

East Africa Protectorate.

Summary of the Minutes of the Proceedings of the Legislative Council of East Africa.

First Session,

February 12th, 1912.

Nairobi,

PRINTED BY THE GOVERNMENT PRINTER,

East Africa Protectorate.

Minutes of the Proceedings of the First Session of the Legislative Council, 1912.

Held at Nairobi on the 12th and 13th February, 1912.

The Council assembled on the 12th February at 9-30 a.m., HIS EXCELLENCY THE GOVERNOR (SIR E. P. C. GIROUARD, K.C.M.G., D.S.O. R.E.) presiding.

Present:—

THE HON. THE CHIEF SECRETARY TO THE GOVERNMENT (C. C. BOWRING, C.M.G.).
THE HON. THE TREASURER (H. A. SMALLWOOD).
THE HON. THE CROWN ADVOCATE (R. M. COMBE).
THE HON. THE MANAGER OF THE UGANDA RAILWAY (H. A. F. CURRIE, C.M.G.).
THE HON. MR. A. C. MACDONALD (DIRECTOR OF AGRICULTURE).
THE HON. MR. F. W. MAJOR, I.S.O. (CHIEF OF CUSTOMS).
THE HON. MR. J. H. WILSON.
THE HON. MR. V. M. NEWLAND.
THE HON. MR. T. R. SWIFT.
THE HON. DR. A. E. ATKINSON.

Absent:—

THE HON. MR. A. C. HOLLIS, C.M.G. (SECRETARY FOR NATIVE AFFAIRS).
THE HON. MR. T. A. WOOD.

THE PRESIDENT, administered the Oath of Allegiance to the Hon. Mr. C. C. Bowring, C.M.G. (Chief Secretary to the Government).

The Minutes of the Council Meeting of 28th November 1911, which had been printed and circulated amongst Hon. Members, were taken as read and were confirmed.

THE HON. MR. SWIFT, in pursuance of notice given, asked:—

- (1) What the conditions are on which an area of 500 square miles or thereabouts was leased to the East African Estates, Limited?
- (2) On what conditions was an area of land, and what was the area, originally granted to the East Africa Uplands Syndicate?
- (3) On what conditions does the East Africa Uplands Syndicate at present hold this land?

THE HON. CHIEF SECRETARY, in reply, said:—

"I will take the three questions asked by the Hon. Member as one. The area granted to "Uplands of East Africa", now called the "East African Estates Ltd." is as follows:—

- (a) Lands situate South of Ras Muaka Senge in the East Africa Protectorate along or near to the Coast and between that place and German East Africa containing an area not exceeding 70,000 acres.
- (b) Lands situate as near as in the opinion of the Governor may be found possible to the land specified above in the East Africa Protectorate aforesaid containing an area not exceeding 280,000 acres and together with the land specified above forming a block or blocks of land of a gross area not exceeding 350,000 acres and not less than 250,000 acres.
- (c) A piece of land situate at Limoru containing an area not exceeding 2,000 acres.

The principal conditions laid down in the lease and which have not been altered are briefly as follows:—

The coast areas to be held for a period of 30 years.

The Limoru area for 99 years, commencing from 9th October 1908.

With the option if the Government is in a position, having regard to the Sultan of Zanzibar's rights, to extend the term as regards the coast areas up to 99 years, on the expiration of the 30 years if all covenants of the lease are held to have been fulfilled and that this extension be granted on the same rental. The Lessees covenant to expend on the Coast area a sum of £20,000 within the first three years to the satisfaction of the Governor. After these three years the lessees covenant during the succeeding eight years to expend yearly £10,000 or a total of a further £80,000 on the Coast area.

On the Limoru area they will erect a bacon factory of cost value of £3,000. On this area during the 4th, 5th and 6th years they covenant to expend a further £5,000. The rent of the Coast area to be a peppercorn for three years, and afterwards £1,000 per annum. The rent on the Limoru area to be £8-6-8 from the start and a royalty of 2½% upon the value of all produce of whatever kind whether animal, vegetable or otherwise grown, cut, collected or manufactured within or upon the demised premises or any part thereof (except bacon and other produce of the pig) which shall be sold for export or exported by the Lessees at any time after the first three years of the said terms or extended term.

Provided that all produce sold shall be assumed to be sold for export until the Lessees shall prove otherwise, and provided also that if any produce be exported in a manufactured state, royalty shall only be payable on the value of the material estimated in its raw or unmanufactured state embodied in such produce or used in its manufacture.

THE HON. MR. T. R. SWIFT asked whether the conditions with regard to the East Africa Uplands Syndicate in the Highlands had been fulfilled up to the present time.

THE HON. CHIEF SECRETARY said that the answer to the question was in the affirmative.

THE HON. MR. T. R. SWIFT asked whether he might be allowed to speak on the subject.

