

ly if they think there is any chance of this going through are going to hold over for some time and as the Honourable Member for Plateau South has said what is going to happen is that by putting off the decision you are not going to help the motor trade and in addition Government is going to lose this revenue till that time is up. I have withdrawn the resolution I put forward that Government should decide this matter at once. I do still think that it has got to be determined at once one way or the other.

**THE HON. W. MACLELLAN WILSON:** When I supported this my main idea was that Uganda wished to have the Customs duty on motor cars reduced. That might possibly be done in some other way by a refund of the Customs duty on Uganda cars. I am perfectly convinced that if you can increase consumption you can reduce costs and I am perfectly convinced that if you are going to get motor cars down in price you are going to get people to use cars who now use motor cycles. I hope that the Government in making any investigation on this subject will consider some sort of sliding scale so that as petrol increases in consumption the Excise duty will decrease in comparison. I do not think really two or three shillings will make much difference but there is the possibility of obtaining our own spirits in this country. I think taking all things into consideration it does seem to me that the cheaper we get these things which are absolutely necessary in this country the more business is going to be done and it is an increase of business that Government benefits from.

**THE HON. R. B. COLE:** I agree with what the Honourable Member for Kyambu has said. I supported this in the Committee and thought it over with great care and I believe that by decreasing the actual price of a car in this country you are going to increase the amount used in the country. People will buy the smaller cars and everything will tend to a greater usage of petrol. In a country of this sort it is essential people should have cars. A car comes into the country say to the value of £300. It pays duty which brings it up to £400 and it finally arrives in the shop at say £450. A bill is made out and 15% added to the car. I think everything should be done to bring in these cars free of duty altogether and put the money on an Excise duty on petrol.

**THE HON. SHAMS-UD-DEEN:** On a point of order I think the arguments the Honourable Member is using would be better used on the Customs Ordinance.

**THE HON. R. B. COLE:** I think my remarks are quite relevant to the debate. I was not at the meeting of the R.E.A.A.A. I very much regret they did what they did in sending out a referendum to the country and spoiling a good scheme.

**THE HON. L. A. HOWSE:** I agree with the Honourable Member for Nairobi South. This action has been very hard on the motor industry and I ask Government should make a decision quickly and at the same time give the motor trade an opportunity to get rid of the present stock of cars. There is one other point and that is this suggestion that the publication of this referendum is looked upon as a breach of confidence. I myself heard the matter weeks ago.

**THE HON. E. POWYS COBB:** The proposition is the duty on cars should be reduced and petrol increased. You have a very clear illustration in engines using heavy oil. The price of the fuel is very high and the result is these engines are not being used. There are many tractors, etc., standing all over the country which are not being used simply because of the cost of the fuel. I see the Right Honourable Member for the Rift Valley questions that statement. If he goes into any district in this country he can satisfy himself on that point. Some Honourable Members in this House have machines of that sort standing idle for the simple reason that the cost of the fuel is too high. That is the argument of the man who uses his car for business and not for pleasure. This change is a change recommended by the pleasure users of cars and not by the users of cars for business.

**THE RT. HON. LORD DELANERE:** A statement like this regarding tractors must be contradicted. The only point about these tractors is that if a man made such a mistake as to buy tractors for ploughing in a country where there are oxen it is his own fault. The fact that these tractors are lying about in this country has nothing whatever to do with the cost of petrol. If anybody works out the difference of cost in ploughing with oxen and these tractors they cannot be compared unless we find paraffin of our own. I challenge anybody to make out figures and contradict it. With regard to the question of English cars. Everybody knows, and I agree with the principle, that American cars are far more suited to the roads of this country outside the towns than any English car can possibly be but there are a number of people who live in or near the towns who like what they call a swank car and not a car which looks like a piece of corrugated iron knocked into shape. There are quite a large number of people, who, if a cheaper English car was brought down by 33%, would be able to afford the purchase price. I am willing to admit that this is a matter for speculation but I understand it is the opinion of the Secretary of the R.E.A.A.A. With regard to the question as to whether this matter should have been brought up I am perfectly willing to admit that the Committee which sat the other day never suggested that Government should take immediate action on this subject. This matter has been ventilated by the R.E.A.A.A. and the motor cars for sale in this country have been stuck at the Coast in bond. I am afraid a decision has got to be taken one way or another owing to the fact that we have got into an impasse in this matter.

**THE HON. THE COLONIAL SECRETARY:** I think we should be quite clear on this matter. It was considered in the Special Committee and this recommendation was put forward and accepted by me as Chairman. We embodied it and the responsibility lies with Government to consider this recommendation of the Committee. The sending out of a referendum by the Secretary of the R.E.A.A.A. is entirely a different matter. This referendum was based on common knowledge. This matter will have to be considered by the Committee which will sit shortly in connection with the changes in the Customs tariff. The Honourable the Commissioner of Customs has obtained considerable information with regard to this proposal. The more views we have the more helpful it will be to Government in coming to a decision which is going to be of benefit to this Colony. I entirely agree with the remarks made by the Honourable Mr. Shams-ud-Deen. The country has reason to believe that Government is going to increase the tax

on petrol and take off the duty on cars. I agree it is desirable Government should go into this matter as early as possible but no change can be made in the Customs tariff without the approval of the Secretary of State which is going to take a certain amount of time. We have had a great many arguments to-day and reference has been made to the views of Uganda in respect of this. It is generally known that there is feeling in England on this matter and that Uganda has made strong representations that the tax on motor cars is too high. That is sufficient ground for this Select Committee to consider the matter in connection with the Customs revenue. The greatest assistance was rendered by Unofficial Members to Government and I take this opportunity of thanking them. Responsibility rests with Government and Government is not going to lessen its responsibility but at the same time Government will give the fullest weight to these representations as they represent the feelings of this Honourable House. I do not consider that any Honourable Unofficial Members

are bound with regard to this particular question as to whether the tax should be put on petrol to meet the tax on motor cars. A vast amount of expression of opinion has been obtained and I do not think the result has been bad on the whole and I can promise on behalf of Government that consideration will be given at the earliest moment through the Customs department. It is a matter which will have to be looked into very carefully by me and all we can promise is that this matter will receive very full consideration by the responsible officers of the Government who will be prepared to hear the evidence of the motor trade people. It cannot be settled to-day or to-morrow.

Council adjourned till 10 a.m., 1st November,  
1923.

#### EIGHTH DAY.

**Held at Nairobi on the 1st day of November, 1923.**

The Council assembled on the 1st November, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

#### DEBATE ON REVENUE.—EMPIRE EXHIBITION.

**THE HON. CAPT. J. E. CONEY:** I would like to ask the Honourable Treasurer how much he expects to obtain from subscriptions to the Empire Exhibition fund to which this Government has committed itself by guarantee to the extent of £12,000.

**THE HON. THE TREASURER:** Your Excellency, it is very difficult to say with any assurance how much is likely to be received but I think the Government is justified in putting in a sum that they think will be collected and that is £4,000.

**THE HON. CAPT. J. E. CONEY:** I would like to remind Government that the original Motion was that Government should contribute pound for pound subscribed by the public. Government is going to pay £12,000. I understand the Tanganyika Government has not subscribed more than has been subscribed by the public.

**THE HON. THE TREASURER:** In these matters I think it is wise to be on the safe side but it does not mean that the subscriptions need be only £4,000. I understand that it is the intention of the Empire Exhibition Council, when the Exhibition is closed to approach those firms who have given a guarantee but have not subscribed, asking them to join the subscription list if they do not become liable for payment under the guarantee.

**THE HON. THE DIRECTOR OF AGRICULTURE:** The case is as stated by the Honourable the Treasurer and I would like to say on behalf of the Empire Exhibition Council that that Council has carried out its undertaking with Government to the effect that every effort should be made to collect subscriptions and so reduce the amount to be paid by Government under the guarantee. I would like to say that we accept no responsibility in the matter.

Having regard to the manner in which this Honourable House put up the Guarantee of £12,000 the people of the country feel that if they subscribe directly towards the fund they might individually be paying towards it twice. It is a feeling to which I drew the attention of the Council at the time and the position is that the Exhibition Council has left no stone unturned to collect subscriptions from the public by circular and other appeals in the whole country and oversea. We hope in the end that we shall get a fair sum of money against the £12,000 subscribed by the Government. I would like to elaborate what the Hon. the Treasurer has said about the large firms at home. Some of them undertook to guarantee the large sum of money required by the Imperial Government before the Empire Exhibition undertaking was entered into. And they feel they cannot enter into two commitments. Our hope is that if the Exhibition is a success financially and if these firms are not called upon to subscribe to the guarantee, they will then be in a position to subscribe towards the funds required by this Colony.

**THE HON. CAPT. J. E. CONEY:** I am very sorry to hear the Honourable Director of Agriculture say the Exhibition Council could accept no responsibility for the guarantee. The Honourable the Director of Agriculture was a member of this Council when he introduced some two years ago a motion into this Council asking Government to subscribe a sum of £5,000 on the understanding that the public should subscribe a similar amount. That method was altered to a direct guarantee by this Government irrespective of what the public might subscribe. I am glad he is hopeful the business firms will come forward and pay it but I have no hope of this myself. I think the wrong method has been adopted and I said so at the time.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I know the Honourable Member for Plateau North has been opposed to this scheme from the beginning and I know as far as the Exhibition Council is concerned we have not received assistance from him but I repeat that the scheme of the guarantee of £10,000 and later increased to £12,000 was no scheme of the Empire Exhibition Council. It is true when the matter came forward first that the idea was that the funds should be subscribed on the pound for pound principle, but circumstances into the details of which I need not enter necessitated a reconsideration of the matter. The Honourable Members were made fully aware of the change and Government decided that under all the circumstances it was better to give a guarantee in the form it was presented and passed by a substantial majority in this Honourable House.

**THE HON. CAPT. J. E. CONEY:** The Honourable The Director of Agriculture is quite wrong if he says I have ever opposed the Exhibition Council. Long before the Government had decided to take part in the Exhibition I myself urged Government to do so. I will ask him if he has ever asked for my help.

**THE HON. T. A. WOOD:** I must say I am rather confused with the general position. Is this a guarantee or is this a payment. This is holding a good many people up. A number of people have given guarantees to provide the sum if the Exhibition itself does not provide it by means of earnings. If so naturally people to a large extent must be averse to putting their hands in their pockets and producing cash which may not be required. Or is it the case that this country has got to pay £12,000 whether the Exhibition is a success or is not a success. There have been so many references to guarantees. A guarantee is not necessarily a cash payment.

**THE HON. THE DIRECTOR OF AGRICULTURE:** If I may quote from the wording of the resolution passed by this Council which was as follows:—

"That Government contribute an equal sum, on the £ for £ principle to that contributed by the public of Kenya up to a maximum of £2,500 towards the expenses which will be incurred in connection with the Kenya Exhibit at the British Empire Exhibition 1923."

This motion was subsequently rescinded and a motion was passed to the effect that Government would guarantee a contribution of £10,000.

**THE RT. HON. LORD DELAMERE:** Surely there can be no difficulty about voting the money for the Exhibition?

#### DEBATE ON TRADERS' LICENCES.

**THE HON. SHAMS-UD-DEEN:** With regard to item 18 may I ask the Government as to why the unanimous recommendations of the Economic Committee as to the abolition of these licences has not been taken into consideration.

**THE HON. G. A. S. NORTHCOTE:** The position with regard to these licences is that the Government considered the recommendation of the Economic and Financial Committee and was sympathetic towards it but was unable to take that item of Revenue off the Revenue side of the Budget.

**THE HON. SHAMS-UD-DEEN:** May I ask for some reasons of the inability of the Government to do this? Is it because the Government cannot raise revenue in another way to replace it? Has the licence got to remain as a matter of policy?

**THE HON. G. A. S. NORTHCOTE:** It is rather difficult to argue. It is a question which the Honourable Member might give notice of and a full answer will be prepared.

**THE HON. T. A. WOOD:** Is it not the case that Government has found from experience that it is difficult, if not impossible, to collect direct taxes and has therefore adopted this method of indirect taxation? I know that these charges are passed on to the consumer.

#### SPEECH ON THIRD READING OF ORDINANCE TO MAKE PROVISION FOR THE SUBSTITUTION OF IMPRISONMENT FOR TRANSPORTATION UNDER THE INDIAN PENAL CODE.

**THE HON. THE ATTORNEY GENERAL:** I rather regret that owing to the title of this Bill Honourable Members on the other side of the House voted against it because the title did not explain the Bill itself, and I should like to assure Honourable Members that I do not wish them to feel that this Bill was being pushed through in any sense of the word. This Bill was intended to cover two very definite points. I should like to repeat them now. The first point is to remove the "legal punishment of transportation" and the second is "making imprisonment for life a lawful condition of the grant of a pardon by the Governor, and thus removing the doubt as to the Governor's powers."

#### SPEECH ON THE SECOND READING OF AN ORDINANCE TO AMEND THE AGRICULTURAL PRODUCE EXPORT ORDINANCE, 1921.

**THE HON. THE DIRECTOR OF AGRICULTURE:** I do not think there is anything of importance to add to the remarks I made on the first reading except perhaps to say that when this Ordinance comes into force in respect of maize I hope and believe that the result will be entirely satisfactory and beneficial to the maize industry and it is of importance that it should be passed without delay.

#### DEBATE ON SECOND READING OF ORDINANCE TO AMEND FURTHER THE LAW RELATING TO MASTERS AND SERVANTS.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** In discussing the principles of this Bill it will be necessary perhaps at times to refer to remarks I made on introducing the Bill and explaining its objects. The operation of the Resident Natives Ordinance of 1918 has not in my opinion proved entirely satisfactory either to the occupiers of farms, or to the employers of native labour, or to the administration of the country generally, and this Bill has been designed to remove certain difficulties and disabilities which effect in part the occupier, in part the native, and in many cases both. The main principle that underlies the present Bill and one which I have discussed with Honourable Members and employers in the non-native areas, is this. That it is not desirable as a general rule that a native should reside on a farm unless he is a genuine farm labourer. At the outset I should like to say that I realise and appreciate fully the fact that there are a great many natives living on farms in a manner beneficial to themselves and, I hope, to their employers. It is also the case that there are a great many natives living on farms in a manner which is beneficial neither to the non-native population of that area nor to themselves. There have been many complaints of natives with stock

squatting on unoccupied farms and on unalienated Crown Lands. There are also, I am sorry to say, a great many natives living as squatters on farms in direct contravention of the Resident Natives Ordinance of 1918. It would appear of course that the ordinary remedy for that is by prosecution, but as it stands at present the Resident Native Ordinance makes the residence of natives on farms a penal offence only against the occupier and not against the native, and I am informed that the difficulty in obtaining a conviction in these cases lies in the fact that sometimes ingenious defences are put up to the effect that the present Trespass law is not sufficient to enable the farmer to get rid of these natives. The other basic principle of the Ordinance is that it definitely establishes relation of master and servant between the farmer and resident natives instead of what has been held to be the present position namely that of landlord and tenant, and where contracts are entered into under the provisions of the proposed Bill the ordinary penal clauses of the Masters and Servants Ordinance will apply to any natives under contract who refuse to work. It will be seen in the first clause of the Bill that this Ordinance will be read as one with the principal Ordinance. The conditions under which natives will be allowed to squat on farms are specified. Where a member of a family enters into a contract for 12 months he may take his family to reside on the farm if agreed to by the occupier. It is impossible to foresee every possible case in which it may be desirable to permit residence on a farm and that point is covered by the provision that a native may reside on a farm if he is the holder of a permit from a magistrate. Under the circumstances which are contained in the other sub-clauses these permits will naturally only be given in special cases where a good case is made out. With regard to stock, there has been great difficulty in the past with cattle of native squatters. The old Ordinance provided that cattle taken by so-called "squatters" on to farms should be branded with the farm brand with the letter "S" but this, I am sorry to say, was not always carried out, and when a Committee of this Honourable House investigated the question of pleuro-pneumonia, practically the whole of the European witnesses drew attention to the fact that one of the many causes of the spread of pleuro-pneumonia was the illicit removal of cattle from the native reserves to farms and vice versa. I am informed that one of the difficulties in enforcing this Ordinance was that the defence which was put up by the farmer when asked why he had not branded his squatters stock was that he had not got a brand and was not compelled by law to have one. That point is now covered. The Bill further provides that when stock that has been so branded are removed from a farm the brand must be reversed. In connection with branding I propose, with Your Excellency's permission, to read this extract from the annual report of the Department of Agriculture which is rather significant:

(Extract read from the Agricultural Department Report 1922)

The Bill provides that the native who is a squatter must now enter into a contract which must not be less than 12 months under the Master and Servants Ordinance and he has to work 180 days of that time. Under the old Resident Native Ordinance he only had to work if and when called upon and I am afraid the result has been many natives have been taken on to farms and have never been called upon to work. It is not felt to be right, and all the European farmers to whom I have spoken agree, that natives should live on a farm under no obligation to work. The Bill provides for a definite form of contract and I think that, in general, it removes the existing dis-

abilities of the Resident Natives Ordinance. Under the present system from the administrative point of view we find that on some farms, owing to negligence by the occupiers an undesirable population of natives, who have left the native reserves generally to escape tribal control and sometimes it is feared tribal debts, is growing up. They have gone to escape control and if this state of affairs is not checked now we shall in time come to the second and third generation of these people who will not be under control and who will be uncontrollable. If the farms change hands and it is found necessary to remove them in say 20 years time it will be difficult to find a place for them. I appreciate the fact that there are farms where natives live under proper conditions to the utmost benefit of themselves and, I hope, of their employers. I think that I have now covered the many principles in this Bill which relate to what are known as "squatters." I have gone through it very carefully with Honourable Unofficial Members to whom I am deeply indebted for their help. I have also gone through it with a sub-committee of the Convention of Associations, and I trust the principles of the Bill will commend themselves generally to the House. There is one further matter dealt with which really has nothing to do with squatters but which affects Labour Inspectors and it was held opportune to amend the law by means of a clause in this Bill. Under the present law a Labour Inspector can take no action without referring to the Chief Native Commissioner for instructions. I believe that this provision was inserted at a time when it was feared by some Honourable Members that Labour Inspectors would not be men of a class to whom discretion and powers could be entrusted. It is proposed now to second administrative officers for the posts of Inspectors. It is extremely inconvenient if reference has to be made in every case to the Chief Native Commissioner before action is taken. For instance, when a labour inspector is inspecting a fuel camp it is often necessary that he should take action at once before the nearest magistrate. If he is wrong the magistrate will so decide. The trouble is that if he has to refer to headquarters it is quite possible that the labourers' time will have expired before he can get into communication with the Chief Native Commissioner. I hope that Honourable Members will appreciate this alteration. I may remark that it is an amendment to a section, and it is a case of the amendment not being printed opposite. I hope that Honourable Unofficial Members will express their views on the principles of the Bill and I hope it will commend itself to them.

HIS EXCELLENCY: Has the Honourable Member stated what this Bill is likely to cost the country?

THE HON. THE CHIEF NATIVE COMMISSIONER: As far as I am aware there will be no extra cost to the Colony.

THE HON. CONWAY HARVEY: I beg leave formally to second the motion.

THE RT. HON. LORD DELAMERE: I am afraid as far as I am concerned I am not in agreement with the Bill as laid down today and if I am to vote for this Bill the Bill will first of all have to be amended in a Select Committee. In my opinion, for what it is worth, this Bill is going to destroy the present system almost altogether. The Committee sat on the Bill dealing with native families on farms in order to amend it in such a way that some method might be adopted by which a native who had to leave could be made to leave and the native who refused to do his share of work might be brought during the period of his time to work under the Masters and

Servants Ordinance or at any rate be forced to carry out his contract. It is a peculiar thing to me that when a Committee sits to amend a Bill to bring about these two conditions which I understand from the Honourable Chief Native Commissioner are the conditions which he wishes to bring about that the whole of the principle under which the old Bill, in my opinion, was worked has been completely altered. I can think of no reason whatever for this Bill being what it is today except a wish on the part of Government to get all these natives on farms back into the Reserves. That may be a desirable thing but I would remind this House that the original Bill starts with a preamble which was voted for by the Unofficial Members and was only got into the Bill with the greatest difficulty in order to make clear the object of the Bill; the preamble is as follows: "Whereas it is desirable to encourage native labour on farms." With the exception of these two points I do admit that a native can apparently be made to carry out his contract when living on a farm and that magistrates have got power to do it. I will also admit the other point that I raised but I do not admit any of the rest. I do not admit there is any necessity whatever for a change in the policy which was laid down in the Resident Natives Ordinance. That was that in all the great majority of settled areas where there were any natives it was desirable to have resident natives interested in the work of those areas. I see that that Bill has been a great success. Before that Bill was passed under the original Bill no native could get out of the reserve and the principle was he had to get leave from the District Commissioner and it is perfectly evident from what the Honourable Chief Native Commissioner says they would not let them come out now. Under the original Bill it was laid down that the District Commissioner of the district had nothing whatever to do with the matter. The Resident Commissioner of the District in which the farm was constituted gave the farmer the right to have these natives on his farm. Then with that paper the farmer was able to get anybody he liked out of the Reserve up to a certain number. When these people were out on farms they were bound under the law just as in this Ordinance to do 180 days work in a year. It is possible under some legal quibble it may have been overlooked but once they were on these farms as long as they got on alright they could stop there as long as they liked. Suppose a man was given 100 natives for certain work and at the end of two years that particular activity went by the boards. In this new Bill, simply because that industry has gone to pieces, these natives are to be taken from that farmer and sent back into the reserves. I cannot understand why these people, if that work is changed for the time, should be sent back to the Reserves. The conditions under the old Bill were that if a man was doing good work for his own people, he could still live on that farm but had to go out to work for other people. There is another point. Under the old Bill any adult male over sixteen years of age had to be included on the register as a numbered person but under the new Bill he is to be taken away from his parents and sent back to the reserves. That boy though he has been living on the farm with his parents and though everything may be alright he has got to leave and go back entirely on his own to the Reserve. I say the whole object of this Bill is to get the natives back into the reserves. Whether the object is so or not the result will be that. We fought for a very long time to get these natives out and I say that simply because of the few instances where the old Bill did not provide quite properly for one or two details it is an enormous pity to let the whole of the principle of the old Bill, which was to help labour

to come out on farms, to be done away with. I want to see the Bill put to a Select Committee in order that these matters may be gone into. I have not heard of such a Bill by which Government can take a boy away from his parents and put him back into the Reserves. It gives no security whatever to the native. He has got little enough as it is but now not only can the owner get rid of him but the Government can go and haul him away, the second the crops are bad. It is an impossible condition. As far as I am concerned the more natives that come out on to farms under real control away from what is called control of the native reserves, the better people they become. They are never individuals in the reserves. After all we used to be told that natives did not like going out to work on farms. The difficulty of the Government now is that too many go out. I challenge the idea that they have not got to work. In 99 cases out of 100 as these people are only to work for 180 days of the year there are a large number of people who wander about. I have gone into one or two cases where Government have said there is no control and I find the contention is not correct. I admit there must be cases where there is no control. I believe in Forest Reserves there is no control. Again I will put a warning to Honourable Members that in a forest which is not subject to annual reproduction you have to replant the whole forest. There is only one possible economic way of doing that and that is by squatters planting trees with their own crops. What is done at present is that a man is given a piece of land to plant his crop on and he plants trees. I may not know all the facts but as far as I am concerned nothing but good has come out of this Squatters Ordinance and I say again if the Honourable Chief Native Commissioner wanted to labour these two points he could have done it without upsetting the principle of the Bill. This Bill will take the natives back into the Reserves and I do ask that this Bill be put back into Special Committee and this matter carefully and thoroughly gone into before this system is passed. I submit that is in itself sufficient reason for it being recommended to go to a Special Committee.

THE HON. CONWAY HARVEY: I have no objection whatever to this Bill going to a Special Committee but nevertheless I would beg all Honourable Members not to follow to easily the whole shoal of red herrings which has been set adrift by the Right Honourable Member for the Rift Valley. I believe that the principles underlying the introduction of this amending Ordinance are identical with those which governed its predecessor. I should oppose any attempt to tie up permanently natives in their reserves but I suggest that the whole principle of this Ordinance is to create conditions which will render permanent employment on farms agreeable to them and beneficial to their employers. The Ordinances which it is proposed to amend have certainly only been partially successful up to now because no provision has existed for imposing disciplinary measures on natives committing an offence. The only penalty was to return these natives to the reserves but they still have the right to remain and look after their crops until they reach maturity and then reap them. In the case of long crops, this means that an employer may be saddled with undesirable natives for a number of years. Another red herring which the Right Honourable Member made a great deal of is the one in which a boy reaching the age of 16 could be sent back to the reserves. I suggest that is never contemplated and as I understand the Bill it merely renders him liable to enter into a contract of work and so far as the question of natives getting the permission of the officer in charge of the reserves to leave the reserve is concerned I do submit that is essential

if you are going to have any Government at all. It has never been observed in actual practice. No Resident Commissioner in his right mind would dream of giving 20 or 30 Kavirondos permission to leave the reserve without having satisfied himself their accounts are clear with the administrative officers of that reserve. I submit under these conditions he is as free as air to enter into these contracts and he has nothing to complain about whatever. There can be no question of oppression as far as the native is concerned. What the Right Honourable Member said about the forests is right to a certain point. One boy gets permission to plant one acre of grain and his hut is merely turned into a sanatorium for every man who wishes to escape from the Reserve. It is highly desirable and extremely important that these Resident natives should be kept under proper control.

THE HON. CAPT. J. E. CONEY: If I had the fears of the Right Honourable Member I would vote against the second reading of the Bill. It is because I have no fears and I believe this is an honest attempt on the part of the Native Administration to meet the situation which has arisen where the existing law has broken down, that I will vote for the second reading and thank the Honourable Chief Native Commissioner for giving the attention he has to it. I bow to the Right Honourable Member and his experience in this country that he fought with others years ago to get us labour on areas of country which were unoccupied. I think the country owes to them deep thanks and the country recognises that but I think circumstances are altering and have altered a great deal. I can speak for the district I represent and say the position there as far as squatters are concerned is a failure. If the squatter declines to work the Native Affairs Department should have the right to send him back to the Reserves. I hope that the Honourable Chief Native Commissioner with Your Excellency's permission will allow this Bill to go to a Special Committee and I hope further on that Special Committee you will include the Right Honourable Member so that you can have the benefit of his experience.

THE HON. T. A. WOOD: This is a subject I am afraid I ought not to tread on but I am not going to allow what the Right Honourable Member for the Rift Valley has said to give a wrong impression. I helped him to vote in the old days for some system under which what I call nuisances could be greatly done away with in the interests of civilization, development, and progress. I understood that was our function. Why did we come into this country? To leave the native in his original primitive state? and I am sorry I am not sufficient of a fisherman to appreciate these red herrings. They look like very good fish that are worth going for. As I read this Bill through it looks to me as if you are going to create such a lot of work on the unfortunate occupier of a farm that he will think twice before he worries about having any of these so called squatters. Before agreeing to a measure of this sort I should like to be more convinced that the system which originated in the original Squatters Ordinance has broken down and to what extent it has broken down. That seems to be the point. This Bill seems to go a great deal further than that and I therefore support the view that before the House passes it it should go to a Special Committee for close investigation. I am one of those who do not accept the principle that the only place for the native is in the Reserves. This is against what we have been attempting to do for many years. We want to teach the native to produce and develop and not leave him in the Native Reserve.

THE HON. W. MACLELLAN WILSON: I might recall in 1912 a Labour Commission sat in this country and prepared a Report and one of the things which was suggested for the benefit of farmers and others was the suggestion of a Resident Natives Ordinance. War came on and nothing much was done. In the meantime many natives had gone out and were settled on farms. In those days some farmers had more than they ought to have and some did not have enough and as soon as War was finished an attempt was made to bring in these Ordinances. It was based on the South African Law and the first suggestion was that all headmen should have a right to call on five or ten families. I think that that preamble to which the Right Honourable Member referred to is a very necessary thing. I think the point is now we want to know exactly the position the Government is going to take in relation to labour which is felt to be necessary for work outside the native Reserves. If I may express my private opinion it is this. I cannot agree with those who would like to see natives coming out and living habitually amongst white people. I cannot agree with that. My experience in South Africa was that the natives I saw did not seem to get very much refinement with the type of civilization they came into contact with. I think the quickest and best way to civilise natives is to get them outside to work under control on farms. We can spend very little money on the native Reserves for their betterment and for the money available for that work the result will be negligible. With regard to Agricultural Instructors. You have a hundred farmers to one Agricultural Instructor. I do not think there is really any difference of opinion as to the actual principles involved. I do not think there is but I do think there is a great deal in what the Right Honourable Member said as to whether it is necessary to incorporate this amending Ordinance into an Ordinance which existed in 1910. Would it not be better operated upon by following on the lines he has laid down? With regard to the necessity of getting these people who are out under some local control. That is the whole question and I do not wish to add anything to it which may embarrass the Government on this question of policy. I am satisfied in my own mind that that policy, as far as I have seen, is to help us. But I do think that they might do a great deal more. I ask that in considering a thing like this they might consider the absolute necessity to correlate all our efforts along the line of training native labour. Another reason why I do not think this is the best way to deal with this matter is that it has been brought to my notice quite frequently lately that a great many cases have been turned down. There are apparently two leading mentalities in this country. The legal mentality of the Attorney General's Department and of the High Court. It has been brought to my notice a great many cases have been turned down by the High Court ruling as to the 30 days contract and I do think that the time has come if we are going to begin tinkering with the Master and Servants Ordinance that we should consider the whole Ordinance and all amendments thereto and get a consolidation.

THE HON. G. A. S. NORTHCOTE: I believe the real difficulty in following the advice of the Right Honourable Member for the Rift Valley is that the present Ordinance is not remediable in view of the finding of the High Court. The native is already under one form of contract and you cannot put him under another form of contract. That is why the aspect of the restriction placed upon natives squatting on farms has been changed and these regulations now appear under the Master and Servants Ordinance and not in the Resident Natives Ordinance. I think further close study will not show many alterations in principle and

such alterations as there are I think are improvements in a small way but the main point is that the Resident Natives Ordinance has been nullified by the High Court and to day that Ordinance is useless

**THE HON. E. POWYS COBB:** I wish to support the principles which I believe underlie this Bill but at the same time I think the Right Honourable Member's suggestion a good one that the Bill should be referred to a Select Committee. The subject is a very important and complicated one and for various reasons the Honourable Chief Native Commissioner who has been extremely energetic in the way he has endeavoured to obtain the views of the Convention of Associations and unofficial members has not been able to embody the amendments which these bodies have suggested to him and I think as a result of that there are a great number of amendments which will have to be discussed and I think they can be best discussed by a Select Committee. I should not support the principles if I thought the fears expressed by the Right Honourable Member were well-grounded. No member of this House can attach more importance than I do to the question of getting natives settled on the land occupied by white farmers. I think quite possibly it may be one of the principal factors in seeing us through the troublous times which are ahead of us. If I had any of the fears of the Right Honourable Member I would not support the Bill. I believe the effect will be to facilitate the establishment of resident natives upon the land of white farmers and to enable a far better relationship to spring up between the employer and employed and it will, I hope, prevent the abuses to which the present Resident Natives Ordinance has shown itself to be liable. I am unable to agree with the Right Honourable Member that that Bill has not been a failure. The failure has not only been on land of farmers but especially on Government land. I think of all the various objections which the Right Honourable Member put up the only one which appears to me important is the point he raised that in the event of the failure of a certain crop the natives could not be dislodged. That is a point which should be dealt with by the Select Committee, and I do not think it should be difficult to eliminate it. Therefore my view is that as the Bill is a complicated and important one it should go to a Select Committee.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** I should like to preface my remarks by saying it was my intention to ask Your Excellency to appoint a Select Committee, but I was anxious there should first be a debate on principles. I quite realise there are small points of detail on which I have not been able entirely to meet the views of the Convention but I think we might be able to come to some agreement by a Select Committee. In reply I would like to say I am most grateful to Honourable Members for what they have said. I would also like to assure the Right Honourable Member for the Rift Valley that as far as I am concerned my object in preparing the Bill is to give effect to the principles which underlie the Resident Natives Ordinance of 1918. The preamble to that Bill was roughly this: "To encourage native labour on farms and to take measures for the regulation of the squatting or living of natives in places other than those appointed for them by the Government." That preamble establishes two basic principles. The first is that natives who live on farms must be labourers and secondly that it is necessary, in view of the fact the Government has appointed certain places for natives to live in, that their squatting anywhere else should be regulated.

