advance of agriculture at the Coast is not by reason of the Agricultural Department but in spite of it. They have got their cane now and they are growing it, but it is in spite of the Agricultural Department.

In the Report of the Select Committee on Forestry there is a most interesting sentence: "In order to ensure that that trade was properly fostered it was necessary that the staff of the Department should be adequate to carry out a thorough plan for the enumeration of the Colony's forests".

You will note next that the Elected Members were unable to accept that view. Well, Sir, I actually was staggered. I do not know for how long we have had a Forestry Department, but it certainly was not brought into being within the last few months. But for a Forestry Department, with I do not know how many forest guards, and this, that and the other, to admit that in 1933 they have not got an enumeration of their assets! Now, Sir, is that due to policy or is it due to personality? It is due certainly to inefficiency. There is

no question of that at all and I do, Sir, protest that such a thing can remain. Either let it out to contract or let the police go and count the number of trees, or something—but at least let us know where we stand and if there are forests or if there are not.

One item that I overlooked was that one or two Departments calculated that they were production Departments and responsible for the production in the Colony, and one seemed to suggest—I am not saying that I heard correctly—that if we did not allow him a certain clerk whose duties covered three pages of foolscap, the production of the country would go down. Well, Sir, such things as that I cannot believe. What I would like to emphasize is this: that unless Heads of Departments will join in and accept the policy to-day unanimously agreed to, believing in their mission—that is, the benefit of Kenya and not the benefit of their posts—believing that with the help of the people of the Colony—and in that I include all races—believing that assistance given should be given in the right spirit, and seeing that the country's resources are properly used—until they join in in what can be termed real co-operation, there is no possible chance for the expenditure of the country to be balanced by its products. But should they join us as we have asked them to, as we have encouraged them to, then, Sir, this country will come out of its difficulties in the shortest time imaginable and there will never be a turn back from that day of prosperity which we all look for in the very near future.

LT.-COL. THE HON. C. G. DURHAM: Your Excellency, I shall probably be accused of starting a hardy annual again by confining my remarks to the Military vote. The reason I do this, Sir, is quite definitely because eighteen months ago we asked Government to have a committee appointed to inquire into the possibilities of combining the forces of the King's African Rifles and the Police with a view to saving the country a lot of money. Sir, I still hold that view. I shall not press the combination of the services because I still look to Government to forward our request to the Home Government. There is no doubt they did so, but as far as I can make out we did not even get from the War Office the proverbial soldier's farewell when we put up our request.

Sir, I took it as a very good omen when I came into the Council at 10 this morning that Your Excellency was announced by the son of a settler who is now acting as your Aide-de-Camp. Our thanks are due to you, Sir, for the recognition that we have claimed for so many years.

To come down to the cost of the military expenditure—I refer to the King's African Rifles—again I stress the fact that we have no need to pay for an Inspector General the sum of £1,200 a year. We to-day, Sir, are told that we have got a Brigade and a Brigadier, Sir. True, the Brigade consists of 1,161 men. Quite definitely merely a battalion at war strength, but I do definitely say, Sir, that the Brigadier should be capable of inspecting those troops under his command without the assistance of an Inspector General who comes round on a six months' holiday twice a year with full pay all the time.

Now, Sir, we are told to-day we have got three battalions, and if you work this out, the total number of each battalion simply amounts to 387 men. Each battalion has its own Commanding Officer, plus an Adjutant who receives £75 per annum duty pay to act as Quartermaster. In addition to that you have got the Brigade Headquarters staff, with a Brigadier at £1,350 a year, with a Paymaster at £840, with a Quartermaster at £840, and with a staff of non-Europeans, including seven clerks at £288 per annum each, and one receiving the wonderful remuneration of £438 per annum. I am quoting these out of my head—I think I am right.

Now, Sir, I want to get down to the basis of the cost of this force, and to my mind there is only one way of getting at it and that is what does it cost you to maintain one fighting man in the field? Sir, that is the only rough and ready method you can get to work it out at and that you can adopt. It is the only feasible one, as far as I can see, to get down to what it costs you to keep one fighting man in the field. To-day the cost of the King's African Rifles is no less a sum than £118 per man. Now, Sir, in 1923 we had a few more men—1,761 I think we had: two battalions—and in those days we looked after Jubaland, which is quite a good way from here, and similar areas. I say this because the hon. and gallant Officer Commanding the Northern Brigade will tell me that he is looking after Uganda. In 1923, Sir—I want you to hear this in mind—he will probably tell us arms and ammunition and equipment cost him so much, that we were living on old uniforms that we had before the war—that is not the case—actually the figures are almost similar, so that does not apply—but in spite of the fact—and this is another figure which is rather illuminating—in 1923 rations cost us £23,000 (no less), which was equivalent to £16 per head; to-day the figure is only £8 per head per annum, and yet the cost of the Military

in the days only amounted to £102 per head as against £118 to-day, Sir. Sir, I put it that it is high time a committee was appointed to go into this whole matter because that is a cost the country cannot bear. We shall be told, Sir, that the cost to the country to-day on the Military vote is a saving of some £50,000 to £60,000 per annum on what it cost years ago. Quite true, Sir, but to-day you have got mechanical transport; you have got roads throughout the whole country; you can shift your troops in twenty-four hours where it took two months in 1923. That is one of the great points to be borne in mind. The Officer Commanding the Northern Brigade will probably tell us that he has got to work with so many less men. I maintain that your only basis is what does it cost you to keep one man in the field, and to-day to my mind it is a great deal too high. One of the reasons for this, Sir, as I have pointed out, is your rations and your transport. True, you can with your present transport move your men very much more quickly but there is no reason why it should be so expensive. I believe, Sir, that if you allowed the Military unit to-day to have its own first line transport intact so that it could move anywhere it was wanted at a minute's notice and then contracted for the rest of the transport with the civil side to deliver your goods where they were required you would save a lot of money on the transport alone.

Sir, we shall be told that we have forgotten that Uganda is refunding £52,000, and therefore it is not the cost to Kenya that you see in the Budget. True, Uganda does refund £52,000 but the Officer Commanding the Northern Brigade cannot have jam on both sides. If the Uganda contribution amounts to £52,000, he must give credit to Uganda for the number of men he has taken from them to show the cost to Kenya of the number of men here, because if you deduct one-third of the amount of the cost you have also got to deduct one-third of the number of the troops, which brings you to exactly the same position afterwards, which is £118 per man.

I come now to the Reserve. Sir, I admit that it is essential and that the King's African Rifles should have a Reserve of Officers, but there again you have got the same peculiar thing. To-day it costs you £9 per head to train your Reserve. It takes one month to train them. In 1923 it only cost you about £4/15/0—again a matter for a Committee.

Now, Sir, it has been said that you cannot contemplate raising your officers as permanent officers of the King's African Rifles in this country because the officers who come out here must be kept absolutely up to date. Now, Sir, to a large extent, I hold with that in so far as it affects the headquarter staff. I should like to quote, Sir, as far back as the Boer War. A certain regiment was raised. It started recruiting, and at the end of one month only they took the field; within a week afterwards they fought their first fight, alongside crackjack Imperial troops. They won their first fight, and in doing so got two Victoria Crosses. They were trained by three Imperial officers—an Officer Commanding, an Adjutant, and a Regimental Sergeant Major. The others were local. Those officers put into the field within a month 635 men, and that was the record of their first fight. Your Excellency, you were there and saw it, and can therefore bear me out.

Now, Sir, in this country you have got the sons of those men who to my mind are absolutely capable of taking commissions in the King's African Rifles. I would point out that that regiment raised in South Africa had only those Imperial officers—the Officer Commanding, the Adjutant and the Regimental Sergeant Major. They would train anything you like fit to take their place anywhere in the world. I only refer you to this war, Sir, to the record gained by the King's African Rifles, mostly officered by settlers in this country here to-day—who have sons growing up—and by colonists from here and other places. Did they ever fail? Did those officers ever fail? Did any of the officers trained in their own dominions, when they brought over those hundreds of thousands of troops into the European area and other areas of the war, who commanded their own men, who trained their own men—did they ever fail you? I doubt if you could point out any failures ever, Sir. The whole trouble is this: Spit and polish count for an awful lot, I will admit, but, Sir, that is more than compensated for by the fact that, if you have officers raised in this country to command your forces or in subordinate command, they have got the experience of the country; they have got the experience of the natives, and they know just as much as it would take the officer imported from home to learn in five years, after which he has to go back again to his regiment.

Finally, Sir, on the question of saving, I can show savings now of not less than £7,000 per annum on officers alone. I put it to you that local young men would be only too delighted to serve for £500 a year as captains, and you would have your subalterns at £360 as against £500. I put it to Government that it is a definite necessity for a committee to be appointed to go into the whole matter of the Colonial forces.