THE PRESIDENT pointed out that there could be no debate on the question then. Hon. members were permitted to speak only on the subject of a motion.

Third Supplementary Estimate 1911-12.

THE HON. TREASURER, in pursuance of notice given, moved a resolution "That a Third Supplementary Estimate of £3,668 for the service of the year 1911-12 be approved."

THE HON. CROWN ADVOCATE seconded.

THE HON. CHIEF SECRETARY moved an amendment to the effect that the vote be reduced by £53 being item 4 of the Third Supplementary Estimate. He explained that the charge would not now be necessary and had therefore been withdrawn.

THE HON. TREASURER seconded.

The question was put and carried.

THE HON. CHIEF SECRETARY moved that the Third Supplementary Estimate as amended be put to the meeting.

THE HON. TREASURER seconded.

The question was put and carried.

THE HON. TREASURER explained the various items of the Third Supplementary Estimate amounting to £3,615 which were unanimously passed one by one as follows:—

- | | | |
|---|---|----|
| 1. PENSIONS.—Mr. D. J. Wilson's pension from 16th December, 1911 to 31st March, 1912, @ £139 p.a. (East Africa Protectorate share) | £ | 41 |
| 2. HIS EXCELLENCY THE GOVERNOR.—PERSONAL EMOLUMENTS.—Captain E. R. Hayes-Sadler's pension contribution to Government of India | | 30 |
| 3. Passages | | 48 |
| 4. "OFFICIAL GAZETTE" AND PRINTING AND STATIONARY.—Purchase of type, etc. | | 56 |
| 5. PROVINCIAL ADMINISTRATION.—PROVINCE OF KENYA.—Personal Emoluments—(Station bands) | | 15 |
| 6. PROVINCE OF UKAMBA.—Local Travelling | | 67 |

7.	PROVINCIAL ADMINISTRATION— <i>Special Expenditure.</i> —	£
	PROVINCE OF NAIVASHA.—Maragwet Post ...	67
8.	TREASURY.—PERSONAL EMOLUMENTS.—Salary of a temporary typist ...	12
9.	LEGAL DEPARTMENTS.—JUDICIAL.—Passages ...	150
10.	POLICE.—PERSONAL EMOLUMENTS.—Indian and African Police (pay of 10 temporary Constables) ...	26
11.	Arms and equipment ...	143
12.	MEDICAL DEPARTMENTS.—Entomological Research ...	134
13.	MILITARY EXPENDITURE.—3RD BATTALION KING'S AFRICAN RIFLES.—Gratuities ...	267
14.	Transport of Stores ...	1,000
15.	MILITARY SPECIAL EXPENDITURE.—Maragwet Patrol ...	800
16.	MISCELLANEOUS SERVICES.—Station Stores ...	60
17.	POST OFFICE AND TELEGRAPHS.—POST OFFICE AND TELEGRAPH WORKING.—PERSONAL EMOLUMENTS.—Special Telegraph Learners ...	30
18.	AGRICULTURAL DEPARTMENT.—ECONOMIC PLANTS DIVISION.—Seeds for distribution to Natives ...	50
19.	SURVEY DEPARTMENT.—PERSONAL EMOLUMENTS.—CADASTRAL BRANCH.—Increase in the salary of Chief Computer and the appointment of 2 new Computers ...	237
20.	PUBLIC WORKS RECURRENT.—MAINTENANCE AND REPAIRS OF PUBLIC BUILDINGS.—Civil Buildings ...	175
21.	PUBLIC WORKS EXTRAORDINARY.—MINOR WORKS	
22.	Additions to Strong Room, General Post Office ...	100
	Nakuru Prison ...	80
23.	COAST LAND SETTLEMENT.—ARBITRATION BOARDS Expenses of boards including compensation ...	27

The Probate and Administration (Public Trustee) Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Law relating to the Administration of the Estates of Deceased Persons." He explained that the purpose of the Bill was to make provision to enable the Public Trustee for the United Kingdom to obtain letters of administration in the Protectorate without giving a bond or security for the due performance of his duties. Under the Act creating the office the Public Trustee was relieved of the necessity of giving a bond or security required of private persons, but as the Act did not extend beyond the United Kingdom the Public Trustee could not claim that privilege in Colonies and Protectorates unless it was allowed by the local laws. Under the law at present in force, the Public Trustee was required to give a bond or security in the event of the Courts of the Protectorate granting him letters of administration. The Government was satisfied that inasmuch as the Courts of the Protectorate would have the guarantee of the British Government in respect of any liability to which an ordinary administrator would be subject, in the event of letters being granted to the Public Trustee, it was right and proper that he should be relieved of the necessity of giving any personal guarantee or security.