These are the basic principles underlying this Bill. The Colony is said to be divided into four kinds of country the native Reserves; the alienated land which has been given out for farms, a certain amount of unalienated crown land, and the fourth is the forest Reserves. I am convinced that when the Colony was so divided it was never the intention that natives should go and live at random in the farm areas or on the alienated farms. The farms were alienated to non-native settlers on development conditions, and as long as the natives on those farms are reasonably employed on the proper development of those farms I for one would be sorry to see any of them turned off, but what I do not want to see is the native squatting on alienated farms or in other places in white areas where his residence is not regulated and he is not adequately occupied with work. But I feel confident the Select Committee will adjust matters. The Right Honourable Member feared a change in policy, and that it was the desire of myself to keep the natives in the Reserves. My desire is not to keep the natives altogether in the Reserves but it is my desire that those natives who leave the Reserve should go out on legitimate business. Land has been set aside for those natives who wish to live in the native Reserve. I have been on a farm which was nothing more nor less than a native Reserve. I was taken there by the occupier. There were 127 families living there in idleness. I admit that that is an exception and that is not the condition on all farms. There are many farms where the natives are living under proper control, but we have to provide against these bad exceptions. I feel that these principles are accepted by the House and I think that this Select Committee will be able to present a unanimous Report. With Your Excellency's permission I would like to suggest the following Committee:—

The Hon. The Chief Native Commissioner.  
The Hon. The Solicitor General.  
The Hon. The Senior Commissioner.  
The Rt. Hon. Lord Delamere.  
The Hon. Conway Harvey.  
The Hon. Capt. J. E. Coney.  
The Hon. E. Powys Cobb.

It had been my intention to propose that an Indian Member should be appointed to the Committee but I spoke to the Honourable Mr. Shams-ud-Deen and he informed me that they did not wish to sit on this Committee.

#### DEBATE ON ORDINANCE TO AMEND THE ESTATE DUTY ORDINANCE, 1918.

**THE HON. THE ATTORNEY GENERAL:** I do not think there is any very great principles involved in this Bill which is really to remove anomalies. As the Honourable Treasurer has said one provision is to see that the person who assesses the duty does not collect it. One anomalous position in the existing law as it stand is this. If a man dies possessed of property to the value of say £20,000, half in Kenya and half in England, we collect on £10,000 at 4% and realise £400 whereas at Home they collect on £20,000 @ 6% and realise £1,200 and then allow less the duty paid here. England thus gets in all £800. Similarly if a man has property worth £20,000 on which duty is payable in Kenya and England each will charge on the whole at 6%, but as half is situate here and half in England each

will get £600, under the amending ordinance, as the scale of duty in our schedule is the same as the English schedule. It has been suggested that section 7 might create hardship as until Probate is granted the property is tied up and is not realisable and that ready cash in the bank is not available and Probate must be granted to free the assets. I think this is reasonable, but Probate should be withheld until the production of the inventory. We ask for this inventory and get a temporary one only but are unable to collect the duty, and it is extremely hard to get people to move in the matter.

**THE HON. SHAMS-UD-DEEN:** I think this condition of the inventory being supplied by the Letters of Administration is a hardship. In some instances where the Estate is a large one a long time would be employed in making the inventory and this might seriously interfere with the administration of the estate dues. Some provision should be made in this Ordinance where a man neglects to supply the required inventory within a sufficient period then the letters of administration should be revoked. That would meet the case quite suitably. But in all cases where a death takes place and the Administrator General is not administering the estate it is only desirable that the administrators should be able to get Letters of Administration at the first possible opportunity.

**THE HON. T. A. WOOD:** I was the member referred to by the Honourable Attorney General. I should like to put that point of view forward. I gather he agrees with it but the the Honourable Mr. Shams-ud-Deen objected to it. I do not see any objection to the preparation of an inventory, but in 99 cases out of 100 you cannot pay the duty until probate is issued excepting by borrowing it from someone. You cannot even draw the money from a bank if lying to the credit of a deceased person. Therefore I suggest that as Clause 7 is worded it creates a hardship. It cannot be suggested that one should be compelled to go to a bank and borrow his own

money for the purpose of paying the Government duty, and paying interest on it. That would happen if payment of duty is definitely demanded before granting probate. I had a suggestion that that clause should be amended at a later stage so as to provide for the certificate of the Estate Commissioner being granted when he is satisfied that the duty has been or will be paid. I suggest that meets the case entirely. I know Government requires protection against the executor who might be guilty of disposing of the Estate without the Government getting their dues. I submit there is no necessity to penalise by suggesting the money should be paid. Section 14 (v) provides that the duty can be paid in instalments at the option of the executor, by eight equal yearly instalments providing for interest at the rate of 6% per annum. If you pass clause 7 as it stands I think Section 14 (v) in the original Bill would require amendment.

**THE HON. CAPT. J. E. CONEY:** It seems as if the debate is going to centre on clause 7 and I would suggest that before the Government agree to give probate they should consider what they are doing. It is not difficult for the executor to get a bond which he can produce to the Government in security. The Government are running a risk to grant probate on an inventory only.

**THE HON. THE TREASURER:** This point can be discussed in Committee.

*No debate on second reading of Ordinance to Amend the Maintenance Orders Enforcements (Amendment) Ordinance, 1923.*

*No debate on second reading of Ordinance to Amend the Livalis's Courts Ordinance, 1921.*

*Council adjourned till 10 a.m., Friday,  
2nd November, 1923.*

## NINTH DAY.

**Held at Nairobi on the 2nd day of November, 1923.**

The Council assembled on the 2nd November, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

### MOTIONS.

**THE HON. THE TREASURER:** Your Excellency, I beg leave to propose the following Motion:

"That this Honourable Council approves of the refund of duty on films for bioscopes or cinematographs in excess of Sh. 1/- per 500 linear feet which may have been paid on or after the 27th September, 1922, that is, the date of the passing of the Customs Tariff Ordinance, 1922."

Paragraph 2 of Ordinance No. 18 of 1923 reduced the duty on Films for Bioscopes etc., from Sh. 1/- per 100 linear feet to Sh. 1/- per 500 running feet. This Ordinance came into force in June, 1923. It is the intention of the Government to introduce the lower duty as from the date of the Customs Amendment Ordinance, 1922, and the Resolution now sub-

mitted will have that effect with effect from the 27th September, 1922. I am not sure but I think the amount involved will be about Shs. 320/-. There is another amount involved but it is not as much as this sum and I think I may say the total will be somewhere in the neighbourhood of Sh. 400/-.

**THE HON. THE COMMISSIONER OF CUSTOMS:** I beg to second the Motion.

The question was put and carried.

**THE HON. THE TREASURER:** Your Excellency, I beg leave to propose the following Motion:—

"Be it resolved that this Honourable Council approves of the grant of a pension amounting to Shs. 1,287/90 per annum to Ali bin Mohamed Zena late Foreman in the Public Works Department."



Ali bin Mohamed was Foreman in the Public Works Department for twenty-seven years, and it was felt the usual gratuity would not be sufficient reward for this man's service and the Secretary of State for the Colonies was approached on the subject of granting him a pension and while he approved of the grant of a pension he limited it to three quarters of the amount he would have been entitled to if he had been in the pensionable staff all the time.

THE RT. HON. LORD DELAMERE: I beg to second the Motion.

The Motion was put and carried.

INTRODUCTORY SPEECH ON FIRST READING OF BILL INTITULED AN ORDINANCE FURTHER TO AMEND THE NATIVE HUT AND POLL TAX ORDINANCE, 1910.

THE HON. THE CHIEF NATIVE COMMISSIONER: The object of the Bill is to remove certain disabilities in connection with the collection of native hut and poll taxes. It has been found not very workable in practice to collect a fine which at present is practically a civil debt, and the only remedy where a fine is not paid is by distress. Under rules, I understand imprisonment has been awarded. Some of the Rules have been held to be *ultra vires*. A suggestion was made by the Chief Justice that the position should be regularised, and it was felt the only way to ensure payment of tax was to make non-payment a penal offence and that the law should be amended accordingly. Another object of this Bill is to alter the period which is covered by a tax. That period has hitherto been from the 1st April to the 31st of the following March. The year now will mean 1st January to 31st December, but in order not to inflict undue hardship the Bill provides that no collection will take place before the 31st March. The tax is payable on demand on any day after the 31st March, but in any case must be paid by the native, whether demanded or not, before the 1st November. I shall explain the Bill further on the second reading. It is not anticipated that it will involve any extra cost.

DEBATE ON SECOND READING OF BILL INTITULED AN ORDINANCE TO AMEND THE GAME ORDINANCE, 1921.

THE HON. THE COMMISSIONER OF LANDS: I do not propose to add to what I said on introducing the Bill except to say there is no additional cost to Government if this Bill is made law.

DEBATE ON SECOND READING OF BILL INTITULED AN ORDINANCE TO AMEND THE FISH PROTECTION ORDINANCE, 1908.

THE HON. THE TREASURER: I do not think it is necessary to add to what I said before. I then said the object of the Bill was clearly stated in Section 2 to allow of 90% of the fees collected for licences to fish to be paid over to the Kenya Angling Association. The cost to the Colony will be nothing.

THE HON. CONEY HARVEY: I beg leave to second the Motion and to congratulate the Government on their generosity in handing over these fees to an

Association which has done such excellent work. I would ask it to go one step further and recognise the fact that a certain number of life members of this particular Association put up the necessary amount of money to get Trout fishing started. I feel most strongly that it might consider the advisability of exempting such people from any licence whatever. I feel it is only equitable that such persons should be exempted for life or a definite period. Had the Association secured the sole fishing rights throughout the country such people would have become life members and entitled to fish without any further payments whatever. The Government decided to retain the sole fishing rights in its own hands and I feel most strongly that they should recognise to the fullest possible extent the work and money paid in by the pioneers of this particular enterprise.

THE HON. SIR NORTHRUP MACMILLAN: I am not sure I am in entire agreement with the Honourable Member for the Lake. My recollection is that ten people paid about £50 each in 1905 to start this thing and they are the original pioneers. Several of them are dead and several have left the country and I do not suppose there are more than three of the original promoters left in this country and I do not think they would agree to be exempted from paying any licences.

THE HON. R. B. COLE: Who are these original people he talks of who paid this money? Does he refer to the same people as the Honourable Member for Machakos has mentioned? Are they people of recent years?

THE HON. CONWAY HARVEY: I may say that I refer to sixty-eight Foundation Members of the present Kenya Angling Association who each subscribed the sum of £15 in order that the Trout might be recommenced. I do not refer to the original subscribers a considerable number of years ago of whom I was one.

THE HON. SHAMS-UD-DEEN: I must object to the principle of the Bill and I want to see some safeguard inserted in case the Association does not carry on with its present energy and enthusiasm.

THE HON. J. B. JOSHI: Is the Membership of the Association confined to any particular race?

THE RT. HON. LORD DELAMERE: As this Association has been established by private enterprise I think it is only right that private enterprise should have control.

DEBATE ON SECOND READING OF BILL INTITULED AN ORDINANCE TO SUPPLY A FURTHER SUM OF MONEY FOR THE SERVICE OF THE YEAR ENDED 31ST DECEMBER, 1922.

THE HON. THE TREASURER: I do not think it is necessary for me to add anything to what I have said because this is only to regularise certain excesses paid in 1922 the majority of which have been approved on the Supplementary Estimates for the year.

*In Committee.*

THE RT. HON. LORD DELAMERE: May I ask the Honourable Treasurer whether it is a fact that after taking into account the amounts in this supplementary Estimates there is a deficit on the actual Budget as was laid down at the beginning of the year 1923 notwithstanding that the surplus for the year 1922 is £107,000?

**THE HON. TREASURER:** I think the Right Honourable Member's question was on the Supplementary Estimates for 1923. The Right Honourable Member is quite correct in stating there was a surplus of £107,000.

**THE RT. HON. LORD DELAMERE:** Was there an increase in revenue or a decrease in expenditure which made this surplus of £107,000?

**THE HON. THE TREASURER:** The answer I gave to the Right Honourable Member and to Honourable Members of this House, and which answer has not yet appeared in the Press, related to the year 1923. It will take some time to go into the question of the expenditure over 1922. It requires great detail in working it out. Had I known he wished for information for 1922 similar to what I prepared for 1923 I would have given him details on the same lines. There was a deficit of £323,000 for 1922. I may add there is a detailed statement in connection with the accounts of 1922 for the information of Honourable Members in my Financial Statement for that year.

#### ANNOUNCEMENT BY HIS EXCELLENCY.

**HIS EXCELLENCY:** To stimulate trade on the Lake and expedite the Lake Services I propose to make a visit to the Lake on Wednesday the 14th instant and I am very anxious to get all work done by then. If we meet again on Thursday we can suspend the Standing Orders if necessary and sit on Friday and Saturday. Another Ordinance of importance is the Legislative Council Amendment Ordinance but I do not want to introduce that until I have got machinery ready for it. It is essential it should be dealt with very soon and I think that will be the best method to adjourn until Thursday morning.

**THE RT. HON. LORD DELAMERE:** As far as I am concerned anything suits me.

#### DEBATE ON THE SECOND READING OF BILL INTITULED AN ORDINANCE TO CON- SOLIDATE AND AMEND THE LAW RELATING TO TRESPASS.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** As explained at the first reading there is only one small portion of this Bill which is new legislation. The first six clauses are practically a reprint of the existing Trespass Law of 1913-1914 and this Bill, as its title implies, really consolidates that law and then introduces a fresh definition, which comes under clause 2, namely "prescribed area." The principle of this new part of the Ordinance is to protect certain areas, which are not closely supervised, from trespass. It has been introduced on account of complaints which have been made by the Administration and by Honourable Members in this House of the persistent trespass which is taking place by natives in Forests and unalienated Crown lands. The principle of this Bill is that Government may prescribe any area which is to be practically a protected area and nobody can occupy any part of that area or use it without proper authority, and that any building erected there, or any crops planted without authority will be liable to confiscation; It also provides that any stock found in such an area will be liable to confiscation. It is felt that is the only way of effectually discouraging stock owners from going and squatting in the Forest Reserves and on unalienated lands. The principal offenders are natives. They come there and squat

there with their stock and from time to time they are removed, but as soon as the back of the officer is turned they are back again. The only thing that will deter them is to provide that the stock may be confiscated, and in order that this may not operate too harshly it is provided that stock so confiscated will be dealt with as the Magistrate decides. It will thus be competent for the Magistrate to return part of the stock or even the whole of them or order them to the native reserve or a quarantine station. The other provisions of the Ordinance relate to trespass on closed lands, and are the existing law of the country.

**THE RT. HON. LORD DELAMERE:** I have not studied this Bill very carefully but I do feel that there are some very serious principles involved and although I think the Trespass law in this country wants tightening up a thing like Clause 8 is a pretty drastic thing to put through in a hurry. It says that "any person without lawful proof... .." I do not know what a prescribed area is in the Bill. It is apparent that under this Bill powers are given to the Government to make these prescribed areas and after that anybody found on these areas is liable to very heavy penalties. That is a thing I should like to see well thought out before it is done. These things have to be done in peculiar ways in a country like this with a large native population who have not come into the land with the ideas of civilisation but on the other hand you must be careful how you do these things. I think a Bill of this sort should go to a Select Committee to be gone thoroughly into. If there is any doubt it can be properly debated in Select Committee as it is impossible to do so in a Committee of the whole Council. There are also some curious new definitions of things and I think it should be very carefully considered.

**THE HON. CONWAY HARVEY:** I do hope if this Bill goes to a Select Committee that Clause 8 will be considerably strengthened. I do not think it is sufficiently drastic. I should like to give some competent authority the power to destroy cattle in the Forest Reserve, under certain circumstances. I have tried to seize cattle in a Forest Reserve very unsuccessfully. It cannot be done without a very considerable army and there is no doubt whatever that the surreptitious movement of cattle is a menace to the cattle industry at Lumbwa if not elsewhere. We have come to the conclusion that the only way to stop this sort of thing will be to shoot the cattle if you can. It is extremely difficult to seize them for forfeiture.

**THE HON. E. POWYS COBB:** I should like to support the proposal that the Bill go to a Select Committee. The question of trespass is getting serious in this country and although I welcome most of the provisions of this Bill I think they require more thinking out. On the face of it in the definition of enclosed land a new principle is introduced and I do not think it has been thought out very carefully. It is a very serious matter and the new clauses also require a good deal of consideration. Whether it is necessary to proceed in that particular way to achieve a particular end is matter for discussion.

**HIS EXCELLENCY:** I imagine there is no very great urgency for this Bill?

**THE HON. THE CHIEF NATIVE COMMISSIONER:** It will be very helpful if Honourable Members will indicate what their objections are. It is difficult for Members in charge of Bills to meet these sudden demands without knowing what they are for. This Bill has been in the hands of Honourable Members since June. I have not had one single criticism from anyone, and I do not know what their objections are. If after a debate on principle

it is found that there is a difference of opinion on some definite principle then one goes to a Select Committee to get this principle altered. At present I do not know what these differences are.

**THE RT. HON. LORD DELAMERE:** I think most of us are unable to speak again. The Honourable Chief Native Commissioner has asked us to speak again.

**HIS EXCELLENCY:** The Bill has been published since June and has received no criticism. The Honourable Chief Native Commissioner has put in an objection and I must agree with him.

**THE HON. E. POWYS COBB:** Surely the Honourable Chief Native Commissioner expects objections to be raised in the Council?

**THE HON. T. A. WOOD:** I think the Right Honourable Member for the Rift Valley did bring up a very important principle. This is trespass law. I think the first principle in trespass is that you ought to have some damage before you have a case. Clause 8 is extraordinary drastic. If you wander into one of these areas without doing any damage you are liable to a fine not exceeding Shs. 400/- or imprisonment for three months. There has been a great deal of trouble in the old country over trespass. They have had to take steps at home to prevent people being harried and punished for merely wandering into a place without doing any damage. You see the whole countryside plastered with boards "Trespassers will be prosecuted," but they have got to do something before they are prosecuted. There may be certain reasons for this Bill such as that quoted with regard to the Forests. I do not like passing a Bill under which people are going to be punished for merely wandering in a place. With regard to the question of cattle being found in a prescribed area. I do not think cattle in any area are committing damage. Cattle are beneficial factors in this country especially round about forests. I should imagine one of the best protections of forests is to have cattle to graze the grass round the forest so as to prevent destruction by fires. I think one of the best methods of preventing fires which are the curse of Africa is to have cattle to graze the area. Complaints have made in the past of forests being destroyed by fires and here is a method of preventing such fires without doing damage.

**THE HON. R. B. COLE:** I would like to add my support to what the Right Honourable Member for the Rift Valley said that the Bill should go to a Committee. There are several points in which I do not agree with him or the Honourable Member for Nairobi South. I think these points can be elucidated in a small Committee. With regard to cattle in forests. It is quite true that if a lot of cattle were to graze upon the outer edge of the forest it would be quite good but those living round about would not know what diseases are being brought in. This Bill does look very drastic to me but I do see the difficulty in this trespass business if you have got to wait until your haystack is burned down and you cannot arrest a man until he has done some damage.

**THE HON. W. MACLELLAN WILSON:** I cannot agree with my colleagues. The principle is that the law of trespass is not to-day sufficiently drastic. The principle has been put forward by the Honourable Chief Native Commissioner to make it more

drastic. In some parts of the Bill I do not think it is definite or drastic enough. One or two Honourable Members seem to think that a particular clause carries too much drastic power, then I say the whole of this Council in Committee is the place to correct that.

**HIS EXCELLENCY:** I think that on the principles of the Bill enough has been said to justify it going to a Committee.

#### STANDING RULES AND ORDERS.

**THE HON. G. A. S. NORTHCOTE:** I beg leave to move that the revised Rules and Orders be adopted subject to the approval of the Secretary of State for the Colonies. I would not like to leave this matter without one reference to the great labour which was taken upon it by the late Clerk to Council, Mr. Sandford.

**THE RT. HON. LORD DELAMERE:** Provided these Rules are quite in order in the opinion of the competent Law Officer of the Crown why is it necessary to ask the Secretary of State to approve of them?

**THE HON. ACTING ATTORNEY GENERAL:** Because it is laid down in the Royal instructions.

**THE RT. HON. LORD DELAMERE:** Do you mean he has got to take a legal opinion to see whether these Rules come within the law?

**THE HON. ACTING ATTORNEY GENERAL:** These Rules have got to go to him for his approval. It is part of the constitution of this Colony.

**THE HON. T. A. WOOD:** I see nothing to that effect under 26. It says "The Governor shall propose to the Council for their adoption such Standing Rules and Orders" etc. I see no reference that they have got to go home to the Secretary of State for his approval.

**THE HON. ACTING ATTORNEY GENERAL:** The same thing applies to an Ordinance. The Standing Rules and Orders of 1906 and 1919 went home for approval.

The Motion was put and carried.

#### ANNOUNCEMENT BY HIS EXCELLENCY.

**HIS EXCELLENCY:** Before Council adjourns I would like to state I have received a telegram from the Secretary of State which was of a quite encouraging tone as to future Railway developments.

**THE RT. HON. LORD DELAMERE:** Can Your Excellency add something further to that?

**HIS EXCELLENCY:** There is also a reference to the fact that we are committed to the construction of the Nyeri and Kitale Railways.

Council adjourned until 10 a.m.  
8th November, 1923.

## TENTH DAY.

Held at Nairobi on the 8th day of November, 1923.

The Council assembled on the 8th November, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

## ANNOUNCEMENT BY HIS EXCELLENCY.

**HIS EXCELLENCY:** The recent discussion in this Honourable Council on motor car and petrol taxation has raised the general question of the existing Customs Tariff. Honourable Members are aware that at the passage of the Customs Ordinance at the end of December last year it was intended to hold another Conference at some convenient date to amend the present tariff in order to adjust points of difference raised by Uganda and Tanganyika Territory and to adjust comparatively minor changes which have become expedient in all three countries in the light of experience of the last ten months. The Secretary of State has himself suggested that the time has arrived for such a revision, and of course any alterations in the tariff must be submitted to him. I propose, therefore, if the Secretary of State's approval is obtained, to call a Conference between the respective Customs Officials at Mombasa about the third week in November and to invite the various Chambers of Commerce to make whatever representations they consider advisable to the Conference. On behalf of Kenya it will be clearly understood that as Customs revenue must be maintained, it is unlikely that any suggestion involving a marked decrease in Customs receipts will be considered. It is as well to state at once that no alteration will be made in the present tax on motor cars and petrol pending the general revision to come into effect with the new year. A special Session of the Legislative Council will be held during the last week of December to pass the amending Customs Ordinance.

## QUESTIONS.

**THE HON. CONWAY HARVEY asked:—**

"What arrangements have been made by Government in connection with a grant-in-aid to the Nairobi Municipality?"

2. To what extent has the diversion of Crown Lands revenue to the Municipality been considered in this connection?

3. Is it proposed to extend the application of this principle to other Municipalities which may be established?"

**THE HON. COLONIAL SECRETARY replied:—**

"In order that the Nairobi Municipal Corporation might be placed in a position to maintain the roads and drains within the Municipality. Government has agreed to hand over for that purpose rents derived from alienated Crown lands within the Municipal area. The cost of collection which remains in the hands of the Land Department is deducted.

The arrangement is revisable after not less than 2 years from the date of inception of the agreement.

2. Government further grants to the Municipal annually a sum equivalent to the current rate on the assessed value of occupied Crown lands within this area, conditionally upon satisfactory performance made by the Municipal Corporation. Stand premia accruing from sales of Crown land in that area will also be handed over for use on capital works.

3. No such proposal is under consideration at present."

**THE HON. CONWAY HARVEY asked:—**

"How many cases of sleeping sickness have occurred in the Sub-location Kajuta, Location Nyakatch, District Kisumu, since June 1st, 1923?"

2. Whether a request has been made by certain responsible Headmen and Chiefs to change their location to a healthier site?

3. What action does Government contemplate taking in the matter?"

**THE HON. COLONIAL SECRETARY replied:—**

"1. No separate figures are available for Kajuta Sub-location, but since June, 1923, seven cases of sleeping sickness have been confirmed in the Nyakatch Location, which comprises four Sub-locations.

2. The answer is in the negative, but it is the case that a request was received from two native squatters, living on a farm at Muhoroni, to move into a location other than to which they belonged, and their request was opposed by their Headmen.

3. The local administration has been instructed to effect a settlement."

## MOTIONS.

**THE RT. HON. LORD DELAMERE:** Your Excellency, with regard to the motion standing in my name I was under the impression that I was going to be given private notice of when this was coming up and I am afraid I am not ready. I would like to ask this House if it might be put off till to-morrow.

**THE HON. THE COLONIAL SECRETARY:** I am sorry I overlooked that point, but there is no objection to it being postponed till to-morrow.

**THE HON. W. MACJELLAN WILSON:** Your Excellency, I beg leave to move the following motion:—

"That, as in the opinion of certain of the Commissioners of the Native Punishments Commission, the report, which has been laid on the table of this Honourable Council, does not reflect, particularly in the Summary, the true finding of the Commission on a certain issue, the report be referred back to the Commission for further consideration. And that a Chairman be appointed in place of His Honour the Chief Justice who is on leave."

There is not very much to say on this point. This Commission sat for some considerable period over two years and latterly before the Chief Justice went home on leave we had a meeting to discuss the draft report. Only three members attended that meeting—His Honour the Chief Justice, Colonel O. F. Watkins, and myself. We made certain alterations in the original draft report and on this second report we decided it expressed our views and we signed it. It was sent on afterwards to other Members to sign. Some of the Members had left the country and one, a very valued servant of the Administration, had died. The signatories are not correctly placed and besides that the main point is that a Summary was added which the Commis-

sioners had never seen and this summary did not reflect clearly the findings in the main body of the report and for this reason I would beg this Council to have the report referred back to a Committee and for another Chairman to be appointed in place of the Chief Justice who has left the country.

**THE HON. CAPT. J. E. CONEY:** I beg to second the motion.

**THE HON. THE COLONIAL SECRETARY:** Your Excellency, while Government is grateful to the Honourable Member for bringing this forward it is regretted the motion cannot be accepted for the Commission is defunct and it is not possible to refer the report back to them now; but Your Excellency has approved, if the Council is in agreement with this view, that the expression of opinion which has been given to the Council by the Honourable Member for Kyambu should be printed and incorporated with the report because it is clear that the actual summary made in this report did go rather further than the recommendations which are embodied in the main portion of the report. The summary of course is not a detailed one, it is a very brief precis of the different recommendations made. The use of the word "flogging" under head 6 in the summary of recommendations is as it stands by itself open to misapprehension. Flogging was unhesitatingly condemned by the members of the Commission. Government has had this report under consideration and it has been sent to the Secretary of State. Some of the recommendations involve considerable cost and Government decided that action should be delayed until the appointment of the new Commissioner of Prisons who has been asked to submit full recommendations with regard to the report. As regards these particular recommendations I think the Honourable Member for Kyambu and the other Members need be under no apprehension that their views as clearly expressed in the body of the report are not the views of the Government. I think the general expression of the summary that flogging is recommended certainly goes much further than any recommendation made by the Commission and is not in accord with the views put forward by Government in dealing with this report.

**THE HON. W. MACLELLAN WILSON:** I have not very much to say except that I am in a most difficult position. In the body of the report a clause has been inserted which was not there when we considered the report and I still consider the report should go to those Members of the Commission who are in the country to get the thing settled properly.

**THE HON. THE COLONIAL SECRETARY:** There is no objection whatever to the Members of this Commission meeting again and making their representations in writing in regard to the points to which they did not agree. These representations will be printed and published as an annexure to the report. I hope that will meet the views of the Honourable Member for Kyambu.

**THE HON. CAPT. J. E. CONEY:** This report has been laid on the Table for some time and I suppose a Motion will be moved for its adoption. The Honourable Member for Kyambu can then state his case.

**THE HON. THE COLONIAL SECRETARY:** Government is willing to accept a report from those Members of the Commission, and the report from them will be tabled in Council and will be added to this report when it is eventually brought before Council for consideration.

**THE RT. HON. LORD DELAMERE:** I hope the Honourable Member for Kyambu will withdraw his

motion. The Commission cannot be resurrected. I must say I think Government has met this case in a very fair manner and if the objections of the Members of the Commission are added to the report I do not think anything more can be done.

**THE HON. W. MACLELLAN WILSON:** I quite agree with what has been decided upon. I do not know who will take the necessary steps as the Chairman has left the country.

**HIS EXCELLENCY:** I think we can get over the machinery difficulty quite easily. Does the Honourable Member withdraw his motion?

**THE HON. W. MACLELLAN WILSON:** I withdraw the motion.

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

"That pursuant to the provisions of Section 2 of the Colonial Treasury Bills Order 1922, this Honourable Council do hereby authorize His Excellency the Governor to request the Crown Agents for the Colonies to borrow by the issue on London of Kenya Government Treasury Bills a sum not exceeding in the whole £2,400,000 and the said Crown Agents are hereby authorized out of the proceeds of the £3,000,000 loan to be raised under the provisions of the Specific Loan Ordinance, 1922, immediately on flotation, to repay any Bills so issued."

It is the practice for the Crown Agents to advance money for loan works pending the raising of the loan and this is usually done from surplus loan funds of other Colonies in their hands but they have thought it desirable to have the authority in the event of these funds not being sufficient to meet our needs to raise Treasury Bills as authorised by the Colonial Treasury Bills Ordinance. Under section 2 of the Colonial Treasury Bills Ordinance the Government when authorised by a resolution of the Legislative Council may request the Crown Agents for the Colonies to borrow by the issue of Government Treasury Bills sums not exceeding the amounts specified in the resolution. The amount in the resolution is £2,400,000 and the amount to be raised is £3,000,000 but of the £3,000,000 £600,000 is provided to meet the cost of issue and interest.

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

**THE RT. HON. LORD DELAMERE:** I think the principles of this were discussed when the Bill was passed. This is simply a formal matter to take advantage of that Bill. If it is thought convenient to put off the flotation of that loan it will be possible to have the money for the works.

Motion put and carried.

#### STATEMENT BY HON. DIRECTOR OF AGRICULTURE.

**THE HON. THE DIRECTOR OF AGRICULTURE:** In connection with the Agricultural Produce Export Ordinance 1921, may I be allowed to give this House a little interesting information? It came to my notice this morning that on November the first the Principal Ordinance came into effect and on November 2nd Maize grown in East Africa was negotiated for on the London Corn Exchange.