THE REV. CANON THE HON. G. BURNS : Your Excellency, there is just one section of the Report of the Select Committee on the Estimates which I would direct the attention of the House to, and that is paragraph 5, where it reads—

"In the view of the Elected Members the amount by which half the average of native hut and poll tax for the years 1926-1931 exceeds the estimated expenditure on native services in the Agricultural, Education, Medical and Public Works Departments in 1933 should be devoted to reducing the estimated deficit on the year's working and not earmarked for payment into the Native Betterment Fund if that fund is created."

All I want to say, Your Excellency, with regard to that is that I would like to have an assurance that that is not going to form a precedent for the disposal of such savings in the future if and when the Native Betterment Fund is established; that when that comes to pass, if it does come to pass, that Lord Moyne's Report is accepted, the recommendation in that Report, be carried out and such savings be put into a Betterment Savings Account.

One other matter that I would very briefly remark upon, one which has already been mentioned by previous hon. speakers, is the recommendation of the Expenditure Advisory Committee with regard to the reorganization of the Native Reserves and the units, the Provincial and District units, in the Native Reserves; of course, in the settled areas also, but I am now speaking about such reorganization in the Native Reserves. It is possible, Your Excellency, to take the cog-wheels out of a machine and so leave that machine entirely ineffectual for the work for which it has been brought into being. I look upon—if I may be permitted to say so—the District Officers working in the Native Reserves as the cog-wheels of that machine that the Expenditure Advisory Committee has been at such great pains to try and find how best to maintain. If, Sir, those cog-wheels are removed from the proximity of the machine, I look upon that as removing the cog-wheels from the machine. It is not, I am sure, the desire of any hon. Member on this side of the House that such reorganization should cause the native any real hardship, but if certain stations are closed down in the Reserves it will mean that some of the natives in that district, if they wish to go before the district officer—those who are responsible for the administration of that district—will have to walk a distance of one hundred miles. I do not think there is any need for me to say more than that such reorganization will mean hardship and very real hardship to the natives in the Reserves, and I would appeal to Government, when they are considering in

detail this Report, to give this matter full consideration, and that the stations that are necessary for the administration of native affairs in the districts in the Native Reserves should not be so reduced as to make it impossible for the natives to get to the officers on service. I do appeal very strongly indeed for that point of view—that reductions in expenditure will not mean that. After all, the natives have a right to expect from Government—and I am sure the Government accepts that—that the Government shall arrange so that it is possible for them to get into touch with the officers administering their various Reserves.

LT.-COL. THE HON. J. G. KIRKWOOD : Your Excellency, I realize, speaking this morning, that a great deal of work has been done, not only during this year but during last year. I have in mind the Expenditure Advisory Committee which sat I think several months and had something like over one hundred meetings, and which covered practically every item in the Budget. It has in consequence shortened this Budget session this year. But arising out of that Report, the difficulty to my mind is that Government has not yet been able to see its way to implementing the Report as a whole. Elected Members for the purpose of the Select Committee backed the Report of the Expenditure Advisory Committee, but we find in Select Committee that Government for reasons—no doubt substantial ones, so far as Government is concerned, as I understand the word "Government"—is not able to implement that Report to-day. But it would be interesting to know, not now but in the near future, how far Government is going to go.

I realize, when I talk about Government, the peculiar form of government we have in this Colony. We have the elected and nominated unofficial Members on this side; we have the officials on the other side, and it is rather a peculiar position for a Council, but it does make the officials, who are servants in any case—in self-governing colonies they are called "public servants"; here they are called Government officials—and it puts them in a very onerous position indeed in my opinion. As Government servants they must support the Government with their votes; their decision is the majority of the Government with their votes. We have, also, Your Excellency administering the Colony as King's representative in Kenya. I do not think I am wrong in saying, Your Excellency, that you again have the Secretary of State over your head. He again has the Cabinet behind him, and behind the Cabinet again is the Government. The question is what Government? Is it a Liberal Government, a Coalition Government or a Labour Government? If it is one or the other, how long is it going

to be such? That is the position we find ourselves in, a most unsatisfactory position for everybody, including Your Excellency. But it does presuppose that the man on the spot, not only the man on the spot, but the men on the spot are not trusted; they are not given executive authority, with the result that probably ninety-nine per cent of the deliberations made in this Council have first got to be sent home for approval. And this is the question—how long is it going to last? Personally, I give it twelve months at the outside, and if it is not altered by then—a prophet has no value in his own country and I am not going to issue a prophecy, but I have very definite ideas in my own mind as to what will happen.

The hon. Member for Kikuyu has given a lot of detail on the King's African Rifles. I do not propose to go into those details but I do submit that it seems to me that this very large contribution out of general revenue can only be described as Kenya's contribution to Imperial defence, and why Kenya should be called upon to contribute to Imperial defence I do not know. If the Imperial authorities will insist on keeping the King's African Rifles here in the Northern Frontier and elsewhere, then I maintain it is their job to foot the bill. We have no control over them, none whatever. We cannot refuse their Budget. We cannot even get the pay of the officers of the King's African Rifles put on a reasonable basis, and that, I consider should be a contribution of the Imperial authorities towards this Colony and I do not think that is an unfair amount to ask. Again, as I have pointed out, some years ago I think something in the region of £20,000 was received in compensation for raiding, when damage was done to the subjects of Kenya by the Abyssinian Government. That amount was handed over to the native councils. Why, I do not know; it should have gone back into general revenue. It also has its implication on the Betterment Fund which I will speak on later. The King's African Rifles on the Northern Frontier have a road from Kitale to Lake Rudolf, 282 miles, going right through Turkana and the native reserves, except for thirty miles to get there. That does not come out of the Betterment Fund, which only shows how absurd the Native Betterment Fund becomes. The road is claimed to be a strategic road; it is an all-weather road; it is the only road through those reserves; it is the only road the natives in those reserves have to get their stock out; it is the only road they have to get to Kapenguria, which is the Government administrative headquarters for those two areas, and generally it is a road purely and simply through native reserves. I only mention that in connexion with the King's African Rifles to show how

difficult it is to visualise the Native Betterment Fund. It is also admitted by Government that they find it most difficult in practice to implement what was started in theory by Lord Moyne.

On general lines, Sir, I should also like to emphasize the financial position, not of the Colony as a Colony, but of the individuals concerned in that Colony. The commercial people I know have had their turnover restricted somewhere between 50 and 70 per cent, which means that in ninety odd cases out of a hundred there is no profit and they are working on a deficit. It also must mean that they have been very hard hit during these last two years and more, and they are more or less keeping going in the hope that prosperity will return. Personally, I have no doubt that Kenya will get over its troubles. Difficulties to my mind are only made to be overcome, and given the will of Government and the settler community and the commercial community, we will get over these difficulties, and probably much sooner than most of the self-governing colonies in the Empire.

But I do not look upon that deficit as it stands to-day as an insurmountable one. I should say, given another twelve or eighteen months we will wipe out that deficit and we will start and show a profit, but it is a question whether Government will implement the recommendations of the Colonial Service Committee to start off with, which had a majority of officials on it. Some of the language used in that Report is very strong. It is a unanimous report, except for a slight reservation by the hon. the Chief Native Commissioner. But the whole of that Report, Sir, has not been implemented, and that, I think, is what has exercised the minds of members on this side of the House—that having set up a majority of officials on that Committee, having investigated all the problems and terms of service, having made a report. We find that report has not been accepted.

I am not suggesting, Sir, for one moment that you are the cause of that non-acceptance of the whole of the recommendations. I know the difficulties—the difficulties are over-seen, and that brings one back to the point that it is possible to legislate and administer the Colony with the assistance of the air mail. I do hope, Sir, that in the future the co-operation, or anyhow the goodwill which has existed between the Elected Members and the officials will not only continue but will possibly increase. I candidly confess that I have sat on Committee was one of the least pleasant that I have sat on, if one can call such committee work a pleasant duty. We look upon it as a duty and we often do it. It is often I think misunderstood on both sides of the House when we criticize

one another. That is probably taken by people outside this Council that the Elected Members are criticizing the officials, but the constitution which was forced upon us was accepted because we have no other, and that brings about that criticism which either side thinks necessary, but I am thankful to say that any criticism that is passed in this House is forgotten to a great extent when we get to the door.

In view of my opening remarks as to the wonderful amount of work which has been done by this Select Committee and that everything that the Elected Members have decided upon—their opinions, their recommendations, their agreements with Government, their disagreements with Government—is contained in the Report of the Select Committee on the Budget, I do not propose to take any longer this morning.