THE HON. CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. CROWN ADVOCATE moved the suspension of Standing Orders in order that the Bill might be passed through its second and third stages.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. CROWN ADVOCATE moved that the Bill be read a second time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause and adopted without amendment.

THE COUNCIL RESUMED ITS SITTING.

THE HON. CROWN ADVOCATE, reported the Bill without amendment to Council and moved that it be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Forest Amendment Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Forest Ordinance 1911." He explained that the Bill made certain amendments in the Forest Ordinance of 1911; but none of these amendments affected the principles approved by Council in the previous Bill. The first amendment substituted a new and better definition of the term 'timber'. The second amendment was made for the purpose of removing a doubt which had arisen owing to an amendment made by Council when the Bill was returned to Council, before it was assented to by His Excellency, as to the number of persons which constituted a Forest Board for the purposes of the Ordinance. The 4th, 5th, and 7th amendments were made for the purpose of correcting clerical and printers errors in the original Ordinance. The 3rd and 6th amendments were made for the purpose of providing that the terms of imprisonment prescribed in the Ordinance should vary in regular proportion with the fines prescribed as an alternative punishment.

THE HON. CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. CROWN ADVOCATE gave notice that he would move the second reading of the Bill on the following day.

Ostrich Amendment Ordinance.

THE HON. MR. A. C. MACDONALD, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Ostrich Ordinance 1907." He explained that it had been found necessary to introduce the Bill owing to the large number of thefts of ostrich feathers by natives. The ostrich industry of the Protectorate might be developed into a very large and profitable one. It was a branch of farming which could be started by a settler of small means on account of the domestication of the native ostrich chick entailing very little expense. Meetings of settlers had been held and resolutions passed recommending legislation with a view to checking ostrich feather thefts, and as a result of these representations the Bill had now been introduced.

THE HON. CROWN ADVOCATE seconded, and the Bill was read a first time.

THE HON. MR. A. C. MACDONALD gave notice that he would move the second reading of the Bill on the following day.

Registration of Trade Marks Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make provision for the registration of Trade Marks in the East Africa Protectorate." He said that Hon. Members would recollect that last year a Bill had been introduced to make provision for the registration of trade marks. That Bill was based on legislation in force in the Colonies prior to 1908. While the Bill was before Council, the Government had been furnished with a copy of an Ordinance which had recently been approved by the Board of Trade, London, as suitable for enactment in Crown Colonies. The Special Committee appointed to report on the Bill then before Council recommended that the new provisions of what might be termed the model Ordinance should be included in the Bill. To give effect to that recommendation it would have been necessary to make considerable alterations and additions in the Bill, and therefore for the convenience of Council that Bill had been withdrawn with the intention that another Bill should be introduced. The Bill followed the Ordinance approved by the Board of Trade as nearly as local conditions would permit. At present no provision was made by law for the registration of Trade Marks in the Protectorate, and in order that further protection should be given to owners of Trade Marks it was necessary that proprietors should be enabled to register their Trade Marks and should be given protection under a special law.

THE HON. CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. CROWN ADVOCATE gave notice that he would move the second reading of the Bill at a later stage during the day.

Master and Servants Amendment Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of notice given, introduced and moved the first reading of a Bill, intituled "An Ordinance to amend the Master and Servants Ordinance 1910." He said that the purpose of the Ordinance was to require that every master of a ship engaging a native of the East Africa Protectorate as a seaman should undertake to return the native to the Protectorate in the event of the engagement terminating at a port outside the Protectorate. So far as foreign ships were concerned, sufficient provision to that end was made in the Ordinance of 1910; but contracts entered into between the master of a British ship and a native of the Protectorate engaged as a seaman were governed by the Merchants Shipping Act and not by the Master and Servants Ordinance. In the Merchants Shipping Act insufficient provision had been made to require masters to return to a port of East Africa a native of East Africa engaged on a ship as a seaman. This defect in the Merchant Shipping Act was reported to the Secretary of State by a Committee appointed to inquire into the question of Distressed Colonial and Indian subjects, and the Colonies and Protectorates had been invited to supplement the Merchant Shipping Act by local legislation. The Bill in effect provided that the master of a British ship engaging a native of the Protectorate as a seaman should make similar provision for his (the native's) return to the Protectorate on the termination of his engagement as he was required to make in respect of a seaman engaged at one of the ports of the British Empire. Opportunity had been taken at the same time to amend the definition of the term 'servant' so as to include a native engaged to take part in a spectacular performance contract, the alteration being made for the purpose of giving Government power to control, and if necessary prohibit, the engagement of natives for spectacular performances out of the country.

THE HON. TREASURER seconded, and the Bill was read a first time.

THE HON. CROWN ADVOCATE gave notice that he would move the second reading of the Bill later in the day.