#### THIRD READINGS PASSED.

Estate Duty Ordinance, 1918.

Maintenance Orders Enforcement (Amendment) Ordinance, 1923.

Liwali's Courts Ordinance, 1914.

To supply a sum of money for service of year ended 31st December, 1922.

**Agricultural Produce Export Ordinance.**

*No debate on report on Fish Ordinance.*

**INTRODUCTORY SPEECH ON FIRST READING OF COCONUT ORDINANCE, 1923.**

**THE HON. THE DIRECTOR OF AGRICULTURE:** This Bill is an expression of the recommendations of a Committee which was appointed by this Honourable Council quite recently and which reported during the present sitting. Honourable Members are aware that the matter of protection and improvement of the Coconut Industry has exercised the minds of the Government for some years past and that difficulties have existed in respect of the application of Ordinances passed in 1915 and 1919. These Ordinances, namely, the Coconut Preservation Ordinance of 1915, the Coconut Trade Ordinance of the same year and the Coconut Trade Ordinance of 1919, were so comprehensive in their character that it was found impracticable to apply them on account of the cost. The Select Committee of this House which dealt with this matter considered that the needs of the industry could be met by the Bill which was presented to the House with their report and which is the Bill now under consideration and that this Bill is a workable measure involving no appreciable cost to the country. It is considered important that no further time should be lost in enabling the Coconut Industry to reduce the losses now suffered and generally to improve its conditions.

**DEBATE ON SECOND READING OF COCONUT ORDINANCE, 1923.**

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, I beg leave to move that the Coconut Ordinance, 1923 be read a second time.

**THE RT. HON. LORD DELAMERE:** It is a very important Bill because there is no doubt that if it has been agreed to by all the people who have been asked on the Coast whether European, Arab or Native something has got to be done for the Coconut Industry more especially with regard to the matter of the thefts. It has been found impracticable to prevent thefts of coconuts by any ordinary means and in this Bill I see there has been introduced what is considered the only way of dealing with this sort of thing and that is the laying of the onus of proof as to where the coconuts came from on the man who is carrying them, except under certain conditions. That is a serious thing to do to lay the burden of proof on the accused. It has been done where a strong case has been made out, a case showing it is impossible to deal with the particular offence in any other way and considering that for such a long time something like 50% of the nuts have been stolen on the Coast, I must consider a case has been made out for special legislation of this sort. I would remind Honourable Members that in the case of forest produce it is already the case that the onus of proof rests on the man carrying any of these products and there appears to me a very much stronger case for coconuts than for the protection by this method of indigenous trees which the natives might well say were always their own. Plantations have been planted at great expense and it has been found difficult to make an industry of this owing to the thieving. Most of the growers on the Coast are Natives or Arabs. There is one thing in this Bill I am not in agreement with and that is the very heavy punishments laid down. I have never myself found that savage punishments have very much effect. What does have effect is to make it possible to arrest the accused in the majority of cases, the man who is selling. If this is done, it is

not worth anybody's while to sell a stolen coconut. It is not necessary to have such heavy punishments. That can be debated in Committee of the whole House and as far as I am concerned I hope this Bill will go through.

**HIS EXCELLENCY:** Has the Honourable the Director of Agriculture given any indication of the cost of the Bill?

**THE HON. THE DIRECTOR OF AGRICULTURE:** It was stated in the report that this Bill would not cost any appreciable amount and the cost would be amply covered by revenue.

**INTRODUCTORY SPEECH ON FIRST READING OF THE COTTON TAX ORDINANCE 1923.**

**THE HON. THE DIRECTOR OF AGRICULTURE:** The objects and intentions of this Ordinance are these. First to impose a levy on cotton grown in this Colony and exported therefrom the proceeds of which will be devoted to the improvement and development of cotton industry and secondly to conform with the practice in the neighbouring territory of Uganda. It is considered necessary that this Ordinance should be passed at an early date in order that Cotton Ginners may be advised of the cotton tax so determined in advance of the cotton buying season. As to the levying itself, Honourable Members on the other side of the House may be somewhat diffident in according their agreement to the proposal lest it should institute an undesirable precedent as such a levy might also be introduced on other export products but I would submit in this case we are dealing with a product of comparative value, and it will not interfere with the progress of the industry if this small tax suggested in the Bill is imposed. It means a tax amounting to only something like .5% of the selling value of the cotton. As to the practice in Uganda, I do not think it would be regarded as a neighbourly act if this Colony did not have a cotton tax and of the same amount as that imposed in Uganda otherwise what would happen in practice would be that cotton grown in Uganda would be carried over the boundary into Kenya and ginned in the cotton ginneries in this Colony and so escape the tax. Again unless the same principle is pursued in this Colony as in Uganda difficulties would be created with the Uganda Government in respect of the ginning in Uganda of Kenya grown cotton until such time as the ginneries are completed in this Colony. Also with regard to the movement of ginned cotton over the Uganda roads. It is considered therefore that there is no alternative but to adopt Uganda's present practice and one hopes that if that tax comes under review the two countries will confer in the matter and adopt a similar practice.

**DEBATE ON SECOND READING OF THE COTTON TAX ORDINANCE, 1923.**

**THE HON. THE DIRECTOR OF AGRICULTURE:** I find on going through this Bill that it will be found necessary to make two or three rather important alterations in the clauses as printed and after conferring with my colleague I am prepared if the second reading is passed to move that the Bill be referred to a small Special Committee to consider these alterations which appear to be necessary, because they are of a kind which could not be conveniently dealt with in full Committee of the Council.

**THE RT. HON. LORD DELAMERE:** I do not think there is anything much to be said about the principles of the Bill but I am going to vote for it myself because I do think that you have got to have one law of this sort both for Uganda and Kenya. Anything which taxes a product of this sort at the

source has nothing to recommend it in the world. It is the method adopted on the West Coast where the whole of the tax is taken from exports on native products and from the Gin which is sold to them. As far as Kenya is concerned I only vote for this Bill on the distinct understanding that it is only brought forward because Uganda has brought it in and cannot drop it and it is therefore necessary for us to come into line with them. As far as the principle is concerned I am entirely against it every time. The reason why it is a bad thing to tax these things at the source is because if you start doing it you may in some years prevent that stuff from being sold and that means that a large amount of money is kept from coming back into the country. If that once goes home and is sold it comes back in goods and Government gets its money back. I see no reason why this tax should be imposed. The reason it was taxed in Uganda was on account of the roads to be built for it to be conveyed over, etc., I am going to vote for it simply because it is absolutely necessary with a long line frontier that we have the same law on this matter as Uganda.

THE HON. CAPT. J. E. CONEY: I am sorry to hear the Right Honourable Member for the Rift Valley is going to vote for this matter. I agree the Bill is bad in principle. I was only recently reading of a Meeting at which I think Your Excellency was present of the British Cotton Growing Association at Liverpool, and the speaker was the Under Secretary of State for the Colonies and he anticipated some criticism on the export tax on cotton in Uganda and he said he had no case to offer for it except they wanted the revenue. He agreed in principle it was bad. I do not think this Colony can claim they want the revenue from the Kavirondo to make their roads. The Honourable the Chief Native Commissioner has said the native is bearing his fair share of taxation and is getting very little for it. His Department should never have agreed to a Bill of this kind which is going to tax the native further even if the whole of that taxation is going for his benefit. You are only just considering cotton in this country and I suggest you are stifling an industry which has not yet proved itself. The high value of cotton may last a few months only and I suppose if the price of cotton goes down he will suggest this tax be eliminated. The Right Honourable Member has referred to the West Coast; the whole of public opinion in England is against export tax in West Africa. The only other place I know is Zanzibar where you have a tax on Cloves and the Clove owner is practically ruined. Wherever you find an export tax it does not answer and I am surprised that the Right Honourable Member is going to give his vote to a Bill which he admits in principle is wrong.

THE HON. T. A. WOOD: I do not propose to take the course indicated by the Right Honourable Member for the Rift Valley. I shall have to vote against the Bill. It is entirely wrong as the Honourable Member for Plateau North has said. The Bill itself does not produce the desired result. I presume these are the amendments the Honourable the Director of Agriculture is referring to. No one connected with the trade of the West Coast agreed to this. Here is what a manufacturing Director on the West Coast said about it. (Extract read.) The Honourable the Director of Agriculture proposed a Committee should be appointed to go into the whole question. He does not believe in it himself. It is only put up because they have it in Uganda. Another reason is that Cotton has got a high price. The 5% mentioned cannot be a proper figure. It is fully recognised in Lancashire that until the price of cotton goes down they are bust high and here we are imposing

an export duty to-day. The first thing to do is to get the price down and enable 25% of the home country to make a living. The first thing you will have to do after passing this measure in my opinion will be to remove it, so why put it on at all? It is wrong in principle and I cannot vote for it.

THE RT. HON. LORD DELAMERE: What I meant to say was that it is to be passed now simply for the sake of being able to work the thing at all in Kavirondo and I meant steps should be taken to get it taken off as soon as possible.

HIS EXCELLENCY: I may say with regard to the principles of the Bill I do not like it either. I was in Uganda when the original tax was put on. It was only introduced after long and careful argument and the suggestion was made that apart from reasons of revenue it would exert a very stabilising effect over the industry. The industry was in the hands of the middlemen in Uganda and this is borne out by the facts at that time. It was also understood that if the cotton fell below a certain price the tax would be removed. I may also mention that in Uganda when the Government discovers that a particularly good quality of cotton is being turned out by any ginner the Government has power to ask that ginner to set aside a quantity of the seed which the Government takes over and distributes free to the natives so that the quality of the cotton grown is improved. During the year I left Uganda, 37,000 bags were distributed and the ginner had no objection to this. Sir Geoffrey Archer told me the other day that in Uganda at the Conference at which very full examination was made and a very large number of witnesses were examined practically everybody both ginner and merchants, agreed that the tax should remain, and the General Manager of the British Cotton Growers Association in Manchester told me that, although they did not like export taxes in principle, it was quite evident the tax in Uganda was a sound and useful thing under the present conditions of the country and the industry and it is quite clear we must have it in this country because otherwise the whole cotton industry of ours upon Uganda border would be thrown into complete dislocation.

THE HON. SIR N. McMILLAN: I cannot support the Bill as the principle is wrong. Uganda is entirely wrong although it may help them, it is the wrong principle and if it is going to be inconvenient or impossible for the thing to be worked on one side and not on the other it is only right for Uganda to take her off.

THE HON. COL. GRIFFITHS: I am very much opposed to the Bill; it is a very bad principle. I am not quite satisfied that all the arguments which have been brought in favour of the tax are applicable. The question of cotton coming from Uganda into this country would naturally depend upon the distance it has to be carried. It is not economically sound to bring cotton into this country from Uganda to be ginned. When the Honourable the Director of Agriculture moved the Bill he stated that the money derived from the tax was definitely to be applied for the benefit of the industry. In these matters I have no sound judgment but the Right Honourable Member said the reason for the introduction of the Bill in Uganda was to benefit the industry but the revenue was taken by the State. If that is the reason for this Bill being introduced then there ought to be some sort of guarantee if it is possible that the money will be spent on the industry and not pocketed by the Government. I am very much opposed to its introduction and will vote against it.

THE HON. E. POWYS COBB: I think in this Colony and elsewhere we have been very much afraid of the introduction of export taxes. We

have been to considerable lengths to free this Colony of export taxes and it is a matter of profound regret to me to see the principle reintroduced now. It is apparently a reason of expediency we have got to help Uganda. I am sure everybody is anxious to maintain good relations with Uganda, but this is the second instance when she has asked us to make very considerable sacrifices and I do suggest it is the duty of the Government of this Colony to endeavour not to allow a tariff change of this sort to be altogether one-sided. On principle I am entirely opposed to the idea of the reintroduction of taxes on exports.

INTRODUCTORY SPEECH ON FIRST READING OF THE GENERAL REVISIONS ORDINANCE, 1923.

THE HON. CAPT. J. E. CONEY: May I, Your Excellency if it is the intention of the Government to rush this Bill through this afternoon? There are a very large number of Bills and Ordinances and Rules mentioned in it and I think we ought to have an opportunity to look them up to see how they are affected?

HIS EXCELLENCY: There is no necessity for the Bill to be rushed through to-day.

THE HON. THE ACTING ATTORNEY GENERAL: The position with regard to this Bill is this. The Bill has been prepared by the Commissioners for the revision of the Laws. I can assure Honourable Members there is nothing in this Bill that they need be afraid of. The first schedule deals with a lot of obsolete legislation and there are certain alterations made, and regulations have been repealed. Certain Ordinances have been repealed and in regard to the other alterations which are included in the Bill I have a full explanation in a long Memorandum from the Commissioners. There is really nothing this Council need be anxious about. In view of what has been said and if His Excellency wishes it, I will not push it through to-day.

DEBATE ON SECOND READING OF THE GENERAL REVISION ORDINANCE, 1923.

THE HON. THE ACTING ATTORNEY GENERAL: Your Excellency, I beg leave to move the second reading of the Bill.

THE HON. CAPT. J. E. CONEY: There are some Honourable Members on this side of the House who have not got copies of the Bills. I notice the diseases of Animals Ordinance and the Quarantine Ordinance, etc., are mentioned. They may affect the people I represent and I would ask Your Excellency not to take the second reading of the Bill now. This Bill is going to repeal a lot of Ordinances passed by this Council and we are not giving consideration as to whether they should be repealed or not.

HIS EXCELLENCY: I presume the Bill will go into Committee of the whole Council to consider them?

THE HON. THE ACTING ATTORNEY GENERAL: I have not the slightest objection to the second reading being postponed.

HIS EXCELLENCY: I think it had better be put back.

THE HON. THE ACTING ATTORNEY GENERAL: I withdraw my motion for the second reading.

HIS EXCELLENCY: I do not think there is any other business to-day and there is not very much business before the Council, still there are one or two important items. There is still the Legislative Council Ordinance, the Cotton Ordinance, the Native Poll Tax Amendment Ordinance. There are three Bills in Committee and a report to be presented on the Native Civil Service. The Right Honourable Member for the Rift Valley has a motion on Stock Thefts, and the Honourable Members for the Plateau South and Mombasa each have a motion. Some of these things will take a certain amount of discussion and if necessary we can meet tomorrow afternoon.

THE HON. CAPT. J. E. CONEY: May I ask the position as the Defence Force Ordinance?

HIS EXCELLENCY: The Defence Bill has passed its first reading and has been referred to a Committee. That Committee will report shortly and the Bill will come up for second reading.

Council adjourned till 10 a.m., Friday,  
9th November, 1923.

ELEVENTH DAY.

Held at Nairobi on the 9th day of November, 1923.

The Council assembled on the 9th November, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

ANNOUNCEMENT BY HIS EXCELLENCY

HIS EXCELLENCY: I wish to inform Honourable Council that with the advice of Executive Council correspondence has taken place with the Secretary of State for the Colonies in regard to a new Immigration and Employment Regulation Ordinance to implement the terms of the White Paper. The Secretary of State desires that a draft Bill on the subject shall be published without loss of time, and simultaneous with or before the introduction to this Council of the new Legislative Council Amendment Ordinance which will provide for an amended

constitution rendered necessary by the decision of His Majesty's Government referred to above. The draft Immigration Regulation Bill will be published for information and comment in a special issue of the Gazette within the next two or three days. It will be borne in mind that the final terms of this Bill are subject to the approval of the Secretary of State.

MOTIONS.

THE HON. THE TREASURER: Your Excellency, I beg leave to move the following Motion:—

“That the Report of the Select Committee on the Native Civil Service be adopted.”



It will be within the recollection of Honourable Members of this Council that in May last a report on this subject was submitted to the Council and adopted. Subsequently the Honourable the General Manager, Uganda Railway, took exception to the provisions which had been made for Salaries and Allowances and as the Honourable the General Manager was very much interested in the question Council agreed to refer the report back to the Committee and appointed the Honourable the General Manager a Member of the Committee. The principal differences between the present report and the earlier one are firstly in the question of salaries. In the earlier report there were four grades; grade 4, grade 3, grade 2, and a Special Grade 1, the salaries being 50 x 5 x 100 shillings for Grade 4; 106 x 8 x 170 shillings for Grade 3, 180 x 10 x 200 shillings for Grade 2 and the Special Grade Sh. 250/- non-incremental. A new learner grade has been introduced with salary at the rate of Sh. 20/- rising to Sh. 60/- without fixed increments. The new grade 2 runs from Sh. 65 x 10 x 90; new grade 1 from Sh. 95 x 10 x 150 and a Special Grade without increments according to special qualifications of Sh. 150/- and over.

Another important difference is that in the original report only one technical subject was allowed for a candidate's admission to this service, i.e., typewriting. It is proposed in this report they should be given the choice between typewriting, telegraphy, shorthand and bookkeeping.

The travelling allowances have been decreased and the vacation leave has been reduced from two days to 1½ days for every completed months service and an important recommendation is that Heads of Departments shall be allowed to make appointments in all the grades except the Special Grade appointments to which must first be agreed to by Your Excellency.

Another provision is that no Head of Department shall make a new appointment to any of the grades with a salary above the minimum of the second grade without the prior approval of the Colonial Secretary. It is felt that injustice may be done to individuals otherwise.

Free pensions were recommended in the previous report and are not recommended in this report. As explained in paragraph 4, the Committee are not satisfied that the scheme of free pensions as applied to the European and Asiatic services is the most suitable in the case of an African Clerical Service. While, therefore, they are strongly of opinion that lump sum gratuities are most unsuited and that any retiring long service civil servant should be given an annual or monthly payment based on the emoluments which he drew during his period of service they have expressed the desire that Government should enquire into the relative advantages of a free pension scheme and a Contributory Superannuation scheme. Appointments to this service in the meantime will be on agreement. A pension could not, in any case, be earned until ten years from the commencement of the scheme.

In this report, as in the previous one, the Committee have expressed the considered opinion that it is imperative that early action should be taken to provide proper housing accommodation for any Africans who may join this service and especially in large centres like Nairobi where it is very difficult to obtain housing accommodation. We felt this is the crux of the whole question and if proper housing is provided it will greatly assist in carrying this scheme to success.

Another point is that a night school should be established in Nairobi immediately so as to enable partially educated Africans to have an opportunity of acquiring the educational qualifications for the services which are required.

When I moved the adoption of the original report I expressed the opinion, which was unanimously agreed to, that the report of this Committee is a step very much in the right direction not only because it will enable the country to get rid of the expensive luxury it cannot afford of an alien clerical service both European and Asiatic but because it will offer the native of this country an opportunity of taking his proper place in the public services of the country.

THE RT. HON. LORD DELAMERE: May I be allowed to congratulate the mover of the motion but there is one point I have not got quite clear in my mind. On the question of housing, which I entirely agree with him is the crux of the whole question, I consider that, the Committee having made several definite recommendations, Government should go into this question of housing very carefully and that the question of natives living outside Nairobi should be taken into consideration. On this question two things crop up the first being whether you are going to have an artificial township or location which will be very expensive where people will have to live under artificial conditions or whether you are going to have a system under which they have enough room so that their sanitation can be conducted in a more or less primitive way. You have no choice between the two really. The medium between an artificial thing and a more or less primitive thing on a large area has been a failure. I think these people are very much happier living with their families and sufficient land to add to their diet and so forth. I hope when this matter is discussed Government will go very carefully into it because the housing of natives in this town is one of the greatest difficulties Government have got to face. The grass hut has objections and in very expensive buildings these men have to live at a rate at which they ought not to live. I beg to support the report.

THE HON. THE GENERAL MANAGER, UGANDA RAILWAY: The rates of pay now proposed conform more or less to what the Railway has already introduced. So far as the housing question is concerned the Railway is building houses as fast as it can, building a better type of house than before. If the Government can arrange for a township outside Nairobi for natives the Railway will be prepared to support it and allow some of its people to live there and assist in any other way open to it. The Railway would always have to have a considerable proportion of its native staff living near at hand but there is no reason why it should not have a big body of its workers living in a model township and brought to and taken from their work every day. That is what happens in Cape Town where workmen's trains run to and from the shops. I would ask the Government to consider very closely this problem of native housing. The results of training the native will ultimately depend entirely upon the manner in which he is housed. In other respects as far as the pension scheme is concerned I probably had a lot to do with the change I am quite satisfied it would be unwise to introduce a free pension scheme for natives in this country. There is no hurry about that as the employment of the native is in its initial stage. The report refers mainly to clerical services and leaves the Railway to develop its own side.

The motion was put and carried.

THE RT. HON. LORD DELAMERE: Your Excellency, I beg leave to propose the following motion:—

“That in view of the recrudescence of Stock thefts after the excellent state of affairs which prevailed a few years ago, steps forthwith be taken to enquire into the failure to collect fines under the Stock and Produce Thefts Ordinance and to stop a state of affairs which is hampering the stock industry and is bad for the natives.”

This motion is really more a question perhaps than a motion because the feeling at the back of my mind was that it was necessary to clear up the reason why so many fines under the Stock and Produce Ordinance were not being collected and so I put it in the form of a motion in order to obtain information from the Government to give Honourable Members a chance to say something on the motion. I must apologise to the House for not having actual data. Honourable Members will remember a few years ago stock thieving in this country assumed very great proportions. The methods suggested by the Hon. the Chief Native Commissioner and Director of Agriculture of putting on very heavy sentences failed completely. In fact any method of dealing with the individual failed entirely, and it culminated in one or two difficult cases in which the Settlers finding they had no protection whatever under the law and their business was going by the board, took the law in their own hands and one or two thieves were shot and it was recognised that for people who had been accustomed to living under the control of their family the right way of dealing with the matter was to make their family responsible. All these young men who come out to thieve are simply told to do so by their families and this thieving takes the place to a certain extent of the raiding which went on for quite a long time after settlement came here. If a man was lucky he got quite a good herd of cattle together; if he was unlucky he went to jail and purged his offence in a year or so and came out a rich man. The result of that was these men did take their chance. I have talked to many old men about it. Under the Stock and Produce Thefts Ordinance the onus of responsibility was thrown upon the family which is first the man's father and close relations. After that on the sub-tribe to which he belonged and lastly to the tribe if the sub-tribe were unable to find the money. There was no doubt that completely stopped stock thieving. The old men simply said to their sons you cannot steal any cattle because it comes on us. I would say that under the law the family or sub-tribe or tribe were responsible provided a man was convicted for theft for ten times the amount which he stole and not only that the Magistrate was empowered under the law to put that fine on that family or sub-tribe or tribe according to their capacity to pay. That meant that the old men told their sons and relations when they went out to work that they were not to take stock because it meant they would then be responsible. I would submit to this Honourable Council that first of all a special case had been made out because it was found quite impossible to deal with it by heavy punishments on the individual and secondly that it was very much lighter than punishment under the Native Authority Ordinance. This was a fixed fine levied on the family of the man when he had been actually

convicted of stealing. It was impossible for that family to be innocent. The family in every case know the man is stealing and know whether he is successful or not. I have had a great many cases myself and ran a great many to ground and in every single case the family had complete knowledge of the fact. That is the case as it was and I do submit that stopped stock thieving and quite as much from the native as from anybody else. He was then put again under family and tribal discipline and the thing stopped. With regard to the fines. I must say in explanation that under the Bill a Magistrate who convicted had to impose a fine of ten times the amount but the Provincial Commissioner of that part of the world could say that neither the man nor his tribe nor his sub-tribe were capable of paying or could say that that man was detribalised and that the family was not responsible. A great many of these fines lately have not been collected. There is no earthly doubt that within the last year or so there has been a very great recrudescence of this stock thieving and I am given to understand (I am asking for information on this subject) that these fines have not been collected although they have been imposed by the Magistrate in Court presumably owing to action taken by the Provincial Commissioners. Why was that action taken and secondly at whose instance was that action taken. The complete facts may not be within the knowledge of the people to-day and if this were done and the fines are not collected and if we go back to the individual method of punishments we are going back to the same position as before. I would like to give the Council an instance of what did occur on one farm only since September 1922. The total number of men tried for stock thefts was thirteen and to show there were no imaginary complaints eleven were convicted out of the thirteen in the Magistrate's Court and two only acquitted. The Magistrate under the law fined these men and their families Sh. 7,820/- and of that amount only Sh. 185/- was collected. There is something very wrong to my mind about that. These men were convicted and were fined by the Magistrate the proper amount—ten times the cost of the cattle taken—and that was a liability on themselves first and secondly on their families then their sub-tribe and then their tribe. I imagine some people would say these people are detribalised. I believe the number of people detribalised in this country are almost infinitesimal. If they take stock they send them to their village and their parents are capable of finding out what they have done. Many of us have got people on our farms who have been there for over twenty years and yet they are not detribalised. Of course, on the other hand it may be the question of squatters. After all they have property of some sort. Their parents have property and so forth. I submit that whatever anybody may say the parental authority in these matters is a very great one where people are living on the land. Everyone of us here must know that a hundred times in the year the parents of a boy send for him and the boy has to go straight away. There is no doubt he is under the complete control of his parents. I do put it to this Honourable House that this is a test case. The Government is running a great risk in this matter. The only people who can stop them stealing are their own people and I suggest that if this thing is being weakened by somebody in authority I think the Council should know who that is and for what reasons it is being done.

THE HON. T. A. WOOD: The Right Honourable Member who has brought up this question has probably had far greater opportunities of studying it than any other Member of this Council. He knows

the Masai well, and the Masai were I suppose the biggest cattle thieves in this country in the old days. That is an accepted fact and coupled with that the Right Honourable Member has forgotten more about their habits and customs than any of us will ever have an opportunity of learning. As far as the question of tribal responsibility is concerned with regard to natives working in towns my own little experience goes to prove that that is the case. My natives continually ask me for money to pay the poll tax of other people living out at Fort Hall, etc. That clearly shows to me a system of tribal responsibility otherwise why should they borrow money from me to pay the tax of some individual living at Fort Hall? That is done every year and they are town boys. One of these boys has worked for me for twenty-two years; he certainly has got tribal responsibility. The others have not worked for such a long period but they also have tribal responsibilities. I should not like to see this country go back to the state it was in before this law was introduced. It is always bad if people have got to take the law into their own hands. I think the United States of America is the best example we have in that direction. I believe they have been trying to get away from it but it is clearly a condition people don't want if it can be avoided and it is a condition under which people ought not to be forced by any Government and I therefore support the suggestion that this question be enquired into before we go back to a position which forces an activity in that direction.

**THE HON. COL. J. GRIFFITHS:** I have no doubt the Honourable the Chief Native Commissioner will reply and when he does so I would like him to make some mention as to whether there has not been an increase of stock thefts by the Nandi on the border during the last two years.

**THE HON. THE CHIEF NATIVE COMMISSIONER:** The Right Honourable Member for the Rift Valley in his motion asks that steps be taken to enquire. Government will take these steps at once but an enquiry to elicit all the information we want will take some little time because I personally shall want to have details about each case. In so far as I have been able to make general enquiries the information I have recently obtained from the provinces generally shows that the reason for the failure to collect fines in a great many instances is that the man himself has no property and therefore one cannot levy a fine from him, and the circumstances of the case have not justified the Provincial Commissioners in endorsing the warrants. The law is not as stated by the Right Honourable Member. The law as I read it is this. A fine of ten times the value of the stock or produce stolen has to be inflicted and the Court issues a distress warrant if necessary under which that fine can be levied either from the convicted man, his family; his tribe or his sub-tribe but the warrant cannot be executed against the tribe sub-tribe or family unless the Provincial Commissioner endorses it. The Provincial Commissioner has first to satisfy himself that the circumstances of the case warrant the endorsement against the family or tribe. Where it is shown that the tribe or family had no knowledge of the theft, were not in any way implicated, and had nothing to gain by the theft, the Provincial Commissioner refuses to endorse the warrant. That is the condition of affairs to-day. Generally so far as I have been able to find out (I do not make this as an absolute statement) it is generally believed there are more stolen stock on farms than in the Reserves. Recently there was a search for stolen stock, and they were found on Lumbwa farms. It was brought out in evidence on

the Select Committee of this House which sat to investigate the circumstances of the spread of Bovine Pleuro-pneumonia that a great deal of the spread of disease was due to illicit movement of stock by squatters, and that this movement was not sufficiently regulated or watched by the occupiers of the farms and it is suggested that the same circumstances make certain farms a very safe refuge for stolen stock. I am also informed by the Police that in many cases in which complaints are received of stock having been stolen it is found that the stock were not branded. While it is undoubtedly not compulsory for a stock owner to brand his stock at present it is suggested that that precaution might be taken in many cases. As I have said, I am only replying in very general terms because I have not had time to make the searching enquiry which the question demands, but I will take steps to go into the matter fully.

**THE HON. CONWAY HARVEY:** The Honourable the Chief Native Commissioner mentioned the fact that a lot of cattle were found on Lumbwa farms. That would be absolutely impossible if the Administration was doing its duty under the Resident Natives Ordinance. It was quite impossible if Residents on farms were inspected as they should be and if it was seen that squatters' cattle were branded. It is entirely owing to the folly of the Administration that it has taken place.

**THE HON. CAPT. J. E. CONEY:** The Honourable the Chief Native Commissioner has promised to go into the matter and I think the Right Honourable Member for the Rift Valley will be prepared to accept that. There are one or two remarks I would like to make. I think everybody on this Council recognises that the Right Honourable Member has some knowledge of the Masai. He has very strong views on the Masai but we do not all agree with his views. His knowledge cannot be questioned. It has been recognised by the Secretary of State for the Colonies because I read in the newspaper they were waiting the return of the Right Honourable Member before enquiry is being made into the recent outbreak among the Masai. The Honourable the Chief Native Commissioner from the general enquiries he has made understands that the reason for the non-infliction of the fine has been because the family or sub-tribe has not had knowledge. Your Excellency, surely you may accept the Right Honourable Member's word that you cannot have stock being stolen by a native without his relatives knowing of it? It is not like stealing a pound of Maize. You cannot get rid of stock in that way; his friends and relatives and tribe must know of it. The only case I know of happened on my own farm. The fine was inflicted and my partner helped to pay the fine. In that case the cattle had been run from the farm into the Reserve and it was from that we were able to trace them. The Honourable the Chief Native Commissioner also says we settlers are greatly to blame, as we do not brand our stock. If that were carried out by the Administration under the Resident Natives Ordinance there could be no stock on European farms without knowledge of the settler. If so run the settler. Your Excellency, the decision I think is that it may sound a very harsh treatment that any native should be, no matter what the circumstances of the case may be, by law compelled to pay a fine of ten times the amount he has stolen. It has been found in practice it did entirely do away with stock thefts and in this case it is only protecting the native against stock thieving and I really believe if Government will make full enquiry the natives will really ultimately benefit.

**THE HON. R. B. COLE:** I beg to support the Right Honourable Member. I do feel myself the trouble really lies in some influence behind which is stopping these fines being inflicted. In my own district I was not aware that these stock thefts were considerably increasing. We have been extremely fortunate as we had a District Commissioner who ran that part of the world with considerable skill and tact with the result that if there were any stock thefts he invariably inflicted the necessary punishment. I have not been back there lately. The man I refer to subsequently went to the Solomon Islands or somewhere else. As regards stock being hidden on farms I do not believe that. What I think happens is that when natives take stock away they hide them in Forest Reserves very often for a considerable period until everything has blown over and then take them back to the Reserve. The reserve is not what it was and very little has been done to support the power of the Chiefs in the reserves. As soon as stock arrives in the reserve he can make it difficult for the thieves to keep them there without the District Commissioner being informed. As far as not being branded is concerned; it is stated that non-branding is the reason why stock can be easily hidden. Personally, many years ago I took great care to brand all my stock every year but I found it made no difference whatever and if any native wants to take stock from you it will make no difference whatever and I do not believe in it now and do not take the trouble to brand them because I do not think the time taken in branding is worth it. I do not put any letters on my employee's cattle on the farm either. The solution lies in making the family pay ten times the value of the animals stolen. A few cases like that would put an end to the stock thefts. But when you have a Provincial Commissioner using every channel of escape for the man who is being convicted the result to the native is one of merriment and nothing more.