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

THE HON. THE COLONIAL SECRETARY: Your Excellency, in accordance with the usual tradition in debating the motion for the approval of the Estimates, that the debate should range over a large field, I presume from the sense of the debate this morning that it may be said to have fulfilled that function. Many of the remarks which we have heard have been of a wide and comprehensive nature, but fortunately so far as I am concerned, as the mover of the motion, they leave me with very little indeed to reply to. I do not, therefore, wish to take up the time of the House unnecessarily, but there were just one or two specific points, and as in reply I am going to keep to the terms of the motion perhaps I should say a few words on them.

The first point was made by the hon. Member for Nairobi South with reference to the recommendation of the European Elected Members on the question of the levy. On that point, Sir, I would only like to say this: first, to make it quite clear—I know quite well that he knows the facts—but I want to make quite sure that the facts are made clear. It is not true to say that the levy is only a 5 per cent or a 6 per cent levy as the case may be. The original levy was a 5 per cent and 7½ per cent levy on salaries over £1,000; the present levy is 6 per cent and 10 per cent. I only just want to mention that so that the facts should be thoroughly understood. As regards the question of any addition to that levy at the moment, I can only inform hon. Members that so far as the Government is concerned, they are not aware that there has been any change in the present situation which would lead

the Government to alter the decision which was communicated by Your Excellency in your communication from the Chair in, I think, December last.

The hon. Member for Plateau South referred to three specific points. One was the question in which he urged that some finality should be obtained on matters of terms of service, and he drew attention to the delay which had taken place in implementing them, more particularly in the case of the local terms of service. I have already stated to the Select Committee—and it is recorded in the Report—that it is the intention of the Government to obtain finality on these local terms of service as rapidly as possible. I would, however, suggest that if there has been delay, it has been due to the desire to avoid any injustice to the Government servants concerned. In saying that, in terms of the remarks made by the hon. Member—who, I am sorry to see, is not in the House—I feel sure that he would associate himself with the Government in that attitude as he drew attention to the desirability of our retaining here a loyal and contented Service. I need hardly say that the Government fully endorses that view. I would, however, like just to call out this word "warning", and suggest to him that it is not quite true to say that there is no discontent in the Service at the moment over the question of terms of service and the terms on which members of the Service should be required to come in to any reduced terms. If there has been no more open expression of discontent in certain quarters than there has been it is largely due, I think, to the moderating and sensible action taken by those responsible in an executive position in the European Civil Servants' Association.

On the question of the local government policy referred to in paragraph 104 of the Report, I would only repeat, as I informed Members in Committee, that the Government has not yet had an opportunity of coming to a final decision on that point. It is, however, fully realized, that a decision on that point must be taken at an early date because if the roads are to be handed over this year obviously the sooner they are handed over the better.

On the question of mining development, which was the third point raised by the hon. Member, I would remind him that it is not only in the matter of roads that we may possibly be faced with further expenditure; if the mineral resources of this Colony are to be developed as rapidly as one would wish. It may be that, if the development warrants such a course, further expenditure may be required both on the technical side and on the administrative side. I am glad, therefore, to have had his assurance that within the confines

of reasonable finance he will support the Government in any demands which may be made of a proper nature for necessary expenditure in developing these economic resources in the best possible manner.

The only other points, Sir, which, I think, call for much specific mention are a couple of points made by the hon. Member for Mombasa. He referred to interference on the part of the Colonial Office with regard to the terms and initial salaries of certain officers. I do not know whether he is referring to the Mining Department—perhaps he would inform me. If that is so, I am not aware that that matter ever came before the Select Committee.

THE HON. F. A. BEMISTEN: The Education and Medical, Sir—they are mentioned here.

THE HON. THE COLONIAL SECRETARY: In that connexion, Sir, I would only say this: that so far as the Medical Department is concerned, the whole question of the initial salaries of Medical Officers is likely to come under review, as explained in this Report, and that representations have been made to the Secretary of State on those lines. As regards the Education Department, the Director explained to the Committee that in most cases he was being able to bring his teachers on to the local terms of service and would in this way effect considerable economies. It is the case, however, that in certain cases where officers have to be recruited from home the question of their terms and initial salaries would have to fall under review in common with the salaries of other departments, if such a course is adopted.

Finally, Sir, he stated that he was staggered that after having a Forest Department in this Colony for ten years or whatever the time was, we have not got a sufficient number of foresters to go round and count the trees. I would like to say that I was almost as staggered by hearing any such suggestion because that apparently is the interpretation which he put on the phrase in the Report about the enumeration of our forests. I can only say that the expression "enumeration of forests" is what I may call shorthand for working plans of forests, and the necessity of proper working plans for the efficient exploitation of forest resources is an axiomatic and most fundamental matter of ordinary forest administration.

THE HON. F. A. BEMISTEN: I fully agree, Sir. Yes that is what I meant, certainly.

THE HON. THE COLONIAL SECRETARY: In that case, Sir, I will only add that I think the hon. Member must be under a misconception in supposing that foresters could carry out so skilled a work.

Finally, Sir, the hon. Member for Kikuyu spoke at considerable length on the question of military expenditure. On that matter I am a complete layman and speak with considerable reserve. I can only repeat what I again explained in Select Committee that in the opinion of the authorities at home the Northern Brigade is to be regarded from two aspects. It has local aspects quite apart from the aspect of the general Imperial defence of our Empire and that, particularly in the latter aspect, in their opinion its present organization and form is adequate and proper and should be maintained.

Finally, Sir, the hon. Member representing Native Interests asked me to give some assurance on the question of what was in the provisional Budget shown as Native Betterment Fund expenditure. I would only ask him to remember what I tried to make clear in my opening address that not all the savings which at the moment have been shown as going towards reducing the total deficit in the year's working have been separately earmarked and that the question of whether that money should be so utilized or should be set aside is going to be referred to the Secretary of State.

On the question of the closing of stations, Sir, I need hardly give my assurance that the Government and the Administration in coming to a decision will naturally take into consideration the requirements of the native population.

HIS EXCELLENCY: The question is—

"That the Report of the Select Committee appointed to examine the Estimates of Revenue and Expenditure for the year 1933 in the light of the Report of the Expenditure Advisory Committee be adopted and the consequential amendments to the Estimates of Revenue and Expenditure for the year 1933 as expressed in the schedules to the Report.

The question was put and carried.

BILL.

THE ADOPTION OF CHILDREN BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that this Council now resolve itself into a Committee of the whole Council to consider clause by clause a Bill to Make Provision for the Adoption of Infants.

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

The question was put and carried.

The Council went into Committee.

In Committee:

THE ADOPTION OF CHILDREN BILL.

The Bill was considered clause by clause.

Class 3.—Power to make adoption orders.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, in sub-clause (2) of clause 3, the third line, I beg to move that the word "adopter" be deleted and the word "adopter" substituted. That is a clerical error.

The question was put and carried.

Class 4.—Restrictions on making adoption orders.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I want to get an amendment to sub-clause (2), which unfortunately I have not had time to bring. It will be seen that clause 2 states specifically that no adoption order shall be made in any case where the sole applicant is a male and the infant is a female. In clause 13 there is special provision that it shall not apply to any case already existing of *de facto* adoption. It would therefore appear that the wording of clause 4 is mandatory. In order to make it quite clear, and not subject to argument in the courts, I propose that the following words should be added before the words in sub-clause (2): "Subject to the provisions of section 13". It is a purely formal amendment.

THE HON. THE ACTING ATTORNEY GENERAL: I agree to that, Your Excellency. I am much obliged to the hon. Member.

The question was put and carried.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I have an amendment to make in sub-clause (5) of clause 4, that the last three words "and so resident" be deleted. As it stands now, the sub-clause reads:—

"(5) An adoption order shall not be made in favour of any applicant who is not resident and domiciled in the Colony or resident."

It has been brought to my attention by the hon. Member for Nairobi South that conditions in England are not the same as here and that it is so because in England infants do not leave England to be educated, whereas here it is customary for infants to be absent from this Colony for long periods owing to leave and education. Therefore, in these circumstances, it seems only right and equitable that these last three words of sub-clause (5) should be deleted.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I should like to support that.

The question was put and carried.

Class 5.—Matters with respect to which Court to be satisfied.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, the word "who" in the second line should be "whom". I beg to move that amendment.

The question was put and carried.

Class 6.—Terms and conditions of order.

THE HON. THE ACTING ATTORNEY GENERAL: In the third line, Your Excellency, the word "adopted" should be deleted and the word "adopter" substituted therefor.

The question was put and carried.

Class 7.—Effect of adoption order.

THE HON. THE ACTING ATTORNEY GENERAL: In the penultimate line of clause 7, Sir, the same thing occurs. I move that the word "adopter" be substituted for the word "adopted".

The question was put and carried.

Class 11.—Appointment of guardian *ad litem* for purpose of applications under the Ordinance.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move as a proviso that the following be added at the end of clause 11:—

"Provided that the provisions of this section shall not apply to applications made under section 13 of this Ordinance."