Native Hut and Poll Tax Amendment Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Native Hut and Poll Tax Ordinance 1910." He said that an Ordinance had been passed by Council in September of last year substituting for the provision of section 7 of the Native Hut and Poll Tax Ordinance 1910 new and what was then considered better provision for the recovery of a tax from a person in default. As the effect of the procedure laid down by that Ordinance was to assimilate the liability to hut tax to a civil debt, the Secretary of State had intimated that he could not approve of the Ordinance unless certain additions and alterations were made. The alterations required, although in accordance with the law of England, would render the collection of the tax in a native community a very difficult matter, and it had therefore been considered advisable to repeal the 1911 Ordinance and to revert to the procedure laid down in section 7 of the Native Hut and Poll Tax Ordinance 1910. The Bill in effect provided that the 1911 Ordinance should be repealed and that the procedure prescribed by section 7 of the 1910 Ordinance should be reinstated, with an additional provision enabling magistrates before whom any proceedings were taken under section 7 of the Ordinance to require the person against whom proceedings were taken to pay Court fees up to a sum not exceeding Rs. 3. Under the 1910 Ordinance the Court had no power to order a person to pay any Court fees the proceedings being in their nature criminal and not civil.

THE HON. TREASURER seconded, and the Bill was read a first time.

THE HON. CROWN ADVOCATE gave notice that he would move the second reading later in the day.

Customs Tariff Amendment Ordinance.

THE HON. MR. F. W. MAJOR introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Customs Tariff Ordinance 1910." He explained that as a result of representations made by the Acting Governor of

and to the Secretary of State, and communications which had passed between the Uganda and East Africa Governments, it had been decided to introduce the Bill. His Excellency however had decided to withdraw the amendment providing for the exemption of petrol from import duty until the question had been further discussed with the Uganda Government. He (the Hon. Member) was however authorised to state that if it might be decided to re-introduce the exemption it would be made to apply to all petrol which was lying in the petrol bond at the time of the introduction of the Bill.

THE HON. TREASURER seconded, and the Bill was read a first time.

THE HON. MR. F. W. MAJOR moved the suspension of Standing Orders in order that the Bill might be passed through its second and third stages.

THE HON. TREASURER seconded.

The question was put and carried.

THE HON. MR. F. W. MAJOR moved that the Bill be read a second time.

THE HON. TREASURER seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause and it was agreed to delete "(31) Petrol from clause 2.

The Council Resumed its Sitting.

THE HON. MR. F. W. MAJOR reported the Bill as amended to Council and moved that it be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Non-Native Poll Tax Ordinance.

THE HON. CHIEF SECRETARY, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make provision for the payment of a Poll Tax by Non-Natives." He said it was necessary for him to dwell at some length on the provisions of the measure now put forward by the Government and to draw attention both to the objects of the proposed legislation as well as to the difficulties with which the Government had been faced in attempting to extend the principles of direct taxation, which up to the present had been applied to natives of the Protectorate only, to the remainder of the community.

It was not contended that a Poll Tax was in any way an ideal form of Taxation. That applied not only where non-natives were concerned but to a very great extent to the natives themselves especially to the rich pastoral tribes where individuals possessed of very considerable wealth in the form of cattle paid the same tax as the poorest tribesman who might have to go out and work for the sole purpose of earning the wherewithal to pay the amount demanded of him. Similarly the well-to-do non-native was, under a system of fixed poll tax, called upon to pay no more than his own servant or employee. Still, there were precedents for a Poll Tax amongst civilised communities and he (the Hon. Member) would cite Natal and the United States of America as examples.

The obvious alternative to a poll tax was a property and income tax. That form of taxation had been carefully considered by the Government for some time but any idea of adopting it in the East Africa Protectorate had been dismissed owing to the almost insuperable difficulties and great expense attending it, at any rate in the existing conditions of the Colony.

An inhabited house tax had also been under consideration but had to be abandoned as being even less equitable in its incidence than a Poll Tax.

He took it for granted that every individual residing in the Protectorate would admit the equity of the principle of contributing to the expenses of the

Administration by some form of direct taxation. At present the natives collectively contributed a very large proportion of the revenue of the Protectorate both by direct taxation in the form of Hut and Poll Tax and by indirect taxation in the form of Customs duties on the cotton and other imported goods used by them. The non-natives on the other hand were at present subject to no form of direct taxation and the main objects of the Government in introducing the measure now before Council were to extend the principle of direct taxation to the non-native members of the community and to provide some means of increasing the revenues so that they might the more speedily arrive at that stage of the Protectorate's finances when they should no longer have to enlist the assistance of the Imperial Government, but should reap the many benefits of financial independence. On a basis of Rs. 15/- per head the tax was estimated to bring in about £12,000 during the first year of its imposition.

It had not been thought advisable to attempt any graduated form of Poll Tax on non-natives. It was proposed that the community should be divided into two sections only, viz: the natives who paid Rs. 3/- per head and the non-natives who would pay such sum as might be determined when the bill had become law.