**THE HON. E. POWYS COBB:** I would also support the Right Honourable Member and I do think his great experience, so well known to everybody, must add enormous weight to the statement he makes on the subject. In comparison the excuses and extenuating circumstances which the Honourable the Chief Native Commissioner has brought forward do seem to me to be of a very flimsy nature. Probably the considerations which have influenced Provincial Commissioners have been based on the fiction which the Right Honourable Member referred to that a great number of natives living on farms are detribalised. I agree they are not detribalised in that sense and if I may add my own experience it is again a fiction to suppose that stolen stock are in the majority of cases or even in a considerable minority of cases found on alienated farms. I have owned cattle in this country for seventeen years and have never found stolen cattle there but have always found them in a forest reserve or native reserve. The Honourable the Chief Native Commissioner referred to the slackness of farmers in branding their cattle. Speaking as an old stock owner I have always branded my cattle and I am not aware of my neighbours failing to do so but I agree with the Honourable Member for West Kenya that branding is a very imperfect protection. I do not think the Administration can take cover behind the question of branding. Your Excellency will remember that some months ago you were good enough to say Government would enquire into the question of the recent unrest and I believe that enquiry was postponed owing to Your Excellency's absence and that of the Right Honourable Member. That enquiry I believe is very closely connected with the Right

Honourable Member's motion and I hope that enquiry will be taken in hand.

**THE RT. HON. LORD DELAMERE:** I must express my gratitude to the Honourable the Chief Native Commissioner for the enquiries which he said are about to be held in great detail. May I say to him that detail is a difficult thing. It is a matter of general principle. I am willing to admit these stocks on farms are rather a difficulty but I cannot see what they have got to do with this case. When a man has been convicted and the Magistrate has imposed a fine I do not see what it has got to do with it. Subsequently stock is found on a farm but I do not see what it has got to do with this. I would ask the House to believe that Honourable Members on the unofficial side do not do this simply for the sake of punishing people and I would point out to the House it is only a short time ago that this law was amended in order to protect the natives from a ruling of the High Court. The High Court had ruled that in attempted theft the Magistrate was to take it as read that the man might have stolen the full number of animals there. The result was I myself happened to be down at the station in the Masai reserve and was looking up the book in the Court and found two Lumbwa had been found one and a half million rupees! The Magistrate said "I am afraid it is a ruling of the High Court that in a case of attempted theft, though nothing had been taken, I was to calculate the fine to be levied on the amount that that man might have taken." I would point out that I hurried back here and the law was amended to meet that case. I honestly believe it is the one way to meet that particular protection of the natives and settlers of this country. It seems to me to point to a lack of knowledge of natives in this country. You have a squatter living on a farm and he has got some relations in the reserve. Does the Honourable the Chief Native Commissioner presume if that man living on a farm at Naivasha gets a few cattle, that the natives in the reserve do not know it? Every one of them know. After all if these Provincial Commissioners do what they have done all I can say is that they have some idea at the back of their heads of getting these natives back into the reserves. These things are communal and although the cattle are the property of the individuals, the relations have some right over the animals and they know every animal. I have no doubt whatever about that. The Honourable the Chief Native Commissioner said we ought to brand our cattle. I am in agreement but in this matter it is no good at all. I once had a team of oxen taken out of a wagon by Nandi and then taken to the Nandi country. After the Nandi expedition was over I wrote to the District Commissioner. First of all some Masai came back and they told me I would find some of my cattle amongst what the Government have taken. My brand was easy to distinguish being a very big "D" and a Coronet. I wrote to the District Commissioner about these cattle and sent a man who knew them. The District Commissioner said he was very sorry but my man could not find them. He said there was no cattle of mine there. These particular cattle were paid to someone else for compensation and I saw those cattle of mine on his farm. I do hope the Honourable the Chief Native Commissioner will get it out of his head that there is any amount of hiding of stock on farms. There are cases but it is quite an uncommon thing and does not affect the issue. The issue is whether these people who take these stock are still in touch with their tribe. If anybody says it is not so he has got a very difficult case to prove.

**HIS EXCELLENCY:** I am quite prepared to accept the motion and I think it is a point on which an enquiry should be made on the general principles and I am sure we agree with the Right Honourable Member in matters of this sort. I know in South Africa we had to bring in a law under which if any cattle were stolen the owner could follow the spoor and if the spoor led into a village the owners of that herd or the people in the village were held responsible. It was not necessary to prove they knew anything about it. They were either accessories before the act or after it. It was quite essential to have something of that sort.

**THE RT. HON. LORD DELAMERE:** This law of ours is a very much milder law.

**HIS EXCELLENCY:** I think it is a matter which might be very well brought up at the Meeting of the Senior Commissioners to take place shortly.

**THE HON. COL. J. GRIFFITHS:** Your Excellency, I beg leave to propose the following motion:—

"That in the opinion of this Honourable Council it is desirable that the quarantine restrictions be removed so as to allow the free movement of cattle between Plateau North, Plateau South and Elgao, North Kavirondo and Nandi Reserves."

It is with difficulty that one rises in Council to propose a motion which is directly opposite to the principle which has been adopted in this country by the advisers and I trust Honourable Members will realise I only do so because of the position which has arisen. The position as it stands to-day is that cattle in the Elgao can be purchased and after a short period of quarantine they are allowed on the Trans Nzoia and Plateau. In the Kavirondo District by going through a Boma near Kibos cattle are allowed out and a small number come out that way. From the Nandi reserve no cattle can come out at all. The effect of the motion will be unquestionably in my opinion beneficial to the natives as at the present time they have big numbers of cattle in the reserve which they cannot sell. It does not seem to me to be a sound policy to compel tribes like the Kavirondo not to sell their cattle. The Nandi are always willing to sell cattle. The position in the Elgao is different. They are willing to dispose of bullocks for heifers. The position on the Plateau and Trans Nzoia is different. The only cattle which can be used for transport are cattle which come from an endemic area. The development in our district is going ahead very rapidly since the war. Big herds of cattle were brought there during the war and it is now practically impossible to buy cattle on the Plateau. When cattle were so high as £10, £12 and £15 there were plenty of sales of cattle. With the exception of a small number of cattle which Government took there have been no sales of cattle up there for about five months. It is very difficult to say what the value of cattle is; I am speaking of trek oxen. As soon as anyone hears of a team for sale they immediately buy it. A number of cattle were bought by the Maize Growers Association with the help of the Government which relieved the position for the time but since then there have been no sales. Over one hundred ploughs were purchased on the Trans-Nzoia during the last six weeks, and there are no cattle for them at the present time. What is happening is that cattle running is going on continually from the reserves to European occupied areas. The District Commissioner at a meeting at Eldoret admitted

the fact that cattle were being run from the Native reserve and without an army of people you could not stop it. Where you have a reserve and large numbers of cattle which have not been allowed out for a number of years and a strong demand on the other side for cattle the running of cattle must go on. It is wrong that the authority of Government must admit that the law is being broken by the Government. The effect of this resolution will be to enable the settlers who are endeavouring to develop to acquire cattle and continue their developments. At the present time I may say that there are only three veterinary units in the reserve carrying out the veterinary services. I believe that has been completed and one of these units has been taken out so there are two there at the present time. I am of opinion that the Veterinary Department will say there is disease in the reserve and there is none on the settled areas. If we allow free movement you increase the disease on settled areas and that would have to be taken notice of. I believe the units in the reserve will be sufficient to do that. I admit there will be outbreaks but I think these units will be able to deal with them. At the present time cattle are being run daily from the reserves. The position is that there are a few, not many, people who are going in for cattle running on the Plateau. The native wishes to dispose of his stock and is doing so illicitly at the present time and the community on the Plateau and Trans-Nzoia desire to have an opportunity of purchasing this stock and are willing to take the risk of disease. It is going to be very beneficial to the natives.

**THE HON. CAPTAIN J. E. CONEY:** I beg to second the motion.

**THE RT. HON. LORD DELAMERE:** May I be allowed to support this motion. It is a serious step to take but in view of the fact that both the Plateau Members are in agreement I think that local option should be exercised and that that particular part of the country which depends on Agriculture should be allowed to get these very large supplies of trek oxen and plough oxen from this particular native reserve and I must support it. It does not appear to me to make the least difference to anybody else. After all this country is building railways there and the development of that country is an important matter. Their cattle are practically worthless on the Plateau at the moment. The Honourable Member for the Plateau South has alluded to Your Excellency's technical advisers. When a policy is laid down generally I do not think it can be carried out better than here but I do say on the question of policy it has always been found that technical people are not always right and incidentally I am quite sure are out to help any policy Government lays down in these matters. I do suggest that provided the local people wish it that it would be an extremely sensible thing to throw that particular area open and allow free trade of cattle in it. I cannot think of any particular objection to it. The conditions are entirely different in other parts of the country. Honourable Members will realise that these bullocks they are going to get can be generally safeguarded and are bought as cattle which come from an area which is almost completely immune to East Coast Fever. They can perfectly easily be inoculated for Pleuro and for Rinderpest if necessary.

**THE HON. E. POWYS COBB:** While admitting the full right of people of the Plateau and the Trans-Nzoia to have a voice in the cattle policy they want to follow I should like to make sure this resolution will not have the effect of throwing open long boundaries by which these cattle will be able to pass

over the rest of the country. If this motion is agreed to I should like it to be accompanied by an assurance that the quarantine frontier which it is now proposed to move from the three native reserves should be established between the Plateau and the Trans-Nzoia and the rest of the country. The real difference of opinion among cattle owners is whether you happen to be a pure breed or dairy farmer or an agriculturist and in the rest of the country the interest of the dairy farmer and pure bred breeder is paramount. I suppose the dairy farmers and pure bred cattle farmers in the Plateau and Trans-Nzoia have acquiesced as far as they are concerned but I would ask very definitely that if this motion is accepted it be clearly laid down that the new quarantine to be established is between the Plateau and Trans-Nzoia and the dairy farming areas of the Colony.

**THE HON. THE COLONEL J. GRIFFITHS:** With your Excellency's permission I think that probably if the wording of my motion was altered it may assist the motion. I think it would meet with the approval of the Council and help Government. I would like to alter my motion so as to read:—

"In the opinion of this Honourable Council that Government favourably consider the question that the quarantine, etc."

**THE HON. CONWAY HARVEY:** It seems to me that the opening of the railway will make a difference to cattle movement. Before the railway was established there would be a great danger of spreading disease. I should like an assurance now that these cattle will be strictly quarantined in the Trans-Nzoia and Plateau and will not be able to wander about doing transport work in the Plateau.

**THE HON. SIR N. McMILLAN:** I am going to vote for this motion but would do so with a reserve. I do not at all approve of the motion in principle as I believe in quarantine regulations but where a district with the highest majority of the vested interests in that district are in favour of a thing of this sort I will support it.

**THE HON. R. B. COLE:** I support the Motion and just for the opposite reason to the Honourable Member for Machakos. Every stone should be turned to remove all quarantine stations in this country. I believe quarantine has brought more disease into this country than anything else. It is better working on the immunity system than trying to avoid it. If all efforts were centred on an efficient laboratory where people could get all inoculations they want I believe cattle would become immune; what they were before we came to this country. The more quarantine and more regulations we have the more disease has come to this country as far as I can see. I shall certainly support the motion to help the Plateau Members in getting their cattle out.

**THE HON. THE DIRECTOR OF AGRICULTURE:** Your Excellency, I intend to give this Council some information with regard to the position in the hope it will assist Honourable Members in deciding whether they should vote for this motion or not, but I rather regret that so many Members have already committed themselves to support the motion. I

would preface my remarks by saying that I feel sure the Government has every desire to assist stock owners and farmers not only in the Plateau and Trans-Nzoia but in every part of the country and so far as my Department is concerned we are here to serve the interests of the country but it is the duty of the Government and my Department to see that the interests of stock owners are protected. What is the position in respect of disease in native reserves? When I shall use the term "disease" I refer to Rinderpest and Pleuro-pneumonia and not to East Coast Fever. It is true that twelve months ago discussions took place in the Convention of Associations with regard to the removal of quarantine regulations but that centred round the disease of East Coast Fever and did not appertain to the two principal diseases which concern this motion. In the North Kavirondo District Rinderpest is prevalent in locations South of the Nzoia River. North of the river there are three large locations free of the disease and existing outbreaks in other locations are under control. In Central Kavirondo Rinderpest is widespread. Pleuro-pneumonia is known to exist in two locations and is widespread in the locations bordering Kisumu and South of the Railway line. In the Nandi reserve Rinderpest is prevalent throughout and in 1922 a very large number of outbreaks of Pleuro-pneumonia were also returned. In the Elgeyo reserve Rinderpest is prevalent but Pleuro-pneumonia is not known to exist. So far as the European areas covered by this motion are concerned, Plateau North and South, outbreaks of Rinderpest not infrequently occur chiefly through the extension of the disease from the Nandi and Elgeyo reserves. I should like to give Council some information with regard to the number of cattle in these two European areas and what the position is with regard to inoculation. There are in these two areas 28,000 head of European owned cattle. There are also 22,000 head of native owned cattle on European farms. In 1922 855 head of these cattle were inoculated against Rinderpest. After the Government decided to issue Pleuro-pneumonia vaccine free of charge and in order to assist European stock owners to protect themselves against that disease there were issued in 1922 in these districts under consideration 5,230 doses of Pleuro-pneumonia vaccine but in 1923 only 60 doses to date have been issued. If the free movement as indicated in the motion under consideration were permitted what would happen in these two areas? Without doubt in my opinion, backed up by the opinion of the Chief Veterinary Officer, there would be extensive outbreaks and an extensive spread of Rinderpest and Pleuro-pneumonia. We have had so far no assurance from the settlers in these areas that they will have their stock double inoculated against Rinderpest or will see that their stock are protected against Pleuro-pneumonia by vaccination. I think it would have been helpful if an assurance had been given by them that they were prepared to protect their stock by vaccination and inoculation, and that should preferably have preceded this motion. Quite recently, as far as Rinderpest is concerned, a motion was passed by the Trans-Nzoia Association in favour of carrying out double inoculation in that area, but when the Veterinary Officer got down to work he could not get promises for more than one-third of the stock in that area with the consequence that double inoculation during the last month or two has been held over and arrangements had therefore to be made for the inoculation to take place only at farm 40 on the Uasin Gishu Plateau. That is the position from the point of view of the European stock owners. What is the position of the native stock owner? Take shortly the case of the whole of the

Kavirondo country. If you are going to permit this free movement you will undoubtedly cause the spread of Rinderpest and Pleuro-pneumonia throughout the length and breadth of this reserve, and with the result that the native stock owners will suffer considerable loss. The Right Honourable Member interrupts by asking why? My reply is that when you create a market at one end you create a movement of stock from the other end. You cannot stop the movement of diseased animals to and through places free from disease. Native owners in North Kavirondo would suffer very heavily. Mention has been made as to the Kavirondo not being a pastoral people. I would point out that so far the natives in the North Kavirondo have had no opportunity of developing along the lines of crop production. They are very far removed from the railway. In that particular area of the country there is a very large population of cattle and I hope Government and Honourable Unofficial Members will agree that the interests of these natives should be protected in respect of their ownership of stock. Further with regard to the position in respect of the cattle in the two European areas under consideration it is estimated that in the Uasin Gishu Plateau and Trans-Nzoia there are no less than 15,000 head of cattle susceptible to Rinderpest to-day and with regard to North Kitosh no less than 50,000 head of cattle are susceptible to Rinderpest. These are factors Honourable Members should take into consideration in deciding whether to support this motion or not. The Honourable Member for Plateau South made reference to the desirability of providing means whereby the natives can sell their cattle which he says are in great demand. First I would like to say that the demand for native owned cattle among Europeans is very restricted indeed. It does not amount to a very large number. So far as the natives are concerned I would like to inform the Honourable Member that information has been given to me quite recently indicating that the natives in North Kavirondo have no particular desire to sell their cattle and the buyers of cattle there to-day have considerable difficulty in buying from natives. I only mention that point to clear up the one made by the Honourable Member for Plateau South that natives were prevented from selling their stock and could not supply the demand which existed. That is not the position and I have gone into this matter very closely indeed. Having explained the position I would like to say on the other side that Government is very desirous that progress and development of the Trans-Nzoia and Plateau should not be restricted or impeded in any way by a shortage of cattle for development purposes. The situation has been watched very closely and I do not think it can be said that so far the progress has been held up by any shortage of cattle. Arrangements were made some months ago for the Kibigori quarantine station to deal with animals which came in from clean areas, by inoculation for Pleuro-pneumonia and Rinderpest, and at this moment Government is endeavouring to make satisfactory arrangements for the opening of a quarantine station near Kamakoiwa. With the services of these two stations I hope and believe that the interests and the demand of the Trans-Nzoia and the Plateau will be served. I do not wish to tell the Honourable Member who moved this motion what I think he ought to have done in the matter but I do suggest that the proper procedure in connection with a matter of this sort now under discussion affecting the removal of quarantine regulations which are very difficult to regulate, had better first have come before the Convention of Associations instead of first coming before this Council, because I do feel that there are interests

to be served, which can be properly ventilated before the Convention of Associations, before the subject is introduced in this Council. I suggest to the Honourable Member that districts which have an interest in this matter have not been consulted and have not given their views. In saying that I do not wish to suggest that this Council should not recognise its responsibilities but in the case under consideration it would have been very helpful to Government if such a discussion had taken place in the Convention of Associations and in a matter of this sort it is easy to lay down on paper a theory which in actual practice cannot be carried out. There are districts bordering on the areas included in this motion in which disease would spread if this free movement were permitted. May I conclude with this observation that it has been my experience for twenty years or more that farmers and stock breeders have continually pressed upon Government for the removal of quarantine regulations with a view to permitting free movement of stock but under the conditions of stock farming you cannot carry on the business of the country, having regard to the disease without control of the kind, which is exercised by quarantine regulations or the removal of stock under permit. At the same time these farmers and stock-breeders have said to Government, allow us complete free movement in respect of our stock but at the same time you must accept the responsibility for outbreaks and control of the diseases. In my experience it is quite impossible to do these two things at the same time. Whereas 15 years ago that was the attitude of the big South African stock-breeding interests towards quarantine regulations and the free movement of stock, to-day the position is changed. These interests have come to recognise the value of the Veterinary services rendered and have changed their opinions and control of the movements of stock is still being carried out. It will be very unsafe for this country to adopt a policy of allowing the free movement of stock either in the areas included in this motion or in other areas in which these diseases are prevalent and I am to say that Government will be unable to accept the motion even as amended by the Honourable Member, because he includes the word "Favourably" which ties down the Government but nevertheless the Government will take every step possible to remove any disabilities which exist in respect of the supply of stock.

THE HON. CAPT. J. E. CONEY: The Honourable the Director of Agriculture has mentioned that so many members have committed themselves to support this motion without hearing the Government's views. I regret he did not speak earlier as then perhaps the Honourable Member for Plateau South would not have altered his motion. The present position on the Plateau is an impossible one. The Honourable the Director of Agriculture rather insinuated that my colleague from the Plateau has adopted the wrong course in bringing this motion before the Council. For months past every effort has been made by the Honourable Member for Plateau South and myself to get the Agricultural and Veterinary Departments to move in this matter. With the help of the Administrative Officers he realised the position and that we have done everything we can. I myself placed the matter before the Senior Commissioner at Kisumu and he was in entire sympathy. The Honourable the Director of Agriculture says there is no demand on the part of the natives to sell their cattle. I was assured by the Senior Commissioner that there was a large quantity of cattle waiting to be sold and the natives could not pay their Hut and Poll Tax. I placed the matter before the Honourable the Chief Native

Commissioner who promised to do all he could. We have been blocked by the Agricultural and Veterinary Departments. I was definitely informed very very recently that that boma could not be opened. I am glad the Honourable the Director of Agriculture paid a tribute to the Convention of Associations. The Honourable Member for Plateau South and myself are responsible. If there are any risks to be taken on behalf of the farmers we are to take them. We must accept responsibility which our position entails. The Honourable Member for Plateau South has mentioned the running of cattle by natives. Both in Plateau North and South cattle running is going on almost daily. I also regret to say cattle running is going on by Europeans, and where it is being done by natives it is being done at the instigation of Europeans. You cannot stop it unless you have an army of police. I am very sorry indeed Government cannot accept this motion because I am very much afraid the whole matter now is going to be tied up again by the Agricultural and Veterinary Departments.

**THE RT. HON. LORD DELAMERE:** The Honourable the Director of Agriculture has taken a peculiar line in this matter. The Honourable Member for Plateau South is responsible to his constituents. It is not his business to tell him what he has got to do. I am in entire agreement with the Honourable Member for Plateau South. As he has said we are the only people who are responsible to our constituents for any legislation which takes place in this country. I find it very difficult to contend with the arguments of the Honourable the Director of Agriculture who I think does not believe in them himself. He said that farmers all over Africa impressed on Government that quarantine should be done away with. I can only suggest to him that why he wants this matter to go to the Convention is because the Convention have continually asked Government to keep on the quarantine, and I think that has been the position with regard to most of the districts in this country. South Africa is entirely in a different position. Owing to East Coast Fever cattle in South Africa, having no immunity whatever to this disease, have had to be protected by quarantine. Rinderpest and Pleuropneumonia depends entirely on the man on the farm himself and if the people of the Trans-Nzoia and Plateau say they are going to deal with this they can deal with it. The Honourable the Director of Agriculture has put some very impressive figures before this Council. He said there are 28,000 head of European cattle on the Trans-Nzoia and Uasin Gishu. I always understood there were 600 farms up there. It means that a man has got to look after 45 head of cattle. I do not think rinderpest or pleuro have any dangers whatever now to the ordinary man who has simply got a certain number of trek oxen. With regard to this disease the very object of this resolution is to enable farmers to get cattle out of these reserves which can go about without catching these diseases. With regard to the native stock owners it is very peculiar statement of the Honourable the Director of Agriculture that they do not want to sell their cattle. The native administration has worked for the last two or three years trying to make an opening for these cattle. I am sorry Government is not going to accept this motion in the form to which it has been amended. I entirely agree with the amendment myself as I do not think Government can agree to this thing here at once, but I do think it is a great pity if Government cannot consider this matter which does not affect anybody else in the world.

**THE HON. COL. G. C. GRIFFITHS:** I was rather surprised at the attitude the Honourable the Director

of Agriculture took up because I think that in different districts of the country one has to look at the thing from different points of view. The Trans-Nzoia and the Plateau are unquestionably agricultural districts and not stock districts. Surely the consideration of stock is different there when you are considering the position of the quarantine question to what it would be in other districts. With regard to the Honourable the Director of Agriculture's suggestion of this matter coming up before the Convention of Associations I am satisfied that if they said we are a watertight department the Convention of Associations would be in support of the motion. The argument produced by the Honourable the Director of Agriculture against this is his argument that disease in the native reserves would spread because of the movement of stock. He admitted the diseases are there to-day. He said if you create a market in the North for stock then the disease would spread. Two minutes afterwards he told us he was going to open the Kamakoa boma and so create a market for the stock. Therefore the disease which he admits is in the South will spread to the North. That is his argument why the free movement of stock should not be allowed. The Plateau Maize Growers applied for 1,600 head of cattle and there is a very great demand for stock up there. The Honourable the Director of Agriculture did not refer to the fact that the Nandi is closed and the possibility of opening the Nandi reserve where there are a great number of cattle for sale. I am very sorry to hear the Honourable the Director of Agriculture say the Government is not going to accept the motion.

**THE RT. HON. LORD DELAMERE:** May I suggest to the Honourable Member for Plateau South that he alters his motion to what it was before as it may then be more acceptable to Government.

**HIS EXCELLENCY:** I suggest the word "sympathetically" be substituted for "favourably."

**THE HON. COL. G. C. GRIFFITHS:** In order that it will be acceptable to the Government I will alter it to the word "sympathetically."

**THE RT. HON. LORD DELAMERE:** I beg to second it.

**THE HON. R. B. COLE:** If the Government is going to be "sympathetic" it is very probable the Honourable Member is not going to get what he wants.

**HIS EXCELLENCY:** There are other interests concerned. The Honourable Member for the Coast himself has sounded a warning in that line.

**THE RT. HON. LORD DELAMERE:** May I say that I think "sympathetically" is a better word than "favourably."

**THE HON. THE DIRECTOR OF AGRICULTURE:** May I make a suggestion to the original mover of the motion that a word be added to this effect. "That Government should consider a relaxation of the quarantine restrictions so as to allow the free movement of cattle etc."

**THE HON. CAPT. J. E. CONEY:** The Honourable the Director of Agriculture has considered this matter for months and we have not got anything from it. I suggest the Honourable Member for Plateau South does not alter it as suggested. This matter has been in the hands of the Agricultural Department for six months and nothing has been done.



**THE HON. E. POWYS COBB:** I would suggest the Plateau Members consider more seriously the alteration suggested by the Honourable the Director of Agriculture. Each has, I am perfectly certain, people in their districts who sympathise with them but I would remind them that there are other things in this country which may be affected. They made no attempt to insert words in their resolution which will give other districts any assurance that if they get free movement that they are going to prevent movement from their own districts into other parts of the country. They must consider the interests of other districts as well as their own. We want to help them but I think other districts must receive consideration also.

**THE HON. COL. G. C. GRIFFITHS:** My original motion will not be passed and as it gets whittled away it gets weaker and weaker. I must in some way induce the Honourable the Director of Agriculture to give me some support and I am prepared to go a long way to meet him. If any restrictions are necessary he will have an opportunity to put them up for the Government to consider and he can put up his objections at the same time.

**HIS EXCELLENCY:** I would like to say that when the Honourable the Director of Agriculture made his suggestion he had no intention of interfering in any degree with the member's constituents. It was a suggestion for helping both sides of the House.

The motion was then put with the elimination of the word "desirable" and the addition of the words "sympathetic consideration" and carried.

**THE HON. MAJOR R. W. ROBERTSON EUSTACE:** Your Excellency, I beg leave to move the following motion.

"That it is the opinion of this Honourable Council that in view of the increased trade which will arise through the opening up of new producing areas by the extensions both actual and proposed to the present Railway system Government immediately consider the advisability of proceeding with the construction of two additional deep-water berths with the relative shed accommodation."

I have been requested by the Mombasa Chamber of Commerce to bring forward the motion standing in my name, i.e., consideration of the advisability of proceeding with the construction of two additional berths at Kilindini. With the extension of the Railway to Uganda, to Kitale, and to Nyeri and the—we hope—opening up of the Voi-Moshi Railway it certainly can be anticipated there will be a large increase in volume both in the import and export trade. A conservative estimate of the exports from Kenya during the year 1921 amounts to about 170,000 tons including 20,000 tons coastwise traffic. This increased in 1922 to approximately 183,000 tons and 1923 will probably show a further increase. There is every reason to hope that in 1924 the total to be handled will amount to 250,000 tons. The rate of this increase since the time it was decided to build two berths only, has, I think, come as a surprise to the majority of people and can leave little doubt in the minds of all that the time has arrived when the consideration of the building of an extra two berths should be undertaken. The two berths now being built should be finished in 1925 and the question arises as to whether a considerable saving might not be effected if the work be put in

hand prior to the dispersal of the personnel and plant now on the spot though on this point Government may have other views. It has been suggested that the expenditure during the next three years of six hundred to seven hundred thousand pounds might save a further three hundred thousand pounds, at the time when these works would have to be put in hand and I would therefore ask Your Excellency whether Government will not give the matter its serious consideration.

**THE HON. E. POWYS COBB:** I beg to second the motion and in doing so it is more particularly the spirit which underlies the motion than its actual literal wording that I wish to support. By that I mean to say that in view of the expansion of trade and many developments that are taking place that the consideration of Government is desirable on the general question of increasing the facilities at the port and the equipment of the port and I hope this motion may commend itself to this Council.

**THE HON. THE COMMISSIONER OF CUSTOMS:** As Chairman of the Port Advisory Board it may be desirable that I should indicate the views of the Board on this matter. The question of increasing the number of berths was recently the subject of discussion and it was felt the rapid extension of railway facilities and increase in merchandise make it very necessary that the future development of Kilindini should be mapped out with the least possible delay and that a comprehensive scheme should be adopted by Government at the earliest opportunity. Without the figures of the anticipated tonnage the Board felt that no definite expression of opinion as to the desirability or otherwise of extending the wharf could properly be given. They were however unanimously and very definitely of opinion that the time had come for Government to make a thorough investigation of the position in order that a decision could be taken before the present plant is dispersed.

**THE HON. THE COLONIAL SECRETARY:** I may supplement that by adding that Government is giving the very fullest consideration to the matter at the present time and I hope that will satisfy the mover of the motion.

**THE RT. HON. LORD DELAMERE:** May I congratulate the Government. I am a little disappointed that the member representing the Chamber of Commerce and the member representing the Port Advisory Board in this matter have no figures at all to give us on this thing. The only figures put forward have been that there were 170,000 tons last year and 183,000 tons this year. You will have to go to a long way to prove a case for a further berth. The real question is whether Government can add both or build only one and as far as I am concerned I would vote for the extension and not the port.

**THE HON. THE GENERAL MANAGER, UGANDA RAILWAY:** Your Excellency, the motion is one suggesting that Government should consider the matter. There is no reason whatever why Government should not consider the matter and most thoroughly. That does not imply that the Government will necessarily take action to extend the two berths. The position is that the tonnage into and out of the port at Kilindini is still under 200,000 tons per annum. We have at present three lighterage wharfs at Kilindini belonging to the Government, we have a private pier at Mbaraki, and have two deep-water berths under construction. The question is whether these will be sufficient to

handle not only the two hundred thousand tons at present handled but an increase of say 50%. At Port Elizabeth in South Africa three lighterage piers handle two and a half times the maximum annual tonnage hitherto handled at Kilindini. I do not wish it to be gathered from that that I am against the extension. My firm belief is that you will want the two additional berths in time, but, it is much more important first to obtain the money for extending the railway lines for getting the traffic. You must develop the traffic from the interior before putting money into developing the port for that traffic. We have not got the money for the line to Uganda and it is a bit premature therefore to discuss this question of further port extension. When we see we can get money for the railway extensions then we can further discuss the port. It has been suggested by the Honourable Member for the Coast that it will be better to spend an extra 5 or 700,000 pounds now. I sincerely hope and trust the two additional berths would not cost six or seven hundred thousand pounds. When a firm is given the contract to do a particular job and the job comes to an end that firm very naturally looks for more work and the argument of doing further work while the plant is on the spot is always put forward. That can be considered on its merits when the time comes but I do suggest to the Government that while it should consider the port extension it should not go further until it has the money for the extension of the railway lines.

**THE RT. HON. LORD DELAMERE:** I am going to propose an amendment. First of all I think the word "immediately" should be left out. It gives the idea of hurry. Secondly that "advisability" should become "necessity" "and for proceeding with" should be cut out. Then it will read

"consider the necessity for the construction of two additional berths." It does away with the idea that it is an immediate thing and must take precedence of other things.