The reason, Sir, for this is that this clause provides for the appointment of a guardian in the interests of an infant concerned in ordinary applications, which leads of course to considerable expense. Clause 13 only refers, Sir, to *de facto* adoptions, where an infant has in fact been actually adopted, and it is for that reason I think that expense on that sort of application should be avoided.

The question was put and carried.

Class 13.—Provisions as to existing *de facto* adoptions.

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, I do not wish to move an amendment, if it is not necessary, but I should like to ask whether it is quite definite that the word "custody" in this section does not mean physical custody but means the general right of custody.

THE HON. THE ACTING ATTORNEY GENERAL: In my view that is so.

Class 14.—Adopted Children Register.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, in the first line of this clause, after the word "Registrar" I beg to move that the word "General" be inserted. That will make it quite clear that by "Registrar" is meant "Registrar General".

The question was put and carried.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that a Bill to Make Provision for the Adoption of Infants be reported to Council with amendment.

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to inform Council that the Adoption of Children Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council with amendment.

THIRD READING.

THE ADOPTION OF CHILDREN BILL.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg to move that the Adoption of Children Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

TELEGRAM TO LORD FRANCIS SCOTT.

HIS EXCELLENCY: Before I adjourn Council, it occurred to me that—I understand from the paper that Lord Francis Scott is being operated on to-day and I thought perhaps I might have your permission on behalf of the whole Council to send a cable wishing him speedy recovery and showing him that we are thinking of him to-day. (Hear, hear.)

The Council adjourned sine die.



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

1933

SECOND SESSION

MONDAY, 26th JUNE, 1933

The Council assembled at 11 a.m. at the Memorial Hall, Nairobi, on Monday, 26th June, 1933, HIS EXCELLENCY THE ACTING GOVERNOR (MR. HENRY MONCK-MASON MOORE, C.M.G.), presiding.

His Excellency opened the Council with prayer.

The Proclamation summoning Council was read.

ADMINISTRATION OF THE OATH.

The Oath of Allegiance was administered to:—

Ex Officio Member:

SYDNEY HUBERT LA FONTAINE, Acting Chief Native Commissioner.

Indian Elected Members:

DHANWANT SINGH.

CHUNILAL MOTIBHAI PATEL.

COMMUNICATION FROM THE CHAIR.

HONOURABLE MEMBERS OF COUNCIL.

Since this Council last met the decision of the Secretary of State in respect of Income Tax has been received and his despatch on the subject has been published for general information. A further despatch has been received in which the Secretary of State draws attention to certain matters of detail in connexion with the working of the Alternative Revenue Proposals. For convenience of reference both despatches have been printed as a sessional paper and are

being laid on the Table by the Honourable the Acting Colonial Secretary this morning. In accordance with the instructions of the Secretary of State action is already being taken to prepare and introduce the necessary Ordinances, but in view of the observations of the Secretary of State in his despatch on the Alternative Revenue Proposals, some of which will have their repercussions on, or will involve co-operation with the neighbouring territories of Uganda and Tanganyika, it is clear that the drafting of the Ordinances will in certain cases require considerable care, while the administrative machinery necessary effectually to administer them will have to be examined in more detail than was possible by the Alternative Revenue Proposals Committee in the time at their disposal. It is therefore the intention of Government to proceed as rapidly as possible with this preparatory work and then to publish the Ordinances for general information prior to their introduction at the next meeting of Legislative Council. It is clearly desirable that the public should have ample opportunity of studying the Bills in their draft form and in order to provide for this it is the present intention of Government to hold the next meeting of Legislative Council on or about the 2nd August.

In these circumstances it is proposed to confine the business of Council to-day to a single sitting to consider two measures of a specially urgent nature. I trust that Members of Council will agree to the suspension of Standing Rules and Orders in order to enable this to be done. The first measure is a Bill to amend the Customs Tariff Ordinance, 1930. Honourable Members will observe that no reference to the Bill appears on the Order of the Day and a word of explanation is perhaps necessary to account for the procedure adopted. The object of this Bill is firstly to provide for the application of alternative specific and *ad valorem* duties on such articles as readily lend themselves to this form of taxation, thereby improving and stabilising to some extent the Customs revenue position, and secondly for the modification of certain items in the existing Tariff which experience of working and changing conditions have rendered necessary. In order to safeguard the revenue position it is necessary in accordance with accepted practice to carry this Bill through all its stages this morning without due notice by suspension of Standing Orders. The principle of the Bill has been agreed to by the two neighbouring Territories and in order to secure the maintenance of the Customs Union, identical legislation is being passed in all three Legislatures to-day. As the full case for the introduction of this legislation will be explained to you by the Honourable the Commissioner of Customs in moving the second reading of the Bill, I will confine my remarks to

the observation that it is hoped that in a full year additional Customs revenue to the value of £20,000 may accrue to Kenya. The opportunity is also being taken at the same time by Resolution of Council to approve a Proclamation to impose on ghee substitutes the suspended duties now imposed on ghee.

The second measure which will engage your attention this morning is a Bill to make provision for raising a loan of £300,000 sterling for certain public purposes. These purposes are specified in the Schedule to the Bill and the item of principal importance is the additional capital of £250,000 which it provides for the Land and Agricultural Bank. The need for adding to the capital of the Bank, particularly now that the present severe drought is adding so materially to the difficulties with which our farmers are faced, is so well known that it is not necessary for me to restate the case. I feel sure, however, that you will wish me to record the sympathy of this House with them at the present time, and also our satisfaction that the representations which His Excellency Sir Joseph Byrne made to the Secretary of State on the subject of the Land Bank have met with success, with the result that the capital of the Bank will stand at half-a-million pounds.

In conclusion I should like to take this opportunity of giving the House the latest available information as to our financial position. The latest figures available are for the first four months of the year ending the 30th April. The working results of these four months as compared with the same four months in 1932 reveal a very favourable comparison. In 1932 expenditure exceeded revenue during the period by £59,150. The comparable figure this year is £8,039. With the exception of the month of March our revenue each month has been well in excess of our expenditure. In March, expenditure exceeded revenue by some £23,000. This was caused by the half-yearly payment of interest and sinking fund on the Colony's 1921 loan which falls due for payment in March of each year. A loss on the actual working of the month of March is for this reason a normal occurrence. On the expenditure side the net result of the first four months' working excluding Public Debt is a reduction of some £22,000 on the actual expenditure of the corresponding period in 1932. The steady improvement in our financial position is best exemplified by the following result:—

For the twelve months ending December, 1932, our loss on working was ...	£109,500
For the twelve months ending April, 1933, our loss on working was... ..	£26,389

The revenue collections during those first four months of 1933 have been on the whole satisfactory. Actual Customs collections for the first three months, exclusive of excise duties, amounted to £147,585, and the approximate collections for April and May are estimated at £99,915. These results may be considered as not unsatisfactory. In this connexion it is interesting to note the marked improvement in the Colony's exports during the year. For the first four months of 1932 exports amounted to £674,973 in value and for the corresponding period of this year they amount to £986,640, an increase of over £300,000. This improvement should later be reflected at any rate to some extent in our import trade, and thus support our Customs revenue later in the year. Were it not for the present disastrous drought from which many areas in the Colony are suffering, there would have been little room for doubt that this healthy expansion in our exports would have been maintained. I am afraid, however, that the effects of the drought, particularly on the coffee crop, have been serious, and that its repercussions on our revenue will necessarily be felt, if not this year, in the early months of 1934. While, therefore, I think we have reason not to be dissatisfied with the working results of the first four months of the year, I should like to assure the House that in view of the uncertainties of the future arising from local climatic conditions which may have adverse effects on the yields that we can expect both from Customs duties and Native Hut and Poll Tax, and the impossibility of foretelling what may be the movement of world prices as a result of the World Economic Conference, the policy of stringent economy as reflected in the reduction of expenditure during the first four months will continue to be pursued by Government throughout the year.

— MINUTES.

The Minutes of the meeting of the 10th May, 1933, were confirmed.

PAPERS LAID ON THE TABLE.

The following papers were laid on the Table:—

By THE HON. THE ACTING COLONIAL SECRETARY (MR. A. DE V. WADDE):

Revised Estimates of the Revenue and Expenditure for the year 1933.

Sessional Paper No. 1 of 1933.

Kenya Police Annual Report, 1932.

Prisons Department Annual Report, 1932.

Judicial Department Annual Report, 1932.

Registrar General's Annual Report, 1932.

Public Works Department Annual Report, 1932.

By THE HON. THE ATTORNEY GENERAL (MR. A. D. A. MACGREGOR, K.C.):

Civil Procedure (Amendment No. 2) Rules, 1933.

By THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS (BRIG.-GEN. G. D. RHODES):

Railways and Harbours Supplementary Estimates, 1932.

By THE HON. T. D. H. BURCE (SOLICITOR GENERAL):

Report of Select Committee on the Partnerships Bill.