He might state that although in the bill now before Council the tax was put at Rs. 15/-, the Government was quite prepared to consider the substitution of a smaller amount should good cause be shewn, or to adopt the principle provided in the first native hut tax regulations where the maximum of the tax was fixed by law and the actual amount left to be determined by Proclamation.

For the consideration of that matter as well as of the other provision of the bill he would on the second reading ask that it be referred to a Special Committee.

In connection with the question of the equity of the incidence of a poll tax there was one feature to which he must refer specially. That was the inability of the Government to apply the tax to the subjects of certain powers residing in that portion of the Protectorate which is leased from His Highness the Sultan of Zanzibar. The Powers referred to secured for their subjects from the Sultan exemption from taxation throughout His Highness's dominions, and these Treaty privileges were not affected by the lease under which the Coast strip was held by the British Government and were in fact specially safeguarded therein.

The effect of these Treaty rights so far as the bill was concerned was that a number of Coast residents would go untaxed.

The inequity of that circumstance was indisputable and the Government was faced with the three alternatives (1) of applying the Poll Tax as far as possible throughout the Protectorate (2) of exempting all persons residing in the leased area and (3) of abandoning altogether any form of direct taxation.

The Government had come to the conclusion that the adoption of the first of these alternatives would be the best in the interests of the Community as a whole. The progress of the country could not be retarded because of certain restrictions by which the Government was bound and which it could not remove.

The hardship on those at the Coast who would be taxed, or rather the good fortune of those who would not, was fully realised and it was hoped that Council would agree with the Executive Government that, under the circumstances, no other course was open but to apply the proposed tax throughout to everyone on whom it could be imposed.

Discretionary powers were given to the Governor under the bill to remit the tax wholly or in part on the ground of poverty of the person concerned or on the ground that the tax was oppressive. That provision was considered necessary as when the law came into operation it might be found to press too heavily on certain sections or individuals of the community.

He did not think there were any further provisions of the bill to which it was necessary for him to refer at that stage.

THE HON. CROWN ADVOCATE seconded, and the Bill was read a first time.

THE HON. CHIEF SECRETARY moved the suspension of Standing Orders in order that the Bill might be read a second time.

THE HON. CROWN ADVOCATE seconded.

The question was put and carried.

THE HON. CHIEF SECRETARY moved that the Bill be read a second time.

THE HON. CROWN ADVOCATE seconded.

The question was put and carried, and the following Committee was appointed to consider the provisions of the Bill:—

THE HON. CHIEF SECRETARY (Chairman).

THE HON. CROWN ADVOCATE.

THE HON. MANAGER OF THE UGANDA RAILWAY.

THE HON. MR. J. H. WILSON.

THE HON. DR. A. E. ATKINSON.

Prisons Ordinance.

THE HON. CROWN ADVOCATE, in pursuance of Notice given, moved that a Bill intituled "An Ordinance to make further and better provision for the organisation of the Prisons Staff and the Management of Prisons." be read a second time.

THE HON. CHIEF SECRETARY seconded.

THE PRESIDENT reminded Hon. Members that a general debate could now take place on the merits and provisions of the Bill.

The following Special Committee was appointed to report on the provisions of the Bill:—

THE HON. CROWN ADVOCATE (Chairman).

THE HON. MR. A. C. HOLLIS (Secretary for Native Affairs).

THE HON. MR. V. M. NEWLAND.

Registration of Trade Marks Ordinance.

THE HON. CROWN ADVOCATE moved that the Bill intituled "An Ordinance to make provision for the registration of Trade Marks in the East Africa Protectorate" be read a second time.

THE HON. CHIEF SECRETARY, seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause. It was agreed to amend clause 9 to read as follows:—

9. (1) It shall not be lawful to register as a trade mark or part of a trade mark any matter, the use of which would by reason of its being calculated to deceive or otherwise be disentitled to protection in a Court of Justice, or would be contrary to law or morality, or any scandalous design.

(2) No trade mark shall be registered for any goods set forth and included in clauses 23, 24, and 25 of the third part of the Schedule hereto unless such trade mark has been and is registered in the United Kingdom in respect of such goods.

THE HON. F. W. MAJOR, asked the Hon. Crown Advocate, in reference to clause 62, whether the power of the Chief of Customs to detain goods extended to goods which had already passed out of the Customs or whether it was confined to goods before they passed out.

THE HON. CROWN ADVOCATE, said that the power applied only while the goods were in the custody of the Chief of Customs.

The Council Resumed its Sitting.

THE HON. CROWN ADVOCATE, reported the Bill as amended to Council, and gave notice that he would move the third reading on the following day.

Master and Servants Amendment Ordinance.