**THE HON. MAJOR R. W. ROBERTSON-EUSTACE:** I am quite prepared to accept that

**HIS EXCELLENCY:** I can certainly corroborate and emphasise what the Honourable the Colonial Secretary has said. This matter as Executive Council Members are aware has received considerable attention lately and considerable correspondence has taken place with the Colonial Office on the question. That consideration has been heightened recently by suggestions as to possible railway development to Uganda. That of course will need port development with it. I have said nothing on the point as yet because I want to be sure of the facts. I agree with the Honourable the General Manager when he says we should carry our railway into Uganda and develop the interior trade and there is no reason as soon that question is clear why we should not proceed with the substance of the motion.

The motion as amended was put and carried.

*No debate on third reading of Game Ordinance, 1923.*

*No debate on third reading of the Fish Protection Ordinance, 1923.*

*Council adjourned till 10 a.m., Monday the 12th November, 1923.*

#### TWELFTH DAY.

#### Held at Nairobi on the 12th day of November 1923.

The Council assembled on the 12th November, 1923, at 10 a.m., **HIS EXCELLENCY THE GOVERNOR** (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

#### ANNOUNCEMENT BY HIS EXCELLENCY.

**HIS EXCELLENCY:** I wish to inform Honourable Council as to the present position in regard to the draft Legislative Council Amendment Bill. I said some days ago that I hoped to introduce the measure during this session. The reason for expedition was to give time for the preparation of the Voters' Rolls, provisions for appeals, and so on, before the existing Council comes to an end on the 21st of February next year. The position with regard to the draft Immigration and Employment Bill is as follows: I have informed Council that the draft Bill will shortly appear in the Gazette for public information and comment. The Secretary of State has properly not been able to accord his final approval of the terms upon the telegraphic summary sent to him and desires to see the draft of the full Bill and discuss it with the Secretary of State for India. The Bill is accordingly being sent to him at once, but it is to be expected that examination and discussion will take some little time. It is desirable in my opinion, and I believe in the opinion of this Council, to implement the White Paper decisions as far as possible simultaneously, and in view of the fact that my legal advisers consider that it will be possible to hold the elections in March, if the Legislative Council Amendment Bill is passed before

the end of the year, it has been decided to introduce both Bills together in the December session. Council, therefore, will proceed with the work on hand which may be finished to-day, or certainly to-morrow, and will then rise until towards the end of December.

#### PAPERS LAID ON THE TABLE.

**THE HON. DIRECTOR OF AGRICULTURE:** In accordance with the request of the Honourable Member for Plateau North, I beg to lay on the Table certain Memoranda and Minutes dealing with the livestock industry.

#### MOTIONS.

**THE HON. MAJOR R. W. ROBERTSON-EUSTACE:** Your Excellency; I beg leave to move the following Motion:—

"That in the opinion of this Honourable Council Government should take steps to aid the development of the fishing industry of this country, by having a survey made of the fishing areas and the formation of a Fisheries Board."

At the present moment the Coast area is behind the rest of the country in many of its industries. There is however one very important industry which lacks development—the fishing industry. East Africa possesses an abundant and varied fish fauna which includes destructive as well as valuable species. Although food fishes are abundant the development of the fishing industry is slow, and what is needed is the exploitation of the fishing areas. Marine fisheries properly fostered will develop into an industry of national importance. Owing to the apathy and conservatism of the native fisherman there has, as yet, been no change from the utilisation of the dug-out as the only boat used for fishing and no steps have, as yet, been taken to alter this, though if done it would probably mean the rise of a new and enterprising race of fishermen, and the improvement of certain branches of fishing at present neglected. There is every reason to justify the conclusion that there is a great opening for improved methods in the catching, curing and distribution of fish on modern lines. There is a large market ready both for natives and Europeans in the fishing industry. Further there is a very large trade to be opened up in the manufacture of fish meal and fish manure which is one of the things so very badly needed in this country. I would mention that in Cape Colony the fishing industry in two years, from 1917 to 1919, increased by over 50,000 tons. There is a large trade to be done in this country in dried fish and salt fish, the imports of which during 1922 amounted to £5,886. Up to the end of June this year the total value of the canned fish trade is £5,540. This shows the enormous increase in the dried fishing trade which is consumed mostly by natives. The canned fish from various parts of the world imported last year amounted to £1,831, and for the first six months of this year amounts to £1,461. This further shows a large industry can be started here in the canning industry. There are a great many fish which can be canned and a large amount of employment can be found and a very important industry started. At present the industry is ill-managed, the price to the consumer is high, and there is a wide divergence between the price paid and the return received by the producer, while the fisherman's gain is uncertain and the system of distribution lacks method.

It is well known there exist large and valuable areas in which fish abound, and it would be greatly to the interest of Kenya, Zanzibar and Tanganyika that these areas should be clearly defined. At present the majority of natives are not an Ichthyophagus race, but there is no doubt that they would soon become one, and there is evidence that a large and valuable trade in dried fish could be looked for. The European population and steamers calling at Kilindini would also require large supplies. All we require here now is for Government to give the matter serious attention, and as a preliminary step, to cause enquiries to be made to ascertain what marketable food fishes may be found in East African waters, in what quantity they may be taken, and to what extent they migrate and whither, how they can be conveniently and economically caught and by systematic survey find out and chart suitable fishing grounds.

**THE HON. SIR NORTHRUP MACMILLAN:** I beg to second the motion. I have had quite a little experience in fishing on the coast and it seems a pity to me there is no organisation to reap the benefit nature has provided.

**THE HON. CONWAY HARVEY:** It is a thousand pities more has not been done to exploit the fishing resources of this country. Lake Victoria teems with fish and it is from that source that the whole

country appears to derive its supply to-day. It is a thousand pities no steps are taken to conserve that very valuable asset which exists in the form of the Lake fish. Fish are being caught indiscriminately and no regard is being paid to the future and I do suggest whatever body Government appoints to go into this matter should very carefully consider the desirability of instituting a close season so far as Lake Victoria is concerned. There is one other matter. It is not generally known that Lake Baringo, 85 miles north of Nakuru, simply teems with fish and I believe that an enormous potential industry does exist for the proper exploitation of the Baringo fish. The difficulty up to now has been one of transport, owing to the fact the road traverses fly belts and it is impossible to move animals in that area. But I consider a very large dried fish industry might be instituted at Lake Baringo. These are two of the lakes worth consideration. There is no reason whatever why this matter should not be gone into seriously to make the best of this potential industry and valuable food supply.

**THE HON. E. POWYS COBB:** I beg to support the motion very strongly. It is in fact a recapitulation of a recommendation of the Economic Commission which sat from 1917 to 1919. That Commission took a good deal of evidence on the subject and reported the fishing industry was a thing which should receive the attention of Government, and I hope that if Government gives this matter consideration it will be a very full one because I fear it is a matter which is going to cost a good deal of money as special craft will be required. It will be necessary not only to ascertain the fishing grounds but also the best methods of fishing which will undoubtedly entail considerable operations. However, I believe that money will be well spent in this exploitation.

**THE HON. COLONIAL SECRETARY:** On behalf of Government, I may say the motion which has been moved will receive the fullest consideration. Government will go into this question and say what steps will be taken to use this wealth of the country to the best advantage. I cannot claim myself to be an expert. I have, however, had considerable experience in regard to this question and was one of two Commissioners sent to study the fisheries in Madras. Madras worked up a canning industry and is exporting canned fish to all parts of the world. I am very much in sympathy with the motion put forward by the Honourable Member and on behalf of Government I can say it will receive the fullest consideration.

**THE RT. HON. LORD DELAMERE:** May I be allowed to thank the Honourable Colonial Secretary for meeting the wishes of the Honourable Member for Mombasa.

**HIS EXCELLENCY:** Government will certainly take what steps it can in the matter. I think this is one of those matters which is a very proper one for private enterprise later on when we know more about it.

The Motion was put and carried.

#### PRESENTATION OF REPORT ON THE COTTON TAX ORDINANCE, 1923.

**THE HON. DIRECTOR OF AGRICULTURE:** I would like to explain that on account of the short time at our disposal it was quite impossible to get full attendance at the meeting held, but I took the opportunity of conferring with members outside the meeting and I believe the report presented is acceptable to all members.

(Report read by Honourable Member.)

INTRODUCTORY SPEECH ON FIRST READING OF THE KENYA COTTON ORDINANCE 1923.

**THE HON. DIRECTOR OF AGRICULTURE:** The main purpose of this Bill is to enable the Governor-in-Council to make rules directed towards the control and improvement of the cotton industry. These rules would cover such matters as for example the issue of seed for sowing, cotton-growing methods and practice, control of disease and pests, the establishment of cotton markets, the licensing of cotton buyers, licensing of ginneries, preparation of cotton for market, fair dealing between buyer and seller and other points of detail. I would explain that the Ordinance submitted to the Council has been drafted largely on the Ordinance now in force in Tanganyika Territory and reference has also been made to the Ordinance in force in Uganda. I should like to express my regret to this Honourable Council that it has not been possible to give the ordinary notice in respect of this Bill, but I desire to explain that it was believed and expected that the old Ordinance of this Colony which was passed in 1908 would have provided the necessary ways and means for the publication of rules in connection with this industry, but on closer examination it was found by the Legal Department that many of the rules which were essential to the industry would not be covered by the East African Ordinance 1908. I would state further with regard to the cost of administering this Ordinance, if passed, that it is very difficult to frame an estimate to submit to this Council. In a sense some additional expenditure will be incurred but it will be only such expenditure as will be incurred through the efforts of administrative and agricultural officers working in the district in connection with the promotion of the industry itself. That is to say there will be no particular new appointments made for the administration of the Ordinance and that alone. The measure is designed entirely for the benefit of a young and growing industry and I hope in the circumstances this Honourable Council will allow it to be passed and not regard it in any sense as a controversial Bill.

DEBATE ON SECOND READING OF THE KENYA COTTON ORDINANCE, 1923.

*In Committee.*

**THE RT. HON. LORD DELAMERE:** I am sorry to see that other crops in the native reserves are not included in this Bill. I would suggest the words "Cotton and other Crops" be added. I would suggest there are other crops for which there is great need for improvement. There may be rules which Your Excellency can make in regard to other crops as well. Perhaps the Honourable Director of Agriculture will think it over and perhaps bring in something on the same lines for other crops.

**THE HON. DIRECTOR OF AGRICULTURE:** I may say the Agricultural Department gave attention to the point raised by the Right Honourable Member for the Rift Valley and did draft an Ordinance on these lines so that the matter has not escaped the attention of the Department. I think it may be inadvisable to add the words to the Bill. If that were done it would mean recasting and resubmitting the Bill to the Council. I agree with the Right Honourable Member and I should have preferred a Bill of a general character dealing with all crops grown under Native Agricultural conditions. In the circumstances I think this Bill dealing with the cotton industry should pursue its course.

**THE RT. HON. LORD DELAMERE:** If that is so, I hope we will have an undertaking that something will be done at an early Session. I withdraw with regard to this Bill.

DEBATE ON THE SUGAR ORDINANCE 1923.

*In Committee.*

**THE HON. CHIEF NATIVE COMMISSIONER:** I should like to explain that one clause has been added which the Committee has asked to be put in but which does not alter the principle of the Bill but it has been necessary to recast the Bill, and I would ask Your Excellency to allow the Bill to be considered in its new form. It is merely a rearrangement of the order of the sections. The clause is intended to be of general application whereas the other portions of the Bill refer to control, etc., in a specified area, and the new clause is to apply to such areas as Your Excellency may in Council direct.

**THE HON. T. A. WOOD:** I am not satisfied it is in order to take a Bill read a first time and put it into Committee and produce a new Bill. I rather fancy it means suspending the Standing Orders to take the first reading of the new Bill.

**HIS EXCELLENCY:** I understood the Honourable Chief Native Commissioner to say it is not a new Bill but only a recasting.

**THE RT. HON. LORD DELAMERE:** Will the Honourable Member please explain. If a new principle is involved we will then know if it is a new Bill or not.

**THE HON. CHIEF NATIVE COMMISSIONER:** It is a rearrangement of the provisions of the old Bill with the addition of one Section. The clause inserted is Clause 3 of the Bill as circulated to Honourable Members. It was put in by the Unofficial Members on the Committee. It does not mean an alteration in the original principle of the Bill. As this general section was included it became necessary to recast the Bill because the old Bill started off with the provision that it would only apply to a definite area. It is only for that reason the Bill has had to be rearranged.

**THE HON. CONWAY HARVEY:** The Bill would be very incomplete without this insertion. There is a precedent for this and there is no doubt whatever the trade in sugar juice is illegitimate. I think it only right and proper that traffic in it should be entirely suspended.

**THE HON. W. MACLELLAN WILSON:** I must say I have a great deal of feeling on this Bill. I think the position has got a little beyond the theoretical way of dealing with natives. I find the natives there are unable to control themselves in any way. We do know that when a man is a drug fiend you have got to take harsh measures. I am perfectly certain we are all sorry for the natives of that country and while we may not blame the Administration for the position it is in to-day, some strong influence must be brought to bear upon them. I would appeal to Honourable Members of Council who are not altogether perhaps in agreement with this, I would ask them if they cannot vote for the Bill to refrain from voting against it, and I would call attention to this in favour of the Bill that it is a tentative measure to give power to the Government to stop sugar being imported into any particular area. Our business is to help the natives to govern themselves. It is our appointed duty and I do not disassociate the settlers from the Government in this business, but it is our duty to see the natives have every facility put into their way to enable them to carry out what they

wish to do, and this is a very necessary measure under conditions prevailing in the Wakamba. I hear the same sort of condition is beginning to prevail amongst another tribe called the Tiriki near the Lake. It is making an immense amount of trouble for the settlers up there. I hope the unofficial members, if they cannot support it, will refrain from voting against the Bill.

**THE HON. E. POWYS COBB:** In view of what has been said, I do feel bound to lay before this Council the point of view of those who agree absolutely and entirely in the wish and efforts of Government for the suppression of drunkenness in the reserves, but cannot see eye to eye with the Government in the measures proposed. I realise to the full the very great economic value the Wakamba tribe can be to this Colony. I do realise that drunkenness has got a very serious hold upon them, and it is simply in the desire to arrive at some more feasible method of stopping drunkenness in the Wakamba reserves, that I question the wisdom of this Bill. This Bill when stripped of its various trappings is nothing more nor less than a measure of prohibition. Can this Council find anywhere in recent history a recorded example of success in prohibition methods? I remember very well the efforts made in America. In the old days when prohibition was introduced it simply led to an evasion of the law. It led to a system known as the Spot-Tiger system, and led to more drunkenness than before. To-day you have prohibition on a large scale and again the provisions are evaded. In the United Kingdom we have a striking example of Sunday prohibition throughout Wales. The result was everybody on Sunday hopped over the English boundary, and probably drank a great deal more on Sunday than they ever would have drunk. Here you have in a primitive country many more opportunities for illicit drinking than you have in a civilised country. Owing to the wideness of the area, and the imperfect European control there must be very many more opportunities of using these illicit processes. I for one am forced to the conclusion this is not the right way to achieve the end we have at heart, and if you pass this Bill now, you will have to pass a Bill tomorrow prohibiting the importation of something else and so on. I do contend to this Council that it is easier to arrest, and deal with a drunken man, than it is to stop the introduction of a bag of sugar into such a wide area as the Wakamba reserve.

**THE RIGHT HON. LORD DELAMERE:** It has been admitted by the Government that it is unable to fine a man for drunkenness on the road. How is the Government going to find the sugar or sugar juice in the Native reserves?

**THE HON. CHIEF NATIVE COMMISSIONER:** The sugar or sugar juice will not be found in native huts. There are large safaris carrying all this stuff. The usual sources of supplies are well-known, and can be watched to a certain extent.

**THE RIGHT HON. LORD DELAMERE:** I contend you can find drunken people easier than you can sugar or drink. I am going to vote for this Bill simply because Government is determined to try this method, but I think it will be a complete failure. For every one of us to vote against this Bill which is an attempt to remedy the terrible state of affairs in the Wakamba is not the right thing even though we have all done our best to get it altered, and I for one am going to vote for it although I am almost certain it is going to be complete failure.

#### DEBATE ON SECOND READING OF THE NATIVE HUT AND POLL TAX (AMENDMENT) ORDINANCE, 1923.

**THE HON. CHIEF NATIVE COMMISSIONER:** This Bill, Your Excellency, provides for an alteration in the date in respect of which native tax is payable in any year, and provides that the period for which the tax is paid shall in future be from the 1st of January to 31st of December which is now the financial year of the Colony. At the same time it is provided that collection will not take place until after the 31st day of March. The particular new principle which is introduced in this Bill is that, in lieu of recovering a fine for non-payment of tax by distress, imprisonment may be awarded in default of payment of the fine. I am aware that this principle may be open to the objection that it is not the case with the non-native poll tax. In the very great majority of cases where a non-native fails to pay his poll-tax and is fined for non-payment he has goods and chattels on which a distress may be levied, and the means of doing so are not very difficult. But in a large native reserve where there are large numbers of natives, it is a very difficult business if you have hundreds of natives who fail to pay their tax at the proper time although special facilities have been given to them. It is the practice in the native areas for administrative officers to go on safari and camp at various places to collect the tax. These safaris are expensive and take up a great deal of time. Where natives on these occasions fail to pay their tax, if it became necessary in each case to have a distress warrant before payment of the fine, and if each had to be executed, the bulk of work would be such as one could hardly compete with. It would operate hardly too on the natives, because if stock have to be seized by way of distress and have to be sold, they have to be sold at whatever price is offered. It is far easier to impose a penalty by way of fine, and a small addition for costs, and avoid all the trouble of distress, and I think it will not be so hard on the native himself in the end. I may say that in the Colony in which I previously served, the penalty was one of fine and in default of payment imprisonment.

**THE HON. LIWALI ALI BIN SALIM:** I would like very much to express my views regarding this Bill. I have the feeling that if this Bill is going to be passed by this House, it is going to hit the native very hard. I remember about a year ago a Bill was introduced into this House of a similar nature to this one on the subject of non-payment of non-native poll tax. I think in that Bill it was proposed that if a non-native did not pay his tax, he should be put in prison with hard labour. I believe the Bill was eventually thrown out owing to the opposition put forward by Honourable Unofficial Members. The present Bill is not only similar to the one I mention, but it is much harsher. In the first place it gives time for the native to pay the tax the time being one month. Is it possible for the natives who number about two millions to pay the tax in a month? Is it possible for the Government to collect the tax from these people within a month? Secondly in this Bill it states that if the native does not pay his tax a summons will be taken out against him, and he will have to pay the cost of the summons, something not exceeding Sh. 10/-, and he will also be fined double the amount of the tax which he ought to pay. As far as I know, Your Excellency, at the present moment the natives are paying a bigger tax than ours. We pay one tax only. The natives pay a tax and pay something which I cannot understand myself, something towards their marriages. For

one wife and himself they pay Sh. 12/- and on every extra woman a native marries he pays Sh. 12/- and if he marries four wives he has to pay Sh. 48/- whereas a Mohamedan if married to more than one wife only pays about Sh. 30/-. I know how the natives do pay the tax. Some of the natives have got cattle and goats, and others have nothing at all. I have no objection to imprisonment for non-payment, but it is wrong for them to be asked to pay double the tax, and I am therefore very sorry to say I am going to vote against this Bill.

**THE RIGHT HON. LORD DELAMERE:** I do not think the Honourable the Chief Native Commissioner has given any good reason why these methods should be introduced instead of the ordinary distress. The Honourable Liwali is perfectly right in saying that Honourable Members on this side of the House voted against these conditions which were to be imposed in a Bill similar to this some time ago, and under these circumstances I think we are bound to vote against this as well. As I say I do not think the Honourable the Chief Native Commissioner has given any good reason. So long as we go in for collecting the hut tax by sending out people to collect it, it does not matter so very much if someone has to do a little extra work. It is a principle we would not stand for ourselves for one moment. I would suggest Government withdraws this Bill.

**THE HON. CAPT. J. E. CONEY:** I am quite sure that a native, who has more fear of Government than a European has, if he is able to pay the tax he will do it. If you are going to double the amount of the tax you are going to sell up every mortal thing he possesses. I hope Government will withdraw this measure.

**HIS EXCELLENCY:** I think it would help better to send this Bill to a Select Committee, and let it come up at the next Session.

**THE RIGHT HON. LORD DELAMERE:** I think it is wrong that the principle should be altered in Committee.

**THE HON. ACTING ATTORNEY GENERAL:** Might I suggest if it is agreeable to the Honourable the Chief Native Commissioner that this Bill be not withdrawn, but that progress be reported to go into it further. What the Honourable Liwali has said has misled the Council. To my recollection he said that if the poll tax was not paid within a certain date the tax was to be doubled. Imprisonment was not mentioned in that Bill. As far as I understand this Bill it seems to me there are certain essential amendments which are necessary, and the other provisions instead of being a hardship on the natives are in their favour. I think as far as I can see it is a good Bill, but there are certain clauses in it, which require amendment.

**THE HON. LORD DELAMERE:** If that is so, I think Honourable Members are prepared to wait until it comes up again before saying what they want.

**THE HON. G. A. S. NORTHCOTE:** I do not think the procedure is correct to report progress. We should pass on to the next item.

**THE HON. T. A. WOOD:** With all due respect to the Honourable the Assistant Colonial Secretary, I think he is wrong. Some motion is required. I therefore beg to move that the discussions on this Bill be postponed until a later date.

**THE HON. LORD DELAMERE:** I beg to second that motion.

The question was put and carried.

## DEBATE ON THE SECOND READING OF THE GENERAL REVISION ORDINANCE.

**THE HON. ACTING ATTORNEY GENERAL:** In moving the second reading, I would explain that I am in no way responsible for the certificate of emergency as I have been requested by the Chief Justice and the Attorney General now at home revising the Laws to get the Bill through as quickly as possible to facilitate their work.

**THE HON. LORD DELAMERE:** I would ask if the Clerk to Councils has looked up the matter as to whether the Attorney General did not state at the time that the revision of laws would not mean any extra cost to the Colony.

**THE HON. CAPT. J. E. CONEY:** I still feel it is difficult for this Council to deal with a Bill of this kind now. Unofficial Members have not yet had time to go into it. We are told all the amendments which are going to be included in this revision, are consequential amendments, and yet I see one amendment here which is going to materially alter a certain Bill. I think it may be the same with every other clause of this Bill, and I do not think we are in a position to accept responsibility for it.

**THE HON. T. A. WOOD:** Your Excellency, may I refer to one motion passed by this Council at which we arrived at an agreement in Council that whatever amendments were proposed, that particular section to be amended should appear in the new Bill. I gather that that would have meant rather a voluminous task. But there are some of these amendments I am not happy about at all. I refer to No. 6. That is not a consequential amendment on anything. You are going to issue a license to a man who comes here on the 29th of December, a license up to the 31st of December for which he has to pay Sh. 10. On behalf of the public I must say they are entitled to some quid pro quo. I should like to see some opportunity given to consider these things to make sure we are not doing the wrong thing. I can see several things which appear to matter.

**THE HON. CONWAY HARVEY:** I would ask if Heads of Departments have been consulted in the legislation affecting their Department. I am thinking of the Diseases of Animals Ordinance, 1908. I should like an assurance that that would not affect the Agricultural Department in any way.

**THE HON. ACTING ATTORNEY GENERAL:** In reply to the Honourable Member for Nairobi South, I would remind him he was a member of this Council in 1921 who appointed this Commission and gave them certain powers to bring up an Ordinance of this description. On the details of the Bill, I have a full tabulated form sent out by the Commissioners which I think we can only discuss in Committee.

**THE HON. LORD DELAMERE:** We have no method by which any member can move to report progress, but should any member choose to talk on the principles on the second reading of the Bill, nobody can stop him. I think the point that Members have tried to bring up rather goes to show it is a mistake to hurry a Bill of this sort through. I would ask the Honourable the Acting Attorney General if the definition of natives is being taken out what is there to take its place. It has not been explained to us what takes the place of these amendments. In that particular case surely the right way to amend the Interpretation Ordinance is by an Ordinance.

**THE HON. ACTING ATTORNEY GENERAL:** This is a general revision of the laws from 1876 to the end of 1922 in order that these changes may be brought up to date. It is the procedure followed in other countries. After all you have the Chief Justice who has been in the service of this Colony for many years since 1904, who has a full knowledge of all these obsolete enactments. You have Mr. Lyall-Grant who has done this sort of work before in Nyassaland, and I do think, after passing an Ordinance in 1921, reposing in them confidence to do this work, it is going to be difficult to carry on the work if they are to meet with obstruction in this way. I say it with all respect, but it does amount to obstruction. I have told Honourable Members on the other side of House if they can find a single section in this Ordinance which they do not understand, I have an explanation here and if that explanation is not sufficient I am prepared to give a personal explanation. Generally speaking the Commissioners have said it is not controversial. I hope Honourable Members will only accept the proper course which is to put this Bill into Committee, and discuss it clause by clause.

**THE HON. T. A. WOOD:** On a point of order I submit the Honourable Acting Attorney General is not right in charging us with opposition. A member must not attribute improper motives to other members. I personally object to that. I am entitled to some explanation and these are points of principle.

*In Committee.*

**THE HON. THE COLONIAL SECRETARY:** With Your Excellency's permission, I would like to quote what the Honourable Member for the Lake said in 1921 with regard to this. (Quotation read from 1921 Session Report). I may say a telegram has been sent to the Secretary of State asking him how long this work will take and to furnish a full explanation as to the cost. A sum of £1,000 has already been provided in the Estimates.

**THE RT. HON. LORD DELAMERE:** We did ask responsible Members of the Government what it was going to cost. We were told it would cost Rs. 10, and there would be no cost of staff and in addition to that there would be the cost of printing but that was going to be done in the Government Press and yet we are asked to vote large sums in this matter. I am not going to propose a vote of censure on the Member who brought this Bill up. I will in future. I think it is improper that a Bill of this sort has not been published for the local people of this Colony to consider before it was brought up in this House. We are not lawyers and we do feel that a Bill of this sort should have been printed in the Gazette so that the Law Society could have given their opinion as to how far these things are right. I cannot agree with the mover that it is non-controversial.

**THE HON. CAPT. J. E. CONEY:** The Right Honourable Member for the Rift Valley did not realise it till now that this Bill was introduced on a certificate of emergency. The lawyers of this country have not had an opportunity to consider it. I must protest against it going any further in this Council.

**THE RT. HON. LORD DELAMERE:** What is the explanation for the urgency?

**THE HON. ACTING ATTORNEY GENERAL:** The urgency is the printing and if the Bill is passed without alteration it will probably save time if notification of that is sent to the Secretary of State by cable. The Honourable Member for Nairobi

South suggested that the laws should be brought up to the end of 1923. I am in agreement with that but it will mean that your legal advisers will have to remain at home for some further time.

**THE RT. HON. LORD DELAMERE:** When did this arrive in this country?

**THE HON. ACTING ATTORNEY GENERAL:** It was posted by the Crown Agents on the 4th September, 1923, and reached me a little while ago.

**THE HON. CAPT. J. E. CONEY:** The reason given is the urgency of printing. The printing has to be done in this country so where is the delay. I see the Honourable Acting Attorney General says it is not going to be done in this country. The Honourable Colonial Secretary read out an extract from the Minutes of 1921, which said that the printing was going to be done here.

**THE HON. ACTING ATTORNEY GENERAL:** The Honourable Member for Plateau North moved some time ago that it be reduced to £500 on the understanding that a further sum would be put into the Estimates at a later stage to finish the printing.

**THE RT. HON. LORD DELAMERE:** Can we have an explanation as to why it cannot be printed in this Colony. The Government said it would be done here.

**THE HON. G. A. S. NORTHCOTE:** It is rather difficult to answer that. It is rather incredible that the Acting Governor should have said it would be printed in this Colony taking into consideration the staff we have.

**HIS EXCELLENCY:** I was not here at the time but I cannot understand why the Acting Governor said the work could be done in this Colony.

**THE RT. HON. LORD DELAMERE:** May I ask Government to have this thing put back until the session in December. We spent last year correcting mistakes in the Bills which the Honourable Attorney-General made. I cannot suppose these are all right and I cannot think Honourable Members on this side of the House can correct things without having the Bills before them.

**HIS EXCELLENCY:** I think it will be best if the Honourable Unofficial Members appoint two members to go through the thing with the Honourable Acting Solicitor General and put it back and send a telegram later on when examination is completed.

**THE RT. HON. LORD DELAMERE:** Would it not be better to put the Law Society on to it, as we have no lawyers on this side of the House.

**THE HON. ACTING ATTORNEY GENERAL:** I have no objection to the course suggested but I do hope that a wire will be sent home advising the Commissioners of this delay in order that they may adapt themselves accordingly as they will have to stay at home for another month.

**THE HON. THE COLONIAL SECRETARY:** The urgency in this matter has been explained to the Council but it is quite clear if you have two Commissioners going into the revision of the laws they have to find out what is obsolete in these laws and cut it out and that work will be a revised edition of the Ordinances of this Colony and we are certainly behind-hand in not having this. Government does sympathise with

the feeling on the part of the Members on the other side that matters of this kind should be printed and should appear in some publication in this Colony before discussion but at the same time it must be realised that the Hon. Acting Attorney General in putting it before Council, was attempting to achieve the very thing the Honourable Unofficial Members want. We have to retain the services of the Chief Justice and Attorney General in England on this work. At the same time it would perhaps save considerable discussion in this Council if we appoint a Select Committee to go through this section by section and call before them members of the Law Society who would give them their assistance. With Your Excellency's permission, I would ask that a Select Committee be appointed to consider the Bill.

**THE HON. ACTING ATTORNEY GENERAL:** I do not know whether Unofficial Members want a Select Committee to be appointed or whether they would like two legal persons to be nominated who can come and see me and discuss the matter.

**THE RT. HON. LORD DELAMERE:** I think we can leave it to the Honourable Acting Attorney General to put it before the members of the Law Society.

**THE HON. ACTING ATTORNEY GENERAL:** The difficulty is the Law Society only meet on the 1st Monday of the month.

**HIS EXCELLENCY:** It will mean the Commissioners will have to remain in England.

**THE RT. HON. LORD DELAMERE:** It will have to be so, as I do not think we should pass things which we are not certain are correct.

**HIS EXCELLENCY:** The Committee suggested is as follows:—

The Hon. Acting Attorney General as Chairman.

The Hon. Acting Solicitor General.

The Hon. Member for Plateau North.

The Hon. Member for Nairobi South.

The Hon. B. S. Varma.

(The Question was put and Carried).

#### DEBATE ON THE SECOND READING OF THE DEFENCE FORCE ORDINANCE, 1923.

**THE HON. THE OFFICER COMMANDING TROOPS:** This Bill is very similar to the one introduced in 1921. There are only two complete differences. One is that there will be no compulsory training other than that under the proviso that His Excellency may direct that a course of rifle shooting be fired in certain districts where it is considered that there is not sufficient knowledge of firearms. It is hoped that this direction will not be necessary; local rifle clubs will probably spring up in these districts and people will fire a course themselves without any impetus from headquarters. There is one other difference in that members are to have their own rifles instead of rifles being kept in local armouries. Most of the Members of this House have heard the Bill discussed for some time and are really more conversant with it than myself as I was not in charge of the preparation of the Bill. I have perused a certain amount of criticism from press cuttings and the majority of them show that the bulk of people are in

favour of the introduction of this Bill. I have noticed one point namely that there has been somewhat of a scare regarding the use of the force outside the Colony. It is quite clear that force is only to be used outside the Colony for the defence of life and property inside the Colony. Some people regard the whole question as an oppressive one. Such people who sign themselves as "Done my bit," "Prussianism," and so forth, but such letters do not reflect the feeling of the country. In fact I have an idea that these writers are really not very conversant with blood when they write such letters. A thinking man with a wide knowledge of the country will feel some relief when this organisation is actually in being. As to the cost, I am assured by some people that what we have asked for is totally inadequate; but we must do on what we have got, and there will be only one sum asked for—the sum of £960 which will have to be asked for the transport of the weapons and ammunition to the various bodies, and, for travelling for the staff. I trust this Bill will be referred to a Committee for further consideration.