Report of Select Committee on the Limited Partnerships Bill.

NOTICE OF MOTIONS.

THE HON. THE GENERAL MANAGER, KENYA AND UGANDA RAILWAYS AND HARBOURS: Your Excellency, I beg to give notice that at a future session I shall move:—

"That the Supplementary Estimates of the Kenya and Uganda Railways and Harbours Administration for the year 1932 be approved."

ORAL ANSWERS TO QUESTIONS.

LT.-COL. THE HON. J. G. KIRKWOOD: May I ask Your Excellency when I may expect an answer to the two questions of which I gave notice at the last Council?

HIS EXCELLENCY: Could the hon. Member tell the House what those questions dealt with?

LT.-COL. THE HON. J. G. KIRKWOOD: One of them was with reference to the action proposed to be taken by Government in supporting the Imperial policy of restricting imports of Russian goods and the other was with reference to the modified form of the Fencing Bill.

HIS EXCELLENCY: With regard to the first question, we have now received information from the Secretary of State and the reply will be given to the hon. Member in writing at the close of this meeting.

SUSPENSION OF STANDING ORDERS.

THE HON. THE ATTORNEY GENERAL: With your leave, Sir, I beg to move that Standing Orders and Orders be suspended in order to enable a Bill to Amend the Customs Tariff Ordinance, 1930, and a Bill to Make Provision for the Raising of a Loan of £200,000 Sterling for Certain Public Purposes to be taken, in the form in which they are in Members' hands this morning, through all stages to-day, and subsequently, Sir,

contingent upon the passing of the Customs Tariff (Amendment) Bill and its assent, to enable a resolution approving of the terms of a proclamation to be made by Your Excellency imposing on ghee substitutes the suspended duty at present in force on ghee to be moved.

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

HIS EXCELLENCY: The question is that Standing Rules and Orders be suspended for the purpose of taking the two Bills mentioned by the Attorney General, in the form in which they are in Members' hands, through all their stages to-day, and subsequently, to enable a resolution approving of the terms of a proclamation to be made by me imposing on ghee substitutes the suspended duty at present in force on ghee to be moved.

THE HON. T. J. O'SHEA: Your Excellency, as the expression "in the form in which they are now in Members' hands" is a new one to me, may I ask whether it has any particular significance; whether it means for instance that the form cannot be amended?

HIS EXCELLENCY: The only significance is that the Bills are now before Council and that the Bills, as they are presented, should be considered and passed through all their stages this morning.

The question is that Standing Rules and Orders be suspended.

The question was put and carried.

BILL.

FIRST READING.

THE CUSTOMS TARIFF (AMENDMENT) BILL.

On motion of the hon. the Commissioner of Customs (Mr. G. Walele) the Customs Tariff (Amendment) Bill was read a first time.

SECOND READING.

THE CUSTOMS TARIFF (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, Standing Rules and Orders having been suspended, I beg to move the second reading of a Bill to Amend the Customs Tariff Ordinance, 1930.

As Your Excellency has already stated, this Bill is the outcome of an agreement reached between the Governments of Kenya, Uganda and Tanganyika Territory and is being enacted in the three territories simultaneously to-day.

The alterations to the Customs Tariff proposed in the Bill fall under two main headings, firstly the application of alternative specific and *ad valorem* duties to such articles as readily lend themselves to this form of taxation, thereby improving and stabilising to some extent the Customs Revenue position, and secondly the modification of certain items in the existing Tariff which experience of working and changing conditions have rendered necessary.

As regards the proposed alternative duties, hon. Members will realize that depreciated currencies, low costs of production and other factors over which these territories have no control have decreased the sterling value of certain goods to such an extent that so long as the basis of assessment for purposes of Customs is *ad valorem*, a serious diminution of Revenue receipts must result. When specific duties are levied the element of value does not enter into the computation of the amount of duty chargeable, the yield then being dependent solely on the quantity or measure of the article imported. By a combination of these two methods of assessment, that is, by the imposition of specific or *ad valorem* rates of duty, whichever is the higher, a minimum charge is fixed, articles included under the various categories being charged at a specific rate if below a certain value, an *ad valorem* charge being levied when that value is exceeded. In this manner the Revenue is doubly safeguarded, goods imported at abnormally low prices being required to contribute a fixed sum to the Crown whereas goods of higher values are chargeable with the same *ad valorem* duties as heretofore.

The items selected as appropriate for application of this method of assessment are—

- Blankets;
- Boots and shoes made principally of rubber and canvas;
- Cardigans, jerseys and pullovers;
- Shirts;
- Singlets;
- Socks and stockings;
- Cotton and artificial silk piece goods;
- Bicycles and tricycles;
- Umbrellas.

In arriving, at this list and the specific rates of duty properly chargeable, the number of items was necessarily limited as only certain classes of imports lend themselves to this form of assessment, but application has been as comprehensive as is practicable. The specific rates have been fixed

at a figure sufficiently high to ensure that they will impose upon abnormally low priced goods a duty approximately equivalent to the contribution to the Revenue from similar goods prior to their invasion of the local import markets at prices which the factors I have already mentioned have rendered possible. At the same time the specific ratings proposed are considered to be sufficiently low to avoid the imposition of any hardship on the consuming population.

Detailed information with regard to the various items can be given during the Committee stage of the Bill, but it may be convenient at this point if I illustrate briefly the application of these proposals. For example, it is suggested that blankets shall be chargeable with duty at the rate of 25 cents each or 20 per cent *ad valorem* whichever is the higher, in other words a blanket imported at a c.i.f. price of Sh. 1 or less would be charged 25 cents, blankets of higher value continuing to be charged at 20 per cent *ad valorem*. Similarly, a minimum charge is fixed on boots and shoes of rubber and canvas of a value of Sh. 2 and under per pair; on cardigans, jerseys, pullovers and shirts of a value of Sh. 1/50 and under per garment, singlets at Sh. 1 and under, socks and stockings at 75 cents and under, unbleached cotton piece goods at 50 cents per square yard and under, artificial silk piece goods at 75 cents per square yard and under, bicycles at Sh. 40 each and under, and umbrellas at Sh. 2 each and under.

It is somewhat difficult to estimate the actual result of "pegging" the Customs Revenue position in the manner proposed, but in a full year and under present circumstances I should compute the additional revenue at not less than £35,000, £20,000 of which may accrue to Kenya and £15,000 to Uganda. If prices of certain classes of imports remain at their present low level the proportion chargeable at specific ratings will be relatively high; if there is an upward tendency, the proportion chargeable on an *ad valorem* basis naturally increases and the Revenue yield improves. It is important, however, to understand that although the figure of £35,000 seems a high one it is in fact small as compared with the shrinkage of Revenue consequent upon the fall in the value of imports due to depreciated currencies and so on, and that if the proposed alterations affect prices to the consumer at all they can do so only to a very limited extent in respect of the cheapest ranges of goods which will still be sold at a figure grotesquely small as compared with prices ruling in 1929.

So far as the secondary alterations in the Tariff are concerned, three items only call for special mention.

Item 14 is being amended by the addition of the words "and ghee substitutes". An increasing amount of vegetable ghee is being imported and is entering into active competition with the local article. It is suggested that artificial ghee should be placed on the same footing as the genuine product.

CAPT. THE HON. J. L. COTTER: On a point of order, may I ask the hon. Member what artificial ghee is used for?

HIS EXCELLENCY: You mean, on a point of explanation?

CAPT. THE HON. J. L. COTTER: Yes, explanation.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, it is used for precisely the same purpose as natural ghee.

Item 72 covers wireless apparatus and equipment which has hitherto been exempted from payment of duty on importation. Since the Tariff of 1930 was framed technical improvements and the inception of the Empire Broadcasting Service have popularised the use of wireless receiving sets in Kenya, Uganda and Tanganyika Territory and made possible the easy reception of programmes other than those of the Kenya Broadcasting Service. In addition, many wireless parts are interchangeable with gramophone amplifiers thus rendering a proper interpretation of the Tariff as it stands a matter of some difficulty. There appears to be no valid reason why at this stage wireless apparatus imported into the territories should be specially exempted from payment of the basic duty of 20 per cent under the Tariff and it is therefore proposed that the exemption covered by item 72 should be limited to importations by and for the use of a public utility company. On 1932 figures the removal of wireless apparatus from the list of exemptions would result in an increase in the Customs Revenue of Kenya and Uganda of approximately £1,000.

Item 118 which refers to the free admission of insecticides, etc., has been amplified to include calcium carbide and whale oil and fish oil soap, articles which although not in themselves insecticides are used mainly in the preparation of compounds for the destruction of pests. The exemption of these articles from payment of duty will result in a loss of Revenue of approximately £350.