THE HON. CROWN ADVOCATE, moved that the Bill intituled "An Ordinance to amend the Master and Servants Ordinance 1910" be read a second time.

THE HON. CHIEF SECRETARY, seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause and adopted without amendment.

The Council Resumed its Sitting.

THE HON. CROWN ADVOCATE, reported the Bill without amendment to Council and moved that it be read a third time.

THE HON. CHIEF SECRETARY, seconded.

The question was put and carried, and the Bill was read a third time and passed.

Native Hut and Poll Tax Amendment Ordinance.

THE CROWN ADVOCATE moved that the Bill intituled "An Ordinance to amend the Native Hut and Poll Tax Ordinance 1910" be read a second time.

THE HON. CHIEF SECRETARY, seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read and clause by clause and adopted without amendment.

The Council Resumed its Sitting.

THE HON. CROWN ADVOCATE, reported the Bill without amendment to Council and gave notice that he would move the third reading on the following day.

(The Council Adjourned until the 13th February).

Council Resumed at 9-30 a. m. on the 13th February.

Present:

THE HON. THE CHIEF SECRETARY TO THE GOVERNMENT (C. C. BOWRING, C.M.G.)

THE HON. THE TREASURER (H. A. SMALLWOOD).

THE HON. THE CROWN ADVOCATE (R. M. COMBE).

THE HON. THE MANAGER OF THE UGANDA RAILWAY (H. A. F. CURRIE, C.M.G.)

THE HON. MR. A. C. HOLLIS, C.M.G. (SECRETARY FOR NATIVE AFFAIRS).

THE HON. MR. A. C. MACDONALD (DIRECTOR OF AGRICULTURE).

THE HON. MR. F. W. MAJOR, I.S.O. (CHIEF OF CUSTOMS).

THE HON. MR. J. H. WILSON.

THE HON. MR. V. M. NEWLAND.

THE HON. MR. T. R. SWIFT.

THE HON. DR. A. E. ATKINSON.

Absent:

THE HON. MR. T. A. WOOD.

THE PRESIDENT, said that since the session of 28th November 1911, at which the Hon. Treasurer had presented his Budget statement, further revised estimates of Revenue and Expenditure had been prepared. The original estimate of Revenue for the current year was £620,279 and the revised estimate £700,135 but from the latest figures available it might be anticipated that the actual Revenue would amount to £705,000. The original estimate of Expenditure was £762,246, the revised estimate £797,317; it was hoped, however, that the actual Expenditure would not exceed £784,000. If the more favourable figure of Revenue were reached *i.e.* £705,000 and if the Expenditure for the current year did not exceed £784,000, the surplus balances on the 31st March 1912 would be increased by £26,000, instead of £17,818 as estimated in the Budget Statement last November.

He also intimated that sanction had been received for the establishment of an Isolation Hospital for Infectious Diseases at the port of Mombasa.

Registration of Trade Marks Ordinance.

THE HON. CROWN ADVOCATE, moved that the amended Bill, intituled "An Ordinance to make provision for the registration of Trade Marks in the East Africa Protectorate" be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Native Hut and Poll Tax Amendment Ordinance.

THE HON. CROWN ADVOCATE moved that the Bill intituled "An Ordinance to amend the Native Hut and Poll Tax Ordinance 1910" be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Forest Amendment Ordinance.

THE HON. CROWN ADVOCATE moved that the Bill intituled "An Ordinance to amend the Forest Ordinance 1911" be read a second time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause and adopted without amendment.

THE COUNCIL RESUMED ITS SITTING.

THE HON. CROWN ADVOCATE reported the Bill without amendment to Council and moved that it be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Ostrich Amendment Ordinance.

THE HON. MR. A. C. MACDONALD moved that the Bill intituled "An Ordinance to amend the Ostrich Ordinance 1907" be read a second time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE PRESIDENT reminded Hon. Members that a general debate could now take place on the merits and provisions of the Bill.

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

IN COMMITTEE.

The Bill was read clause by clause and adopted without amendment.

THE COUNCIL RESUMED ITS SITTING.

THE HON. MR. A. C. MACDONALD reported the Bill without amendment to Council and moved that it be read a third time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill was read a third time and passed.

Non-Native Poll Tax Ordinance.

THE HON. CHIEF SECRETARY, as Chairman of the Special Committee appointed to consider the provisions of this Bill, intimated that the Committee had not yet completed its report and begged leave to report progress at a later stage of the Session.

This was agreed to.

Mining Ordinance.