**THE RT. HON. LORD DELAMERE:** I beg to second.

**THE HON. B. S. VARMA:** I am sorry I am going to oppose this Bill as it stands; but if this Bill is going to provide for the protection of all the community including the Indian community then I shall be the first man to vote for it. The objections on which I oppose this Bill are that it is purely and simply a racial Bill and it provides an arrangement for the training of non-British subjects in preference to British Subjects which is a very dangerous principle. After all it is a sort of duty which the Indians want to do towards the country of their adoption and at the time of the passing of the Territorial Force Ordinance I, on behalf of them, offered their services and requested the Government to make provision for them. At that time the mover of the Motion gave assurance that arrangements would be made later on, but no arrangements have been made up to now. Again I, on behalf of the Indian community, requested the Government to make arrangements for their training and their inclusion to defend the country they are inhabiting. It may be argued that this is not a racial Bill because it does not apply to the natives. I submit that provision should be made for all the communities if possible but certainly there is a large section of the Indian community in this country and when they ask that provision should be made for them I submit it is high time it should be done. No argument has been advanced why the Indians should not be allowed to participate in organizations like this. If it is a question of distrust, as it may be argued then they must be told plainly but if their loyalty is beyond doubt then I submit that the Government should make some arrangements.

**THE HON. THE COLONIAL SECRETARY:** I think it is necessary to make it clear to the Honourable Mr. Varma that this is a Bill Intituled an Ordinance to Make Provision for the European Inhabitants, etc. It is a carefully thought out scheme for using the services of the European forces in this Colony as a Defence Force. I can assure the Honourable Member that Government welcomes at all times every assurance of the support of every community of this Colony. Government is fully prepared to consider proposals for any Defence Force to be formed for any other section of the community. This Bill deals with the European section of the community and is a Bill for a particular purpose and any other sections formed should be formed as separate units. I can assure the Honourable Mr. Varma that any proposals his section of the community have will be welcomed by Government.



THE HON. THE COMMISSIONER OF LANDS: The Honourable Mr. Varma suggested it is improper to include non-British subjects and exclude certain British subjects. He is quite wrong. Every male British subject of European origin is included as eligible in the Bill and non-British subjects are not eligible.

HIS EXCELLENCY: I think the Right Honourable Member suggested this Bill should go to a Select Committee.

THE RT. HON. LORD DELAMERE: The suggestion came from the Honourable Officer Commanding Troops.

THE HON. THE OFFICER COMMANDING TROOPS: I would suggest that the Committee consist of the following:

The Hon. Officer Commanding Troops  
The Hon. Colonial Secretary.  
The Hon. Acting Attorney General.  
The Hon. T. Wood.  
The Hon. Capt. J. E. Coney.  
The Hon R. B. Cole.  
The Hon. Conway Harvey.  
The Rt. Hon. Lord Delamere.

The Question was put and carried.

Council adjourned till 10 a.m., Tuesday 13th November, 1923.

### THIRTEENTH DAY.

#### Held at Nairobi on the 13th day of November 1923.

The Council assembled on the 13th November, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

#### QUESTIONS.

THE HON. B. S. VARMA (in the absence of MR. SHAMS-UD-DEEN) asked:—

"In accordance with the undertaking given in this Honourable House in one of its previous sessions, will the Government state when a commission or committee of enquiry will be appointed to enquire into the causes of disturbance in the Masai Reserve."

THE HON. COLONIAL SECRETARY replied:—

"Government is at present considering the question as to when the enquiry should be held and the points of reference; as soon as a date can be fixed Council will be informed."

THE HON. B. S. VARMA asked:—

"1. What will be the effect of the abandonment of the segregation policy on the hitherto exclusively European Government Institutions: such as—

- (1) European Hospital, Nairobi.
- (2) European School, Nairobi, and
- (3) Railway Waiting Rooms, situate in Townships.

2. Will the Government issue instructions forthwith to admit members of the Indian community to the above institutions?

3. Has the Government taken any steps so far for implementing the Cabinet decision in regard to grant of land to Indians in low-lands? If so, what?

4. If the reply to the above question be in the negative, will the Government state its reasons for not doing so?

5. Will the Government give assurance to implement all the points of Cabinet decisions simultaneously?

6. In view of the abandonment of segregation policy, will the Honourable the General Manager of Uganda Railway issue instructions to remove all disabilities against Indians based on segregation policy in travelling."

THE HON. COLONIAL SECRETARY replied:—

"1. The pronouncement of His Majesty's Government on the question of segregation in Townships cannot be taken to affect the institutions mentioned. There is an excellent Indian School in Nairobi, and Hospital accommodation is provided for Indians, where the fees charged are understood to be such as the Indian community are generally prepared to pay. In accordance with the request made in Legislative Council, the Hon. the General Manager is arranging for special accommodation for Indian travellers, where such is considered necessary.

2. The reply is in the negative.

3. Detailed proposals are being prepared and will at an early date be submitted to Government for consideration.

4. The question does not arise, in view of the reply to the third question.

5. Every effort is being made to give simultaneous effect at the earliest possible date to the decisions contained in the Command Paper.

6. The reply given to the first question applies."

THE HON. MAJOR ROBERTSON-EUSTACE asked:—

"In view of the urgent need of a Cold Storage Plant being erected at the Coast, due to the great importance in the development of the Cattle and Dairy Industries, will Government consider the advisability of immediately proceeding with same.

Further, what is the position in regard to the suggestion made by the Colonial Office two years ago as to the provision of money for this object."

THE HON. COLONIAL SECRETARY replied:—

"Government has the question of Cold Storage under consideration at the present time, and a further reply will be given at a later date."

**HIS EXCELLENCY:** Before Council rises I would ask the Honourable Director of Public Works to make some small statement on the question of Public Buildings.

**THE HON. THE DIRECTOR OF PUBLIC WORKS:** I think Council should be informed of the serious condition in which the Government buildings of the Colony have been allowed to fall in recent years owing to the lack of funds. The matter has been one of grave concern to the Public Works Department for many years and it has not been definitely ascertained yet what the cost of the buildings is, but steps have been taken to ascertain this as near as possible. The figure is certainly over £1,000,000. A reasonable annual expenditure on this for repairs and maintenance of permanent buildings such as the General Post Office would be about 3%. The majority of the buildings are of a temporary nature and 5% would be a proper figure for repairs and maintenance. Every year more buildings are added and funds for maintenance have been decreasing yearly and next year there will be £4,000 more than this year but even this is inadequate. The buildings are rapidly decreasing in capital value and as time goes on a greater expenditure will be required to put them in order. £50,000 would be a reasonable sum for repairs and maintenance for a few years. The chief deterioration takes place in respect of woodwork and corrugated iron and paint work. The woodwork in almost all of the Government Bungalows in Nairobi is rotten. Government House, Mombasa, is a very old structure and most of the woodwork there is rotten and will have to be replaced and this is work which must be really undertaken next year.

**THE RT. HON. LORD DELAMERE:** This is rather an unusual procedure for the Head of a Department to get up after the Estimates are passed and say the Estimate is inadequate. It is rather difficult for Members on this side of the House. One cannot very well answer it. It is purely a matter of opinion whether it is money or the way it is done. As far as these buildings in Mombasa are concerned if the Public Works Department had done what people had advised them to do to use local wood which did not rot this position would not have arisen at all. I am very glad Your Excellency has allowed the Honourable Director of Public Works to say what he has. It is, however, unusual to do this because if it had been brought up on the Estimates we would have had a lot to say about it. I suggest that if this matter is coming up it would be proper to have a debate on the subject at some future date, because after all unchallenged statements are usually accepted on the first reading of a Bill and people are not expected to give any opinion. I am sure it is done to allow people to understand the position. It does seem to me peculiar that this should happen immediately after the Honourable Director has returned from leave. However, it is very much better for this to be known now so that we will be ready when it does come up.

**HIS EXCELLENCY:** I think it was well to let Council know what the position of the public buildings in the Colony was. It is purely for public information. I have heard it said by Honourable Unofficial Members on the other side of the House that they are not getting information. The Right Honourable Member said it is rather unusual for this statement to be made now and in the same breath he says he is glad to hear it. I am not perhaps very familiar with the procedure of a Council but I do not think it is very unusual to make a public statement. It is not in connection with the Estimates which are finished.

**THE RT. HON. LORD DELAMERE:** Then we will not have a supplementary Estimate?

**HIS EXCELLENCY:** I cannot guarantee that.

**THE HON. CAPT. J. E. CONEY:** I would like to ask if it is possible whether Your Excellency can make some definite statement as to when the construction of the Nyeri and Kitale Branches will start?

**HIS EXCELLENCY:** As to that point I have been a little bit concerned at not yet having received definite approval from the Secretary of State of the plans, estimates and specifications submitted by this Government from the Chief Engineer of the Construction and Survey. These plans have been sent home and have to be examined by the Consulting Engineers and a telegram was sent asking the Secretary of State to come to a decision so that we can get on with the work. I believe the General Manager is prepared to go on with the work as soon as approval is received.

**THE HON. CAPT. J. E. CONEY:** Am I to assume that as soon as the plans are sanctioned the construction of the Nyeri and Kitale Railway will start?

**HIS EXCELLENCY:** I think I may say that is so, so far as the Nyeri Railway is concerned as it is first on the list.

**THE HON. CAPT. J. E. CONEY:** Can Your Excellency make any statement when the Kitale Railway will be started? The position is this. It does not pay farmers to go in for heavy development in the hope that at some distant date the railway will reach them. If they know the railway will reach them within a certain time they will start developments in anticipation of the completion of the line.

**HIS EXCELLENCY:** I do not think I can give any definite statement nor will the General Manager be prepared to do that. Of course the construction of these railways depends upon savings of the Plateau line. What those savings will be I do not know but I think they will be enough to start these railways. On the general position I appreciate the anxiety of the farmers from the business point of view with regard to their crops and I can make the general statement that so far as it is possible the work will not be delayed. As soon as certain funds are available and the plans have been received from the Chief Engineer of Construction and Survey work will commence. I understand that that report has now been received on the Kitale extension. It is being held up for the moment here until Major Rhodes, the Chief Engineer, has come out. He is consulting with the Consulting Engineers in England on various points in connection with it. He is leaving in December and it is hoped that steps will be taken as soon as possible after he arrives.

#### HIS EXCELLENCY'S CLOSING SPEECH.

**HIS EXCELLENCY:** Before Council rises I wish to express my appreciation of the spirit of goodwill shown by both sides of the House and of the time, energy and attention to the public business of the Colony given by Honourable Members.

As I have stated, I will shortly call a meeting of an Economic and Finance Committee to consider possible savings of the public funds of the Colony combined with increased efficiency, in addition to an enquiry into the dairying and allied industries. I greatly hope that close enquiry will show possible

avenues for such further savings, but I will not attempt to indicate any particular direction at this moment.

There is one matter to which I desire to draw the attention of Council. It is the question of town planning for Nairobi and for the cliff area where the new Customs House is to stand overlooking the new wharf at Mombasa, and for other townships. I am not at all satisfied with the present lay out of this town and with the plans for the future. It is a matter of great future importance, and it is not too late to take it in hand. I propose therefore to invite the assistance of some expert on such subjects to visit Nairobi and prepare a comprehensive plan to which we can work for the next ten or fifteen years. Such a scheme would provide for radial roads of access from the country; the provision and security of open spaces; the most suitable sites for public buildings such as Town Hall and Government office block; a proper lay out of each side of the railway line entering the town from Mombasa; improvements in areas for the Bazaar and the native villages; and other such matters. I have it in mind to invite the assistance in this work of Mr. Sinclair, late Resident of Zanzibar, who is not only an architect

of high technical ability, but possesses a strong artistic sense: he is familiar with such work, and moreover knows the conditions of this country very well. The preliminary examination and preparation of a scheme need not cost much, and I am sure that Honourable Council will agree that a fee for such a work will be well expended. Other matters to which attention must be given are water supplies for the towns as well as such obvious works as roads and bridges, and medical and educational development. I am informed that a distinguished educational official from the Sudan who has a wide experience elsewhere will shortly visit Uganda to advise that Government on educational measures, and it may be possible to invite his assistance for similar advice here: the cost of such advice will be very small.

I may add that I will visit the Uasin Gishu Plateau and Trans-Nzoia before the end of the year, and will go to Mombasa when the cruiser squadron visits East Africa to give what consideration I can to the officers and men of His Majesty's Ships.

*Council adjourned sine die.*

#### FOURTEENTH DAY.

#### Held at Nairobi on the 31st day of December 1923.

The Council assembled on the 31st December, 1923, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

#### ANNOUNCEMENT BY HIS EXCELLENCY.

HIS EXCELLENCY: We have to-day an important Bill in the Customs Tariff Ordinance which of course must pass through all its stages to-day.

Appropriation Bill—third reading.

Civil Procedure—in Committee if necessary.

I think after this morning's work it will be wise to adjourn over the holiday to-morrow and also the 2nd of January to give the Committees further time to finish their work now that Council has assembled, and meet again on the 3rd.

I then hope to introduce the Legislative Council Amendment Ordinance which will provide for the new constitution defined in the White Paper on Indians in Kenya. I had hoped to have been able to introduce at the same time the Immigration and Employment Regulation Bill in order to bring the work of implementing the White Paper decisions a definite step further, and so that the Colony can give closer attention to material development and progress. The Secretary of State has, however, informed me that as the draft of the Bill did not reach His Excellency the Viceroy till the 20th of December and that as he was then on tour in the Provinces, it has been physically impossible for the Government of India to give the full consideration to the Bill which is necessary. I am sure that this Honourable Council will be anxious to avoid any suspicion that Government is attempting to rush this Bill through Council. I have received the assurance of the Secretary of State for the Colonies that no time is being lost in considering the Immigration Bill, and that to this end the Secretary of State for India is pressing the Government of India to give its views at the earliest

moment. I am further assured that the Secretary of State for India has clearly stated with regard to the postponement of the introduction of the Bill that there is no question of modifying the principle laid down in the White Paper.

I would like to say that I regret that so little has actually been done to push forward the town planning scheme of Mombasa. Members are aware that my time has been largely absorbed this year on political matters of importance, and I am afraid I have not been able hitherto to give sufficient time to this and, indeed, other questions. The Mombasa District Committee have given much time and thought to the matter, and land-owners on the Island are willing to make very considerable sacrifices for the sake of improving the whole position and lay out of the town. Members are aware that I have already taken action with regard to the planning of the cliff area above the new Government wharf. I have always given great weight to the affairs of so important a place as Mombasa, the only port of an immense hinterland, and Government will give full attention to this question without delay.

#### PAPERS LAID ON THE TABLE.

THE HON. TREASURER: I beg to lay on the table the Third Supplementary Estimates 1923 and to give notice that I will move that they be adopted at a later stage. I do not think it is necessary for me to say very much regarding these Estimates. One of the principal items relates to a book transaction—refunds of revenue—a sum of £9,000 represents suspense accounts which have stood in the books for a considerable number of years. There is an item of £1,400 for a native hospital

building. Honourable Members will remember that in Committee of the 1924 Estimates they agreed to this expenditure it being stated that there would be savings, as there will be, on the native vote for medical attendance in the Native Reserves. There is also a sum of £6,772 under Military Extraordinary claimed by the War Office on account of war stores handed over to the Colony.

THE HON. CAPT. J. E. CONEY: On a point of order, may I ask if the Honourable the Treasurer is in order in making a statement when laying papers on the table? I tried to make a statement once when certain papers were laid on the table and was stopped with disastrous results.

HIS EXCELLENCY: I am not sure of the actual rule. It would be convenient for Honourable Members if some slight explanation is given before they see the papers.

(No debate on laying on Table of Statement of Unforeseen Expenditure).

(No debate on laying on Table Return relating to State Telegrams).

#### REPORTS FROM SELECT COMMITTEES.

(No debate on report on Masters and Servants Ordinance).

(No debate on report on the Defence Force Bill).

#### QUESTIONS.

THE HON. CONWAY HARVEY asked:—

"In view of the serious handicap imposed on commercial development by the inability of merchants, shop-keepers, hotel-keepers and others to secure a reasonable title to their plots held at present under Temporary Occupation Licences, will Government be pleased to announce its intention regarding the alienation of township plots."

THE HON. COLONIAL SECRETARY replied:—

"Government has at present under consideration the sale of plots in several townships. Plans have been prepared in the Land Office, and it is anticipated that at an early date the conditions of sales will be announced. In the meantime all cases are being dealt with as far as is possible on their merits."

THE HON. MAJOR ROBERTSON-EUSTACE asked:—

"In view of the serious situation now existing in Mombasa owing to the delay in proceeding with the Town Planning Scheme, whether Government will make any announcement on the matter."

THE HON. COLONIAL SECRETARY replied:—

"The Town Plan of Mombasa submitted by the Mombasa Planning Authority has received the closest scrutiny by Government's technical advisers, and will shortly be submitted for consideration by the Governor-in-Council, as is statutorily required."

THE HON. CONWAY HARVEY asked:—

"If the Hon. the Chief Native Commissioner will be pleased to lay on the Table the papers concerning

the recent arrest of the Laibon and certain Nandi Elders."

THE HON. THE CHIEF NATIVE COMMISSIONER replied:—

"Proceedings were taken under the Deportation Ordinance, 1923, against one Barserion Arap Kimanye, whose presence in the Nandi District was considered dangerous to peace and good order. On the recommendation of the Judge, the Governor-in-Council has ordered that Barserion Arap Kimanye be deported to Meru. The correspondence is not available for publication."

THE HON. CAPT. J. E. CONEY: I should like to know if the Laibon was informed that he could be represented by Counsel when his case was tried, and if the Native Affairs Department took any steps to see that he was made aware of the privilege.

HIS EXCELLENCY: I will cause enquiries to be made.

#### DEBATE ON THIRD READING OF APPROPRIATION ORDINANCE, 1923.

THE HON. COLONIAL SECRETARY: I would ask the Council to agree to a modification to be made in respect of one item and that is the salary of the Auditor which is included in the Estimates at £900 which is a reduction of £100 on the salary previously paid for this post. Since the question of salaries was considered we received instructions from the Secretary of State for the Colonies, that the pay of the Auditor should continue at the previous rate and £1,000 should be included in the Estimates which means an additional amount of £100 in the Appropriation Ordinance, 1923.

THE HON. TREASURER: I beg to second.

THE HON. COLONIAL SECRETARY: I beg to move that Council resolves itself into a Committee to consider this Bill with the alteration I have proposed.

THE HON. T. A. WOOD: On the point of order, I think it is necessary that the Bill should be recommitted. There is no motion for recommitment and I submit a motion to move into Committee is not a motion for recommitment.

THE HON. COLONIAL SECRETARY: The Honourable Member for Nairobi South is quite correct, and I now move that this Bill be recommitted.

THE HON. CAPT. J. E. CONEY: May I ask the Honourable the Colonial Secretary whether he will give us any reasons for this action? I take it the Government considered this matter and said that £900 was sufficient?

THE HON. COLONIAL SECRETARY: The position is that this question was considered in Executive Council about the middle of this year, and they decided that the pay of the Auditor should be reduced from £1,000 to £900. That was the advice of the Executive Council to the Acting Governor. That advice was not communicated to the Secretary of State and the first intimation he had, was that the appointment had been filled recently by the appointment of Mr. Van-de-Velde, and in cabling the recommendation that he should fill the post it was stated in the telegram that the pay would be £900. The Secretary of State pointed out he had not given his consent to the reduction to £900 and

he understood there were to be no further reductions made in the pay of Heads of Departments in this Colony.

**THE HON. CAPT. J. E. CONEY:** In view of that explanation, I am going to vote against the recom-mittal of the Bill. This question was considered by Government and the Secretary of State has overridden the local Government but I vote against it for another reason. There are other heads of Departments whose salaries have been reduced, *i.e.*, I refer to the Director of Public Works whose salary was also reduced from £1,000 to £900 a year. If you put back the one in justice, you must put the others back too. I do not think the matter has been considered sufficiently to ask this Council to vote another £100 to the Auditor.

*In Committee.*

**THE HON. COLONIAL SECRETARY:** I beg to move that under Head 11 item 1 of the Estimates that the sum of £900 be altered to £1,000 in the salary of the Auditor

**THE HON. TREASURER:** I beg to second.

**THE HON. R. B. COLE:** I must vote against this particular item. The principle of the thing is absolutely against all the principles of this Council and if this sort of thing can happen any day where is it going to stop? The same thing can happen with regard to other salaries. I shall vote against this most emphatically.

**HIS EXCELLENCY:** What is your ground for voting against it?

**THE HON. R. B. COLE:** On the principle of any-body being able to get his salary altered in this way against the wishes of this Council.

**THE HON. T. A. WOOD:** I must vote against this also. I see in this the adverse influence of another department at home. I am not blaming the Secretary of State, but the body that controls this particular department—the Colonial Audit. These gentlemen do not provide the revenue. They have no right to interfere with the salaries. If we are paying a fair price for a job of work, they should be satisfied. If they can show the salary was not a reasonable one, then I think we ought to give it consideration. But for the Secretary of State to say this salary is not sufficient and must be raised and to leave the other reduced salaries which were all reduced in the interests of economy shows an entirely wrong position. He should have raised them all back again to their old level. That is an ominous sign about this one section and has evidently arisen at the instigation of the Colonial Audit and as we have to raise our own revenue for this department, I object to a department in London controlling this.

**HIS EXCELLENCY:** Before I went home there was a discussion in Executive Council and one or two members suggested it would be inadvisable to reduce salaries of Heads of Departments, to a point at which it would be impossible to get good men, and I think that although no details were gone into at the time, I think that that was the consensus of opinion, and when I was in England I had no discussion with the Colonial Office on any question of individual salaries, but I think in view of that expression of opinion in Executive Council, it was decided we would not pursue the question of the reduction of salaries of Heads of Departments further. That is the only discussion which took place out here. I have no knowledge of the matter mentioned by the Honourable Member for Nairobi South.

Question was put and carried.

### INTRODUCTORY SPEECH ON FIRST READ- ING OF THE CUSTOMS TARIFF ORDINANCE, 1923.

**THE HON. COMMISSIONER OF CUSTOMS:** Honourable Members will recollect that since August, 1921, when the first important change from an all round 10% basis was made, there have been many alterations in the Customs Tariff of this Territory. Early in 1922, a Conference with representatives from Kenya, Uganda, Tanganyika Territory and Nyasaland was called, with the object of framing a stable and comprehensive tariff applicable to all the territories, and, after some further discussion involving certain alterations in the original proposal, this tariff was adopted by Kenya in September, 1922, by Uganda in October, 1922, and by Tanganyika Territory on January 1st this year. That the Customs Tariff Ordinance of 1922 has proved a marked success cannot be denied, as it has achieved the very difficult object of bringing the three territories into line so far as Customs duties are concerned; it has operated with remarkable smoothness and without undue hardship, and at the same time it has resulted in a net collection for Kenya and Uganda, during the present year of approximately £750,000 or some £200,000 more than was collected in 1922—despite the fact that all export duties have been abolished, the prices of imported articles liable to an *ad valorem* duty have in many cases continued to drop, and that for a considerable portion of 1922, the import duties on certain commodities were rated at a much higher figure than they are to-day. At the time of framing the 1922 Tariff, it was fully realised that experience of its working would almost certainly reveal some anomalies which would need subsequent adjustment, and that certain of the rates of duty fixed for the first time on a specific basis, when prices were not particularly stable, would require re-examination in due course. As long ago as May last, the Uganda Government pressed for a revision in respect of certain items of the Tariff, representations in this regard being also made by the Tanganyika Government, and various public bodies in the three territories, but it was decided that no definite steps towards revision should be taken until a year's experience of the working of the existing tariff had been gained. Late in November of the present year, a Conference was called under the Chairmanship of Colonel Franklin, His Majesty's Trades Commissioner, the other members being the Attorney General, Uganda, the Acting Controller of Customs, Tanganyika, and the Commissioner of Customs for Kenya and Uganda, the terms of reference of this Conference included the submission of recommendations for revising the tariff in a manner acceptable to all the Governments concerned without serious diminution of the customs revenue. The public were invited to make such representations as they wished, on the understanding that any suggestions involving a marked decrease in revenue would not be considered. All points submitted to the Conference received the fullest consideration, and each item in the present tariff was exhaustively discussed in the light of actual experience, gained by the officers responsible for the administration of the customs laws. As a result the schedules included in the present Bill were framed, and have been adopted without alteration by all the Governments concerned. I should like to make it quite clear, that the present Bill is in no sense a tinkering with the tariff, as virtually the whole frame work of the existing tariff remains, and such changes as have been proposed are made with the sole object of removing anomalies and affording such relief as is possible without serious diminution of revenue in cases where the existing rates of duty appear to be

acting with undue harshness in any of the territories concerned. The most important change is undoubtedly that relating to motor cars, motor cycles, and parts and accessories thereof. After examining this difficult question in all its aspects the Conference unanimously recommended that the rate of duty chargeable on imported motor cars should be £15 each plus an additional 5% *ad valorem* the rate of duty on motor cycles, motor car and motor cycle parts and accessories being reduced to 20% *ad valorem*. As Honourable Members are aware, very considerable public interest has been taken in this subject, which affects a large section of the community, particularly the European residents of this Colony, and for this reason if His Excellency will allow me I will read that portion of the report which gives in detail the considerations which prompted this recommendation.

(Quotation read from Report.)

This suggested change involves a loss of revenue of some £6,000 per annum if increased importation of motors and motor requisites do not result from the reduction of duty. The considerable drop in the price of imported cement made it necessary to reconsider the specific rate of duty chargeable on cement and after examining figures of import costs, the Governments have decided that the rates should be reduced from Sh. 4/- to Sh. 2/- per 400 lbs, which is approximately equivalent to the *ad valorem* of 10% charged on most other building materials. On present figures this will involve an annual loss of £1,000. With regard to corrugated iron. This has been placed in the 10% *ad valorem* schedule as it is considered that this article should properly be treated in the same manner as other building materials. This will involve a decrease in revenue of £2,000 per annum on present import figures. The differentiation between bulk and packed importations on motor spirit, kerosine oil and tea has been removed, the proposed new flat rates being cents 30 per gallon on motor spirit, 20 cents per gallon on kerosine oil and 45 cents per lb. on tea. It is not expected that the alteration in duty on tea will affect the revenue but by placing kerosine oil on a flat rate an increase of £1,500 per annum is likely to accrue. As no motor spirit is at present imported in bulk, the revenue under this head is not affected. The rate of duty on candles is reduced from Sh. 20/- to Sh. 15/- per 100 lbs. and saccharin is removed from the schedule of articles liable to a specific duty and placed in the 20% list. As regards the items appearing in Table II of the present Tariff (*ad valorem* 50 per cent.) strong representations for a reduction in the rate of duty on timber were made by the Governments of Uganda and Tanganyika. After full consideration, the Government has accepted the view that the local timber-industry would be sufficiently safeguarded by the imposition of a rate of 30 per cent. on the c.i.f. value, and a reduction from 50% to 30% has accordingly been agreed to. The duty on wines has also been amended, experience having proved that the existing rate is having a serious effect on the importation of wines of the higher qualities. It is therefore proposed to remove this item from the list of articles liable to be an *ad valorem* duty of 50% and to transfer it to Table I (specific duties) at the following rates: On vermouth per imperial gallon Shs. 4/50; on still wines imported per bottle Shs. 3/- and 10% *ad valorem*; on still wines imported in cask Sh. 1/50 and 10% *ad valorem*; on sparkling wines Shs. 9/- and 10% *ad valorem*. Certain relatively unimportant additions to the list of articles liable to duty on the 10% *ad valorem* basis have been made, the principal being in regard

to such articles as coal-tar, sanitary earthenware and window glass used in building operations. The free list has been thoroughly overhauled and amplified by the addition of such articles as bottles and jars of common glass and earthenware, preparations used for the preservation of wood, certain articles used in the mining industry, certain requisites for use in schools, etc. An amendment of the item governing the importation of goods in passengers baggage has been made limiting the free importation of household goods to goods which have actually been in the household use of the passenger. This will safeguard the interests of the local trader without undue curtailment of the generous concession allowed in respect of passenger's baggage and, at the same time will result in an anticipated increase in revenue of some £2,000 per annum. The various changes in the Tariff will involve an estimated net total decrease in revenue of from £6,000 to £7,000 per annum, but this loss may be discounted if, as is hoped, increased importations follow the reductions in the duties proposed. There will be no increase in the expenses of administration consequent upon the enactment of this Ordinance.

THE HON. THE TREASURER: I beg to second.

#### DEBATE ON SECOND READING OF CUSTOMS TARIFF ORDINANCE, 1923.

THE CAPTAIN J. E. CONEY: I would like to speak on the principle of the Bill. I must congratulate the Honourable Commissioner of Customs on the complete statement he made. I think it was in January, 1923, that he reminded us that the Tanganyika Government came into line and accepted the Customs Tariff of this country which Uganda had accepted and I think at the time Your Excellency made the announcement in this Council that as a result of a visit you paid to Tanganyika you had got agreement between that Colony and this and I think that then we did not realise the very valuable work you had done for Customs union throughout the three Protectorates. I did not realise it then. It was a very very great stroke. This Bill which is introduced to-day by the Honourable Commissioner of Customs. We have not had time to go into it yet. I had only heard a rumour that there was even an alteration in the Customs coming forward so that I cannot express an opinion on some of the items till we get into Committee but there is one item referred to to which I must immediately draw attention and invite some expression of opinion of this House on the method in which these things are done. I refer to the item Timber. I would like to remind this Council that the duty on timbers of 50%—it sounds very high but I am not at the moment discussing the merits of a 50% duty—was imposed by Government on the recommendation of a Committee presided over by Sir Charles Bowring. This Council will remember that that Committee who were charged by Your Excellency's predecessor to do certain work on behalf of the Colony in trying to re-establish certain industries, found the timber industry was one of those in the most dire distress and that Committee recommended, after taking a great deal of evidence both from the producer and from the consumer, that to help the industry a 50% duty was necessary and that recommendation, which had the agreement of Sir Charles Bowring as Chairman, was submitted to Government and it was published in the paper in the Colony so that everybody could criticise it. There was a great deal of discussion all over the country. Honourable Members will remember very

nasty things were said but eventually the Government accepted a 50% import duty on timber. In other words, this Council and Government and the Country were convinced that a 50% duty was necessary. Now what is happening? I have not yet looked at the schedules to see whether wheat is referred to. What prevents the Government from altering the rates on wheat to-morrow? The Commissioner of Customs said the Conference considered the local timber industry would not suffer by a reduction in this duty. I would remind this Council there is no industry which is in such a bad way as the timber industry. If you open your paper to-day you will see an advertisement of an old established timber Mill in this country for sale and I notice at the bottom of the advertisement the words "no reasonable offer refused." It does not appear that timber merchants are making anything out of timber. I protest against the way in which this reduction is made. We are told by the Honourable Commissioner of Customs this is the result of a Conference which was held consisting of himself, the Commissioner of Customs, Tanganyika, the Attorney General of Uganda, and His Majesty's Trades Commissioner as Chairman. Certainly the consumer was very well represented. The Chairman of this Committee His Majesty's Trades Commissioner is naturally, if he is doing his duty—and he would not be the successful Trades Commissioner he is—doing everything he can to press the sale of English goods in this country. The Honourable Commissioner of Customs is naturally looking for revenue but I want to ask who represented the producers point of view on the Committee? The Government ask for views on the Customs Tariff. I am sure if the Timber trade thought the Government was going back on their representations a year ago, they would have taken steps to represent their view. No steps have been taken and this is the first intimation the country has that this is being changed. I protest against that. Those people who objected before had an opportunity of producing and putting their side of the case before the Geddes Committee. This Bill is to be passed through all its stages to-day. It may be this 30% duty is sufficient—I do not know. We have no figures to produce to you to prove whether it is or not. We should have an opportunity of consulting the timber trade as to what this action will be. The producer of timber in this country has not been consulted at all. It is not therefore against the duty but it is against the method in which this has been done that I protest and if it proves that harm is being done to this industry which I know to-day is in a very bad state, I hope the Government will, at a later stage, allow the duty of 50% to be reimposed.