So far as the cost to the Crown which will follow enactment of this measure is concerned, no immediate additional expenditure is involved; but it must be understood that a larger percentage of Customs checks over the internal contents of packages will be necessary and that additional work in many directions will be involved.

The increase in the number of packages to be examined internally will act as an additional Revenue safeguard and will pave the way to the effective operation of a Merchandise Marks Ordinance if and when this very necessary measure is enacted, but I am forced to add that in my opinion if this Bill is passed any further attempt to reduce the Customs staff will be definitely detrimental to Revenue interests and that as trade improves some increase may be necessary.

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

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

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

THE HON. CONWAY HARVEY: Your Excellency, in supporting the motion before the House as one of the pressers alluded to by the hon. mover, I should like to express the thanks of coffee planters particularly to Government for its recognition of the importance of the principle of stimulating production of a crop which means so much to the revenues of the Colony. I brought this matter forward, Your Excellency, a long time ago and the hon. Commissioner promised to give it his sympathetic consideration, and I should like to express not only my own thanks but the thanks of every coffee planter in the country for the way in which he has translated his sympathy in this important matter into concrete action, action which will be very greatly appreciated by all agriculturalists in Kenya.

THE HON. T. J. O'SHEA: Your Excellency, this Bill coming forward under the suspension of Standing Orders, I take it that I should not be in order in pointing out, or insisting rather, that the Bill was out of order because of lacking Objects and Reasons and the schedule of which the Bill is an amendment. I presume that is why the hon. the Attorney General moved the suspension of Standing Orders to deal with the Bill in the form in which it is laid before the House, but I suggest, Sir, that in view of the lucid explanation of the Bill given by yourself and the further explanation given by the hon. mover, there was really no point in leaving out the Objects and Reasons. Again, it would have been much easier for Members on both sides of the House to consider the Bill in some intelligent way if they had before them the schedule that we are being asked to amend.

I am pleased to see that the Government is taking steps to prevent dumping in this country. It is very necessary indeed and to that extent the Bill has my approval. I also notice with pleasure that the hon. the Commissioner of Customs is pursuing his task of endeavouring to give us a scientific tariff in this country, but, Sir, these are two very subsidiary purposes for the Bill—quite obviously its real purpose is to raise additional revenue through Customs duties. That being the case, I sincerely hope that Government will take this extra revenue into consideration in putting forward its proposals for other measures by which to raise revenue to compensate for shrinkage in Customs revenue. Government is, I understand, endeavouring to justify its efforts to raise additional taxation by saying that we must recognize that our Customs revenue is shrinking. As this is a measure being taken to make good to some extent that shrinkage I take it the Government will recognize the fact in some of the other measures contemplated to replace that shrinkage.

I think it is rather regrettable, Sir, that the hon. mover should take advantage of this opportunity to make a plea for increasing his staff. It seems to me it is begging the question. Obviously during the last twelve months there has been a considerable reduction in the amount of work being done by that department, and if this measure is going to result in a little extra work on the part of some of his large staff I should think it was up to the staff to do a bit of extra work in the circumstances that they are in and not at this stage to frighten us with the idea that the extra £20,000 expected to be raised under this measure is going to some extent to pay for additional staff.

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

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, the hon. Member for Plateau South mentioned dumping. This Bill certainly would have the effect, if dumping did take place, of stopping it to some extent, but it is not in fact an anti-dumping measure. It is an attempt to retrieve the revenue position. As I tried to point out in my speech just now, Customs revenue has decreased very considerably indeed and this is an attempt to bring it back to something approaching normality.

So far as the increase of staff is concerned, I did not intend to suggest that I wanted an increase of staff. I did not wish to drag that in at all, but the fact remains that it is the practice of this House—I believe it has always been

insisted on by hon. Members opposite—that the cost to Government should be shown. It seemed only honest to me that I should point out it did mean additional work to Government, and if trade improves some additional staff may be necessary. So far as the little extra work to which the hon. Member refers is concerned, I can say on behalf of my staff that they will be only too pleased to put in additional work. If any hon. Member opposite has experience of the work of the Customs Department he will know very well that the Customs staff works on every Saturday afternoon and every Sunday, and I do not altogether like the suggestion of the hon. Member opposite that they are work-shy.

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

The question was put and carried.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that this House resolve itself into a Committee of the whole House to consider the detailed provisions of this Bill.

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

The question was put and carried.

The Council went into Committee.

In Committee:

THE CUSTOMS TARIFF (AMENDMENT) BILL.

The Bill was considered clause by clause.

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

The question was put and carried.

The Council resumed its sitting.

HIS EXCELLENCY: I have to inform the House that the Customs Tariff (Amendment) Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE CUSTOMS TARIFF (AMENDMENT) BILL.

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that the Customs Tariff (Amendment) Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

HIS EXCELLENCY: Having assented to the Ordinance, I will now call upon the Commissioner of Customs to move the resolution approving of the Proclamation.

MOTION.

(SUSPENDED DUTY ON GHEE SUBSTITUTES).

THE HON. THE COMMISSIONER OF CUSTOMS: Your Excellency, I beg to move that the following Proclamation be approved by Council:—

"In exercise of the powers conferred upon me by section 3 of the Customs Tariff Ordinance, 1930, as amended by the Customs Tariff (No. 2) Ordinance, 1931, and the Customs Tariff (Amendment) Ordinance, 1933, I do hereby bring into operation as from this date a suspended duty of 15 cents per pound on ghee substitutes.

GOD SAVE THE KING.

Given under my hand and the Public Seal of the Colony at Nairobi this 26th day of June, 1933."

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

The question was put and carried.

HIS EXCELLENCY: I do not know whether it would suit the convenience of Members to have a short adjournment now or proceed with the business.

CAPT. THE HON. H. E. SCHWARTZ: I think we would prefer to finish, Sir.

BILL.

FIRST READING.

THE SPECIFIC LOAN BILL.

On motion of the hon. the Treasurer (Mr. H. H. Hushon) the Specific Loan Bill, 1933, was read a first time.

SECOND READING.

THE SPECIFIC LOAN BILL.

THE HON. THE TREASURER: Your Excellency, I move that a Bill to Make Provision for Raising a Loan of Three Hundred Thousand Pounds Sterling for Certain Public Purposes be read a second time.

Your Excellency in your opening address gave Council pretty well all the information that can be given on the subject of this Bill. It is a simple measure in the usual form, with which I think hon. Members are acquainted. There is no new principle or novel feature in the Bill: it is as laid down by the Secretary of State.

The most interesting part of the Bill, as I think you will agree, is the Schedule, and in regard to the first item I have little to add to what is already known as to the desirability of this additional money being appropriated for the uses of the Lamu Bank.

I cannot say at what rate of interest this loan will be raised but I should imagine, judging from the state of the money market at present, that we shall be able to get it for about 3½ per cent, in which case it will be possible for the Government probably to lend it to the Bank at about 3.8 per cent. But if that took place, Sir, it would not be the desire of the Bank to reduce at present the rates they charge to their clients, which is 6.5 per cent per annum, as it is essential that they should commence to build up the Reserve Fund which they are required to do under the Ordinance.

There have been suggestions that the operations of the Bank might be extended in certain directions and Government is already prepared to agree to its operations being extended to enable advances to be made to co-operative societies for the erection of buildings and equipment and the purchase of land ancillary thereto, and to enable short term loans up to a maximum of £500 to be made, on adequate security but without charge to the borrowers on account of the preparation of mortgage deeds.

If there is any further information Members would like to have that I can give them I will do so when I reply.

The second item in the Schedule for £15,731 comprises five items. The first one is £10,000 for the Mombasa Municipality in connexion with their town planning scheme. The time has arrived when they must have additional funds to meet urgent claims for compensation or they will be incurring expenses in defending actions brought against them. I am sorry to say that it is unlikely that that sum will suffice to meet all their claims.

The next items are the Mombasa-Makupa Market, £1,726, and Mombasa Rice Swamp Drainage, £1,000. Both these works have been carried out on funds lent temporarily to the Mombasa Municipal Council in order that they could

deal with works which were considered extremely urgent, and it is now desired to regularise the position by bringing them into his loan. There is also the factor of the interest which we have to pay for the new money proposed to be raised, which will have the effect of reducing the interest charge against the Municipality.

The next item is the Eldoret Hospital, £1,608. I think everybody is well aware of the arrangement under which the municipal board and the Uasin Gishu District Council agreed to rate themselves for the support of this hospital provided Government came to their assistance by means of a loan, and it is high time now—that the Council met their liabilities and got rid for several years—that the Council met their liabilities and got rid of the trouble which has afflicted them so far.

The last item is for the Eldoret Slaughter House, £1,400. It is proposed to provide that on grounds of health. There are no proper facilities there now and the Council is unable to provide them, so it has asked Government to lend them £1,400 for the purpose.