THE HON. CROWN ADVOCATE, in moving that a Bill intituled "An Ordinance relating to Mining" be recommitted to Council for consideration of certain amendments, said that the Ordinance had been passed in Council a year ago to make provision for regulating Mining in the Protectorate. The Ordinance had since been submitted to the Admiralty, who had expressed the opinion that with regard to the provision relating to Oil, the Government would not have sufficient control of Oil Mines in the event of their requiring oil for fuel purposes, and they had advised certain amendments. The Ordinance had been returned to the Council with a view to these amendments being made. The opportunity was taken to ask Council to also consider whether provision should not be put in the Ordinance to allow of rules being made providing for compensation to be paid by the lessee of the mining lease to persons having forest rights over land subject to the lease. He accordingly moved that the Bill be recommitted to Council for consideration only of the amendments proposed, viz:—

Amendment to the Mining Ordinance, 1910.

Section 1.

Delete "1910" and substitute "1912".

Section 4.

After the definition of "European" insert:

"Foreigner means any person who is not a British Subject.

"Foreign Corporation" means any Corporation other than a Corporation established under the subject to the laws of some part of His Majesty's Dominions or of the Protectorate and having its principal place of business in those Dominions or in the Protectorate.

Section 24.

At the end of the Section add:

- (5) A Prospecting Licence shall not authorise a person who is not a British Subject to peg out an oil claim.

Section 25.

At the end of the Section add:

Provided, however, a person who is not a British Subject shall not be entitled to own an oil claim or to enjoy the right of mining for oil anything in this Ordinance to the contrary notwithstanding.

Section 35.

At the end of the first paragraph add "and whenever oil is found on any claim other than an oil claim the holder of a Prospecting Licence, being a British Subject, may peg out of claim an oil claim."

Section 46.

The existing Section to become Sub-Section (1).

Add Sub-Section (2) as follows:

- (2) The transfer of an oil claim and the grant or transfer of any share or interest therein shall be invalid unless the consent in writing of the Governor to such transfer or grant shall first have been obtained, and the transferee or grantee is a British Subject, or a firm or Syndicate, all the members of which shall at all times be and remain British Subjects, or a British Company registered in Great Britain or in a British Colony or in the Protectorate and having its principal place of business within His Majesty's Dominions or in the Protectorate and the Chairman of the said Company and all the remaining Directors shall at all times be British Subjects and the Company shall not at any time be or become a Corporation directly or indirectly controlled by foreign Corporations.

Section 49, 52, and 56.

Insert after paragraph 5 in each Section a new paragraph:

- (6) That he will not assign the lease or any interest therein without the consent in writing of the Governor first obtained.

Section 50.

Delete "and oil" insert "and" before "coal"

Section 57.

Delete and substitute:

57. The Governor may prescribe the number of coal or oil leases which may be held by one person.

Section 58.

Delete the whole and substitute the following:—

Conditions in respect of Leases for mineral oil.

58. Every lease granted for the purpose of mining for mineral oil or authorising the lessee to mine for mineral oil shall be subject to the approval of the Secretary of State and shall only be given subject to the following conditions:—

- (a) That the Lessee shall give an undertaking that he will, if required to do so, erect in the Protectorate a refinery capable dealing with the out-put of oil from the area leased to him, and will so treat the oil as to produce residues suitable for the requirements of His Majesty's Government, provided that the Lessee may, if he prefer to do so, arrange with the proprietors of some approved refinery already erected in the Protectorate to refine the oil in accordance with the requirements of His Majesty's Government, provided also that the Governor shall have the power to waive this condition in any lease, either for a fixed period to cover the initial stages of development or until a reasonable time after His Majesty's Government shall have announced its readiness to purchase from the Lessee stated quantities of oil residues at their current commercial value.
- (b) That the Lessee shall give reasonable security for the proper development of the area leased.
- (c) That His Majesty's Government shall have the right of pre-emption at current commercial prices of all crude oil won from the area leased, and of all products of the refining or treatment of such oil.

- (d) That in the event of war, the Governor on behalf of His Majesty's Government shall have power to take control of the works and plant in the area leased.
- (e) That the Governor shall have the power to regulate the site of any refinery or place of storage of oil in the Protectorate.

After Section 58 insert new section as follows:—

59. (1) No lease for the purpose of mining for mineral oil or authorising the Lessee to mine for mineral oil shall be granted and no assignment of any such Licence or lease shall be made, unless the Lessee or Assignee shall be a British Subject or a firm, or Syndicate, all the members of which shall at all times be and remain British Subjects, or a British Company registered in Great Britain or in a British Colony or in the Protectorate and having its principal place of business within His Majesty's Dominions or the Protectorate, and the Chairman of the said Company and all the remaining Directors shall at all times be British Subjects and the Company shall not at any time be or become a Corporation directly or indirectly controlled by foreigners or foreign Corporation.
- (2) If the Lessee shall assign the same in whole or in part without the previous consent in writing of the Governor, or if the Lessee or Assignee shall cease to be a British Subject, or if, where a firm or Syndicate is the Lessee or Assignee, any member of the firm or Syndicate shall cease to be a British Subject, the Governor may thereupon cancel the lease, and in the event of any alteration being made in the articles of association or constitution of a Company holding any such lease previous notice thereof shall be given in writing to the Governor who, if in his opinion the said alteration shall be contrary to the cardinal principle that the said Company shall be and remain a British Company and under British control, may refuse his consent to such alteration. If and whenever any such alteration shall be made without the written consent of the Governor or if the Company shall at any time cease to be a British Company or shall become a Corporation under foreign control, the Governor may thereupon cancel the lease.