THE HON. T. A. WOOD: I was rather afraid the Council would be at a loss due to the absence of the Right Honourable Member for the Rift Valley which I am sure we all deplore but I find he has got an able lieutenant in the Honourable Member for the Plateau North. I am not a Protectionist and therefore I disagree with all my colleagues on this side of the House. The Honourable Gentleman who has just spoken has omitted to recognise that a Conference has sat to consider this question. What is a Conference? Is it the case in which one side goes in and gets its way in everything? I believe the Honourable Commissioner of Customs has advised us that both Tanganyika and Uganda pressed very strongly for this reduction and insisted on it and seeing they were two parties in a Conference of three I do not quite see what our worthy representative could have done. He could have stuck out but I believe he was firmly convinced that a 30% duty on the c.i.f. value at the port of entry was enough to crush the life out of any imported timber. That is

certainly my view. The Honourable Member for West Kenya is very interested as a miller. He may be able to show me where I am wrong and if you are going to admit the timber industry in this country is a failure you must look round for the cause. If a 30% *ad valorem* duty—not on the coast in Europe but on the coast line in Mombasa—is not sufficient protection for a local industry then I say, with all due respect to that industry, it should not be bolstered up any further. There was an insinuation made against the Chairman of that Conference and I was going to put in a plea on his behalf. He was sitting as Chairman of the Conference and we know he is His Majesty's Trade Commissioner and as the Honourable Member for Plateau North said his first definite interest is to sell British goods but I was not aware that we had ever, on any occasion whatever, imported British timber in this country. The timber that we used to import came from the Baltic. England is much too short of timber herself to think of exporting any anywhere else. I do not think that charge is correct that he is prejudiced in the favour of the English timber. Possibly a little English Oak has been imported in the shape of furniture. There is another charge that this duty was imposed twelve months ago and should therefore be left. Ought it to be left in perpetuity? There have been no importations of timber with this big duty and there will be no importation of timber with a duty of 30%. There is just a possibility that it will give those people who cannot replace certain timber by local produce an opportunity to get small quantities of this timber at the 30% duty without interfering in any way with the bulk of the trade. I wish to congratulate that Conference at the conclusion they have arrived at and I cannot see how our representative could have done anything else, but accept the view of the other two members of the Conference.

THE HON. THE DIRECTOR OF AGRICULTURE: I very much doubt the wisdom of the changes suggested in this Bill especially as steps are now being taken locally to establish a tinning industry for dairy and other similar produce and if the present proposals are carried it will make the establishment of such industry most difficult. I am not aware whether it is competent for this Council to alter this Bill having regard to the fact that an agreement has been entered into with Tanganyika and Uganda Governments but I hope that if it should be found possible to revise it before long Your Excellency's Government will make representations to Tanganyika and Uganda with regard to putting this, what I submit is a wrong step in the interests of production of the whole of Eastern Africa, right.

THE HON. CAPT J. E. CONEY: In view of what the Honourable Director of Agriculture has said I would point out that in the case of the Uplands Bacon Factory that they have imported from England an expert to do this work and try and establish a new industry. The Honourable Member for Nairobi South asked me how long the 50% duty was to last in the case of timber? Here is an industry just starting in the Uplands Factory and they think they can compete and make good and just as they are starting Government goes and does this. I did not mean to cast any reflection on the Chairman of that Conference, but I do not think the Trades Commissioner claims to know the trade point of view thoroughly. The Government should have consulted the producers.

THE HON. CONWAY HARVEY: I agree with the Honourable the Director of Agriculture and the Honourable Member for Plateau North. There is no doubt whatever that the Honourable the

Commissioner of Customs was quite wrong, possibly unwittingly so, when he denied that importations of bacon, etc., in any way competed with the local trade. I have seen pig products, etc., put in tins, and seen the tins made, and have seen reports from Tanganyika and Uganda referring to the state these products have arrived in at their market. I have been very much concerned with the production of tins at Lumbwa, and they have been experimenting getting butter into the very best condition to send into the interior, and such a step as this will be a grave deterrent to the butter industry at the present time.

THE HON. T. A. WOOD: I have not any fresh argument to bring up, but if 20% *ad valorem* on a thing was not a high enough rate plus railroad charges to keep it from competing with the local bacon industry, which enjoys a special rate on the railway or the production of the Lumbwa Creamery cannot compete, then I say in the public interest let the consumer get it at a reasonable price. I submit there is no case. I think the 20% is ample protection. I do not think it is fair to say the Conference has overlooked it. 20% is a very high rate on the c.i.f. value, but is not a high rate for the f.o.b. value. If that 20% is not good enough to protect the local man, then I say we ought to look into these local industries and assist them to find out what is wrong.

THE HON. CAPT. J. E. CONEY: The last speaker is a business man, and I would like to ask him whether he has been able to experiment and compete at the same time. This industry in the case of the Lumbwa Creamery and Uplands Bacon Factory is in its infancy; they are trying to establish an industry in this country. My friend suggests they ought to be able to compete with the American mass production firms. I think he said in this Council there was a war on with regard to Petrol, because two big firms were fighting each other. The same thing applies to these industries.

THE HON. CONWAY HARVEY: May I point out that on the question of protecting local industries in this Council precisely the same arguments were used as were used by the Honourable Member for Nairobi South. This Council in its wisdom did keep a number of protective duties, and to-day flour, sugar and timber are cheaper at the moment than at any period during the last eight years. The consumer in that way has derived a very great advantage from protection given by the Government.

THE HON. DIRECTOR OF AGRICULTURE: I do not wish to enter into an argument with the Honourable Member for Nairobi South, as to the merits of protection and free trade policies. I am afraid that if his ideas were carried out by the Government, there would be very few European consumers in the country to consume the products under consideration. Theoretically he is right with regard to the 20% duty, but practically he is unsound. Every now and again it happens that in these countries in which there is mass production of these commodities there is an enormous surplus, and prices go down to a point where these countries are enabled to let loose certain commodities over a short period at what one would call a "dumping price." You have got to protect these interests against the people who are prepared from time to time to dump these articles in a country, at a lower price. Such action prevents a local industry from being successful as there is no continuity of trade for the local produce. I have no doubt in my mind we shall have that experience in this country. If you encourage local production you supply the needs of the consumer, and very

shortly the consumer in the country gets his produce at a lower rate.

THE HON. COMMISSIONER OF CUSTOMS: These factories are already producing bacon, butter, etc., and if a tinning industry is started, it will be for the oversea rather than internal markets. Their local trade is only a small trade, and unless the Uplands Bacon Factory is establishing a factory with the object of starting an export trade it will be a very small one indeed. They will not sell much tinned bacon locally when the fresh product is obtainable. The importation of such tinned stuff as butter, bacon, etc., is very small, and in my opinion will continue to be so so long as you have the fresh article obtainable here. The fresh article will continue to be used more and more in preference to the tinned article.

THE HON. R. B. COLE: The Honourable the Commissioner of Customs said it was very necessary to have these tinned stuffs coming into this country for safaris, etc. I cannot imagine that in the present state of the dairy produce of this country it is necessary to let these foods in at a very low rate. I do hope that what the Honourable the Director of Agriculture has said will be listened to by this Council as I think it is important that this tinned industry should be looked after by the country. As regards the 20% duty the Honourable Member for Nairobi South spoke of I cannot help feeling that even with the 20% that there is more profit in the retailment of this stuff which comes from overseas than of the stuff which is made in this country where everybody knows what it can be produced for. We do not know what the value of these other things are which come from abroad, and my own idea is that they allow more manipulation by the retailer.

THE HON. T. A. WOOD: With regard to the statements made by the Honourable the Director of Agriculture and the Honourable Member for West Kenya I see a great deal of stress has been laid on the establishment of a tinning industry. I happen to be the first individual to start the tinning industry in this country, but the Government did not suggest any protection for me. I sold this industry out to someone else later after I had developed it. I started it without any protective duty whatever. The only thing I had to get over, was the prejudice of people for drinking 50% chicory. With regard to what the Honourable the Director of Agriculture said with regard to dumping, I suggest he has picked a futile example. With regard to the insinuation laid against me as a trader by the Honourable Member for West Kenya, I should like to point out to him that the only direct interest of the trader in selling an article at a high rate of duty is that he gets a percentage of the profit on that duty. Owing to the extreme extraordinarily high price of tinned bacon the profits are usually very much smaller. The trader gets a percentage on the duty and that is the only direct interest. You will find that a large number of traders have protested against these duties as they prefer to see lower duties so that there is no necessity to include a percentage on the high duty in working out profit they must make to cover their overhead charges.

THE HON. R. B. COLE: I was quite aware of the fact of the percentage on the duty as well. What I meant was that people making butter in this country and tinning it knew exactly how much it cost to make and how much they were selling it at. Whereas in respect of the stuff coming from abroad, the price is absolutely Greek to most people, and therefore I say there is more room for manipulation in imported goods than in the local product.



**THE HON. OFFICER COMMANDING TROOPS:** With regard to this question of tinned goods generally. Those people who are absolutely bound to live on tinned foods are generally administrative and military officers in the Northern Frontier of the Colony. These officers who come out here are in many cases totally unable to get any local produce from the country, consequently it is on their shoulders that this heavy import duty of 30% falls, and as far as the ordinary safari party is concerned it is a very much smaller question. The 30% duty is a very heavy burden for the junior official of this country and any reduction made would only be fair to them.

**THE HON. COLONIAL SECRETARY:** This question was very fully considered not only by the Conference but by the Honourable the Commissioner of Customs who appeared before the Executive Council, and the Government feels that this matter is not going to prejudice the local tinner, and the reduction made is one which really should be made in the interests of a certain number of people, and is not likely to prejudice bacon factories or any others here who may tin their produce.

**THE HON. CONWAY HARVEY:** With regard to ghee I would like to ask why there is a distinction drawn between ghee and butter.

**THE HON. COMMISSIONER OF CUSTOMS:** The distinction is drawn, because the distinction exists. Ghee is not tinned in the ordinary sense, that is to say it is not imported in hermetically sealed tins.

**THE HON. R. B. COLE:** I believe the ghee we make in this country is better than the ghee which comes from India. The difference that the Honourable the Commissioner of Customs makes in the tinning and non-tinning, I do not follow.

**THE HON. COMMISSIONER OF CUSTOMS:** Ghee imported in tins is not hermetically sealed, but comes in oil tins. Butter, cheese, etc., comes in hermetically sealed tins. Whether it is butter or not, does not I think affect the position.

**THE HON. CAPT. J. E. CONY:** With regard to item 24, Motor Cars, etc. There has been a debate but I would like to draw the attention of the Council to the difference in the methods of Government in dealing with motor cars, and with the produce of this country. In the case of motor cars, Government have been very wise in what they have done, but when they were considering this question, they did consult those people who were interested. Circulars were sent out all over the country by the Royal East African Automobile Association, and every trader had an opportunity of expressing his views. With regard to timber it absolutely upset the traders. There was no danger of large importations of timber even if it were known the Government were going to alter the duty, but I cannot understand why when it is a produce of another country the people concerned are consulted, and when it is the produce of this country, and we are trying to help the producer he is not consulted.

**THE HON. T. A. WOOD:** Is it the case the producers were not consulted in this matter? I think it is only right in view of the charge made we should have some information on this point. I understood all interests were asked to send in their views.

**THE HON. COMMISSIONER OF CUSTOMS:** That is so.

**THE HON. J. E. CONY:** I should have thought even if the Government required a great deal of secrecy, as I understand they did require, they

might at least have consulted the representatives of the producers. From the remarks made by the Honourable the Director of Agriculture I wonder whether he was consulted on the effect it would have on the industries he is an expert in, i.e. the dairy and pig industries.

**HIS EXCELLENCY:** I do not think the Government had departed from the principles laid down by my predecessor.

**THE HON. R. B. COLE:** With regard to item 25, I was not aware there was any idea of putting a further tax on motor spirits, and if there had been an increase on it, I hoped to see that cars would come down. I entirely disagree with the 300/- duty with the extra tax on motor spirits.

**THE HON. COMMISSIONER OF CUSTOMS:** There is no extra tax. No bulk petrol is being imported. A rate of 30 cents per Imperial gallon has always been charged.

**THE HON. R. B. COLE:** With regard to item 10 Table II. I wonder if the Government would give us some hope that they will remit this duty if it is found large quantities of imported timber come into the country. It is extremely difficult to get figures. If the timber comes in a sailing ship, the price will be a very very fine one indeed. The present price is very very fine indeed, and I believe that the imported timber will come in in large quantities, and will kill the industry again. I do hope that the Government will give us some assurance that they will reimpose the tax if large quantities of imported timber come into this country. The present price as near as one can get it is I believe about 62 cents per square foot of imported timber sold in Nairobi; that is coming in in 200 ton lots in a steamer, and it is quite obvious if that came in a sailing ship the price would be cut down very considerably. The lowest price timber firms are selling is 40 cents per square foot. 40 cents is a very very small amount, and I believe myself that with careful shipping and handling, the imported timber would completely knock us out and make the trade a very precarious one if not ruin us altogether. The whole thing again devolves upon the reduction of royalties. Though I have brought the matter of the reduction of Government royalties for local timber up time after time nothing has been done about it. I have not got the figures to hand, but I think I may safely say that the royalties we pay to this Government are a little in excess of the royalty paid in Burmah for teak.

**THE HON. COMMISSIONER OF CUSTOMS:** So far as actual costs are concerned, the latest quotations from importers of timber at the coast, the c.i.f. price is 190/- per ton. After Customs charges etc., this same timber would cost 379/95 in Nairobi per ton, as compared with 192/32 for podocarpus. So there is a very considerable difference between the possible cost of imported timber, and the cost of local timber in Nairobi. In addition to that Tanganyika and Uganda, both timber producing countries pressed very strongly for a reduction to 20%. Even so on present figures, it shows there is quite a big margin on local timber.

**THE HON. R. B. COLE:** are these figures based on small lots coming in on steamers?

**THE HON. THE COMMISSIONER OF CUSTOMS:** These figures are supplied by Messrs. Smith, Mackenzie and Co.

**HIS EXCELLENCY:** Have any sailing ships come in lately?

**THE HON. THE COMMISSIONER OF CUSTOMS:** Not for years.

**THE HON. R. B. COLE:** The timber in 200 ton lots by steamer probably costs in Nairobi 370/- there is then the enormous margin on the bulk lots coming in on a sailing ship.

**THE HON. CAPT. J. E. CONEY:** The Honourable Commissioner of Customs thinks there is no possibility of a sailing vessel coming in to Mombasa for years. I hate to challenge what he says, but I think I saw a large sailing ship coming in to Kilindini Harbour less than a month ago. I am suggesting that it is quite a possibility that if there is trade to be done out here the Scandinavian timber trade will send timber out here by sailing ship. The figure given by the Honourable Member for West Kenya is for timber coming in 200 ton blocks on steamers.

**THE HON. THE COMMISSIONER OF CUSTOMS:** The ship which the Honourable Member for Plateau North mentions comes into Mombasa Harbour regularly and is an auxiliary petrol driven vessel engaged in carrying oil and petrol.

**THE HON. R. B. COLE:** I should have thought the one trade of the whole world where dumping is done is in the timber trade. I cannot believe that any good purpose is going to be gained by this particular tax. Since the protective duty imposed last year timber has been cheaper and better than has been ever supplied before, and I cannot see where the fault lies.

**THE HON. T. A. WOOD:** it is rather a pity these gentlemen have not got more figures about sailing freights and steamer freights. They have not given us any figures. All the figures which have been quoted confirm my opinion that there is quite a considerable margin. I am only looking at it from the business point of view but the figures quoted show me a considerable margin, and if I was in the timber industry I would not be frightened of it a bit. I have always held the view that royalties in this country are extraordinarily high and that may be one of the reasons why the industry is languishing. It reminds me of the royalty paid on bricks 25 years ago amounting to 25% which meant that the royalty being so high no bricks were made. The royalty may be killing the timber industry but it is not the price.

**THE HON. CAPT. J. E. CONEY:** We come back to the same point again. The Honourable Member blames us for not having figures. That is my point. We have no figures because we did not know this

was coming up. I asked the Right Honourable Member for the Rift Valley when I saw him a few days ago whether there was going to be any alteration in the Customs, and he could not tell me. The fact remains that the producers were not consulted. The Government have the information and figures from the point of view of the importer but no figures from the producers.

**THE HON. THE COLONIAL SECRETARY:** Government has fully appreciated the importance of this industry and have endeavoured to obtain figures on this point. Figures have been obtained from the Customs and Forests Departments. I cannot agree with the Honourable Member for the Plateau North that Government should allow everyone to put their case before the Government. In the case of timber which is of vast importance to this Colony Government was very loath to make any alteration but Tanganyika and Uganda pressed for it and our representative was fully agreed that this reduction would not affect the industry in Kenya. Further, the Chamber of Commerce urged that the duty should be reduced to a greater extent than this Council now proposes. The Government have been asked to give a guarantee to return to the old duty if it is found the timber trade is being endangered. That is impossible. The timber industry is well represented and strongly represented in this Colony, and I do not think they need have any fears that their case will not be put before Government if Scandinavian timber is brought here and endangers their trade. As it affects the Customs I do not think that an alteration of from 50% to 30% will prejudice the timber industry.

**THE HON. R. B. COLE:** I can assure the Honourable Colonial Secretary it will prejudice the industry. At the present moment mills are going out right and left as they cannot carry on, and I think this final blow on the head will send a lot more out and I must register my opinion that this 30% will ruin and prejudice a great many more businesses in this country as far as the timber industry is concerned.

**HIS EXCELLENCY:** I think the Bill shows a general reduction and I hope sincerely it will improve and facilitate trade on the whole. I should like to pay a tribute to the work of the Chairman of the Customs Conference who gave a week's very hard work to it and presided in a very competent manner.

*No debate on third reading of Customs Ordinance.*

*Council adjourned till 10 a.m., Thursday the 3rd of January.*

#### FIFTEENTH DAY.

**Held at Nairobi on the 3rd day of January, 1924.**

The Council assembled on the 3rd of January, 1924, at 10 a.m. HIS EXCELLENCY THE GOVERNOR) SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

#### MOTIONS.

**THE HON. TREASURER:** Your Excellency, before moving the motion standing in my name on the order of the day, I suggest that the Council resolves itself into Committee to consider the Supplementary Estimates item by item.

*In Committee.*

#### FOREST DEPARTMENT.

**THE HON. T. A. WOOD:** May we ask if there is any particular reason why the Forest Department were unable to estimate their passages accurately.

**THE HON. TREASURER:** If the Honourable Member will turn to page 10 he will see the explanation, and one of the causes of this excess is that Government have decided to book return passages which means an ultimate saving, although it results in an immediate increase.

**THE HON. CONWAY HARVEY:** I notice this refers to a visit of the Conservator of Forests in regard to the cedar trade. Is there any report of this visit?

**THE HON. COLONIAL SECRETARY:** The report which is the result of the Conservator of Forests visit to Canada is now being prepared.

**THE HON. CONWAY HARVEY:** I hope it will be circulated when completed.

**HIS EXCELLENCY:** It will be laid on the table of the Council.

**THE HON. E. POWYS COBB:** I hope that may be so, as in the past we have not been supplied with very much information in regard to the Forest Department, and in particular to Professor Troup's report which we have never had. I notice the increases are all in the direction of Personal Emoluments, and the savings are made in the cutting down of the Reafforestation Stations in which the work is done.

**THE HON. TREASURER:** I cannot give any explanation as to why there are savings which are very small.

**THE HON. E. POWYS COBB:** May I give importance to this point of reafforestation, and I think any reduction of a Reafforestation Vote should not go through this Council without some protest being raised.

#### GAME DEPARTMENT.

**THE HON. SIR NORTHRUP MACMILLAN:** On behalf of this side of the House, I would like to again express our disapproval of the appointment of Game Warden, and we cannot give our assent to it.

#### LAND DEPARTMENT.

**THE HON. CAPT. J. E. CONEY:** Has the Honourable the Commissioner of Lands prepared plans of the Townships—referring particularly to Kitale Township—which have been held up so long, and in regard to which now that the Indian Question has been settled, I take it the sale of plots will take place. Is the plan ready and will the auctions take place?

**THE HON. COMMISSIONER OF LANDS:** The Honourable Member for Plateau North will see two items in this special expenditure of extra money for travelling, and certain fees for licensed surveyors. These two items will cover expenditure in connection with surveys for plans which have already been prepared for half a dozen townships of which Kitale is one. It is hoped that as far as the Town Planning Board is concerned, it will be done next week. I hope the sale will take place next year.

**THE HON. R. B. COLE:** The Honourable the Commissioner of Lands refers to a sale of land next year. Does he mean we will have to wait another year?

**THE HON. COMMISSIONER OF LANDS:** I mean this year.

**THE HON. CAPT. J. E. CONEY:** Can the Government say that this sale with regard to Kitale will take place shortly?

**THE HON. COLONIAL SECRETARY:** I am not sure that the Honourable Member's question is in order, but I can assure him Government is pressing the matter forward, and we are endeavouring to push forward land sales. We are now arriving at a settlement to enable land to be bought up without further delay.

**HIS EXCELLENCY:** The matter has recently been discussed a good deal in Executive Council.

**THE HON. CAPT. J. E. CONEY:** As the Honourable the Commissioner of Lands has said that some of the money is in connection with this particular point, I cannot see how my question is out of order. As we are voting money, I think I can ask questions on that. I have been asked to represent Plateau South, and ask whether Government can set aside some land for storage of maize on the Uganda Railway at certain places more especially at Eldoret, and the Honourable the General Manager has said that out of railway lands he is unable to give any for that purpose. I would like to ask whether Government will sympathetically consider the request. The request is that the co-operative movement of the maize growers will collect their produce, and they want some place where they can erect some godowns and sidings near to the railway, and the only land suitable is in the possession of Government, and I am asked to ask if Government will consider sympathetically the application now made. It will apply to Turbo and other places later on wherever they wish to collect maize.

**THE HON. COMMISSIONER OF LANDS:** I think the application reached my office a day or two ago. I personally cannot see that there would normally be any objection to an application of this sort, and so long as there is no pending struggle between the Honourable General Manager and myself as to who the land belongs to. I cannot remember any cases in which such applications have been refused on any reasonable grounds. It is a normal type of application.

#### MISCELLANEOUS SERVICES.

**THE HON. CAPT. J. E. CONEY:** Can we have an explanation of this item of £4,500?

**THE HON. TREASURER:** When I laid the Estimates on the Table, I tried to make a statement but was correctly pulled up by the Honourable Member as being out of order. The item is really a book entry. It used to be the practice to deduct from the revenue of the current year refunds of revenue collected in the previous year. This is now correctly dealt with by showing the refunds of revenue of the previous year as items of expenditure in the current year.

**THE HON. CAPT. J. E. CONEY:** It is quite true I did pull the Honourable Gentleman up, and referred to Rule 26 which this Council passed a few days ago.

**THE HON. TREASURER:** I used the word "correctly."

**THE HON. E. POWYS COBB:** May I ask why £1,000 is asked for the ex-soldier settlement scheme.

**THE HON. TREASURER:** There is an explanation of this on page 11. I should like to explain it is my policy to endeavour to wipe out of the Colony's balance sheet what is known as suspense accounts. It has been the practice in the past to spend money without the authority of this Council, and charge it to suspense account. It is my intention in future to ask for the authority of this Council before any money is spent, and not to encourage the policy which has been followed in the past.

**THE HON. R. B. COLE:** With regard to Professor Troup's report is this an amount for his report to be printed?

**THE HON. TREASURER:** I think the Honourable Gentleman wishes to know whether it means the report is going to be published. I hope the Honourable Gentleman will raise no objection to this amount.

**THE HON. E. POWYS COBB:** I raise no objection to it; I merely ask whether it means the report is going to be published. I would like some assurance that the report will be published.

**THE HON. COLONIAL SECRETARY:** I can give the Honourable Member the assurance that it will be laid on the Table of Council at the next meeting.

**THE HON. T. A. WOOD:** I think it is an opportune time to point out to the Government the inadvisability of entering into trade commitments. People complain very bitterly about the ordinary trading community, and the enormous profits they make. In this £1,407 we have a case in point. This is to cover loss in respect of the purchase of arsenite of soda. It was owing to the war that the price of arsenite of soda went up, but every user of arsenite of soda in this country simply said the local trader was profiteering, and called upon Government to help with the result that the country have now to pay £1,407.

**THE HON. CONWAY HARVEY:** The Honourable Member for Nairobi South's business theories may be sound, but I submit the Government took the only course possible. It was absolutely necessary for them to take this course for the eradication of ticks, to save the cattle industry in this country. The army of this part of the country and the civil population would have had their health very seriously endangered were supplies of butter, milk, etc., not available. I submit there is ample justification for the attitude adopted by Government.

**THE HON. T. A. WOOD:** If the Honourable Member was correct in his statement, I would be in agreement. How is it that the military authorities sold a large stock of dipping material at the end of the war? That is a fact as I happened to be the person who bought it.

**THE HON. R. B. COLE:** I must support that. We are held up now as we have no sheep dip at all.

**THE HON. DIRECTOR OF AGRICULTURE:** I think this is a case where the Honourable Member has not told the whole story. I was not here at the time the transaction took place, but I think I am correct in saying that there was no method of obtaining a supply of arsenite of soda except through Government, that is I think the correct position and that is why Government stepped into the breach, and interfered with private enterprise, and ordered this soda to save the cattle industry of this country.

**HIS EXCELLENCY:** I do not think we need go into this matter any further. I agree with the Honourable Member for Nairobi South that the Government should not interfere in trading affairs.

#### MILITARY EXTRAORDINARY.

**THE HON. T. A. WOOD:** With regard to this £1,672. Apparently the Secretary of State has been put in the position of an arbitrator between the War Office, and the Kenya Government and has decided against us. I do not wish to quarrel with this decision but as far as this country is concerned, I think we are entitled to protest against having to pay this money.

The facts as I understand them are that a gentleman only partially connected with the King's African Rifles, made the purchase of these stores against the advice of several other people who said that a great many of them were not needed. That was definitely proved by the fact that shortly after the purchase they proceeded to offload a proportion at a loss in the local market, and I submit we should never have bought half these things. We were saddled with a lot of stuff we did not want, and we have now got to pay this sum of money. We never got value for the previous £16,000 we paid. It is like throwing money away and we have not got money to throw away. £22,000 has been spent and we probably did not get £10,000 worth of stuff for it.

**THE HON. TREASURER:** It will be remembered that we voted in the last Supplementary Estimates £16,160 of the original amount we were asked to pay, after the War Office had reduced their claim. The claim was for £24,305 and we asked that that should be reduced to £16,160 explaining that the difference represented the difference in the value of goods in the possession of the 2/3rd K.A.R. on the 31st of March, 1919, and the value of goods handed over to the 1/3 K.A.R. by the 2/3 Battalion when it was disbanded, the view taken locally being that the 2/3 Battalion could not be regarded as a post-war battalion, and that any stores used by that battalion should be paid for by the War Office. In making this claim for a reduction Your Excellency pointed out that in any case an allowance should be made for boots supplied and previously charged for. Apparently the view regarding the 2/3 Battalion not being regarded as a post-war battalion was not agreed to. The claim, however, in regard to the boots does appear to have been agreed to as the amount paid by the Crown Agents to the War Office is £22,932 a difference of £1,373 on the original claim, which difference apparently represents the value of the boots.

I now beg to move "that the 3rd Supplementary Estimates which have been laid on the table should be adopted."

The motion was put and carried.

**THE HON. TREASURER:** I beg leave to move "That the Statement of Unforeseen Expenditure for the quarter ending 31st March, 1923, which has been laid on the table, should be adopted."

The great majority of the expenditure recorded therein has been approved in the previous Supplementary Estimates. The Statement of Unforeseen Expenditure covers only excesses met from savings on other Heads which items do not appear in the Supplementary Estimates.

**THE HON. E. POWYS COBB:** Do I understand the Honourable the Treasurer to say this sum of £18,000 is wholly included or partly included in the Supplementary Estimates we passed?

**THE HON. TREASURER:** Those items which have resulted in excesses on heads are included in the Supplementary Estimates, but in addition to those excesses there are excesses met from other sub-heads which excesses do not appear in the Supplementary Estimates.

The motion was put and carried.

INTRODUCTORY SPEECH ON FIRST READING OF LEGISLATIVE COUNCIL (AMENDMENT) ORDINANCE, 1924.

HIS EXCELLENCY: In introducing this Bill, the Honourable the Colonial Secretary will explain, as is usual, its intentions and principles. But before he does so I should like, as President of this Honourable Council, to say how much I regret that the Indian members who had accepted nomination as a temporary measure, are not present to take a share in the passage of a Bill which gives to their community a principle for which they have long contended.

I fully recognise the time and work which the Indian members have given to the affairs of the Colony, and in spite of their abstention from Council at the moment, I look forward to the time, I hope close at hand, when the members of that community in Kenya will regard with a broader vision the duties and responsibilities to the Colony which are imposed upon all of us; and will decide to co-operate with the European, the Arab and the Native in developing with energy, and in harmony the growth and prosperity of our Colony.

THE HON. COLONIAL SECRETARY: Your Excellency, in moving the first reading of a Bill intitled an Ordinance to amend the Legislative Council Ordinance, 1919, I desire to make it quite clear to all members that this Bill does not effect any alteration in the qualifications for admission to the register of European voters as laid down in Ordinance No. 22 of 1919, which is in accordance with the decision of His Majesty's Government as embodied in the Command paper. The object of this Bill is to provide for the election of 5 Indian and one Arab Member on a communal basis, and to implement the decision which is placed first in the statement of policy as laid down by His Majesty's Government. The Bill gives elected representation to the Indian and Arab communities for the first time. The representation of all other communities remains unchanged. The Council is asked to take this Bill through its three readings on a certificate of emergency as until this Bill is passed, it is not possible to fix the date for the elections to be held after the term of the present Council expires—on February 20th.

Early steps were taken to draft this Bill, which was referred to the East African Indian Congress on October 2nd for the expression of their views. The Congress requested that the proposed Bill should not be brought before the session of the Legislative Council, which was then about to commence, as "the entire question of accepting or non-participation in the policy embodied in the White Paper was coming before the session of the Congress to be held early in November."