The rates which will be charged by the Government in interest to these municipal bodies referred to will be just sufficient to repay the Government for what it pays and the expenses it incurs in raising the loan and I think will work out at something like 3.8 per cent as compared with 5.17 per cent which they pay at present. The sinking fund will of course depend on the number of years for which they wish to borrow the money.

The last item in the Schedule, Sir, £24,266, is something in the nature of a "nest egg". Items are continually arising which are urgent and important and for which we have no money to spare. We have no money on revenue account, our surplus balances have disappeared entirely and it is extremely awkward when urgent things come along to have no funds wherewith to meet them. We are always getting applications from municipal authorities and other authorities for loans and I have no doubt others will come along which will be extremely difficult for Government to refuse. But you will see by the wording of the item: "such further items as the Governor may, with the approval of the Legislative Council signified by resolution, and of the Secretary of State", that there is no intention of lending moneys without the sanction of this Council.

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

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

CAPT. THE HON. H. E. SCHWARTZ: Your Excellency, there can be no doubt as to the welcome that this Bill will receive from, if not all Members on this side of the House, certainly all those who do not occupy the cross benches. I add that because, if I was right in my reading of a resolution passed recently at Mombasa by the Indian National Congress, they were opposed to any further sums being advanced to help white settlement in this Colony; and I only mention this at this juncture, Your Excellency, in the very sincere hope that those Members who represent that community in this House will show by their support of this Bill, both in their speeches and in exercising their vote, that they at least realize the vital importance of white settlement to this Colony, not only for the white people but for everyone else, whether they be white, Indian or Natives.

Your Excellency, I would like to express the very deep appreciation of this Colony to the Secretary of State for having consented to the raising of this loan at this time, more especially in view of the fact that at first he was inclined to take the view that no further money could be raised, even though this was just the time for raising money cheaply, until such time as this Colony had balanced its budget. I think it was pointed out then, in this House, that that was to a certain extent putting the cart before the horse because one of the most important ways in which this Colony's budget can be balanced is by increasing production in the Colony and this extra money for the Land Bank means extra production, which means increased revenue, and that means a tendency towards the balancing of the budget; and the Secretary of State, in agreeing to allow us to raise this money, has again shown that he is not unwilling to listen to reasoned arguments when they are put before him.

I should also like to thank Mr. Neville Chamberlain, the Chancellor of the Exchequer, whose consent to the raising of this loan was obviously a necessary preliminary to the consent of the Secretary of State, and to say that once again that gentleman has shown, as he always has shown, both in public and private ever since he visited this Colony, that the welfare of this Colony is very near to his heart.

We have also to thank His Excellency Sir Joseph Byrne for the efforts he has made to get the Secretary of State to agree to this loan, and for endorsing the views, the very strongly expressed views that were put up to him by the Board of Agriculture and by various resolutions in this Council and outside this Council pointing out the urgent necessity

for further money for the Land Bank, which, as you yourself have said this morning, will, on the passing of this Bill, have a capital of half-a-million, and that is all to the good. But I have no doubt in my own mind that the time must come, and must come shortly, when a far greater sum than half-a-million will be required for the Land Bank, and a sum of at least £1,000,000 will not only be required but, I venture to prophesy, will be the capital of the Land Bank before a great space of time has passed.

With reference to the question of the rates to be charged to future borrowers from the Land Bank, while one appreciates to the full that, in view of the necessity for preserving balances and making the Land Bank a sound commercial undertaking, it would not be possible to charge interest a fraction over what one was paying on the loan, I would ask the hon. the Treasurer and the Government when the loan is raised and when we know the exact percentage which they will have to pay for interest and sinking fund, seriously to consider whether it would not be possible to make at least some reduction in the interest which they propose to charge to their clients, because to-day every half per cent makes an enormous difference to those people who are compelled to borrow from the Land Bank; and provided the Land Bank can lend at a rate of interest which is commercially sound and which will enable them to build up their balances, then every little bit they can give by way of reduced interest to the farmer borrower will be of enormous assistance and help to him.

I would like to say two more things, Sir. First of all, I would like to congratulate the Land Bank Board on the way they have carried out their duties with reference to the first £240,000, and to express, I am sure, on behalf of every Member on this side of the House, our complete sense of security on the way in which they propose to carry out their duties in connexion with the £260,000 which when, as I have to distribute. I would also like to say that when, as I understand, at the next session, a Bill is introduced making certain alterations in the powers given to the Land Bank Board, that Government will consider, in view of the terrible drought which has affected the coffee industry this year, altering the provision whereby £3,000 is the maximum sum which can be advanced. I agree fully that for a Land Bank with limited funds it is very much better in theory to be able to help a lot of people to a small extent rather than a few people to a large extent, because it means keeping more people on the land, but when an industry has received the

smashing blow the coffee industry has received this year, I think the Land Bank should have the power in exceptional cases to lend a sum greater than £3,000 if they consider that such a sum is justified and secured and will be repaid.

LT.-COL. THE HON. J. G. KIRKWOOD: Your Excellency, I wish to endorse *in toto* the remarks made by the hon. Member for Nairobi South. I naturally rise to support this Bill before the House, although it is very belated, but it has the implication that the Secretary of State has taken the view, or the advice, of the man on the spot; on this occasion he has taken the advice of Government, and that has the backing of the Elected Members who have always been of opinion that the amount placed at the disposal of the Land Bank was inadequate from the start.

I should like Government also to consider the question of reducing the rate of interest. The first amount was £240,000 lent to the Land Bank; now we have a sum of £260,000, which will be raised at a very much lower rate of interest than the initial amount, and I suggest the most reasonable thing to do would be, while providing a small percentage for a reserve fund, also to average out the cost of the loan to the bank and give the borrowers some benefit. I hope that will receive the serious consideration of Government.

THE HON. T. J. O'SHEA: Your Excellency, I am very sorry indeed to hear from the hon. member that Government appears to have already half made up its mind not to pass on to the borrower any proportion of the saving on interest which will be effected by raising the loan under present circumstances. I can appreciate the necessity, in connexion with a conservative organization like the Land Bank, of being conservative, but I suggest that in the circumstances of to-day it is hardly fair to the borrower to penalise him for a reserve for the benefit of the future and I would ask Government to consider whether it would not be fair to all parties if the saving on raising the money at the present stage were divided as between the Land Bank Board and the borrower. There is a saving on the present rates of interest of something like 2½ per cent, and I believe that the beginnings of a reserve fund could be made out of a portion of that saving, and I support the two speakers who have already alleged that it would have a considerable bearing on the position of the farmer at present to pass on to him the balance.

Now, Sir, the issue is one that appeals to me a lot, not because of the saving to the individual who borrows from the Land Bank, but because of the effect that such a procedure might have upon the borrowing of money generally in the

country. It has been stated on something like official figures that an amount in the neighbourhood of £8,000,000 is on loan in this country, mainly to the agricultural community. A reduction in the rate of interest on that amount of one per cent would be £80,000. Now if the Land Bank is in a position to show the commercial banks and private lenders that agricultural mortgages which are perfectly safe can be arranged at 5 or 5½ per cent, surely it is reasonable to assume that one or the results in the near future of that will be a reduction in the rates of interest being charged by commercial banks and by private lenders. In the belief that that would happen, Sir, I would urge upon Government to reconsider this question and to agree that some amount of the saving on interest should be passed on to the borrower.

There is another point that might be mentioned in connexion with this Bill: that is that unfortunately owing to the way in which our loans were raised in the days of our prosperity we are to-day, under entirely different conditions, saddled with a very high rate of interest on our national debt. Practically every other country that one reads of has found some means of getting rid of some portion of that burden, but Kenya appears to be one of the few unfortunate countries in the world that appears to be unable to take any steps to help itself in that respect. Now because of the helplessness of our position I think it all the more necessary that the Government should study any possible means of reducing our debt burden, and I would ask whether any consideration has been given to the possibility of raising further money with a view to lessening our present interest charges.

I would, if I may, give my congratulations to those who have been associated with the raising of this money—the Secretary of State and others. I would compliment them rather on their having the business commonsense to see that this is a sound thing to do. The risk being taken is so small and the benefits likely to accrue are so great that it seems to me that it is merely commonsense to do it.

Lastly, Sir, I should like to express the hope in connexion with item 3 of the schedule that Government will ask for the approval of Legislative Council before its mind has been made up as to how the balance of £24,000 is to be spent, and not wait to demand that approval after it has made its decision.

THE HON. HAKIM SINGH: Your Excellency, I have heard that the first item in the schedule is meant to be exclusively for the benefit of the European settlers, still I support it

because it is meant to increase production and then the financial position of the Colony will be improved. I would request the Elected European Members to be reasonable, as I like to be, and that in the near future they will allow transfers of land in the Highlands to those people who are prepared to sell to the Indians, because we have not got for the present any land, whereas every community should be given a chance to play its part in the development of the Colony. I say the Indian also should be given a chance.