After paragraph XXIV insert a new paragraph as follows:—

XXV. Prohibiting or regulating the cutting of timber on land the subject of a mining lease, and prescribing the compensation to be paid to the Government or to the person having surface or forest rights by a Lessee thereby authorised to cut timber.

After Section 88 insert a new Section:

89. No person shall erect or cause to be erected a refinery for the purpose of refining oil except the consent in writing of the Governor shall first have been obtained.

Any person who shall erect or cause to be erected a refinery without such consent shall be liable to a fine not exceeding Three Thousand Rupees and any person who shall use for the purpose of refining oil any refinery which has been erected without such sanction shall be liable to a fine not exceeding Seven hundred and fifty Rupees for every day on which he shall use the same for such purpose.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the amendments were considered one by one and adopted.

THE HON. CROWN ADVOCATE moved that the numbers of the sections be renumbered in accordance with the amendments made by Council.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. CROWN ADVOCATE moved that the Bill as amended be passed by Council.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried, and the Bill passed.

Non-Native Poll Tax Ordinance.

THE HON. CHIEF SECRETARY, as Chairman of the Special Committee appointed to consider the Provisions of this Bill, submitted the following report:—

Oil Leases only to be granted or assigned to British Subject.

Section 72

Refinery for oil not to be erected without consent to Governor.

"Your Excellency,

I beg to submit the following report of the Special Committee appointed to consider the provisions of the Non-Native Poll Tax Bill:—

- (a) It is considered advisable to give ample and sufficient notice of the imposition of the tax, and on this ground the Committee recommend that the date on which the Ordinance shall come into operation shall be the 1st January, 1913, and that the tax should become due on the 1st day of January, in each year. Amendments are accordingly proposed in Clauses 2, 3, and 4 of the Bill.
- (b) The Special Committee after carefully considering Clause 3 of the Bill, have come to the conclusion that for many reasons it is undesirable to reduce the amount of the Poll Tax below that stated in the Bill, viz: Rs. 15. They realise that the retention of the amount of Rs. 15 may adversely affect the labour supply as far as non-natives are concerned but consider that this is a matter which should be left to be settled by mutual agreement between employers and employees. They further draw attention to Clause 14 which enables the Governor to reduce or remit the tax in cases where it appears to be oppressive.
- (c) It has been represented that the powers as laid down in the Bill do not give the Governor sufficient authority to deal with certain circumstances which cannot be classed under the category of poverty or oppression, but which may still have an adverse effect on the welfare of the community, and amendments in Clause 14 are accordingly recommended.
- (d) With regard to Clause 15 (c) the Committee after full consideration, find themselves unable to come to an unanimous decision and therefore recommend that the question be settled in Council.

C. C. BOWRING,

Chief Secretary, Chairman.

THE HON. CHIEF SECRETARY accordingly moved that Council go into Committee to consider the provisions of the Bill.

THE HON. CROWN ADVOCATE, seconded.

The question was put and carried.

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

IN COMMITTEE.

The Bill was read clause by clause and it was agreed to make the following amendments:—

Clause 2. Delete last paragraph.

Clause 3. Substitute the words "January, 1913" for the words "April 1912".

Clause 4—line 2. Substitute the word "each" for the word "such".

Substitute the word "January" for the word "April" throughout the paragraph.

—line 8. For "September" read "June".

Clause 14—line 3. After "oppressive" insert the words "or for other good cause."

—line 3. Delete the words "for good cause" and substitute the words "for like reason".

Clause 15. (a) For "persons" read "person".

THE HON. MR. J. H. WILSON, referring to clause 15 of the Bill, said that Hon. Members must all agree that it was extraordinary and most unfair that, in a British Protectorate, British subjects should have to pay taxes which could

not be collected from subjects of certain other nationalities. His only reason for voting for the Bill was that it would be still more unfair that British subjects outside the 10 mile limit should have to pay a tax which British subjects at the Coast would not have to pay. Nevertheless he was supporting the Bill ; but he would urge on Government that steps should be taken to enable Government, when levying taxes, to make them payable by all nationalities who found it worth their while to dwell within the walls of the Protectorate.

The Council Resumed its Sitting.

THE HON. CHIEF SECRETARY, reported the Bill as amended to Council and gave notice that he would move the third reading at the next Session of Council.

The Council adjourned *sine die*.