The urgency of the matter was pointed out to the Congress, and the request was made that it should meet as soon as possible. It was subsequently found that the period required for notification of date of the elections might be curtailed to some extent. Further, steps have been taken to prepare in advance list of voters on the franchise granted in this Bill. It will not, however, be possible to hold the elections before March 15th at the earliest or possibly even later. It was, further, hoped that the decisions of the White Paper might be implemented as far as possible simultaneously to enable this Colony to withdraw from the political arena into the more peaceful sphere of agricultural and economic progress to the advantage of all the races in the Colony.

The views of the Indian Congress were received on November 30th—their representations which were stated by their Committee—"to be made entirely without prejudice to the original claim of the Indian Community for an equal representation on the basis of a common electoral roll" have been accepted *in toto* by Government, and are embodied in this Bill.

I do not propose to enter here on a discussion of the question of the methods whereby electoral representation should be secured by the Indian Community. The question has been definitely settled by the decision of His Majesty's Government contained in the White Paper, and it is the duty as it is the desire of this Government loyally to carry out these decisions, which will I believe be always regarded as worthy of the best traditions of British Statesmanship and as a just and impartial settlement of these unhappy questions which it is hoped may now be laid to rest. I would only quote here from the Command Paper:—

"A communal franchise secures that every elector shall have the opportunity of being represented by a member with sympathies similar to his own, a consideration which in other Colonies has led the domiciled Indians to press for its adoption; it is well adopted to the needs of a country such as Kenya; no justification is seen for the suggestion that it is derogatory to any of the Communities so represented, and it is believed that so far from having a disruptive tendency, it would contract rather than widen the division between races in Kenya" and again.

"From the point of view of the Indian Residents themselves, this system permits of a far wider franchise being given than would be the case if a Common electoral roll were introduced and this alone should render it acceptable to all supporters of the Indian Claims, who have at heart the political development of the Indian people."

This forecast by His Majesty's Government of the political possibilities afforded by this measure have been shown to be fully justified by the recommendations of the Congress embodied in this Bill.

Provision is made for adult male and female suffrage, and no literary qualification is required. Every Indian man and Indian woman in the Colony will now have a vote.

Further, the franchise is extended to include the subjects of Indian States under the suzerainty or protection of His Majesty. A wider franchise it would not be possible to extend to the Indians in this Colony, and I am not aware of so broad a measure of enfranchisement having been granted in any Colony to its Indian residents.

It is, I am sure, the desire of all Members of this Council that the Indian Members to be elected in March, shall be able to represent and to express the views of the whole Indian Community in Kenya.

The White Paper on the Indians in Kenya further pronounces in favour of the communal franchise that "finally, it allows of the immediate grant of electoral representation with a wide franchise to the other Community in Kenya, which is ripe for such institutions, the Arabs of the Coast."

The Government has been at equal pains to ascertain the views of the Arab Community in regard to the franchise to be granted to Arabs

The views of the Resident Commissioner for the Coast, and of Honourable the Sheikh Ali bin Salim were first ascertained and they were agreed that the "right to vote should be accorded to every literate male adult Arab, who has completed not less than two years residence in the Colony and Protectorate. 'Literate' to be defined as being able to read and write Arabic or Swahili." Further enquiries were made through the Senior Commissioner for the Coast who held a meeting of some 400 of the representative Arab residents of Mombasa and the immediate neighbourhood.

The meeting agreed that a literary qualification should be required of all Arab voters and that they should be able to show their ability to write Arabic or Swahili in Arabic characters. Government has accepted this recommendation and provision has been made accordingly in this Bill. The view was expressed by the Indian Congress that there should be one constituency covering the whole Colony and Protectorate, and for this the Bill provides under Section 6 of the Bill each voter being given one vote and not more for each of any number of persons not exceeding the number to be elected—in the case of the Indian Member each elector will be able to give one vote to each of the five candidates, but he or she will not be able to give more than one vote to any candidate.

It is the earnest hope of Government that the measure of enfranchisement given to the Indian and Arab population of Kenya may lead in a full degree to mutual trust and co-operation to the advantage of this land of Kenya and that the five Indian Members and the Arab Member will, while worthily upholding the interest of their countrymen now resident in this Colony, contribute a fair and broad-minded criticism combined with the keen desire to further the interests of the Colony which the Government expect to receive and does receive to-day from the elected members of this Council.

#### DEBATE ON SECOND READING OF THE LEGISLATIVE COUNCIL AMENDMENT ORDINANCE, 1924.

**THE HON. CAPT. J. E. CONEY:** I am extremely sorry that the Right Honourable Member for the Rift Valley is not here to-day. There is nobody in this country who can possibly take his place on an occasion like this. I do not pretend to do so. The Honourable the Colonial Secretary has said that he hopes a statesmanlike view will be taken of the situation by the Indian Members, and we know our leader at least looks on these things from a very broad and statesmanlike manner. I have very little indeed to say and I speak for myself and for those in the Constituency I represent. The position is as the Honourable the Colonial Secretary has said, that the Right Honourable the Secretary of State for the Colonies has decided this question. Your Excellency, as representing the Government, and the Right Honourable Lord Delamere, as representing the European community, went home and the settlement as embodied in the White Paper is the result of that visit. Personally, I congratulate the Government and I congratulate our representatives on what they have done. It is no use pretending the White Paper represents what the Europeans from their point of view would desire but the Government are taking the first step of putting into force the decisions of the Secretary of State. If there is anything in the Bill, or any manner in which it can be improved, I hope it will be

improved. I share the very deep regret that there are no Indian Members present here to-day. I think it is a very great pity for their own sakes. They have been given a franchise which the Honourable the Colonial Secretary says Indians have not got in any other country of the Empire. I wonder if any Europeans in other countries have got anything like this? They are making a very great mistake in not being here to-day. I hope myself, and I think it will happen in time, with the Honourable the Colonial Secretary and with Government that this question is going to die out, and that there is going to be no further Indian Question in this country.

**THE HON. CONWAY HARVEY:** Although this Bill undoubtedly contains many most distasteful features the country I represent has decided to make the best of a bad job and help Government. During the life of this Council on three or four occasions certain features of the existing Ordinance have been commented upon and the Government has considered them on each occasion most favourably and left us with the impression that these desirable amendment will be introduced into a new ordinance. For that reason we are a little disappointed they are not included to-day; I allude to the fact that as the Ordinance is worded at present in the circumstances people may have to remain in this country for two years and four months without being given a vote. There is another matter to which I would ask the Government to devote serious consideration and if possible give an assurance that when the new Council assembles a Committee will be appointed to consider the question of the redistribution of seats. The boundaries as they stand at the moment are quite unsuited to the economic development that has taken place. To illustrate my point. The Honourable Member for Ukamba has some constituents living twelve miles north of Kitale. He also has Meru in his area which could more conveniently come into the area of the Honourable Member for West Kenya. These are points to which we should like Government to give serious consideration. We do feel that an unnecessary long period of time elapses between the date of the resignation of a candidate and a new election. It seems very unfortunate that a large number of people should be disfranchised for a long period. Three years ago communications were difficult and very much different to what they are to-day.

**THE HON. E. POWYS COBB:** It is very difficult to speak on the principles of this Bill, because to a very large extent that question has been disposed of, that is to say, the question of whether or not the Asiatic community in this Colony is to have a franchise or not. The European community as a whole has definitely decided to accept the White Paper and to do their very best, so far as they are able to help Government to bring about a satisfactory state of affairs in this country within the principles of the White Paper. To speak as to the many principles of this Bill would be altogether unnecessary but there now remains the question as to how that franchise should be put into force and the proper place to discuss that is when this Bill goes into Committee.

**THE HON. R. B. COLE:** I would like to support the Honourable Colonial Secretary in his remarks and to assure this Council as far as I am concerned I look upon this as an effort by the Government to put into practice this White Paper and for myself and my constituency I can assure Your Excellency we shall, having accepted that White Paper, go through with it absolutely loyally and to the letter

and it is no use saying whether it is distasteful. I feel it is up to Honourable Members to carry out what they have agreed to do. I do hope the Government will be able to give us some assurance that a Committee will be appointed to go into the alteration of some of the boundaries of the constituencies. There are one or two rather curious things about these boundaries. The Honourable Member for Ukamba has a member right in the centre of Nyeri. His district then stops and then goes some eighty or ninety miles before it begins again right through my own country and then goes up to Marsabit. There are only a few minor alterations but I do think they are necessary not only in the two districts which I have mentioned but in other districts as well. I would like to say again I support the Honourable Colonial Secretary in putting forward this Bill. This is the first part of the enacting of the White Paper and the second part will be shortly brought up when the Government has it ready.

**THE HON. SIR N. McMILLAN:** I have not much to add. I rather expressed my views publicly in this matter in a telegram which I addressed to my constituency asking them to loyally accept it. I hope everybody in this country is going to do so. I much regret the Indian Members have not come forward to accept this loyally as the Europeans have, a measure which was not perhaps so satisfactory a one to the Europeans as it might have been, but the Europeans accepted it with due loyalty and I hope that their so doing is going to confirm the Home Government that the White Paper is not going to be set aside in any way but is going to be carried out. In regard to this matter of the boundaries. It does seem rather absurd that Mr. Maxwell and his wife who live in Nyeri should have to go to Machakos to vote. It is absurd that they have to travel some two hundred miles to cast their vote.

#### SPEECH ON THIRD READING OF LEGISLATIVE COUNCIL (AMENDMENT) ORDINANCE, 1924.

**THE HON. THE COLONIAL SECRETARY:** In moving the third reading I would like to refer to the remarks of the Honourable Member for the Lake regarding boundaries. These have been considered and have been noted in the Secretariat but it was thought it would be advisable not to bring in any other question affecting any other electoral area in this Colony and on behalf of Government I may say that when the new Council sits Government will appoint a Committee to go into these matters. It is inadvisable at the present moment to bring in a large Ordinance dealing with the whole question and it will be better for the Committee to deal with that larger Ordinance section by section.

#### INTRODUCTORY SPEECH ON FIRST READING OF THE CRIMINAL PROCEDURE AMENDMENT ORDINANCE, 1924.

**THE HON. ATTORNEY GENERAL:** The object of this Bill is to legalise the payment of fees to witnesses, jurors and assessors. The present payment of such fees is made under rules under the Indian Penal Code which has now been repealed. With regard to the cost of the administration it depends entirely upon the number of cases and it is quite impossible to give an approximation of what it is likely to cost the Colony. The fees in the past have been rather high and this Bill has been introduced at the instance of His Honour the Chief Justice with a view to decreasing the fees but I think the fees will probably be less burden on the Colony than in the past.

#### INTRODUCTORY SPEECH ON FIRST READING OF THE GERMAN MISSIONS ORDINANCE, 1924.

**THE HON. ATTORNEY GENERAL:** The whole object and reasons of this Bill are stated in the preamble. Under Article 438 of the Treaty of Peace the Allied and Associated Powers agreed where Christian Religious Missions were being maintained by German Societies or where the Government have entrusted to them the property of such Missions or Missionary Societies it shall be continued in the future, and in order to give effect to that the Allied and Associated Powers appoint trustees to look after the Mission properties which were in operation before the War. I have not the correspondence before me at the present moment but I believe in this particular instance the deed of trust has been made out in favour of the American Mission which has been established here for a very long time and in that trust the American Mission will have to look after the property of the Missions as previously established before the War. There will probably be other cases at a later stage. The American Mission is the only mission affected in this particular case.

**THE HON. CONWAY HARVEY:** On a point of order may I ask if copies of this Bill have been distributed.

**THE HON. ATTORNEY GENERAL:** The Bill was published and sent to members in the usual way and is introduced entirely on the instructions of the Secretary of State.

**THE HON. CAPT. J. E. CONEY:** I received copies of the Bill some time ago.

**THE HON. T. A. WOOD:** I have also received copies.

**HIS EXCELLENCY:** I have here the covering letter dated the 6th of November, sending out this Ordinance to Honourable Members.

*In Committee.*

#### THE CRIMINAL PROCEDURE AMENDMENT ORDINANCE, 1924.

**THE HON. ATTORNEY GENERAL:** Honourable Members will recollect that when this Bill was last before the Committee a good many alterations were made to the Bill and I then moved that progress be reported in order that these amendments might be checked. I think perhaps the simplest course would be to draw Honourable Members attention to one fundamental alteration I have made on page 18 of the original Bill paragraph 8. I have searched the original draft and I cannot understand why revision was omitted, and I can only imagine that the drafters thought the Court had an inherent power to call for the Court Files of the Lower Court and examine them. That is not the case and unless you give power to the Court to do so they cannot call for and examine the files of the Lower Court. There is one verbal amendment from 1923, to 1924, and certain sections have consequential amendments.

*No debate in Committee on the Defence Force Ordinance, 1924.*

*No debate in Committee on the Master and Servants (Amendment) Ordinance, 1924.*

*Council adjourned till 10 a.m., 4th January 1924.*

## SIXTEENTH DAY.

Held at Nairobi on the 4th day of January, 1924.

The Council assembled on the 4th January, 1924, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR ROBERT THORNE CORYNDON, K.C.M.G.), presiding.

## QUESTIONS.

THE HON. MAJOR H. F. WARD asked:—

"1. If the attention of Government has been drawn to the Resolution No. 14 "Office in London," as passed at a recent meeting of the Associated Chambers of Commerce of Eastern Africa.

2. If so, what action is it proposed to take?"

THE HON. COLONIAL SECRETARY replied:—

"The attention of Government has very recently been drawn to this Resolution and His Excellency will receive a deputation, as requested by the Associated Chambers of Commerce, to discuss their recommendations at an early date."

THE HON. MAJOR ROBERTSON-EUSTACE asked:—

"With reference to the meeting of Council, dated November 10th, 1922, in which Government agreed to enquire into the Registration of Titles Ordinance, 1919, as being applicable to the Protectorate, what is the result of this enquiry, and how does the matter now stand?"

THE HON. COLONIAL SECRETARY replied:—

"The need for special registration provisions applicable to the Protectorate is receiving consideration, together with the amendments to the Registration of Titles Ordinance, 1919."

## MOTIONS.

THE HON. TREASURER: In view of the possibility of finishing our business to-day, and in view of the urgency of this matter from Mrs. Major's point of view, I beg to move the suspension of Standing Orders to allow the following motion to be taken:—

"That this Honourable Council approves the grant of a pension at the rate of £200/17/- a year to the widow of the late Mr. F. W. Major, C.M.G., I.S.O., as from the date of his death namely the 7th of August, 1923, such pension to cease on remarriage."

Mr. Major was too old to participate in the East African Widows and Orphans Pension Scheme, and the West African Pensions Scheme was not in force at the time of his service in the Gold Coast. Mrs. Major is no longer a young woman, and she is now in extremely bad financial circumstances. Mr. Major's total service in the Colony including climatic allowance is 22 years, and his emoluments at the date of his retirement totalled £1,560 per annum. The pension which it is proposed to give Mrs. Major is at the rate of one-sixth of the total emoluments drawn by Mr. Major at the date of his retirement. That will amount to £260 and of this sum Kenya's portion will be £200/17/- and Uganda's £59/3/-. The first thirteen years of Mr. Major's service were exclusively Kenya service. The allowance for that period is based on the salary drawn during that period, namely £820 per annum.

THE HON. SIR NORTHRUP MACMILLAN: I beg to second this motion, and to state that we are all in agreement on this side of the House, that it is very urgently necessary that Mrs. Major should be given a pension under the circumstances as Mr. Major retired and died so soon after receiving his pension.

The motion was put and carried unanimously.

No debate on third reading of Civil Procedure Ordinance.

No debate on third reading of Defence Force Ordinance.

No debate on third reading of the General Revision Ordinance.

## In Committee.

## DEBATE ON THE MASTERS AND SERVANTS AMENDMENT ORDINANCE, 1924.

THE HON. CHIEF NATIVE COMMISSIONER: There was a debate on the proposed definition relating to the native reserves. I now propose that we should delete the expression "Native Reserve" in section 5 (2).

THE HON. CONWAY HARVEY: I am not necessarily at this moment in opposition. I agreed tentatively when the mover put it up to me, but there is one thing I am not quite certain about. There was a proposal made a few months ago, that where a large number of resident natives live on a European farm an official headman should be appointed to exercise a certain amount of control over them. Possibly the Honourable the Chief Native Commissioner can tell us how far that proposal has gone.

THE HON. CAPT. J. E. CONEY: May I ask the Honourable the Chief Native Commissioner if there are not official headmen in the Nakuru District which is not a native reserve. Would it mean that a native who is in the Nakuru area would not be allowed to move from one farm to another without getting the permission of the District Commissioner.

THE HON. CONWAY HARVEY: If there are no official headmen outside native reserves, and the Government has no intention of appointing any that would not matter, but if as the Honourable Member for Plateau North states is the case then it is a very different matter.

THE HON. CHIEF NATIVE COMMISSIONER: It means that if a whole family is moved from one place to another, the District Commissioner must be made aware of it. It applies just as much to an official headman on a farm and a headman in the reserve.

THE HON. G. A. S. NORTHCOTE: As far as I know, there are no official headmen in the white area. The Native Authority Ordinance does not apply to these areas.



**THE HON. CAPT. J. E. CONEY:** I feel this needs thinking out very carefully.

**THE HON. CONWAY HARVEY:** I think we do want time to think this out. We might have on the spur of the moment accepted the proposal of the Honourable the Assistant Colonial Secretary and that would have meant that certain people on the Plateau who have two farms in different districts if they wanted to move some of their labour from one district to another have got to send to the District Commissioner for the permit to do so. I am very much afraid that before we agree to this, we must have time to think it over.

**THE HON. CHIEF NATIVE COMMISSIONER:** As far as I know, there are no official headmen in the non-native areas and as far as I am concerned there will be no official headmen appointed there.

**THE HON. R. B. COLE:** Would the Honourable the Chief Native Commissioner please read the amendment again.

**THE HON. CHIEF NATIVE COMMISSIONER:** The clause will now read "no native shall move his family from the jurisdiction of an official headman to a farm, unless he has previously produced the official permit from the District Commissioner."

**THE HON. R. B. COLE:** That only deals with natives living in native reserves. It would not deal with those areas which the natives have made for themselves.

**THE HON. CONWAY HARVEY:** It seems to me that the case is very largely dependent on the question of headmen and as there is no intention on the part of the Government to appoint headmen outside the native reserves it disposes of my objection entirely so long as that stands good for all time.

**THE HON. E. POWYS COBB:** I would ask leave to appeal once more to this Council to consider the proposal I made yesterday, that this Bill should be referred back again to the Select Committee for further consideration. I do submit the discussions which have taken place already add additional force to the arguments I used then that more time is needed to consider this Bill in all its aspects. It is a Bill dealing with a matter of exceptional importance, because the real ultimate effect of this Bill is to effect the relationship between the employer and employee, and it is upon the success of these relations that the success of the Colony depends. I would urge upon this Council that a little more time should be spent in making this most admirable Bill as strong as possible. The Bill has many defects, but one of the chief defects is that it is complicated and I am afraid it will not work as successfully as we want it to work. The number of agreements which have to be entered into under this Ordinance are very many, and this means an immense amount of work to employer and the employee. The definition of the word "family" is incomplete as it left out all the members of the family who may come within the contract. So far as the Bill is drafted at present it leaves entirely out of its scope those male members of a family who are over 16 years of age. Objections do exist. It is very undesirable to apply the Bill to the many members of a family living on one's land. A point which I think is of great importance which was raised by the Right Honourable Member for the Rift Valley is the question of what is going to happen to employees under this Bill, in the event of the employer not having work for them, and in the event of that happening by reason of a particular agricultural crop failing. Because a family has settled on a wattle farm, and the wattle business

goes bust and the farmer no longer requires the number of labourers he had, I think it is very hard that those employees for no fault of their own should not be allowed to move elsewhere.

**THE HON. ATTORNEY GENERAL:** On a point of order can an Honourable Member go on discussing the principles of a Bill after we have all passed it? The arguments being used by the Honourable Member for the Coast are not pertinent to the debate.

**HIS EXCELLENCY:** The Honourable Member is entitled to ask that a Bill go back to a Special Committee.

**THE HON. ATTORNEY GENERAL:** The Honourable Member is traversing the whole principles of the Bill. This should have been done before the second reading, and if he wanted to emphasise these points, he should have done it when these sections came before the Committee.

**HIS EXCELLENCY:** The Honourable Member was entitled to refer back to any particular section and deal with it.

**THE HON. G. A. S. NORTHCOTE:** I think the Honourable the Attorney General will agree that the Honourable Member can speak on the third reading, to ask for the Bill to be recommitted.

**HIS EXCELLENCY:** I should think the Honourable the Assistant Colonial Secretary is correct.

**THE HON. E. POWYS COBB:** I understand Your Excellency to rule that I am in order that the Bill can be committed to a Select Committee. May I be allowed in explanation to say that I am not opposing the principles of the Bill, but that I am asking further consideration to the details of the Bill as I want them to be clearly understood.

**THE HON. R. B. COLE:** It has happened before that when a Bill is being discussed in Committee it has been returned to a Committee.

**THE HON. COMMISSIONER OF LANDS:** If I might suggest it the Honourable Member will be in order if he put up a definite motion to return this Bill to the Select Committee for further report.

**THE HON. CONWAY HARVEY:** May I say it is a very dangerous precedent to establish. If a gentleman is appointed to a Select Committee and the Committee spends hours and weeks and months working on a Bill and that particular Member does not attend, I do think it is distinctly unfortunate that these objections should be raised at this stage.

**THE HON. E. POWYS COBB:** In reply to that as I am presumably the person referred to, may I be allowed to make a personal explanation. In the first instance, I was a member of the Committee of the Executive of the Convention. I attended every meeting of that Committee, and spent a long time upon it. Later I was appointed to a Committee of this Council, and attended every meeting of that Committee which did not clash with other Committee meetings, except one meeting which was called in the middle of the Christmas holidays. I am very sorry I was away, but I think this Council will agree with me that to come down over 100 miles for a couple of hours work is asking too much of members of this Council.

**THE HON. CHIEF NATIVE COMMISSIONER:** I deprecate any return of this Bill to the Committee, but in order to avoid any possible danger of there being headmen appointed to farms, though I under-

stand there are some headmen on farms, I would suggest that the words "not being a headman on a farm" be inserted after the words "jurisdiction of an official headman;" that would only refer to native headmen in native reserves.

**HIS EXCELLENCY:** The proper procedure would be for the Honourable Member for the Coast, to move a definite motion for the Bill to go back to the Committee.

**THE HON. E. POWYS COBB:** "I move that this Bill be referred back to a Select Committee of this Council for further consideration, and that that Committee should report to this Council at the earliest possible moment."

**THE HON. CAPTAIN J. E. CONEY:** In opposing the motion I would ask the Council to remember as the Honourable the Chief Native Commissioner has said that this Bill has been before the country for many months. It has been discussed all over the country. He admits himself it has been before the Executive of the Convention of Associations, and a Select Committee of this Council. I think you may take it, they gave the most serious attention to all Clauses. I would remind the Honourable Member for the Coast that he has said that he is strongly in support of this Bill. He will remember that the Right Honourable Member for the Rift Valley was not such a great supporter of this Bill, but said that we had a good law in force to-day, and we did not want a new Ordinance to take its place and yet the Right Honourable Lord Delamere who sat on this Committee, I think I am right in saying, agrees with this Bill to-day.

**THE HON. R. B. COLE:** I cannot support the Honourable Member for the Coast that this Bill be re-committed. As far as the Right Honourable Member for the Rift Valley is concerned he was on the Committee and I believe in his own words the Committee made the best of a bad job of this Bill. On the other hand he, like myself, dislikes this Bill I believe. It interferes with peoples liberties and freedom. I am not going to oppose it.

**THE HON. E. POWYS COBB:** The Honourable Member for Plateau North proposes that we should pass this Bill now, and that at the next Session we should put up any amendments required. Surely the legislation of this Colony in the past has been made clumsy and difficult to work by following that method. There is hardly a Bill you can read to-day as a Principal Ordinance, without referring to series of amendments. The other point is that this Bill has been so fully considered by Associations all over the country. That is perfectly true, and here I have the report of the Executive of the Convention which covers four pages and of the recommendations for amendments in this Bill very few are embodied in the Bill as it stands. It can hardly be said the Convention approves of the Bill as it stands.

**THE ACTING ATTORNEY GENERAL:** I wish to oppose this motion and direct the Council's attention to the fact that this Bill contains 18 clauses. I must submit again that this is a motion in Committee, and is out of order. It must be made in Council. This Bill is in Committee and if you are going to refer it back again, the Chief Native Commissioner will have to report progress before this motion can be taken.

**THE HON. T. A. WOOD:** On a point of order I must call the Honourable the Attorney General's attention to 27 sub-section 8, of the Standing Rules.

**THE HON. ACTING ATTORNEY GENERAL:** May I say the Book the Honourable Member is using is not in operation yet.

**THE HON. T. A. WOOD:** The Motion is not out of order when the Council is in Committee. A motion can be moved at any time without notice.

*No debate on third reading of Master and Servants Ordinance.*

*No debate on second reading of German Missions Ordinance.*

*No debate on third reading of German Missions Ordinance.*

#### DEBATE ON SECOND READING CRIMINAL PROCEDURE ORDINANCE.

**THE HON. E. POWYS COBB:** Can the Honourable the Attorney General tell us if he has gone any further in submitting a request made by the Convention of Associations so long ago as July 1922 to the Secretary of State. The amendment in question is the important question of whether or not the Crown should possess the exceptional power of appeal against an acquittal.

**THE HON. ACTING ATTORNEY GENERAL:** The Honourable Member's remarks are not relevant to the Bill. I may take the opportunity to say the matters to which he refers are receiving attention and are going by this mail to the Secretary of State.

*No debate on third reading of Criminal Procedure Ordinance.*

#### NAIROBI SITES VALUES ORDINANCE. STATEMENT BY HIS EXCELLENCY.

**HIS EXCELLENCY:** Quite recently Government received a very strong protest from the East African Indian Congress on this whole question of the Site Values and the payment of rates, and of course in connection with representation and I will take this opportunity of stating that protests of this nature and requests are being given full consideration in this Council, although there are no Indian Members present. I think Honourable Members will be aware that at the invitation of the Corporation, Government will appoint a Commission almost immediately to consider this question of representation chiefly, and other questions concerned with the Corporation, under the Chairmanship of the Colonial Secretary who has had considerable experience in Municipal affairs elsewhere. This Commission will also consider the question of the principle of site values assessment generally. Government is quite prepared to pass a Bill to secure the proper assessment principles at the earliest moment, but it is a very important Bill, and it is contentious, and it would be a great mistake to pass it in too much of a hurry. The Corporation are only pressing for this Bill as the question of payment of rates is concerned. I would like to make it clear, that Government can be no party to any action directed against non-payment of rates either due, or in arrear, and it has every intention of insisting on payment of all rates due, and the question of representation may be fairly stated to have little

to do with the liability for arrear of payments. I think the best course would be to enter a Certificate of Emergency to pass the Bill into its second reading, and then refer it to a Select Committee of this Council. That Select Committee will sit either before, or at the same time as the Commission to consider the question and I think it is a matter which requires the fullest consideration. I hope the Select Committee will get to work at the earliest possible moment; the Government will appoint this Commission at once. I think that is the wisest course to take on the whole.

INTRODUCTORY SPEECH ON FIRST  
READING OF NAIROBI SITES  
VALUES ORDINANCE.

**THE HON. ACTING ATTORNEY GENERAL:** The present position with regard to this matter is that by the Nairobi rating of unimproved Site Values Ordinance 1921, a system of rating on the unimproved value of sites was introduced. This system has been used extensively in Canada, New Zealand, Australia and as a result of the Transvaal Government Commission of 1915, it is also in use in the Transvaal and is the system at present in force in Johannesburg. The remedy under the 1921 Ordinance in case of non-payment was to apply to the Court, to attach and sell a debtor's personal effects. An attachment of personal effects of non-Europeans is a doubtful and difficult remedy owing to their customs and manners of life. An Ordinance was introduced and passed in 1922 to allow the Corporation the alternative of recovering direct as for a civil debt recoverable summarily. Pending the passage of this Ordinance proceedings were taken against certain parties in arrear. Practically the whole of the Indian rate payers were and are still in arrear. In the meantime, the Indian Rate Payers Association was engaged in protests to the Corporation, the Government and the Secretary of State against this system. In April 1923 proceedings were filed by direct suit against Jeevanjee, a case which has been fully reported in the country, and all Members are aware of it. It was brought in the Supreme Court and thrown out there on the ground, that the Supreme Court in the specific terms of the Ordinance had no jurisdiction. Meantime a rate equivalent to three half-pence in the pound was calculated to produce £12,700 during the year 1923 of which none has been paid by the Indian community to date. A rate of the same amount has been approved in the 1924 Estimates. It is clear that unless all sections of the community are obliged to pay their rates, no single section can be expected to do so, and the Corporation, if its finances are not to break down completely, must take prompt and effective steps to get that money. As a result of the action versus Jeevanjee the Corporation Solicitor advises that their prospects of recovering the rates were doubtful unless the law were suitably strengthened in many respects, and in 1923 this amending Ordinance was drafted. I might say in passing that I have carefully considered the provisions of the Ordinance, and in view of new facts which have come to my notice, I am satisfied that the advice given by the Solicitors to the Corporation is sound. One must remember in this connection that the Corporation is really a delegated authority, of the Government, and that the Crown as the largest landholders is as particularly interested in the collection of these rates as the Corporation itself,

because it must stand to reason if the legal procedure and machinery provided by the existing Ordinance is not strong enough to enable the Corporation to collect their rates, they can only look to Government to support them. There are provisions in it to which perhaps exception might be taken. There are some retrospective clauses, and one might be met with the argument that in cases of this kind retrospective legislation should not be introduced. It seems to me to be an iniquitous thing, that the European community should bear the burden of the day for 1923 and 1924 and that other communities should not have made their contribution, and I should just like to refer to a passage from Mr. Maxwell's Interpretation of Statutes on retrospective legislation of this nature.

(Quotation Read).

If these rates are evaded those who should have paid them in the past, are throwing an undue burden on those who have to bear the responsibilities in the future.

DEBATE ON SECOND READING ON  
NAIROBI SITES VALUES  
ORDINANCE.

**THE HON. ACTING ATTORNEY GENERAL:** I beg to move that a Committee consisting of the following be appointed:—

- The Hon. Colonial Secretary as Chairman.
- The Hon. Acting Attorney General.
- The Hon. Treasurer.
- The Hon. F. S. F. Traill.
- The Hon. T. A. Wood.
- The Hon. Capt. H. F. Ward.

**HIS EXCELLENCY:** Perhaps Honourable Unofficial Members would like to see other Unofficial Members on the Committee?

**THE HON. SIR NORTHRUP MACMILLAN:** I think that our representatives on the Committee are quite capable of dealing with the details of the Bill. This Bill has been considered very extensively by Members on this side of the House in private conversations, and we are quite willing to leave it to our two Members appointed.

The question was put and carried.

**HIS EXCELLENCY:** I do not think there is very much business waiting. I may have to call a Special Session of this Council shortly to pass one important measure that is impending, but due notice will be given of that. I do not think it will be necessary to hold any meeting of this Council for perhaps two or three months.

**THE HON. R. B. COLE:** Your Excellency does anticipate another Meeting for the new Bill?

**HIS EXCELLENCY:** I think it will only be a very short meeting to pass one particular measure.

Council adjourned *sine die*.