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

THE HON. THE TREASURER: Your Excellency, there are, I think, only three points of principle which have been raised. One was the interest rate to be charged; another one whether the money should be used for the benefit of any particular race; and the last one, the question of advances of larger amounts to coffee planters.

To deal with the one raised last by the hon. Indian Member, I can say at once that there is nothing in the Ordinance which prevents any Indian from obtaining an advance from the Land Bank provided the security is such as they can accept within the four corners of the Ordinance.

THE HON. ABDUL WAHID: May I ask one question?

HIS EXCELLENCY: I am afraid you cannot at the moment; you have lost your right to make a speech.

THE HON. THE TREASURER: As regards the amount which can be advanced, Sir, if I may I will just read a part of section 27 (3) of the Ordinance:—

"No advance under the provisions of paragraphs (a) and (b) of section 18 of this Ordinance shall be made of a sum less than fifty pounds except in special cases and no advance shall be made to any one farmer of a sum greater than three thousand pounds or of sums which in the aggregate exceed three thousand pounds, except for the purpose of executing large agricultural works or improvements specially authorized by the Governor in Council: Provided that no sum advanced for any such works or improvements shall exceed in the aggregate the sum of five thousand pounds."

So far we have not had occasion to get a legal interpretation of the meaning of that but I feel myself that the heavy destruction of a coffee plantation would be a "large agricultural work or improvement," and that it is quite possible the powers contained in that section would meet the case. If it

is found that this is not the case I think the Government would have no objection to considering the matter when they realize exactly what the position of the coffee industry is. Personally, I do not know yet what it is or whether it will be necessary to make any amendment to meet the requirements of the coffee industry.

As regards reducing the rate of interest to borrowers, the rates are fixed by this Council and any proposal to vary the rate would have to arise in this Council. It is not done by Government, but I should like to say that if we do not make provision for a reserve fund and in a few years' time, when we shall have exhausted this £260,000, we go for more money, the Secretary of State will not be very anxious to give it to us unless he finds we have consolidated the position by providing a reasonable reserve. We do not know yet what rate will be charged on this money. When we do know, then it will be a question for the Government to consider—I only expressed the Land Bank's view when I introduced the second reading of this Bill. It will be for the Government to consider whether it should request the Land Bank to consider making a reduction. It would be easier to make a reduction when we are approaching the distribution of the last of this money because the charges for administration will be less and in the event of a reduction in the interest rate it might enable us to give easier terms to our clients, but I do think it would be a bad thing to create any impression in the mind of the Secretary of State that we were not running this on absolutely sound lines and commencing to build up a reserve. As a matter of fact, we had a reserve last year but we are beginning to feel the effects of this drought and there is going to be a list of defaulters, and I should not be at all surprised if what we have put to the small reserve is not absorbed this year temporarily. We shall certainly have to give some time to pay. I do not know whether you can at one time, by allowing interest to stand over, add to the capital debt, and at the same time reduce your interest charge, but I think as far as the Land Bank is concerned they would certainly give careful consideration to this point when they know what they have to pay, and I am sure Your Excellency will do the same.

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

The question was put and carried.

THE HON. THE TREASURER: Your Excellency, I beg to move that Council resolve itself into a Committee of the whole Council to consider the Bill clause by clause.

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

The question was put and carried.

The Council went into Committee.

In Committee:

THE SPECIFIC LOAN BILL, 1933.

The Bill was considered clause by clause.

Clause 3.—Application of Loan.

THE HON. CONWAY HARVEY: Your Excellency, before Clause 3 is passed, surely you should put the Schedule. We are getting into a very bad way in passing a clause governed by a Schedule without taking the Schedule first, as used to be the case for the first ten years of the life of this Council.

THE HON. THE ATTORNEY GENERAL: It is possible to suspend this clause till after the consideration of the Schedule.

HIS EXCELLENCY: If hon. Members prefer that, I will suspend this clause.

THE HON. CONWAY HARVEY: I suggest that it is grossly improper to pass this clause without passing the Schedule.

THE HON. THE ATTORNEY GENERAL: On a point of order, may I refer to No. 70 of Standing Rules and Orders:—

"When a Bill is under consideration in Committee of the whole Council, the Chairman may call the several clauses in order by reading the number of each clause."

HIS EXCELLENCY: In deference to the point raised by the hon. Member, I will put the Schedule at this stage. The question is: That the Schedule do stand as part of the Bill.

The question was put and carried.

THE HON. THE TREASURER: I beg to move that the Specific Loan Bill be reported to Council without amendment.

The question was put and carried.

Council resumed its sitting.

HIS EXCELLENCY: I have to inform the Council that the Specific Loan Bill has been considered clause by clause in Committee of the whole Council and has been reported to Council without amendment.

THIRD READING.

THE SPECIFIC LOAN BILL.

THE HON. THE TREASURER: I beg to move that the Specific Loan Bill be read a third time and passed.

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

The question was put and carried.

The Bill was read a third time and passed.

HIS EXCELLENCY: That concludes our business for this morning. I will adjourn Council till August 2nd.

Council adjourned till 11 a.m. on Wednesday,
2nd August, 1933.

WRITTEN ANSWERS TO QUESTIONS.

EMPLOYMENT OF PORTUGUESE SUBJECTS.

No. 2. BY THE HON. T. J. O'SHEA:

Whether in view of—

(a) the comparatively large number of British subjects—both European and Asiatic—without employment in Kenya; and

(b) the Government restrictions imposed on the employment of British subjects in Portuguese East African Territory;

Government will, as from the 1st January next, discontinue as expeditiously as existing contracts permit to employ Portuguese subjects when British subjects are available?

Reply.

So far as this Government has been able to ascertain no restrictions have been imposed by the Government of Portuguese East Africa upon the employment of British subjects as such, though as a temporary measure all employers in Portuguese East Africa are required to employ 70 per cent of Portuguese nationals. In these circumstances, this Government is not prepared to discriminate against Portuguese subjects in Kenya in the manner proposed by the hon. Member.

HANDBOOK ON NATIVE CHILD WELFARE.

No. 3. BY THE HON. F. A. BENISTER:

1. Is Government aware of the draft of a book on health at present designated "The Book of Health" or some similar title?

2. Is Government or any Department considering arranging for the translation of the said book or any part of it?

3. If so, into what dialects is it proposed to make the translation?

4. Is it proposed eventually to seek authority for the publication of the said book or any part of it?

Reply.

A book provisionally entitled "The Book of Health" has been drafted. The question of translation and publication has not yet been considered by Government.

RETRENCHMENT OR DISCHARGE OF CIVIL SERVANTS.

No. 11. BY CAPTAIN THE HON. H. F. WARD :

How many Civil Servants have been retrenched or discharged in 1931 and 1932?

Reply.

In 1931 700 Civil Servants were retrenched and 253 left the service for various reasons.

The racial divisions were as follows :—

	Retrenched	Left the service for other reasons
Europeans ...	62	66
Asiatics ...	62	60
Africans ...	576	127
	<u>700</u>	<u>253</u>

In 1932 the figures were :—

	Retrenched	Left the service for other reasons
Europeans ...	51	70
Asiatics ..	44	61
Africans ...	54	312
	<u>149</u>	<u>443</u>

Among those who left the service for "other reasons" are officers who have retired voluntarily, those whose contracts have expired and those whose services have been dispensed with for reasons of economy or in the interests of efficiency. It is regretted that without a very great amount of research it is not possible to state what proportion of this category have been replaced.

It must be borne in mind that the figures of Africans who have been retrenched or who have left the service for "other reasons" include numbers of station hands, porters and other menial staff whose original engagements were only of a temporary nature.

RUSSIAN IMPORTS.

No. 23. BY LT.-COL. THE HON. J. G. KIRKWOOD :

Will Government state its attitude towards the Imperial Government's policy of prohibiting the importation of Russian goods as far as such policy affects Kenya?

Reply.

The policy of His Majesty's Government in the United Kingdom of prohibiting the importation of goods from the Union of Soviet Socialist Republics would not affect Kenya unless it became apparent that Russian goods were being sent to the United Kingdom via Kenya.

INCOME TAX ADVISER.

No. 34. BY MAJOR THE HON. SIR ROBERT SHAW :

1. To ask the hon. the Colonial Secretary whether Government has given notice of the termination of his agreement to the Income Tax Commissioner?

2. If this has not been done, will Government please state what action they propose to take in order to save the revenue of the Colony from its share of the expense of employing an official in respect of a Department which has no legal status in the Colony?

Reply.

1. Notice of the termination of his appointment has been given to the Income Tax Adviser to the Governments of Kenya, Uganda and Tanganyika.

2. In view of this the second question does not arise.

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29th March, 1933 to 26th June, 1933.

Reference No. From Central Government Library.

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